

# **Lexington-Fayette Urban County Government**

*200 E. Main St  
Lexington, KY 40507*



## **Docket**

**Tuesday, February 25, 2025**

**3:00 PM**

**Packet**

**Council Chamber**

**Urban County Council Work Session**

- I. Public Comment - Issues on Agenda
- II. Requested Rezoning/ Docket Approval
- III. Approval of Summary

[0209-25](#)

Table of Motions: Council Work Session, February 18, 2025

Attachments: [TOM 021825](#)

- IV. Budget Amendments
- V. Budget Adjustments - For Information Only
- VI. New Business
- VII. Communications From the Mayor - Appointments
- VIII. Communications From the Mayor - Donations
- IX. Communications From the Mayor - Procurements
- X. Continuing Business/ Presentations

[0207-25](#)

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements related to Neighborhood Development Funds with Glendover Elementary PTA, Inc. (\$965); the Fairways at Lakeside Community Association, Inc. (\$2,500); A Caring Place, Inc. (\$1,500); Fayette Alliance, Inc. (\$1,000); William Wells Brown Neighborhood Association, Inc. (\$700); Belleau Wood Neighborhood Association, Inc. (\$1,300); Pearls of Service Foundation, Inc. (\$1,500); Lexington Children's Museum, Inc. (\$2,200); LFUCG Senior Intern Program (\$1,750); Thy Will Be Done - Production and Performance Fund, Inc. (\$7,600), for the Office of the Urban County Council, at a cost not to exceed the sum stated. [Council Office, Hall]

Attachments: [NDF List 2.25.25](#)

[RESO 0207-25 NDF List 2-25-2025 4924-6120-4256 v.1.docx](#)

[R-090-2025](#)

[Contract #048-2025](#)

[Contract #048-2025](#)

[Contract #048-2025 \(2\)](#)

**0210-25**

Summary: Social Services and Public Safety Committee, January 28, 2025

**Attachments:** [01-28-2025 SSPS Summary and Motions](#)

**XI. Council Reports**

**XII. Public Comment - Issues Not on Agenda**

**XIII. Adjournment**

**Administrative Synopsis - New Business Items**

- a      **0173-25**      A Resolution authorizing the Mayor or her designee, on behalf of the Urban County Government, to execute a Service Order Agreement with Charter Communications d/b/a Spectrum Enterprise, for cable television for Senior Programs, at a cost not to exceed \$925.92 in FY25. [Div. of Aging and Disability Services, Stambaugh]
- Attachments:*    [0173-25 Bluesheet Memo - Spectrum order for LSC Eldercrafters](#)  
                         [Spectrum Service Order for LSC & Eldercrafters 2-10-2025](#)  
                         [RESO 0173-25 Spectrum 4898-8885-0708 v.2.docx](#)  
                         [R-093-2025](#)  
                         [Contract #084-2025](#)
- b      **0176-25**      A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Touchphrase Development LLC., d/b/a Julota to improve Community Paramedicine Program Efficiency and Data Management, a cost not to exceed \$37,096. [Div. of Fire and Emergency Services, Wells]
- Attachments:*    [TouchPhrase Blue Sheet Memo 022025](#)  
                         [TouchPhrase Service Agreement 022025](#)  
                         [176-25 touchphrase 4926-4018-0511 v.1.doc](#)  
                         [R-094-2025](#)  
                         [Contract #067-2025](#)
- c      **0177-25**      A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute the First Amendment to an Agreement with Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc., related to administration of the ONE Lexington Community Partners Violence Prevention Grant Program, to provide that the Grant Administrator must disburse Grant awards to recipients with a 501(c)(3) designation or to a fiscal sponsor with a 501(c)(3) designation, at no additional cost to the Urban County Government. [Mayor's Office, Carama]
- Attachments:*    [Blues Sheet Memo CAC FY26](#)  
                         [PSA w revised Scope 1.30.25 4932-6191-9508 v.1](#)  
                         [RESO 0177-25 1st Amend to CAC Fiscal Agreement 4919-6011-4975 v.1.doc](#)  
                         [R-095-2025](#)
- d      **0182-25**      A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Amendment to the

Agreement with AVOL Ky., Inc., related to an award of HOME Investment Partnerships Program funds, extending the period of performance through April 30, 2025. [Div. of Grants and Special Programs, Reynolds]

**Attachments:** [25-Bluesheet Memo - AVOL Extension](#)  
[Amendment No. 1 FY22-TBRA Extension - AVOL Kentucky- revised](#)  
[RESO 0182-25- Amendment No. 1 to HOME Agreement with AVOL Kentucky R-096-2025](#)  
[Contract #055-2025](#)

**e      0195-25**

A Resolution approving and adopting substantial amendments to the 2020, 2021, 2022, and 2023 Annual Action Plans decreasing funds from multiple Community Development Block Grant projects and reallocating those funds to the Family Care Centers' Playground Upgrade, and authorizing the Mayor to transfer unencumbered funds within the Grant Budget. [Div. of Grants and Special Programs, Reynolds]

**Attachments:** [25 -Parks Bluesheet Memo Con Plan Substantial Amendment BA 13514](#)  
[0195-25- Substantial Amendments to the 2020, 2021, 2022, and 2023 Annual R-097-2025](#)



# Lexington-Fayette Urban County Government

## Master

200 E. Main St  
Lexington, KY 40507

**File Number: 0209-25**

**File ID:** 0209-25

**Type:** Summary

**Status:** Approved

**Version:** 1

**Contract #:**

**In Control:** Urban County  
Council

**File Created:** 02/20/2025

**File Name:** Table of Motions: Council Work Session, February  
18, 2025

**Final Action:** 02/25/2025

**Title:** Table of Motions: Council Work Session, February 20, 2025

**Notes:**

**Sponsors:**

**Enactment Date:**

**Attachments:** TOM 021825

**Enactment Number:**

**Deed #:**

**Hearing Date:**

**Drafter:**

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Urban County Council Work Session	02/25/2025	Approved				Pass

### Text of Legislative File 0209-25

Title

Table of Motions: Council Work Session, February 20, 2025

**URBAN COUNTY COUNCIL  
WORK SESSION  
TABLE OF MOTIONS  
February 18, 2025**

Mayor Gorton called the meeting to order at 3:00 p.m. Council Members Wu, J. Brown, Ellinger II, Morton, Lynch, LeGris, Curtis, Sheehan, Gray, Hale, Beasley, Baxter, Sevigny, and Boone were present. Council Member Jennifer Reynolds was absent.

Motion by Wu to place under Continuing Business/Presentations, a recognition of the Lexington Fire Department. Seconded by Ellinger II. Motion passed without dissent.

I. Public Comment – Issues on Agenda

II. Requested Rezonings/Docket Approval

Motion by Sevigny to approve the February 20, 2025, Council Meeting Docket, as amended. Seconded by Gray. Motion passed without dissent.

Motion by Baxter to place on the docket for the February 20, 2025, Council Meeting, a resolution authorizing the Mayor on behalf of the Urban County Government to accept a grant in the amount of \$143,654.00 from the Kentucky Justice and Public Safety Cabinet for the State Crisis Intervention Program, to provide any information requested in connection with the grant application, to execute any documents necessary for acceptance of the grant, and to transfer unencumbered funds within the grant budget, all retroactive to February 18, 2025. Seconded by Lynch. Motion passed without dissent.

III. Approval of Summary

Motion by Wu to approve the February 11, 2025, Work Session Summary. Seconded by Sheehan. Motion passed without dissent.

IV. Budget Amendments

Motion by Gray to approve Budget Amendments. Seconded by Sheehan. Motion passed without dissent.

V. Budget Adjustments – For Information Only

VI. New Business

Motion by Baxter to approve New Business. Seconded by Sevigny. Motion passed without dissent.

VII. Communications from the Mayor- Appointments

Motion by Curtis to approve Communications from the Mayor- Appointments. Seconded by Wu. Motion passed without dissent.

VIII. Communications from the Mayor- Donations

Motion by Ellinger II to approve Communications from the Mayor- Donations. Seconded by Sheehan. Motion passed without dissent.

IX. Communications from the Mayor- Procurements

Motion by Wu to approve Communications from the Mayor- Procurements. Seconded by Baxter. Motion passed without dissent.

X. Continuing Business/Presentations

Motion by Baxter to approve Council Capital Projects. Seconded by LeGris. Motion passed without dissent.

Council Member Brown provided a summary of the January 21, 2025, Budget, Finance, and Economic Development Committee.

XI. Council Reports

Sheehan, GGP Chair, placed the following items in the General Government and Planning Committee:

1. Blue Sky Small Area Plan (Sponsor: Sheehan)
2. Downtown Master Plan (Sponsor: LeGris)

XII. Public Comment – Issues Not on Agenda

XIII. Adjournment

Motion by Baxter to adjourn at 4:01 p.m. Seconded by Gray. Motion passed without dissent.



# Lexington-Fayette Urban County Government Master

200 E. Main St  
Lexington, KY 40507

**File Number: 0207-25**

**File ID:** 0207-25

**Type:** Resolution

**Status:** Approved

**Version:** 1

**Contract #:** 048-2025

**In Control:** Urban County  
Council

**File Created:** 02/20/2025

**File Name:** NDF List 2/25/25

**Final Action:** 03/06/2025

**Title:** A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements related to Neighborhood Development Funds with Glendover Elementary PTA, Inc. (\$965); the Fairways at Lakeside Community Association, Inc. (\$2,500); A Caring Place, Inc. (\$1,500); Fayette Alliance, Inc. (\$1,000); William Wells Brown Neighborhood Association, Inc. (\$700); Belleau Wood Neighborhood Association, Inc. (\$1,300); Pearls of Service Foundation, Inc. (\$1,500); Lexington Children's Museum, Inc. (\$2,200); LFUCG Senior Intern Program (\$1,750); Thy Will Be Done - Production and Performance Fund, Inc. (\$7,600), for the Office of the Urban County Council, at a cost not to exceed the sum stated. [Council Office, Hall]

**Notes:** Thy will, belleau woods, Children's museum, caring place 3.6.25 AA

william wells brown, Fayette Alliance 3/21/2025. ms

Pearls of Service SAF in the CCO. 4/9/2025 ms

**Sponsors:**

**Enactment Date:** 03/06/2025

**Attachments:** NDF List 2.25.25, RESO 0207-25 NDF List  
2-25-2025 4924-6120-4256 v.1.docx, R-090-2025,  
Contract #048-2025, Contract #048-2025, Contract  
#048-2025 (2)

**Enactment Number:** R-090-2025

**Deed #:**

**Hearing Date:**

**Drafter:**

**Effective Date:**

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Urban County Council Work Session	02/25/2025	Approved and Referred to Docket	Urban County Council	03/06/2025		Pass
1	Urban County Council	03/06/2025	Received First Reading	Urban County Council	03/06/2025		
1	Urban County Council	03/06/2025	Suspended Rules for Second Reading				Pass

**Text of Legislative File 0207-25**

Title

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements related to Neighborhood Development Funds with Glendover Elementary PTA, Inc. (\$965); the Fairways at Lakeside Community Association, Inc. (\$2,500); A Caring Place, Inc. (\$1,500); Fayette Alliance, Inc. (\$1,000); William Wells Brown Neighborhood Association, Inc. (\$700); Belleau Wood Neighborhood Association, Inc. (\$1,300); Pearls of Service Foundation, Inc. (\$1,500); Lexington Children's Museum, Inc. (\$2,200); LFUCG Senior Intern Program (\$1,750); Thy Will Be Done - Production and Performance Fund, Inc. (\$7,600), for the Office of the Urban County Council, at a cost not to exceed the sum stated. [Council Office, Hall]

Summary

**Organization:**

Glendover Elementary PTA

Kara Webb

710 Glendover Rd.

Lexington, KY 40503

**Purpose:**

For a tree planting project on school grounds

**Amount:**

\$ 965.00

**Organization:**

Fairways at Lakeside Community Association, Inc

Robin Gall

3693 Park Pointe Dr.

Lexington, KY 40509

**Purpose:**

For repointing and sealing the brick entrance and columns to the community

**Amount:**

\$ 2,500.00

**Organization:**

A Caring Place

Roxanne Cheney

3525 Lansdowne Dr. PO Box 23871

Lexington, KY 40517

**Purpose:**

For outreach to the elderly who are socially isolated and at risk of loneliness living in our community

**Amount:**

\$ 1,500.00

**Organization:**

Fayette Alliance

Jared Sexton

169 N. Limestone, Suite 1B

Lexington, KY 40507

**Purpose:**

For sponsorship of the Grow Smart Academy

**Amount:**

\$ 1,000.00

**Organization:**

William Wells Brown Neighborhood Association

Robert Hodge

PO Box 54988

Lexington, KY 40555

**Purpose:**

For the annual spring break lunch Program

**Amount:**

\$ 700.00

**Organization:**

Belleau Wood Neighborhood Association

Suasn Sallee

3921 Forest Green Drive

Lexington, KY 40517

**Purpose:**

For neighborhood event supplies, DJ, and t-shirts

**Amount:**

\$ 1,300.00

**Organization:**

Pearls of Service Foundation, Inc.

Samantha Anderson

PO Box 11405

Lexington, KY 40575

**Purpose:**

For the spirit of the Ivy awards

**Amount:**

\$ 1,500.00

**Organization:**

Lexington Children's Museum

440 W. Short St.

Lexington, KY 40507

Colby Ernest

**Purpose:**

To fund the annual Night for the Museum event

**Amount:**

\$ 2,200.00

**Organization:**

LFUCG Senior Intern Program

1101-606102-6063-75102

Lexington, KY  
Kristy Stambaugh

**Purpose:**

To help offset costs of the Annual senior intern alumni lunch

**Amount:**

\$ 1,750.00

**Organization:**

Thy Will Be Done Production & Performance Fund, Inc.  
1223 Kastle Rd.  
Lexington, KY 40502  
Gregory Turay

**Purpose:**

To fund CompposeArts, an educational outreach tour to as many of the 38 Fayette County elementary schools as possible

**Amount:**

\$ 7,600.00

**Neighborhood Development Funds  
February 25, 2025  
Work Session**

<b>Amount</b>	<b>Recipient</b>	<b>Purpose</b>
<b>\$ 965.00</b>	Glendover Elementary PTA Kara Webb 710 Glendover Rd. Lexington, KY 40503	For a tree planting project on school grounds
<b>\$ 2,500.00</b>	Fairways at Lakeside Community Association, Inc Robin Gall 3693 Park Pointe Dr. Lexington, KY 40509	For repointing and sealing the brick entrance and columns to the community
<b>\$ 1,500.00</b>	A Caring Place Roxanne Cheney 3525 Lansdowne Dr. PO Box 23871 Lexington, KY 40517	For outreach to the elderly who are socially isolated and at risk of loneliness living in our community
<b>\$ 1,000.00</b>	Fayette Alliance Jared Sexton 169 N. Limestone, Suite 1B Lexington, KY 40507	For sponsorship of the Grow Smart Academy
<b>\$ 700.00</b>	William Wells Brown Neighborhood Association Robert Hodge PO Box 54988 Lexington, KY 40555	For the annual spring break lunch program
<b>\$ 1,300.00</b>	Belleau Wood Neighborhood Association Suasn Sallee 3921 Forest Green Drive Lexington, KY 40517	For neighborhood event supplies, DJ, and t-shirts
<b>\$ 1,500.00</b>	Pearls of Service Foundation, Inc. Samantha Anderson PO Box 11405 Lexington, KY 40575	For the spirit of the Ivy awards
<b>\$ 2,200.00</b>	Lexington Children's Museum 440 W. Short St. Lexington, KY 40507 Colby Ernest	To fund the annual Night for the Museum event
<b>\$ 1,750.00</b>	LFUCG Senior Intern Program 1101-606102-6063-75102 Lexington, KY Kristy Stambaugh	To help offset costs of the Annual senior intern alumni lunch
<b>\$ 7,600.00</b>	Thy Will Be Done Production & Performance Fund, Inc. 1223 Kastle Rd. Lexington, KY 40502 Gregory Turay	To fund CompposeArts, an educational outreach tour to as many of the 38 Fayette County elementary schools as possible

RESOLUTION NO. \_\_\_\_\_ - 2025

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AGREEMENTS RELATED TO NEIGHBORHOOD DEVELOPMENT FUNDS WITH GLENDOVER ELEMENTARY PTA, INC. (\$965.00); THE FAIRWAYS AT LAKESIDE COMMUNITY ASSOCIATION, INC. (\$2,500.00); A CARING PLACE, INC. (\$1,500.00); FAYETTE ALLIANCE, INC. (\$1,000.00); WILLIAM WELLS BROWN NEIGHBORHOOD ASSOCIATION, INC. (\$700.00); BELLEAU WOOD NEIGHBORHOOD ASSOCIATION, INC. (\$1,300.00); PEARLS OF SERVICE FOUNDATION, INC. (\$1,500.00); LEXINGTON CHILDREN'S MUSEUM, INC. (\$2,200.00); LFUCG SENIOR INTERN PROGRAM (\$1,750.00); THY WILL BE DONE - PRODUCTION AND PERFORMANCE FUND, INC. (\$7,600.00), FOR THE OFFICE OF THE URBAN COUNTY COUNCIL, AT A COST NOT TO EXCEED THE SUM STATED.

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BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute agreements related to Neighborhood Development Funds, which are attached hereto and incorporated herein by reference, Glendover Elementary PTA, Inc., The Fairways At Lakeside Community Association, Inc., A Caring Place, Inc., Fayette Alliance, Inc., William Wells Brown Neighborhood Association, Inc., Belleau Wood Neighborhood Association, Inc., Pearls Of Service Foundation, Inc., Lexington Children's Museum, Inc., LFUCG Senior Intern Program, and Thy Will Be Done - Production And Performance Fund, Inc., for the Office of the Urban County Council.

Section 2 – That amounts, not to exceed the sums stated, be and hereby are approved for payment to Glendover Elementary PTA, Inc. (\$965.00); The Fairways At Lakeside Community Association, Inc. (\$2,500.00); A Caring Place, Inc. (\$1,500.00); Fayette Alliance, Inc. (\$1,000.00); William Wells Brown Neighborhood Association, Inc. (\$700.00); Belleau Wood Neighborhood Association, Inc. (\$1,300.00); Pearls Of Service Foundation, Inc. (\$1,500.00); Lexington Children's Museum, Inc. (\$2,200.00); LFUCG Senior Intern Program (\$1,750.00); and Thy Will Be Done - Production And Performance Fund, Inc. (\$7,600.00) from account #1101-121002-71214, from various Council Districts, pursuant to the terms of the agreements.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL  
0207-25:GET: 4924-6120-4256, v. 1

RESOLUTION NO. 090 - 2025

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AGREEMENTS RELATED TO NEIGHBORHOOD DEVELOPMENT FUNDS WITH GLENDOVER ELEMENTARY PTA, INC. (\$965.00); THE FAIRWAYS AT LAKESIDE COMMUNITY ASSOCIATION, INC. (\$2,500.00); A CARING PLACE, INC. (\$1,500.00); FAYETTE ALLIANCE, INC. (\$1,000.00); WILLIAM WELLS BROWN NEIGHBORHOOD ASSOCIATION, INC. (\$700.00); BELLEAU WOOD NEIGHBORHOOD ASSOCIATION, INC. (\$1,300.00); PEARLS OF SERVICE FOUNDATION, INC. (\$1,500.00); LEXINGTON CHILDREN'S MUSEUM, INC. (\$2,200.00); LFUCG SENIOR INTERN PROGRAM (\$1,750.00); THY WILL BE DONE - PRODUCTION AND PERFORMANCE FUND, INC. (\$7,600.00), FOR THE OFFICE OF THE URBAN COUNTY COUNCIL, AT A COST NOT TO EXCEED THE SUM STATED.

---

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute agreements related to Neighborhood Development Funds, which are attached hereto and incorporated herein by reference, Glendover Elementary PTA, Inc., The Fairways At Lakeside Community Association, Inc., A Caring Place, Inc., Fayette Alliance, Inc., William Wells Brown Neighborhood Association, Inc., Belleau Wood Neighborhood Association, Inc., Pearls Of Service Foundation, Inc., Lexington Children's Museum, Inc., LFUCG Senior Intern Program, and Thy Will Be Done - Production And Performance Fund, Inc., for the Office of the Urban County Council.

Section 2 – That amounts, not to exceed the sums stated, be and hereby are approved for payment to Glendover Elementary PTA, Inc. (\$965.00); The Fairways At Lakeside Community Association, Inc. (\$2,500.00); A Caring Place, Inc. (\$1,500.00); Fayette Alliance, Inc. (\$1,000.00); William Wells Brown Neighborhood Association, Inc. (\$700.00); Belleau Wood Neighborhood Association, Inc. (\$1,300.00); Pearls Of Service Foundation, Inc. (\$1,500.00); Lexington Children's Museum, Inc. (\$2,200.00); LFUCG Senior Intern Program (\$1,750.00); and Thy Will Be Done - Production And Performance Fund, Inc. (\$7,600.00) from account #1101-121002-71214, from various Council Districts, pursuant to the terms of the agreements.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 6, 2025

*Linda Gorton*

\_\_\_\_\_  
MAYOR

ATTEST:

*[Signature]*

\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL  
0207-25.GET: 4924-6120-4256, v. 1

## AGREEMENT

THIS AGREEMENT, made and entered into on the 11th day of March, 2025 by and between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an Urban County Government of the Commonwealth of Kentucky, created pursuant to KRS Chapter 67A (Hereinafter "Government"), on behalf of its Office of the Urban County Council, and Fairways at Lakeside Community Association, Inc (Hereinafter "Organization"), of 3693 Park Pointe Dr., Lexington, KY 40509, Fayette County.

## WITNESSETH:

WHEREAS, the Urban County Council may allocate Neighborhood Development Funds (NDFs) to any incorporated non-profit organization for any lawful public purpose in the best interest of and for the use and benefit of the community; and

WHEREAS, Organization is a qualified incorporated non-profit organization that has provided outstanding activities for the citizens of Fayette County; and

WHEREAS, Organization accordingly enhances the environment of Lexington; and

WHEREAS, Organization has requested funding for a specific lawful public purpose that is in the best interest of and for the use and benefit of the community.

NOW FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND ORGANIZATION AGREE AS FOLLOWS:

1. **Amount and Intended Use of Neighborhood Development Funds.** Government hereby grants Organization the sum of \$2500 (Two Thousand Five Hundred Dollars and No Cents) for the following lawful public purpose:  
*[For repointing and sealing the brick entrance and columns to the community]*
2. **Finalization of Agreement.** Organization shall return this Agreement to the Council Administrator's Office on or before April 10<sup>th</sup>, 2025. If Organization **fails to sign and return this Agreement within 30 days, Organization shall be deemed to have forfeited the Neighborhood Development Funds and Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.**
3. **Receipt of Funds.** Upon return of the signed Agreement to the Council Administrator's Office, the Council Administrator shall issue the check to the Organization. The check shall be timely deposited by the Organization within 60 days of receipt. If the Organization **fails to deposit the check within 60 days of receipt, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.** Under no circumstances shall a check that the Organization fails to deposit within sixty (60) days of receipt be re-issued by the Government.
4. **Required Documentation.** Organization shall submit all relevant receipts and financial documentation to Councilmember Hale's office, documenting the use of the granted funds for the specified lawful public purpose, within six (6) months of receiving the Neighborhood Development Fund check. If Organization **fails to provide the required documentation, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.**

5. Organization shall provide equal opportunity in employment for all qualified persons; prohibit discrimination in employment because of race, color, creed, national origin, sex, sexual orientation, gender identity, or age between 40 and 70; promote equal employment through a positive, continuing program of equal employment and cause each of its subcontracting agencies to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.
6. In any written or oral communications, the Organization shall identify the Lexington-Fayette Urban County Government as the source of the above-referenced funds; the Organization shall not specifically identify an individual Councilmember as being responsible for the funds donated by the Lexington-Fayette Urban County Government.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Lexington, Fayette County, Kentucky, this the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: *Linda Gorton*  
Linda Gorton, MAYOR

ATTEST:

*Abbye Allan*  
CLERK OF URBAN COUNTY COUNCIL

By: *Robin Gall*  
(Robin Gall)  
(Fairways at Lakeside Community Association, Inc)

## AGREEMENT

THIS AGREEMENT, made and entered into on the 11th day of March, 2025 by and between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an Urban County Government of the Commonwealth of Kentucky, created pursuant to KRS Chapter 67A (Hereinafter "Government"), on behalf of its Office of the Urban County Council, and William Wells Brown Neighborhood Association (Hereinafter "Organization"), of PO Box 54988, Lexington, KY 40555, Fayette County.

## WITNESSETH:

WHEREAS, the Urban County Council may allocate Neighborhood Development Funds (NDFs) to any incorporated non-profit organization for any lawful public purpose in the best interest of and for the use and benefit of the community; and

WHEREAS, Organization is a qualified incorporated non-profit organization that has provided outstanding activities for the citizens of Fayette County; and

WHEREAS, Organization accordingly enhances the environment of Lexington; and

WHEREAS, Organization has requested funding for a specific lawful public purpose that is in the best interest of and for the use and benefit of the community.

NOW FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND ORGANIZATION AGREE AS FOLLOWS:

1. **Amount and Intended Use of Neighborhood Development Funds.** Government hereby grants Organization the sum of \$700 (Seven Hundred Dollars and Zero Cents) for the following lawful public purpose:  
*[For the annual spring break lunch program]*
2. **Finalization of Agreement.** Organization shall return this Agreement to the Council Administrator's Office on or before April 10<sup>th</sup>, 2025. If Organization **fails to sign and return this Agreement within 30 days, Organization shall be deemed to have forfeited the Neighborhood Development Funds and Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.**
3. **Receipt of Funds.** Upon return of the signed Agreement to the Council Administrator's Office, the Council Administrator shall issue the check to the Organization. The check shall be timely deposited by the Organization within 60 days of receipt. If the Organization **fails to deposit the check within 60 days of receipt, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.** Under no circumstances shall a check that the Organization fails to deposit within sixty (60) days of receipt be re-issued by the Government.
4. **Required Documentation.** Organization shall submit all relevant receipts and financial documentation to Councilmember Morton's office, documenting the use of the granted funds for the specified lawful public purpose, within six (6) months of receiving the Neighborhood Development Fund check. If Organization **fails to provide the required documentation, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.**

5. Organization shall provide equal opportunity in employment for all qualified persons; prohibit discrimination in employment because of race, color, creed, national origin, sex, sexual orientation, gender identity, or age between 40 and 70; promote equal employment through a positive, continuing program of equal employment and cause each of its subcontracting agencies to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.
6. In any written or oral communications, the Organization shall identify the Lexington-Fayette Urban County Government as the source of the above-referenced funds; the Organization shall not specifically identify an individual Councilmember as being responsible for the funds donated by the Lexington-Fayette Urban County Government.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Lexington, Fayette County, Kentucky, this the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: *Linda Gorton*  
Linda Gorton, MAYOR

ATTEST:

*Abbey Allan*  
CLERK OF URBAN COUNTY COUNCIL

By: *Robert Hodge*  
(Robert Hodge)  
(William Wells Brown Neighborhood Association)

## AGREEMENT

THIS AGREEMENT, made and entered into on the 11th day of March, 2025 by and between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an Urban County Government of the Commonwealth of Kentucky, created pursuant to KRS Chapter 67A (Hereinafter "Government"), on behalf of its Office of the Urban County Council, and Fayette Alliance (Hereinafter "Organization"), of 169 N. Limestone, Suite 1B, Lexington, KY 40507, Fayette County.

## WITNESSETH:

WHEREAS, the Urban County Council may allocate Neighborhood Development Funds (NDFs) to any incorporated non-profit organization for any lawful public purpose in the best interest of and for the use and benefit of the community; and

WHEREAS, Organization is a qualified incorporated non-profit organization that has provided outstanding activities for the citizens of Fayette County; and

WHEREAS, Organization accordingly enhances the environment of Lexington; and

WHEREAS, Organization has requested funding for a specific lawful public purpose that is in the best interest of and for the use and benefit of the community.

NOW FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND ORGANIZATION AGREE AS FOLLOWS:

1. **Amount and Intended Use of Neighborhood Development Funds.** Government hereby grants Organization the sum of \$1000 (One Thousand Dollars and No Cents) for the following lawful public purpose:  
*[For sponsorship of the Grow Smart Academy]*
2. **Finalization of Agreement.** Organization shall return this Agreement to the Council Administrator's Office on or before April 10<sup>th</sup>, 2025. If Organization **fails to sign and return this Agreement within 30 days, Organization shall be deemed to have forfeited the Neighborhood Development Funds and Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.**
3. **Receipt of Funds.** Upon return of the signed Agreement to the Council Administrator's Office, the Council Administrator shall issue the check to the Organization. The check shall be timely deposited by the Organization within 60 days of receipt. If the Organization **fails to deposit the check within 60 days of receipt, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.** Under no circumstances shall a check that the Organization fails to deposit within sixty (60) days of receipt be re-issued by the Government.
4. **Required Documentation.** Organization shall submit all relevant receipts and financial documentation to Councilmember Boone's office, documenting the use of the granted funds for the specified lawful public purpose, within six (6) months of receiving the Neighborhood Development Fund check. If Organization **fails to provide the required documentation, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.**

5. Organization shall provide equal opportunity in employment for all qualified persons; prohibit discrimination in employment because of race, color, creed, national origin, sex, sexual orientation, gender identity, or age between 40 and 70; promote equal employment through a positive, continuing program of equal employment and cause each of its subcontracting agencies to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.
6. In any written or oral communications, the Organization shall identify the Lexington-Fayette Urban County Government as the source of the above-referenced funds; the Organization shall not specifically identify an individual Councilmember as being responsible for the funds donated by the Lexington-Fayette Urban County Government.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Lexington, Fayette County, Kentucky, this the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: Linda Gorton  
Linda Gorton, MAYOR

ATTEST:

Abbye Allan  
CLERK OF URBAN COUNTY COUNCIL

By: Jared Sexton  
(Jared Sexton)  
(Fayette Alliance)



# Lexington-Fayette Urban County Government Master

200 E. Main St  
Lexington, KY 40507

**File Number: 0210-25**

**File ID:** 0210-25

**Type:** Summary

**Status:** Received and Filed

**Version:** 1

**Contract #:**

**In Control:** Urban County  
Council

**File Created:** 02/20/2025

**File Name:** Summary: Social Services and Public Safety  
Committee, January 28, 2025

**Final Action:** 02/25/2025

**Title:** Summary: Social Services and Public Safety Committee, January 28, 2025

**Notes:**

**Sponsors:**

**Enactment Date:**

**Attachments:** 01-28-2025 SSPS Summary and Motions

**Enactment Number:**

**Deed #:**

**Hearing Date:**

**Drafter:**

**Effective Date:**

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Urban County Council Work Session	02/25/2025	Received and Filed				

## Text of Legislative File 0210-25

Title

Summary: Social Services and Public Safety Committee, January 28, 2025



## **Social Services and Public Safety Committee**

January 28, 2025

### **Summary and Motions**

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Chair Jennifer Reynolds called the meeting to order at 1:07 p.m.

Committee Members Vice Mayor Dan Wu, Chuck Ellinger II, Tyler Morton, Shayla Lynch, Denise Gray, Joseph Hale, Amy Beasley, Whitney Elliott Baxter, and Hilary Boone were in attendance. Council Member Dave Sevigny was present as a non-voting member.

#### **I. APPROVAL OF NOVEMBER 12, 2024 COMMITTEE MEETING SUMMARY**

Motion by Baxter to approve the November 12, 2024 Committee Summary. Seconded by Lynch. Motion passed without dissent.

#### **II. COMMUNITY PARAMEDICINE PROGRAM UPDATE**

Jason Wells, Chief of Lexington Fire Department, provided a background on the Community Paramedicine Program and introduced Lieutenant Alex Jann, who recently took over as head of the Paramedicine team. Community paramedicine is an innovative healthcare model that expands the role of emergency medical services (EMS) to provide non-emergency care and address unmet needs within the community. This program has three teams: a quick response team, a mobile integrated health, and a crisis response team. The teams include paramedics, social workers, police, and peer support. He introduced Maria Slone and Patrick Graham from the paramedicine team. Graham spoke about the program's timeframe from 2017 to the present. The paramedicine program partners with the Lexington Police Department and the University of Kentucky and is person-centered to help people overcome hurdles. Maria Slone is one of the first social workers hired through the Bureau of Justice Assistance (BJA) grant. With the help of subsequent BJA grants, they have increased the staffing of social workers and peer support specialists. She reviewed the number of cases the paramedicine team serviced in 2024 and the breakdown of those cases. Jann spoke about new additions and said they have three additional paramedics who will join multiple teams, and they hope to start a crisis response team soon. He closed by explaining suboxone administration, which helps with overdose withdrawals.

When asked about suboxone administration, Jann explained a paramedic would start treatment on the scene and get the patient to the appropriate place. Wells added that they are starting at the ground level with this new program. For now, they are monitoring the radio to listen to the need. Jann explained the difference between mobile integrated health and quick response teams. He said mobile integrated health involves more social work, where the quick response team follows up on overdoses, Narcan administration, poisoning, etc. When asked what this would look like in the future, Jann would like to increase staff and provide 24-hour response. Wells said they are people-focused and data-informed, and they want to grow smart to be sustainable. No action was taken on this committee item.

#### **III. FAMILY SERVICES UPDATE**

Shelia Horton-Holt, Director of Family Services, provided the mission statement of Family Services: to partner with and empower families with young children to achieve greater stability and resilience. The Family Care Center recently celebrated 35 years of providing a comprehensive approach to meeting the

needs of teen mothers for education, career preparation, parenting support, health care, and childcare. They partner with Fayette County Public Schools (FCPS), the University of Kentucky, LFUCG, and others to provide comprehensive education, healthcare, childcare, and employment-focused services to young mothers and their children. The Family Care Center uses a strength-based approach to assist parents in their efforts to achieve and maintain self-sufficiency. She mentioned four core programs: Early Childcare Program, Health Access Nurturing Developing Services (HANDS), Family Service Coordination (FSC) program, and Parent Education Program.

The Early Childcare program provides a healthy, safe, developmentally appropriate, and inclusive environment for children aged 6 weeks to 5 years old. Notable outcomes from this program include the success of children aged five who are "kindergarten-ready" and children who have achieved optimal development. The FSC program provides professional case management services to families with young children. Notable outcomes from this program include several families who exited from the program and achieved 75% or greater on at least two self-sufficiency goals. The HANDS program supports families throughout pregnancy and the first two years of a baby's life. Screening for depression and domestic violence occurs in 100% of families, and screening through the Kentucky Early Intervention System (KEIS) in 100% of children. The Parent Education program partners with Fayette County Public Schools to help pregnant and parenting youth reach their educational and parenting goals. 95% of clients successfully achieved their academic goals, 97% achieved their parenting goals, and 77% achieved or revised their mental health goals. The future goals for Family Services include early childcare playground renovation, an annual grandparent's event, creating a resource room for staff, and hosting community resource fairs. No action was taken on this committee item.

#### **IV. PARTNERS FOR YOUTH UPDATE**

Shanreka Shackelford, Executive Director of Partners for Youth (PFY), explained the mission of PFY is to promote positive youth development and prevent juvenile delinquency through collaboration and capacity building. She reviewed the PFY staffing, including the Executive Director, Administrative Clerk, Community Engagement Coordinator, and Youth Program Coordinator. She spoke about community partners who assist with the Summer Youth Job Training Program (SYJTP), skills sessions, and the I DO initiative. Future Goals include celebrating 30 years of community programming with a city-wide celebration, expanding SYJTP, increasing the number of scholarships, and actively applying for grants.

Shantae Bruce, Community Engagement Coordinator, spoke about SYJTP and described its purpose, focus, and extension. Recruitment for this program starts in October, when they will conduct school visits, engage through social media, and issue press releases. Educational components of the SYJTP include skills sessions, youth worker orientation, and parent orientation. Students are encouraged to share their top career interests at a Career Fair hosted in March. Youth workers receive assistance completing new hire paperwork required for employment at a New Hire Paperwork Clinic offered for 4 days in the Spring. Worksite placement for youth workers occurs based on preference and availability. Bruce closed with a review of SYJTP statistics.

When asked about industries represented and how career pathways are determined, Bruce said they are taught about this upfront to understand their interests. Speaking about the deadline for recruitment, if it begins in October, Bruce said they will continue to recruit until they reach 300 students. She added that the skilled sessions are the priority placement. When asked about the SYJTP recruiting process, Shackelford said they try to keep them engaged as many youths are involved in another program. When asked if the Council could do anything, Shackelford suggested the Council could help promote the program. Speaking about recruiting and how to get more employers involved, Shackelford said they are actively searching for new

partners. Council could continue to get the word out to potential employers to help with this program and let businesses know we focus on all youth. No action was taken on this committee item.

#### **V. ANNUAL REVIEW OF COMMITTEE ITEMS**

Motion by Reynolds to remove *Expand the Adult Mental Health Court with an Aftercare Program* from the list of committee referrals. Seconded by Baxter. Motion passed without dissent.

Motion by Reynolds to remove *Review of Golf Cart Policies* from the list of committee referrals. Seconded by Baxter. Motion passed without dissent.

Motion by Reynolds to remove *Improvement of Fire Department Recruitment* from the list of committee referrals. Seconded by Baxter. Motion passed without dissent.

Motion by Lynch to remove *Emergency Financial Assistance Program* from the list of committee referrals. Seconded by Hale. Motion passed without dissent.

The meeting adjourned at 2:29 p.m.



# Lexington-Fayette Urban County Government Master

200 E. Main St  
Lexington, KY 40507

**File Number: 0927-23**

**File ID:** 0927-23

**Type:** Agenda Item

**Status:** Agenda Ready

**Version:** 1

**Contract #:**

**In Control:** Urban County  
Council Work  
Session

**File Created:** 09/07/2023

**File Name:** Page Break

**Final Action:**

**Title:**

**Notes:**

**Sponsors:**

**Enactment Date:**

**Deed #:**

**Hearing Date:**

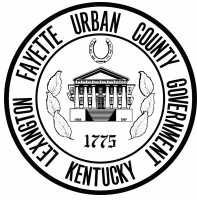
**Drafter:**

**Effective Date:**

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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**Text of Legislative File 0927-23**



# Lexington-Fayette Urban County Government

## Master

200 E. Main St  
Lexington, KY 40507

**File Number: 0173-25**

**File ID:** 0173-25

**Type:** Resolution

**Status:** Approved

**Version:** 1

**Contract #:** 084-2025

**In Control:** Urban County  
Council

**File Created:** 02/11/2025

**File Name:** Spectrum cable order for Lex Senior Center and  
Eldercrafters

**Final Action:** 03/20/2025

**Title:** A Resolution authorizing the Mayor or her designee, on behalf of the Urban County Government, to execute a Service Order Agreement with Charter Communications d/b/a Spectrum Enterprise, for cable television for Senior Programs, at a cost not to exceed \$925.92 in FY25. [Div. of Aging and Disability Services, Stambaugh]

**Notes:** SAF in the CCO. Returned to TM 4/2/2025. MS

**Sponsors:**

**Enactment Date:** 03/20/2025

**Attachments:** 0173-25 Bluesheet Memo - Spectrum order for LSC  
Eldercrafters, Spectrum Service Order for LSC &  
Eldercrafters 2-10-2025, RESO 0173-25 Spectrum  
4898-8885-0708 v.2.docx, R-093-2025, Contract  
#084-2025

**Enactment Number:** R-093-2025

**Deed #:**

**Hearing Date:**

**Drafter:** Theresa Maynard

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Urban County Council Work Session	02/25/2025	Approved and Referred to Docket	Urban County Council	03/06/2025		Pass
1	Urban County Council	03/06/2025	Received First Reading	Urban County Council	03/20/2025		
1	Urban County Council	03/20/2025	Approved				Pass

### Text of Legislative File 0173-25

#### Title

A Resolution authorizing the Mayor or her designee, on behalf of the Urban County Government, to execute a Service Order Agreement with Charter Communications d/b/a Spectrum Enterprise, for cable television for Senior Programs, at a cost not to exceed \$925.92 in FY25. [Div. of Aging and Disability Services, Stambaugh]

## Summary

Authorization to execute a service order with Charter Communications operating under Spectrum Enterprise for cable tv services for senior Programs at 195 Life Lane and the Eldercrafters at the Black and Williams Center for a total of \$925.92 for FY 25. Funds are Budgeted. (L0173-25)(Stambaugh/Allen-Bryant)

Budgetary Implications: Yes

Advance Document Review:

**Law:** Yes, David Barberie 2.11.25

**Risk Management:** N/A

Fully Budgeted [select]: YES

Account Number:	1101-606102-6081-72204	\$636.96
	1101-606102-6066-72204	\$288.96

This Fiscal Year Impact: \$925.92

Annual Impact: \$2,189.76

Project:

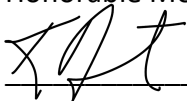
Activity:

Budget Reference:

Current Balance:	1101-606102-6081-72204	\$2,600.67
	1101-606102-6066-72204	\$555.57



TO: Mayor Linda Gorton  
Honorable Members, Urban County Council

FROM:   
Kacy Allen Bryant, Commissioner of Social Services

DATE: February 12, 2025

SUBJECT: Cable Service Order with Spectrum for Lexington Senior Center and Eldercrafters

---

**Request:**

Request Council Authorization for the Mayor to execute a Service Order with Charter Communications Operating under Spectrum Enterprise for Cable TV services for senior programs at 195 Life Lane and the Eldercrafters at the Black and Williams Center.

**Purpose:**

This order will provide cable tv boxes and services for participant enjoyment.

**Budgetary Implication:**

Installation of fee of \$99 per site and then \$47.49 at Black and Williams and \$134.99 at Life Lane per month.

**Are the funds budgeted?**

Yes. This contract will be paid from the following accounts for Fiscal Year 2025:  
1101-606102-6081-72204 \$636.96  
1101-606102-6066-72204 \$288.96

**File Number:** 00173-25

**Director/Commissioner:** Kristy Stambaugh / Kacy Allen-Bryant





## SERVICE ORDER

THIS SERVICE ORDER ('Service Order'), is executed and effective upon the date of the signature set forth in the signature block below ('Effective Date') and is by and between Charter Communications Operating, LLC on behalf of those operating subsidiaries providing the Service(s) hereunder ('Spectrum') and Customer (as shown below) and is governed by and subject to the Spectrum Enterprise Commercial Terms of Service posted to the Spectrum Enterprise website, <https://enterprise.spectrum.com/> (or successor url) or, if applicable, an existing services agreement mutually executed by the parties (each, as appropriate, a 'Service Agreement'). Except as specifically modified herein, all other terms and conditions of the Service Agreement shall remain unamended and in full force and effect.

### Spectrum Enterprise Contact Information

Contact: Brandon Lowe  
Telephone: 8127744905  
Email: brandon.lowe@charter.com

### Customer Information

Customer Name LFUCG SENIOR CENTER		Order # 14695238
Address 195 LIFE LANE LEXINGTON KY 40507		
Telephone (859) 258-3806		Email: kstambau@lexingtonky.gov
Contact Name Kristina Stambaugh	Telephone (859) 258-3806	Email: kstambau@lexingtonky.gov
Billing Address 195 LIFE LANE LEXINGTON KY 40507		
Billing Contact Name	Telephone	Email:

### NEW AND REVISED SERVICES AT 498 Georgetown St , Lexington KY 40508

Service Description	Order Term	Quantity	Monthly Recurring Charge(s)	Total Monthly Recurring Charge(s)
Digital Receiver	Month to Month	1	\$12.50	\$12.50
Spectrum Business TV	Month to Month	1	\$34.99	\$34.99
<b>TOTAL*</b>				<b>\$47.49</b>

### NEW AND REVISED SERVICES AT 195 Life Ln , Lexington KY 40502

Service Description	Order Term	Quantity	Monthly Recurring Charge(s)	Total Monthly Recurring Charge(s)
Digital Receiver	Month to Month	8	\$12.50	\$100.00
Spectrum Business TV	Month to Month	1	\$34.99	\$34.99
<b>TOTAL*</b>				<b>\$134.99</b>

ONE TIME CHARGE(S) AT 498 Georgetown St , Lexington KY 40508			
Service Description	Quantity	One Time Charge(s)	Total One Time Charge(s)
Standard Installation	1	\$99.00	\$99.00
<u>TOTAL*</u>			\$99.00

ONE TIME CHARGE(S) AT 195 Life Ln , Lexington KY 40502			
Service Description	Quantity	One Time Charge(s)	Total One Time Charge(s)
Standard Installation	1	\$99.00	\$99.00
<u>TOTAL*</u>			\$99.00



1. **TOTAL CHARGE(S).** TOTAL MONTHLY RECURRING CHARGES AND TOTAL ONE-TIME CHARGES ARE DUE IN ACCORDANCE WITH THE MONTHLY INVOICE.
2. **TAXES.** Plus applicable taxes, fees and surcharges as presented on the respective invoice(s).
3. **SPECIAL TERMS.**

By signing below, the signatory represents they are duly authorized to execute this Service Order.

**CUSTOMER SIGNATURE**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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



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RESOLUTION NO. \_\_\_\_\_ - 2025

A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE A SERVICE ORDER AGREEMENT WITH CHARTER COMMUNICATIONS D/B/A SPECTRUM ENTERPRISE, FOR CABLE TELEVISION FOR SENIOR PROGRAMS, AT A COST NOT TO EXCEED \$925.92 IN FY25.

---

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor or her designee, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute a Service Order agreement, which is attached hereto and incorporated herein by reference, with Charter Communications d/b/a Spectrum Enterprise, for cable television for senior programs.

Section 2 – That an amount, not to exceed the sum of \$925.92 in FY 25, be and hereby is approved for payment to Spectrum Enterprises, from account #1101-606102-72204 pursuant to the terms of the agreement.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

0173-25:TAH:4898-8885-0708, v. 2

RESOLUTION NO. 093 - 2025

A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE A SERVICE ORDER AGREEMENT WITH CHARTER COMMUNICATIONS D/B/A SPECTRUM ENTERPRISE, FOR CABLE TELEVISION FOR SENIOR PROGRAMS, AT A COST NOT TO EXCEED \$925.92 IN FY25.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor or her designee, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute a Service Order agreement, which is attached hereto and incorporated herein by reference, with Charter Communications d/b/a Spectrum Enterprise, for cable television for senior programs.

Section 2 – That an amount, not to exceed the sum of \$925.92 in FY 25, be and hereby is approved for payment to Spectrum Enterprises, from account #1101-606102-72204 pursuant to the terms of the agreement.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 20, 2025

*Linda Gorton*

\_\_\_\_\_  
MAYOR

ATTEST:  
*[Signature]*  
\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL  
0173-25:TAH:4898-8885-0708, v. 2

**SERVICE ORDER**

THIS SERVICE ORDER ("Service Order"), is executed and effective upon the date of the signature set forth in the signature block below ("Effective Date") and is by and between Charter Communications Operating, LLC on behalf of those operating subsidiaries providing the Service(s) hereunder ("Spectrum") and Customer (as shown below) and is governed by and subject to the Spectrum Business - Enterprise Commercial Terms of Service posted at, <https://enterprise.spectrum.com/> (or successor url) or, if applicable, an existing services agreement mutually executed by the parties (each, as appropriate, a "Service Agreement"). Except as specifically modified herein, all other terms and conditions of the Service Agreement shall remain unamended and in full force and effect.

**Spectrum Contact Information**

Contact: Brandon Lowe  
Telephone: 8127744905  
Email: brandon.lowe@charter.com

**Customer Information**

Customer Name LFUCG SENIOR CENTER		Order # 14695238
Address 195 LIFE LANE LEXINGTON KY 40507		
Telephone (859) 258-3806		Email: kstambau@lexingtonky.gov
Contact Name Kristina Stambaugh	Telephone (859) 258-3806	Email: kstambau@lexingtonky.gov
Billing Address 195 LIFE LANE LEXINGTON KY 40507		
Billing Contact Name	Telephone	Email:

**NEW AND REVISED SERVICES AT 195 Life Ln , Lexington KY 40502**

Service Description	Order Term	Quantity	Monthly Recurring Charge(s)	Total Monthly Recurring Charge(s)
Digital Receiver	Month to Month	1	\$14.00	\$14.00
Digital Receiver A/O	Month to Month	7	\$14.00	\$98.00
Spectrum Business TV	Month to Month	1	\$40.00	\$40.00
<b>TOTAL*</b>				<b>\$152.00</b>

**NEW AND REVISED SERVICES AT 498 Georgetown St , Lexington KY 40508**

Service Description	Order Term	Quantity	Monthly Recurring Charge(s)	Total Monthly Recurring Charge(s)
Digital Receiver	Month to Month	1	\$14.00	\$14.00
Spectrum Business TV	Month to Month	1	\$40.00	\$40.00
<b>TOTAL*</b>				<b>\$54.00</b>

ONE TIME CHARGE(S) AT 195 Life Ln , Lexington KY 40502			
Service Description		Quantity	One Time Charge(s)
Standard Installation		1	\$99.00
TOTAL*			\$99.00

ONE TIME CHARGE(S) AT 498 Georgetown St , Lexington KY 40508			
Service Description		Quantity	One Time Charge(s)
Standard Installation		1	\$99.00
TOTAL*			\$99.00





1. TOTAL CHARGE(S). TOTAL MONTHLY RECURRING CHARGES AND TOTAL ONE-TIME CHARGES ARE DUE IN ACCORDANCE WITH THE MONTHLY INVOICE.
2. TAXES, PLUS APPLICABLE TAXES, FEES, AND SURCHARGES AS PRESENTED ON THE RESPECTIVE INVOICE(S).
3. SPECIAL TERMS.

By signing below, the signatory represents they are duly authorized to execute this Service Order.

<b>CUSTOMER SIGNATURE</b>	
Signature:	<i>Linda Gorton</i>
Printed Name:	Linda Gorton
Title:	Mayor
Date:	4/8/2005



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**SERVICE ORDER**

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Telephone: 8127744905  
Email: [brandon.lowe@charter.com](mailto:brandon.lowe@charter.com)

**Customer Information**

Customer Name LFUCG SENIOR CENTER		Order # 14695238
Address 195 LIFE LANE LEXINGTON KY 40507		
Telephone (859) 258-3806		Email: <a href="mailto:kstambau@lexingtonky.gov">kstambau@lexingtonky.gov</a>
Contact Name Kristina Stambaugh	Telephone (859) 258-3806	Email: <a href="mailto:kstambau@lexingtonky.gov">kstambau@lexingtonky.gov</a>
Billing Address 195 LIFE LANE LEXINGTON KY 40507		
Billing Contact Name	Telephone	Email:

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Service Description	Order Term	Quantity	Monthly Recurring Charge(s)	Total Monthly Recurring Charge(s)
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Spectrum Business TV	Month to Month	1	\$34.99	\$34.99
<b>TOTAL*</b>				<b>\$47.49</b>

**NEW AND REVISED SERVICES AT 195 Life Ln , Lexington KY 40502**

Service Description	Order Term	Quantity	Monthly Recurring Charge(s)	Total Monthly Recurring Charge(s)
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<b>TOTAL*</b>				<b>\$134.99</b>

ONE TIME CHARGE(S) AT 498 Georgetown St , Lexington KY 40508			
Service Description	Quantity	One Time Charge(s)	Total One Time Charge(s)
Standard Installation	1	\$99.00	\$99.00
TOTAL*			\$99.00

ONE TIME CHARGE(S) AT 195 Life Ln , Lexington KY 40502			
Service Description	Quantity	One Time Charge(s)	Total One Time Charge(s)
Standard Installation	1	\$99.00	\$99.00
TOTAL*			\$99.00



1. **TOTAL CHARGE(S).** TOTAL MONTHLY RECURRING CHARGES AND TOTAL ONE-TIME CHARGES ARE DUE IN ACCORDANCE WITH THE MONTHLY INVOICE.
2. **TAXES.** Plus applicable taxes, fees and surcharges as presented on the respective invoice(s).
3. **SPECIAL TERMS.**

By signing below, the signatory represents they are duly authorized to execute this Service Order.

**CUSTOMER SIGNATURE**

Signature: Linda Gorton

Printed Name: Linda Gorton

Title: Mayor

Date: 3/27/2025

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## **CONSULTANT SERVICES AGREEMENT**

**THIS IS AN AGREEMENT** made as of February 13, 2025, between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (**OWNER**) and PARTNERS FOR ECONOMIC SOLUTIONS, LLC (**CONSULTANT**).

**WHEREAS, OWNER** intends to proceed with the Infrastructure Funding Plan in Lexington, Kentucky as described in the attached Request for Proposal document; and

**WHEREAS**, the requested services are to include professional services for development of a infrastructure funding plan for the city ("Project") as contemplated in the **OWNER's** Request for Proposal No. 56-2024.

**WHEREAS, CONSULTANT** was selected by **OWNER** based upon its response to the Request for Proposal No. 56-2024.

**WHEREFORE, OWNER** and **CONSULTANT** in consideration of the foregoing, the sufficiency of which is hereby acknowledged, the **OWNER** and the **CONSULTANT** agree to the following mutual covenants and conditions:

### **SECTION 1 - BASIC SERVICES OF CONSULTANT**

**CONSULTANT** shall perform professional services as hereinafter stated, which shall include development of the Infrastructure Funding Plan for the Urban Growth Areas.

The following documents are incorporated by reference herein as if fully stated and are attached hereto as exhibits: RFP No. 56-2024 (Exhibit "A"); and Consultant's Response dated January 17, 2025 (Exhibit "B").

To the extent there is conflict among their provisions, the provisions of this Agreement shall take precedence, followed by the provisions of Request for Proposal No. 56-2024 (Exhibit "A"), and then Consultant's Response dated January 17, 2025 (Exhibit "B").

After written authorization to proceed with the **PROJECT, CONSULTANT** shall:

1. Notify the **OWNER** in writing of its authorized representative who shall act as Project Manager and liaison representative between the **CONSULTANT** and the **OWNER**.
2. On the basis of "Selection Criteria" in the "Request for Proposal", attached in Exhibit "A", conduct inventories and gather other necessary data or information, prepare/perform all required deliverables listed in the Request for Proposal and the Response to the Request for Proposal. See Exhibits "A" and "B" for complete listing of all deliverables.

This Agreement together with the Exhibits identified above constitutes the entire Agreement between **OWNER** and **CONSULTANT** and supersedes all prior written or oral

understandings. This Agreement and said Exhibits may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

The General Condition provisions of RFP No. 56-2024 are incorporated herein by reference as if fully stated.

## **SECTION 2 - ADDITIONAL SERVICES 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 this Agreement. Such work shall be considered as "Additional Services", 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 "Additional Services" and shall be paid as such.

**2.2.** All "Additional Services" are subject to prior written authorization of **OWNER** and necessary appropriations made by the Lexington Fayette Urban County Council.

## **SECTION 3 - OWNER'S RESPONSIBILITIES**

**OWNER shall:**

**3.1.** Assist **CONSULTANT** by placing at his disposal available information pertinent to the Project.

**3.2.** 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**.

**3.3.** 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.

**3.4.** 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).

**3.5.** Furnish or direct **CONSULTANT** to provide necessary Additional Services 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. CONSULTANT shall commence services no later than April 1, 2025, shall finalize Project deliverables on or before October 31, 2026, and Project completion on or before October 31, 2026.
- 4.2. The provisions of this Section Four (4) and the various rates of compensation for **CONSULTANT'S** services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion.

## **SECTION 5 - PAYMENTS TO CONSULTANT**

### **5.1 Methods of Payment for Services of CONSULTANT**

#### **5.1.1 For Basic Services.**

**OWNER** shall pay **CONSULTANT** for services rendered a fee not exceeding \$744,195. The **CONSULTANT** will provide services as outlined in this Agreement.

### **5.2 Times of Payment.**

**OWNER** shall make payment under this Agreement upon timely submission of an invoice(s) from **CONSULTANT** specifying that the services have been performed, accompanied by data satisfactory to **OWNER** to document entitlement to payment for the services performed to date. **OWNER** shall have thirty (30) days from the date of receipt of the invoice to pay the invoice amount. **OWNER** reserves the right to refuse payment if it is determined by **OWNER** that the services performed or materials provided for the services are inadequate or defective.

### **5.2. 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 an amount bearing the same ratio to the total Agreement fee as the amount of work completed or partially completed and delivered to the **OWNER** is to the total amount of work provided for herein, 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, and the amount to be paid shall be determined by the **OWNER**.

**5.3.3.** In the event the **CONSULTANT** shall terminate the Agreement because of gross delays caused by the **OWNER**, the **CONSULTANT** shall be paid as set forth in Section 5.3.1. above.

## **SECTION 6 – ADDITIONAL GENERAL CONSIDERATIONS**

### **6.1. Termination**

**6.1.1.** The obligation to provide further services under this Agreement may be terminated by either party upon ten (10) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, provided the non-terminating party fails to cure such default within the ten (10) day period.

**6.1.2.** The **OWNER** reserves the right to terminate the Agreement for any reason at any time upon ten (10) days written notice to the **CONSULTANT**.

### **Ownership and Reuse of Documents.**

All documents, including 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**.

### **6.2. Legal Responsibilities and Legal Relations.**

**6.2.1.** The **CONSULTANT** shall familiarize themselves with and shall at all times comply with all federal, state and local laws, ordinances, and regulations which in any manner affect the services of this Agreement.

**6.2.2.** In performing the services hereunder, the **CONSULTANT** and its sub-**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 sub-**CONSULTANTS**, and shall save and hold **OWNER** harmless therefrom.

**6.2.3.** The parties hereto agree that causes of actions between the parties shall be governed by applicable provisions of the Kentucky Revised Statutes.

### **6.3. Successors and Assigns.**

**6.3.1. CONSULTANT** binds itself and their 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 or transfer any interest in the same, whether by assignment or novation, without prior written consent of **OWNER**.

**6.3.2.** Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than **OWNER** and **CONSULTANT**.

#### **6.4. Disputes.**

Except as otherwise provided in this Agreement, any dispute concerning the amount of payment due the **CONSULTANT** or any dispute concerning any question of fact of any act to be performed under this Agreement, which is not disposed of by agreement between the Urban County Division of Central Purchasing and the **CONSULTANT**, shall be submitted to the Commissioner, Department of Planning and Preservation, Lexington-Fayette Urban County Government for review. The decision of the Commissioner as to the determination of such dispute 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**.

#### **6.5. 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**.

#### **6.6. Access to Records.**

The **CONSULTANTS** and their 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 contract period and for three (3) years from the date of final payment under the contract 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** service agreements.

#### **6.7. Required Risk Management Provisions.**

The Risk Management Provisions of RFP No. 56-2024 are incorporated herein by reference as if fully stated. Copies of the required Certificates of Insurance shall be provided to **OWNER** as required therein.

### **SECTION 7 - EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this service agreement, the **CONSULTANT** agrees as follows:

**7.1. The CONSULTANT** will not discriminate against any employee or applicant 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 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.

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

**OWNER (LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT):**

Signature: \_\_\_\_\_

LINDA GORTON, MAYOR

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

**CONSULTANT (PARTNERS FOR ECONOMIC SOLUTIONS, LLC):**

Signature: \_\_\_\_\_

ANITA MORRISON

Printed Name: \_\_\_\_\_

Position: \_\_\_\_\_

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

During the performance of this service 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** 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.

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

**OWNER (LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT):**

Signature:   
LINDA GORTON, MAYOR

Date: 4/9/2025

**CONSULTANT (PARTNERS FOR ECONOMIC SOLUTIONS, LLC):**

Signature: 

Printed Name: Abigail B Ferretti

Position: Principal

Date: March 24, 2025



## Exhibit A



# Lexington-Fayette Urban County Government

## Request for Proposals

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The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #56-2024 Infrastructure Funding Plan** to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received through Ion Wave until **2:00 PM**, prevailing local time, on **January 10, 2024**. All forms and information requested in RFP must be included and attached in Response Attachments tab in Ion Wave.

Proposals received after the date and time set for opening proposals will not be accepted. It is the sole responsibility of the Proposer to assure that his/her proposal is submitted in Ion Wave before the date and time set for opening proposals.

Proposals, once submitted, may not be withdrawn for a period of ninety (90) calendar days.

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 LFCG 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, religion, sex (including pregnancy, sexual orientation or gender identity), national origin, disability, age, genetic information, political affiliation, or veteran status, and to promote equal employment through a positive, continuing program from itself and each of its sub-contracting 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.

## **AMERICAN RESCUE PLAN ACT**

### **AMENDMENT 1 —**

### **CERTIFICATION OF COMPLIANCE FOR EXPENDITURES USING FEDERAL FUNDS, INCLUDING THE AMERICAN RESCUE PLAN ACT**

The Lexington-Fayette Urban County Government (“LFUCG”) may use Federal funding to pay for the goods and/or services that are the subject matter of this bid. That Federal funding may include funds received by LFUCG under the American Rescue Plan Act of 2021. Expenditures using Federal funds require evidence of the contractor’s compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. 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.

The bidder (hereafter “bidder,” or “contractor”) agrees and understands that in addition to all conditions stated within the attached bid documents, the following conditions will also apply to any Agreement entered between bidder and LFUCG, if LFUCG uses Federal funds, including but not limited to funding received by LFUCG under the American Rescue Plan Act (“ARPA”), toward payment of goods and/or services referenced in this bid. The bidder also agrees and understands that if there is a conflict between the terms included elsewhere in this Request for Proposal and the terms of this Amendment 1, then the terms of Amendment 1 shall control. The bidder further certifies that it can and will comply with these conditions, if this bid is accepted and an Agreement is executed:

1. Any Agreement executed as a result of acceptance of this bid may be governed in accordance with 2 CFR Part 200 and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury.

2. Pursuant to 24 CFR § 85.43, any Agreement executed as a result of acceptance of this bid can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. However, if LFUCG suspects a breach of the terms of the Agreement and/or that the contractor is violating the terms of any applicable law governing the use of Federal funds, LFUCG may suspend the contractor's ability to receive payment by giving thirty (30) days' advance written notice. Further, either party may terminate this Agreement for cause shown with thirty (30) days written notice, which shall explain the party's cause for the termination. If the parties do not reach a settlement before the end of the 30 days, then the Agreement shall terminate on the thirtieth day. In the event of a breach, LFUCG reserves the right to pursue any and all applicable legal, equitable, and/or administrative remedies against the contractor.

3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

(1) 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 apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin. (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor 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.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by 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.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, 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 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.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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. 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 administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:

(1) Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.

(2) Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or

cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section. (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

5. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

6. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.

7. The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funding.

8. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

9. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.

10. The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funds.

11. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

12. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.

13. The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.

14. The contractor shall include this language in any subcontract it executes to fulfill the terms of this bid: "the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise

discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with 'Limited English Proficiency' in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement."

15. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient. The required certification is included here:

a. The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. The contractor acknowledges and certifies that it has not been debarred or suspended and further acknowledges and agrees that it must comply with regulations regarding debarred or suspended entities in accordance with 24 CFR § 570.489(l). Funds may not be provided to excluded or disqualified persons.

17. The contractor agrees and certifies that to the greatest extent practicable, it will prefer the purchase, acquisition, and use of all applicable goods, products or materials produced in the United States, in conformity with 2 CFR 200.322 and/or section 70914 of Public Law No. 117-58, §§ 70901-52, also known as the Infrastructure Investment and Jobs Act, whichever is applicable.

18. The contractor agrees and certifies that all activities performed pursuant to any Agreement entered as a result of the contractor's bid, and all goods and services procured under that Agreement, shall comply with 2 C.F.R. § 200.216 (Prohibition on certain telecommunications and video surveillance services and equipment) and 2 C.F.R. 200 § 200.323 (Procurement of recovered materials), to the extent either section is applicable.

19. If this bid involves construction work for a project totaling \$10 million or more, then the contractor further agrees that all laborers and mechanics, etc., employed in the construction of the public facility project assisted with funds provided under this Agreement, whether employed by contractor, or contractor's contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). Contractor agrees that all of contractor's contractors and subcontractors will pay laborers and mechanics the prevailing wage as determined by the Secretary of Labor and that said laborers and mechanics will be paid not less than once a week. The contractor agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The contractor further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). Contractor further agrees that it will report all suspected or reported violations of any of the laws identified in this paragraph to LFUCG.

Signature \_\_\_\_\_

Date \_\_\_\_\_

## SELECTION CRITERIA:

The LFUCG's Selection Committee shall consider the following factors when it evaluates the proposals received:

1. Specialized qualifications, experience and technical competence of the individual or firm with regard to the services requested. Submit lead staff qualifications and work samples. **(35 points)**
2. Familiarity with the details of the project **(10 points)**
3. Professionalism and completeness of the written proposal; including proposed project approach, management plan, and schedule **(15 points)**
4. Experience with municipal financing and public infrastructure **(20 points)**
5. Past record of performance on contracts with the Urban County Government or other governmental agencies and private industry with respect to such factors as control of cost, quality of work, and ability to meet schedules. **(5 points)**
6. Quality of references. List three professional references of clients you have worked with in the last 5 years for work similar to this project's scope of services. **(5 points)**
7. Proposed fee for services **(10 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 through:  
<https://lexingtonky.ionwave.net>

## 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 Procurement  
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 \_\_\_\_\_, 20\_\_\_\_.  
My Commission expires: \_\_\_\_\_

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

## EQUAL OPPORTUNITY AGREEMENT

### Standard Title VI Assurance

The Lexington Fayette-Urban County Government, (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78Stat.252, 42 U.S.C. 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that will promptly take any necessary measures to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

### 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

*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 PROCUREMENT  
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**

The Lexington-Fayette Urban County Government has a Certified Minority and Women Business Enterprise seventeen percent (17%) minimum goal including minimum subgoals of five percent (5%) for Minority Business Enterprises (MBE) and a subgoal of twelve percent (12%) for Women Business Enterprises (WBE); a three (3%) minimum goal for Certified Veteran-Owned Small Businesses and/or Certified Service- Disabled Veteran Owned Businesses; and a goal of utilizing Disadvantaged Business Enterprises (DBE), where applicable, for government contracts.

For assistance in locating certified DBEs, MBEs, WBEs, VOSBs and/or VOSBs, contact Sherita Miller at 859/258-3320 or by writing the address listed below:

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

Firm Submitting Proposal: \_\_\_\_\_

Complete Address: \_\_\_\_\_  
Street City Zip

Contact Name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email address: \_\_\_\_\_

## MINORITY BUSINESS ENTERPRISE PROGRAM

Sherita Miller, MPA, CPSD  
Minority Business Enterprise Liaison  
Division of Procurement

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 (MBEP) 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 urban county council adopted and implemented Resolution 272-2024 – a Certified Minority and Women Business Enterprise seventeen percent (17%) minimum goal including minimum subgoals of five percent (5%) for Minority Business Enterprises (MBE) and a subgoal of twelve percent (12%) for Women Business Enterprises (WBE); a three (3%) minimum goal for Certified Veteran-Owned Small Businesses and/or Certified Service-Disabled Veteran Owned Businesses; and a goal of utilizing Disadvantaged Business Enterprises (DBE), where applicable, for government contracts.

The resolution states the following definitions shall be used for the purposes of reaching these goals:

**Certified Disadvantaged Business Enterprise (DBE)** – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a person(s) who is socially and economically disadvantaged as define by 49 CFR subpart 26.

**Certified Minority Business Enterprise (MBE)** – a business in which at least fifty-one percent (51%) is owned, managed and controlled by an ethnic minority (i.e. Black American, Asian American, Hispanic American, Native American)

**Certified Women Business Enterprise (WBE)** – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a woman.

**Certified Veteran-Owned Small Business (VOSB)** – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

***Certified Service -Disabled Veteran Owned Small Business (SDVOSB)*** – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a disabled veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

The term “Certified” shall mean the business is appropriately certified, licensed, verified, or validated by an organization or entity recognized by the Division of Procurement as having the appropriate credentials to make a determination as to the status of the business.

The following certifications are recognized and accepted by the MBEP:

Kentucky Transportation Cabinet (KYTC), Disadvantaged Business Enterprise (DBE)  
 Kentucky Minority and Women Business Enterprise (MWBE)  
 Women’s Business Enterprise National Council (WBENC)  
 National Women Business Owners Corporation (NWBOC)  
 National Minority Supplier Development Council (NMSDC)  
 Tri-State Minority Supplier Development Council (TSMSSDC)  
 U.S. Small Business Administration Veteran Small Business Certification (VetCert)  
 Kentucky Service- Disabled Veteran Owned Small Business (SDVOSB)

To comply with Resolution 272-2024, prime contractors, minority and women business enterprises, veteran owned small businesses, and service-disabled veteran owned small businesses must complete monthly contract compliance audits in the Diverse Business Management Compliance system, <https://lexingtonky.diversitycompliance.com/>

A list of organizations that certify and/or maintain lists of certified businesses (i.e. DBE, MBE, WBE, VOSB and/or SDVOSB) is available upon request by emailing, Sherita Miller, [smiller@lexingtonky.gov](mailto:smiller@lexingtonky.gov).

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 the Division of Procurement for approval immediately. Failure to submit a completed form may cause rejection of the bid.

MWBE Company, Name, Address, Phone, Email	DBE/MBE WBE/VOSB/SDVOSB	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 MDWBE and veteran 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

**LEXINGTON****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 the Division of Procurement 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. **Note: Form required if a subcontractor is being substituted on a contract.**

SUBSTITUTED DBE/MBE/WBE/VOSB Company Name, Address, Phone, Email	DBE/MBE/WBE/VOSB/SDVOSB 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

## DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS AND OUTREACH PLANS

As affirmed in Resolution Number 272-2024, the Urban County Council has adopted an annual aspirational goal of utilizing at least seventeen percent (17%) of public funds spend from certain discretionary agreements with certified Minority Business Enterprises (MBEs) and certified Woman Business Enterprises (WBEs); utilizing at least three percent (3%) of public funds from certain discretionary agreements with Certified Veteran-Owned Small Business and Certified Service-Disabled Veteran-Owned Small Businesses (VOSBs); and utilizing Disadvantaged Business Enterprises (DBEs) where applicable. Bidders should make every effort to achieve these goals.

Therefore, as an element of the responsiveness of the bid, all Bidders are required to submit documentation of their good faith and outreach efforts to ensure all businesses, including small and disadvantaged businesses such as minority-, woman-, and veteran-owned businesses, have an equal opportunity to compete for and participate in the performance of any subcontracts resulting from this procurement. Examples of good faith and outreach efforts that satisfy this requirement to encourage the participation of, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs include:

1. Advertiser 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, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs to participate.
2. Attended LFUCG Procurement Economic Inclusion Outreach event(s) within the past year to meet new small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs to partner with on LFUCG contracts and procurements.
3. Attended pre-bid/pre-proposal meetings that were scheduled by LFUCG to inform small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs of subcontracting opportunities.
4. Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs.
5. Requested a list of certified small, DBE, MBE, WBE, VOSB and/or SDVOSB subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).

6. Contacted organizations that work with small, DBE, MBE, WBE, and VOSB companies for assistance in finding certified DBEs, MBEs, WBEs, VOSB and/or SDVOSBs to work on this project. Those contacted and their responses must be a part of the bidder's outreach efforts documentation.
7. Sent written notices, by certified mail, email, or facsimile, to qualified, certified small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs 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.
8. Followed up initial solicitations by contacting small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs via tailored communications to determine their level of interest.
9. Provided the interested small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs with adequate and timely information about the plans, specifications, and requirements of the contract.
10. Selected portions of the work to be performed by small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs in order to increase the likelihood of subcontracting participation. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate small, DBE, MBE, WBE, VOSB and/or SDVOSB participation, even when the prime contractor may otherwise perform these work items with its own workforce.
11. Negotiated in good faith with interested small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs, not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection must be so noted in writing with a description as to why an agreement could not be reached.
12. Included documentation of quotations received from interested small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs that 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.
  - a. 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 small business', DBE's MBE's, WBE's, VOSB's and/or SDVOSB's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy the participation goals.
13. Made an effort to offer assistance to or refer interested small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal.

14. Made efforts to expand the search for small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs beyond the usual geographic boundaries.

15. Other – any other evidence that the bidder submits that may demonstrate that the bidder has made reasonable efforts to include small, DBE, MBE, WBE, VOSB and/or SDVOSB participation.

Bidder must document, with specificity, each of the efforts it made to include small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs as subcontractors in the procurement, including the date on which each effort was made, the medium through which each effort was made, and the outcome of each effort.

**Note:** Failure to submit 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 and Outreach Efforts must be submitted with the Bid, regardless of the proposed level of small, DBE, MBE, WBE, VOSB and/or SDVOSB participation in the procurement. If the Good Faith and Outreach Effort documentation is not submitted with the bid response, the bid may be rejected.

#### OUTREACH EFFORTS EVALUATION

Outreach efforts demonstrated by the bidder or respondent will be evaluated on a pass/fail basis.

## ATTACHMENT A – SMALL AND DISADVANTAGED, MINORITY-, WOMEN-, AND VETERAN-OWNED BUSINESS OUTREACH PLAN

<b>Proposer Name:</b>	_____	<b>Date:</b>	_____
<b>Project Name:</b>	_____	<b>Project Number:</b>	_____
<b>Contact Name:</b>	_____	<b>Telephone:</b>	_____
<b>Email:</b>	_____		

The mission of the Minority Business Enterprise Program is to facilitate the full participation of disadvantaged businesses, minority-, women-, veteran-, and service-disabled veteran-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, small and disadvantaged businesses, including minority-, woman-, veteran-, and service-disabled veteran-owned businesses, must have an equal opportunity to be utilized in the performance of contracts with public funds spent from certain discretionary agreements. By submitting its offer, Bidder/Proposer certifies that it has taken, and if there are further opportunities will take, reasonable steps to ensure that small and disadvantaged businesses, including minority-, woman-, veteran-, and service-disabled veteran-owned businesses, are provided an equal opportunity to compete for and participate in the performance of any subcontracts resulting from this procurement.

The information submitted in response to this clause will not be considered in any scored evaluation. Failure to submit this form may cause the bid or proposal to be rejected.

**Is the Bidder/ Proposer a certified firm?** Yes ☐ No ☐

If yes, indicate all certification type(s):

DBE ☐

MBE ☐

WBE ☐

SBE ☐

VOSB/SDVOSB ☐


and supply a copy of the certificate and/or certification letter if not currently listed on the city's Minority Business Enterprise Program's (MBEP) certified list.

**1. Include a list of firms that Bidder/ Proposer has had a contractual relationship with within the last two years that are minority-owned, woman-owned, veteran-owned or small businesses, regardless of their certification status.**

 Click or tap here to enter text. 

**2. Does Bidder/Proposer foresee any subcontracting opportunities for this procurement?**

Yes ☐ No ☐

If no, please explain why in the field below. Do not complete the rest of this form and submit this first page with your bid and/or proposal.  Click or tap here to enter text.)

If yes, please complete the following pages and submit all pages with your bid and/or proposal.

**Describe the steps Bidder/Proposer took to solicit small and disadvantaged businesses, including MBEs, WBEs, VOSBs, and SDVOSBs, for subcontracting opportunities for this procurement.**

**3. Check the good faith and outreach efforts the Bidder/Proposer used to encourage the participation of small and disadvantaged businesses including, MBEs, WBEs, VOSBs and SDVOSBs:**

- ☐ Bidder placed advertisements in search of prospective small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs for the solicitation.
- ☐ Bidder attended LFUCG Procurement Economic Inclusion Outreach event(s) within the past year.
- ☐ Bidder attended pre-bid and/or pre-proposal meetings for this solicitation.
- ☐ Bidder sponsored an Economic Inclusion Outreach event.
- ☐ Bidder requested a list of certified small, DBE, MBE, WBE, VOSB and/or SDVOSB subcontractors or suppliers from LFUCG.
- ☐ Bidder contacted organizations that work with small, DBE, MBE, WBE, VOSB and/or SDVOSB companies.
- ☐ Bidder sent written notices to certified small, DBE, MBE, WBE, VOSB and SDVOSB businesses.
- ☐ Bidder followed up to initial solicitations with interested small, DBE, MBE, WBE, VOSB and/or SDVOSB.
- ☐ Bidder provided small, DBE, MBE, WBE, VOSB and/or SDVOSB businesses interested in performing the solicited work with prompt access to the plans, specifications, scope of work, and requirements of the solicitation.
- ☐ Bidder made efforts to segment portions of the work to be performed by small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs, including dividing sub-bid/partnership opportunities into economically feasible units/parcels, to facilitate participation.

- ☐ Bidder negotiated in good faith with interested small, DBE, MBE, WBE, VOSB and/or SDVOSB businesses.
- ☐ Bidder provided adequate rationale for rejecting any small business', DBEs, MBEs, WBEs, VOSBs or SDVOSBs for lack of qualifications.
- ☐ Bidder offered assistance in obtaining bonding, insurance, financial, equipment, or other resources to small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs, in an effort to assist them in meeting project requirements.
- ☐ Bidder made efforts to expand the search for small businesses, DBEs MBEs, WBEs, VOSBs and/or SDVOSBs beyond the usual geographic boundaries.
- ☐ Bidder made other reasonable efforts to include small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs participation.

**4. Bidder/Proposer must include documentation, including the date each effort was made, the medium through which each effort was made, and the outcome of each effort with this form, regardless of the level of small, DBE, MBE, WBE, VOSB and/or SDVOSB participation. Examples of required documentation include copies of email communications, copies of newspaper advertisements, or copies of quotations received from interested small businesses, DBEs, MBEs, WBEs, VOSBs or SDVOSBs.**

 Click or tap here to enter text. 

**For detailed information regarding outreach efforts that satisfy the MBE Program's requirements, please see "Documentation Required for Good Faith Efforts and Outreach Plans" page.**

**Note: The Bidder/Proposer must be willing to report the identity of each subcontractor and the value of each subcontract to MBEP if awarded a contract from this procurement.**

**Failure to submit the documentation requested may be cause for rejection of the 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 and Outreach Efforts must be submitted with the bid, regardless of the proposed level of SBEs, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs participation in the procurement. If the Good Faith and Outreach Effort Form and associated documentation is not submitted with the bid response, the bid may be rejected.**

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.

<u>Company</u>	<u>Date</u>
<u>Company Representative</u>	<u>Title</u>

4870-1925-6809, v. 1

## 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 and IonWave Q&A, 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.
20. Contractor [or Vendor or Vendor's Employees] will not appropriate or make use of the Lexington-Fayette Urban County Government (LFUCG) name or any of its trade or service marks or property (including but not limited to any logo or seal), in any promotion, endorsement, advertisement, testimonial or similar use without the prior written consent of the government. If such consent is granted LFUCG reserves the unilateral right, in its sole discretion, to immediately terminate and revoke such use for any reason whatsoever. Contractor agrees that it shall cease and desist from any unauthorized use immediately upon being notified by LFUCG.

Signature \_\_\_\_\_

Date \_\_\_\_\_

## RISK MANAGEMENT PROVISIONS INSURANCE AND INDEMNIFICATION

### INDEMNIFICATION AND HOLD HARMLESS PROVISION

- (1) It is understood and agreed by the parties that Contractor 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 Contractor or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "CONTRACTOR") 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) CONTRACTOR 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 CONTRACTOR'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 CONTRACTOR; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) In the event LFUCG is alleged to be liable based upon the above, CONTRACTOR 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.
- (4) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (5) LFUCG is a political subdivision of the Commonwealth of Kentucky. CONTRACTOR acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the CONTRACTOR in any manner.
- (6) Notwithstanding, the foregoing with respect to any professional services performed by CONTRACTOR hereunder (and to the fullest extent permitted by law), CONTRACTOR 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 CONTRACTOR in the performance of this agreement.

### FINANCIAL RESPONSIBILITY

BIDDER/CONTRACTOR understands and agrees that it shall demonstrate the ability to assure compliance with the above indemnity provisions and these other risk management provisions prior to final acceptance of its bid and the commencement of any work or provision of goods.

**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**

BIDDER/CONTRACTOR 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 hereunder by CONTRACTOR. The cost of such insurance shall be included in any bid:

Coverage	Limits
General Liability (Insurance Services Office Form CG 00 01)	\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit
Auto Liability	\$1 million per occurrence
Worker's Compensation	Statutory
Employer's Liability	\$100K
Professional (E&O) Liability	\$1 million per claim

The policies above shall contain the following conditions:

- 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 (DOI). LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- 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.
- 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 BIDDER/CONTRACTOR'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

### Safety and Loss Control

CONTRACTOR 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

BIDDER/CONTRACTOR 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

CONTRACTOR 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**

BIDDER/CONTRACTOR 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 BIDDER/CONTRACTOR for any such insurance premiums purchased, or suspending or terminating the work.



Lexington-Fayette Urban County Government (LFUCG)  
INFRASTRUCTURE FUNDING PLAN  
Request for Proposals (RFP) #56-2024

## INTRODUCTION

The Lexington-Fayette Urban County Government (LFUCG) is seeking professional assistance to establish a comprehensive Infrastructure Funding Plan (IFP) to financially support growth and development in the new expansion areas identified as part of the 2024 Urban Growth Master Plan. The project will involve creating a process for the IFP, identifying preferred funding mechanisms, conducting a methodology report, and providing guidance on the implementation of the IFP.

## BACKGROUND

Lexington is committed to fostering sustainable growth and enhancing the quality of life for its residents. The development of a comprehensive Infrastructure Funding Plan for the expansion areas is a crucial step in achieving these goals. By understanding Lexington's Comprehensive Plan, Urban Service Area, recent expansions, and infrastructure needs as identified in the 2024 Urban Growth Master Plan, potential bidders will be well-equipped to create a strategic, effective funding plan that supports Lexington's vision for the future.

### *Lexington's Comprehensive Plan*

Lexington's Comprehensive Plan serves as its guiding document for growth and development. It establishes long-term goals and policies designed to enhance the quality of life for residents, promote economic development, and preserve Lexington's unique character. Imagine Lexington 2045 is the latest comprehensive plan, adopted in November 2023. This plan examines data, trends, projections, and community input to build a strategy for Lexington's growth and development over the next 20 years. You may read the full document at [imaginelexington.com](https://imaginelexington.com)

### *Urban Service Area (USA)*

The Urban Service Area (USA) is a critical tool in Lexington's growth management strategy. Established in 1958, the USA delineates the area where urban development is permitted. The USA helps concentrate infrastructure investments within a defined area, promoting efficient service delivery and reducing sprawl, while preserving the surrounding rural landscape and agricultural land.

### *1996 Expansion*

The last expansion of the Urban Service Area was in 1996. This expansion resulted in three expansion areas totaling approximately 5,200 acres. Of the land identified for future development, approximately 2,900 acres remain to be developed from these areas. The 1996 Expansion Area Master Plan provided land use recommendations and proposed public infrastructure facilities that would be needed to support the new development - including a proposed funding mechanism known as exactions for the new

infrastructure in the expansion areas. The Exactions Program involves the imposition of exactions in conjunction with new development in the expansion areas to facilitate the apportionment of costs for required infrastructure improvements to the developments benefiting from those improvements, primarily in the form of roads, sanitary sewer, parks, and stormwater management. LFUCG is seeking to discontinue use of the existing exactions model in favor of new strategies developed by the infrastructure funding plan for development from this point forward.

#### *Recent Expansion of the USA*

During the Urban County Council's review of the Imagine Lexington 2045 Goals and Objectives, concerns over increased housing costs, low housing stock, the need for land for job development, and housing affordability led to the decision to include additional acreage within the Urban Service Area.

On June 15th, 2023, Council approved the Goals and Objectives of the Lexington 2045 Comprehensive Plan and tasked the Planning Commission with identifying 2,700 to 5,000 acres for inclusion within the Urban Service Area, with a Master Plan to be adopted by December 1st, 2024. As Lexington plans for expansion, the principles of smart, compact, and fiscally responsible growth are emphasized throughout Imagine Lexington 2045, which also prioritizes equitable development and environmental sustainability.

#### *Urban Growth Master Plan*

On October 31, 2024, Lexington's Planning Commission adopted the Urban Growth Master Plan (UGMP), a comprehensive strategy that outlines Lexington's vision for future development within the 2,840 acre expansion of the USA in five locations across Fayette County. This master plan will guide the growth and development for identified portions of Lexington, shaping a sustainable, equitable and vibrant community for generations to come. The plan includes:

- Land Use Planning: Zoning recommendations, proposed densities and land use designations to guide future development.
- Infrastructure Needs Assessment: An evaluation of current infrastructure capacities and a preliminary identification of necessary upgrades and expansions to support growth.
- Transportation Planning: Recommendations to improve transportation networks, enhance public transit, and promote multimodal transportation options.
- Regulatory Framework: Recommendations for implementation of the master plan in the form of development criteria and proposed regulations.
- Environmental Sustainability: Recommendations to protect natural resources, promote green infrastructure, and mitigate the impacts of climate change.
- Community Engagement: Extensive outreach and consultation with residents, businesses, and stakeholders to ensure the plan reflects community priorities and needs.

The adopted Urban Growth Master Plan may be accessed at [urbangrowthlex.com](http://urbangrowthlex.com)

Referenced documents that informed the UGMP include the following, which in turn may inform this scope of work:

- *Imagine Lexington 2045 Comprehensive Plan*: [imaginelexington.com/2045](http://imaginelexington.com/2045)
- *2023 Sewer Capability Study*: [issuu.com/lexingtonky1/docs/2023\\_sanitary\\_sewer\\_capability\\_study\\_report](http://issuu.com/lexingtonky1/docs/2023_sanitary_sewer_capability_study_report)
- *LFUCG FY25 Adopted budget*: [lexingtonky.gov/departments/budgeting](http://lexingtonky.gov/departments/budgeting)

## STATEMENT OF WORK

We invite experienced teams to submit proposals to help create a funding strategy for Lexington's infrastructure development within the newly identified 2024 Urban Growth Areas (UGMA map in Exhibit A). This plan will outline detailed funding mechanisms, projected implementation timelines, and estimated project costs, forming a solid foundation for informed decision-making as Lexington advances development in the Urban Growth Areas. The selected Consultant will develop funding mechanisms that minimize financial impact on the municipality and taxpayers. Where feasible, new costs for infrastructure and services should be borne by the beneficiaries of the infrastructure, ensuring they bear a fair share of the costs for a more equitable distribution of financial responsibility. By partnering with a skilled team, we aim to create a modern, efficient, and sustainable infrastructure funding plan that meets the evolving needs of our community while ensuring fiscal responsibility.

The Consultant shall utilize relevant data and information provided by Lexington and assembled by the selected consultant. The Consultant will be responsible for producing a comprehensive infrastructure funding plan. Upon satisfactory completion and at the discretion of LFUCG, the Consultant may be provided a notice to proceed with the implementation phase of the plan, continuing to collaborate with LFUCG throughout the execution of the identified funding strategies. The team undertaking this project should have expertise in financial planning, economic analysis, public-private partnerships, and municipal finance. Access to engineering and construction expertise is encouraged.

All deliverables will be developed through close coordination with the LFUCG Project Team to ensure alignment with project goals and financial constraints. Budget-conscious planning is paramount, and all funding strategies should be tailored to fit within Lexington's local legal and financial limits. Regular meetings and consultations with the LFUCG Executive Team will be held to review progress, discuss funding options, and make necessary adjustments to meet budgetary and project goals.

## Goals & Key Objectives:

As recommended in the UGMA, an infrastructure funding plan should incentivize and encourage development as recommended. The following goals and objectives highlight the essential qualities that Lexington believes a well-crafted funding plan should encompass.

- Concise and User-Friendly: Clearly articulate the funding strategy without unnecessary complexity, making it easy to understand and implement for internal and external stakeholders. The IFP process should be:
  - o Transparent – providing clear information about funding sources and decision making to the public
  - o Transferable – between departments and staff members when turnover occurs
- Fiscally Responsible and Legally Sound: Develop a funding strategy that is legally sound, complying with all relevant laws and regulations, and financially prudent, ensuring long-term financial stability for Lexington. Identify reliable and diverse funding sources to support infrastructure projects.
- Maximize Financial Efficiency: Optimize the use of public funds and leverage private investment to achieve cost-effective infrastructure development.
- Flexible: Create a flexible funding framework that can adapt to changing circumstances and future growth needs, laying the groundwork for ongoing infrastructure investment throughout the Urban Services Area.

- e. **Equitable:** Ensure fair distribution of funds, addressing the needs of all communities, incentivizing the production of affordable housing and providing relief for affordable housing development.
- f. **Comprehensive:** Cover all necessary aspects, including sources, timelines, and risks.
- g. **Sustainable:** Promote long-term financial health with diverse funding sources and operational sustainability through a simple process.
- h. **Fiscal Impact Analysis:** Consideration of impact to current government operations associated with infrastructure development.

## **SCOPE OF WORK**

The goal of this RFP is to pinpoint the funding, timing and location of new capital facilities within the Urban Growth Master Plan Area. It also aims to identify the extent to which these facilities can be financed through specific funding mechanisms or a combination of various funding sources. It is understood that this study will provide defined recommendations for funding impacts and sources that would act as a resource for future implementation.

Selected consultants will collaborate closely with the LFUCG Project Manager to regularly engage the Project Leadership Team and the Project Advisory Committee. This collaboration will include periodic meetings to ensure alignment and gather feedback. Additionally, consultants will be responsible for preparing and delivering presentations to Lexington's Urban County Council for project updates and final deliverables.

Throughout the project, consultants are expected to proactively engage with relevant LFUCG staff and community and developer stakeholders as appropriate. This engagement will help gather insights, address concerns, and ensure that the project reflects the needs and priorities of the community. By fostering open communication and collaboration, the consultants will contribute to a successful project outcome that aligns with the objectives of LFUCG and its stakeholders.

Each task of the project, outlined below, represents key components of the overall scope. Task 1 and Task 2 may be initiated concurrently as per the terms of an executed contract. Progression to Task 3 will be contingent upon meeting the successful completions of the prior tasks and LFUCG deciding to proceed with implementation of any identified funding mechanisms as a result of the prior tasks. The consultants will only proceed to Task 3 upon receipt of a formal notice to proceed by LFUCG.

LFUCG seeks expert insights to develop a project approach that effectively achieves the stated goals within this RFP. The assumed work tasks outlined below serve as foundational elements; however, LFUCG encourages proposers to amend and expand upon these tasks in their proposals.

### **TASK 1: PROJECT IDENTIFICATION & PRIORITIZATION PROCESS DEVELOPMENT**

#### **1. Project Identification:**

- **Compile Infrastructure Project List:** Develop a comprehensive list of potential capital infrastructure projects based upon the developed scenarios within the UGMP.
  - Recommend a 5-year and 20-year Project Outlook.

- Consider future innovation and emerging needs as components for consideration; the plan should be flexible to changing conditions and external factors.
  - Outlook to include project descriptions, project phases, initial cost estimates, life cycle cost estimates, budgetary impact, projected schedules and priorities, potential funding sources, and plan implementation strategies.
  - **Cost Estimating:** Verify and expand upon cost estimates for the projects identified within the UGMP. Utilizing the developed project list create itemized project cost estimates including design, right-of-way, construction, maintenance, and disposal costs as applicable.
- 2. Project Evaluation & Prioritization:**
- **Define Criteria:** Establish criteria for evaluating and prioritizing projects, such as cost, urgency, impact on public safety, economic benefits, environmental sustainability, equity factors, and alignment with strategic goals.
  - **Weighting System:** Develop a weighting system to rank the importance of each criterion.
  - **Detailed Evaluation:** Evaluate projects using the established criteria and scoring system.
  - **Rank Projects:** Rank projects based on their scores from evaluation process.
- 3. Project Phasing & Implementation Recommendations:**
- **Resource Allocation:** Consider available funding, resources, and operational capacity to implement projects *(to be informed by funding mechanism scope of work)*.
  - **Phasing:** Develop a phased approach for project implementation based on priority, urgency, and resource availability *(to be informed by funding mechanism scope of work)*.
  - **Implementation Efficiency Analysis:** the collective systematic evaluation of all potential projects at the same time by looking at geographic proximity, scope alignment, and ways to leverage various funding sources.

## TASK 2: FUNDING MECHANISMS ASSESSMENT

- 1. Initial Assessment and Data Collection:**
  - Review city financial reports and previous funding mechanisms used.
- 2. Market and Economic Analysis:**
  - Review completed market analysis in the UGMP to understand the economic potential and the economic impact of proposed projects on the local economy, including population, employment, and other tax-base impact forecasts.
  - Verify and update as necessary to accurately inform this scope of work.
- 3. Identification of Funding Sources:**
  - Identify federal, state, and local funding opportunities, which may include, but are not limited to, user and other fees, grants, public-private partnerships (PPPs) and private investment options, tax increment financing (TIF) districts and other tax-related mechanisms, and bond issuance options including general obligation bonds and revenue bonds.
- 4. Regulatory and Legal Review:**
  - Review local, state, and federal regulations related to funding mechanisms.
  - Assess any legal constraints or requirements for implementing funding options.
  - Consult with legal experts to ensure compliance and feasibility for use within Kentucky.

- Review the Lexington-Fayette Urban County Government’s Charter and existing Ordinances and advise on potential conflicts. LFUCG’s Law Department will be available for assistance.
- 5. Financial Modeling and Projections:**
- Develop financial models to project funding needs and revenue generation.
  - Create scenarios for different funding mechanisms and project outcomes. Compare cost and benefit of each.
  - Provide detailed financial projections for short-term and long-term periods.
  - Provide a long-term revenue and expense forecast for top funding recommendations, including the risk and sustainability of funding sources.
- 6. Strategic Planning and Recommendations:**
- Develop a comprehensive funding strategy tailored to Lexington’s needs.
  - Prioritize funding mechanisms based on feasibility, impact, and stakeholder input.
  - Provide recommendations for implementation, including timelines and milestones.
- 7. Execution Goals and Action Master Plan:**
- Recommend execution goals for each identified funding mechanism.
  - Create high-level action plans for each, detailing steps, timelines, responsible parties, and resource requirements.
  - Include mechanism, if appropriate, for any deviation from identified funding mechanism (i.e. waiving potential fees for affordable housing).
- 8. Ongoing Monitoring and Evaluation:**
- Develop a framework for monitoring the progress and effectiveness of funded projects with key performance indicators and milestones. This framework should include a timeline for points where necessary update or re-evaluation should occur.
  - Recommend evaluation methodologies, including tools and techniques for data collection, analysis, and reporting.

### **TASK 3 (optional): FUNDING MECHANISMS IMPLEMENTATION**

Provide guidance to the Lexington-Fayette Urban County Government to implement the selected funding mechanism(s). The delivered report may include but is not limited to the following:

1. Provide a methodology report outlining the creation of any new funding source and how it will be charged and collected.
2. Provide a schedule of charges that meets all legal and administrative requirements.
3. Draft ordinances or other legal documents required to adopt any new funding source.
4. Prepare an implementation handbook outlining administrative processes, such as appeals and annual reporting.
5. Assess and project necessary staffing levels, including roles and responsibilities.
6. Propose an effective leadership and governance structure with clear decision-making process.
7. Recommend relevant processes and software necessary for successful implementation, which may include computerized assessment and collection software that integrates with current LFUCG software and systems.
8. Assist with RFP development to procure software development and implementation consultants.
9. Conduct training sessions for LFUCG staff on new funding mechanisms and developed processes.
10. Offer ongoing support and assistance through full implementation process.

## **DELIVERABLES:**

The outlined scope of work within this RFP serves as a foundational framework for the project. Respondents are expected to expand upon these elements and provide recommendations on the most effective methods to achieve Lexington's key objectives. We encourage innovative and thoughtful proposals that offer solutions, address potential challenges, and align with the vision and goals of Lexington. Anticipated deliverable from this scope of work include:

1. Infrastructure Identification & Prioritization Plan
2. Funding Mechanisms Assessment & Recommendations
3. Implementation Guidance Plan to provide guidance on project implementation and management strategies to ensure successful achievement of desired outcomes because of outcomes from Task #1 & Task #2.

- **Interim Reporting:** Interim reporting is expected during each phase of the project.
- **Findings and Recommendations Reports:** Final reports and presentations should be submitted in PDF, Word, and Excel formats as applicable. The consultant's final reports must include a comprehensive overview of participants, methodology, studies and supporting data, observations, recommendations, and accompanying drawings and illustrations. Any information developed through the consultant's proprietary methods may be submitted in a format agreed upon in consultation with the designated LFUCG Project Manager.
- **Final Report Presentation:** In addition to meetings with LFUCG Leadership Team and Advisory Committee during the project, the Consultant team shall provide a presentation of the Final report findings and recommendations to Lexington's Urban County Council during a public council meeting (date to be determined). The exact date of the meeting will be mutually agreed upon during the Services. Presentation to be submitted to the LFUCG Project Manager in PDF and Power Point format.

## **PROJECT SCHEDULE**

A notice to proceed is expected in Q1 2025. As part of the proposal, interested firms shall provide a preliminary project schedule indicating deadlines, interim deliverables, and expectations for reporting, as appropriate. The proposal should recommend any stakeholder involvement processes where appropriate and a maximum number of such meetings (i.e., separate from staff meetings; however, the respondent may set a proposed limit of such staff meetings as well). This is intended as a preliminary number only and will be refined in consultation with the selected firm and negotiated in terms of the available budget. The selected consultant will develop a detailed project schedule at the beginning of the contract, preferably in an electronic format that can be revised, as needed.

## **METHOD OF PAYMENT**

The Consultant may submit monthly invoices for basic services or rendered work, based upon the Consultant's estimate of the portion of the total services completed during the billing period. Each invoice shall be accompanied by a narrative progress report and estimated percentage of work completed. LFUCG shall respond to the invoice within thirty (30) days, either denying or approving payment, in its discretion.

### **SUBMISSION REQUIREMENTS**

All responses to this RFP must include a proposed preliminary Project Work Plan, including a schedule and a timeline for incorporating LFUCG-provided information and the work of others; description of processes, methods, and metrics; suggested list of LFUCG roles or participants that the respondent might recommend be included in the study; and deliverables. LFUCG reserves the right to make the final determination of all study participants and deliverables. All Consultant communications for the study will be through the designated LFUCG Project Manager and/or a designee. Respondents planning to utilize analytical tools or data to perform any portion of the work that are their own proprietary making are asked to please clarify their intent to utilize such in their response to this RFP. The Proposal response should be fully self-contained, and display clearly and accurately the capabilities, knowledge, experience and capacity of the respondent to meet the requirements of the RFP. **The response is limited to 20 pages excluding appendices, and to be submitted in PDF format**

The following will be considered minimum contents of the proposal:

1. A statement of the approach, objectives, goals and tasks to show the firm's understanding of the proposed study.
2. A description and timing of the deliverables to be provided by the firm within established time frame.
3. A detailed work plan that identifies major tasks to be completed and a timeline for those tasks that will be used as a scheduling and management tool. Please identify any optional work tasks in this area and in the detailed cost breakdown.
4. A detailed cost breakdown of the tasks to be performed with a breakout of the hours for each employee category (e.g., principal, project manager, engineer, technician, etc.) per work task identified. The consultant will indicate any assumptions made (e.g., number of meetings, number of drafts, etc.) and include this information with the cost proposal. Total dollar amounts for each work task shall be shown. Not to exceed total dollar cost for the entire project should also be included.
5. An outline of the firm's background and experience with similar projects and a list of personnel (including sub-consultants) who will work on the project. This section will detail staff resumes, work experience and employee category. Lexington is dedicated to promoting minority participation in LFUCG work. To that end, and where appropriate, consultants are encouraged, if they themselves are not a minority owned firm, to consider using the services of minority sub-consulting firms where the demands of the project will permit.
6. Examples and references for similar projects completed, and the full name of the municipality/agency that the work was prepared for. This section will also include the firms' role with each project, description of scope of work, total project timeline, and fee for services rendered.

### **EVALUATION CRITERIA**

A selection committee will evaluate and score the proposals based on the respondent's qualifications, level of knowledge, and experience working on projects of similar scope and scale. Selection criteria include:

1. Specialized qualifications, experience and technical competence of the individual or firm with regard to the services requested. Submit lead staff qualifications and work samples. **(35 points)**
2. Familiarity with the details of the project **(10 points)**
3. Professionalism and completeness of the written proposal; including proposed project approach, management plan, and schedule **(15 points)**
4. Experience with municipal financing and public infrastructure **(20 points)**

5. Past record of performance on contracts with the Urban County Government or other governmental agencies and private industry with respect to such factors as control of cost, quality of work, and ability to meet schedules. (5 points)
6. Quality of references. List three professional references of clients you have worked with in the last 5 years for work similar to this project's scope of services. (5 points)
7. Proposed fee for services (10 points)

The Selection Committee may request a short interview of the individual or firms submitting a proposal as part of the selection process. The above criteria will be used to determine the firms that will be invited for an interview. The interviews are anticipated to occur in Q1 2025 in person or via teleconference.

All costs directly or indirectly related to preparation of a response to this Request for Proposals, to any oral presentation required to supplement and/or clarify the submittal, which may be required by LFUCG, or to any protests so filed, shall be the sole responsibility of and shall be borne by the applicant(s). Each Consultant, by submitting its proposal, waives any claim for liability against the LFUCG as to loss, injury and costs or expenses that may be incurred as a consequence of its response to this document. All proposals shall be valid for a period of 90 days from the submission date. LFUCG reserves the right to reject any, and all, proposals and to re-solicit.

#### **ANTICIPATED SCHEDULE\***

- Questions due to LFUCG
- Request for Proposals due
- Finalist Interviews

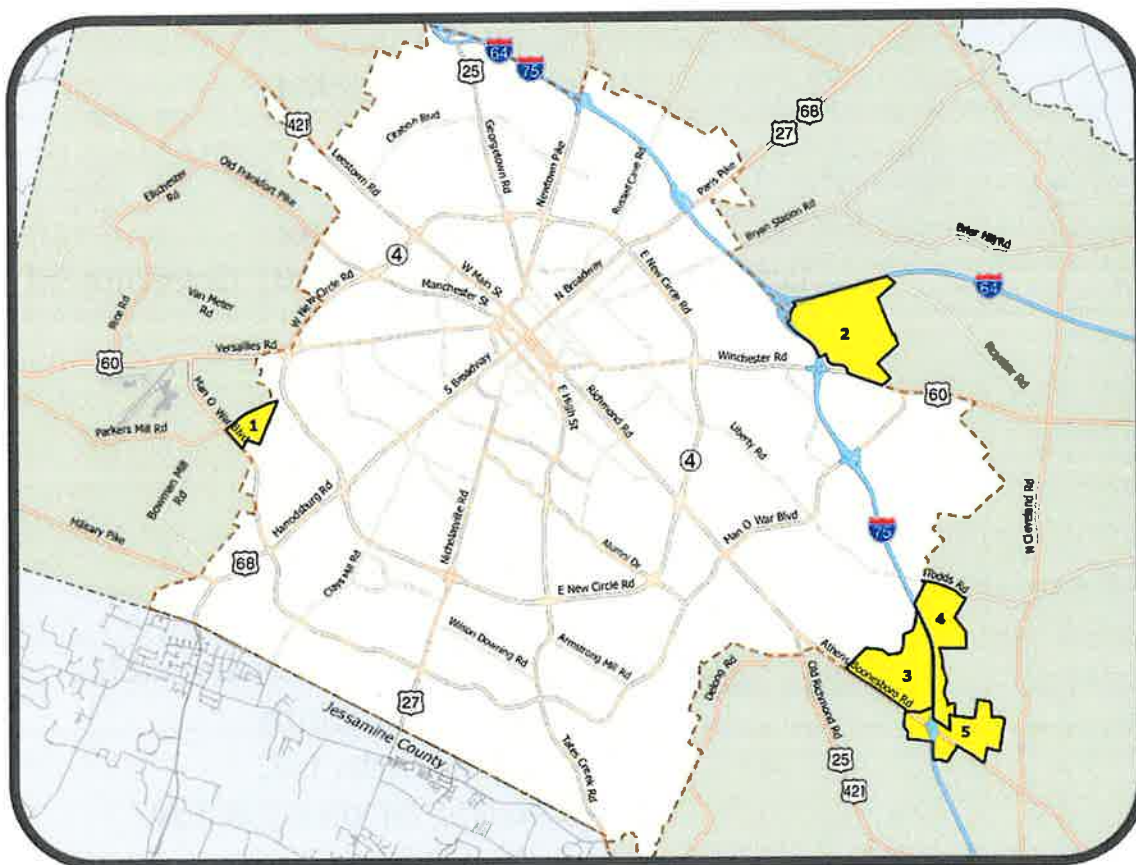
December 20, 2024  
January 10, 2024  
January 2025

*\*These dates are subject to change.*

### Exhibit A: Urban Growth Master Plan Expansion Areas

In 2023, Lexington's Planning Commission recommended expanding the Urban Service Area by 2,840 acres across five locations in Fayette County.

This study will focus on identifying funding mechanisms for infrastructure development in these newly designated areas, but which could be applied to infrastructure development generally in Lexington-Fayette County.



Proposal to Prepare the  
Infrastructure Funding Plan  
for the  
Urban Expansion Areas

RFP #56-2024

Submitted to:  
Lexington-Fayette Urban County Government

January 17, 2025

Submitted by:

Partners for Economic Solutions LLC  
Gresham Smith  
DP Guthrie, LLC  
Drew Harris, Attorney at Law  
Civil Design, Inc.





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January 17, 2025

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

Dear Selection Committee Members:

**Partners for Economic Solutions (PES)** is pleased to submit this proposal to prepare the Infrastructure Funding Plan for the Urban Growth Master Plan. We have assembled an outstanding team to work with LFCUG on this important next stage in Lexington's growth, combining local and national expertise, familiarity with local development conditions and regulations, and practical hands-on experience. We are committed to a collaborative working relationship that takes advantage of our team's and LFCUG's experience with development and public/private partnerships.

**PES** and its Principals, Anita Morrison and Abigail Ferretti, have a long history of market analysis, economic development, fiscal analysis and real estate advisory services. In all this work, we pride ourselves on preparing sound and detailed analyses with the backup information that decision makers need to understand our conclusions. We are intimately familiar with the expansion areas and the associated funding issues. For the UGMP, we developed a detailed fiscal impact analysis and evaluated alternative infrastructure funding approaches. That work drew on national best practices and provided a first-cut evaluation of how those tools might be used in the UGMP areas. Focusing on the realities of funding infrastructure to serve development over a long, uncertain time horizon, we emphasize transparency and ease of administration while mitigating associated risks.

**Gresham Smith** is well known to LFCUG from decades of local engineering and planning work on major public and private developments. Gresham Smith's engineers incorporate best practices and innovative solutions into their designs, staying abreast with emerging trends. For the UGMP, they designed the initial program of infrastructure to support compact, resilient development, including roadways, intersections, trails and utilities. Their staff's direct experience in capital improvement planning and administration will enrich our implementation strategies.

**DP Guthrie, LLC**, brings extensive hands-on experience in capital improvement planning; impact fees and other funding strategies for public infrastructure. Dwayne Guthrie, PhD has formulated countless impact fee and other funding programs in consulting for over 170 local governments in 27 states on best funding practices. His experience includes administration of an impact fee program as well as detailed fee calculations and rationales.

349 Cedar Street N.W. Washington, DC 20012 [www.PESconsult.com](http://www.PESconsult.com)  
T: 202 621-9103 F: 240 303-2541



**Drew Harris, Attorney at Law**, will share the legal insights he has developed through more than a decade working in the Kenton County Attorney's Office in Covington. His experience includes representing and working directly with local governments, special purpose government entities, elected officials, and private entities to assure compliance with state and local laws. Through his focus on property acquisition, site development and contracting, Drew has developed expertise in the Kentucky law and regulations that shape municipal funding practices.

**Civil Design, Inc.** is a woman-owned multi-disciplined civil engineering firm. They will provide specific expertise in life cycle costing and work with Gresham Smith on stormwater issues. Kevin Corwin's experience with over 50 capital program owners and agencies on over 500 capital projects includes developing and maintaining capital program and life-cycle systems for owners and agencies, providing guidance from a system's inception all the way through construction closeout and future maintenance.

Together, the PES team offers practical solutions that draw on national best practices tailored to the specific realities of development in Lexington and Kentucky. We look forward to working with you again for successful implementation of the UGMP.

Sincerely,

A handwritten signature in blue ink that reads "Anita Morrison".

Anita Morrison  
Principal

## Team Qualifications and Experience

### Partners for Economic Solutions

Partners for Economic Solutions is a full-service urban economics consulting firm dedicated to fostering sustainable economic vitality and growth in America's neighborhoods, cities and regions. Working extensively with cities, economic development and redevelopment agencies, universities, public/private partnerships and non-profits, **PES** brings real estate and economics expertise to bear on a wide range of urban development and public policy issues.

Our services focus on five primary categories:

- Market-driven analysis
- Real estate advisory services
- Economic development and revitalization strategies
- Impact analysis
- Public policy evaluations and strategies

Founded in 2008, **PES** is a certified small, local, woman-owned company based in Washington, DC. Its founding principals – Anita Morrison and Abigail Ferretti – have a combined experience of more than 70 years in economic and development consulting.

#### Anita Morrison, Principal

Anita Morrison founded Partners for Economic Solutions after more than 30 years of economic and development consulting. During her career, Anita has specialized in public/private partnerships, real estate advisory services, redevelopment strategies and economic impact analysis.



Anita has extensive experience in identifying tools and testing the potential for project and infrastructure financing. For Lexington-Fayette Urban County Government, she led the analysis of alternative funding mechanisms and developed a detailed fiscal impact model to test the impacts of expansion of the Urban Services Area as part of the Urban Growth Master Plan. Anita explored multiple funding tools for the New York Avenue corridor redevelopment in Washington, DC and roadway construction and maintenance for Prince George's County, MD. She also has particular expertise in tax increment financing (TIF) for infrastructure and public amenities. She has prepared TIF analyses for Charleston, SC, Orlando Community Redevelopment

"Bringing private real estate expertise to the public sector to support successful public/private development."  
47 Years of Experience  
Master of Public Policy,  
University of Michigan  
Teaches Due Diligence  
for Tax Increment  
Financing for the  
Council of Development  
Finance Agencies



Agency, Atlanta Development Authority, the City of Dallas and the Maryland Department of Transportation.

Her cost benefit work has included a range of development projects and cultural institutions. Anita developed a fiscal impact model for the Nashville/Davidson County Government to test the fiscal impacts of projects developed with TIF funding through the Metropolitan Development and Housing Agency.

She has assisted a number of development agencies with major public/private partnerships, including the District of Columbia Deputy Mayor for Planning and Economic Development, the Pennsylvania Avenue Development Corporation, the Atlanta Development Authority, the Maryland Department of Transportation, the Norfolk Redevelopment and Housing Authority, the Orlando Community Redevelopment Agency, and the City of Dallas.

"Working with clients to understand their unique circumstances and applying lessons learned from comparable projects to move forward."

26 Years of Experience

Master of Business  
Administration, Loyola  
College

University of Maryland  
Masters in Real Estate  
Development

*Adjunct Graduate  
Professor of Market  
Analysis for Real Property  
Development*

### **Abigail Ferretti, Principal**

As a founding principal of the firm, Abigail Ferretti focuses on managing the firm's urban practice with an emphasis on revitalizing older communities. In all her work, she dedicates herself to finding the best available data that accurately portray current and potential development. She uses GIS extensively to inform the analyses of existing conditions, competitive projects and opportunities for new development. This relentless pursuit of actual data to build sound conclusions serves as a guiding principle for all PES projects.



With more than 25 years of experience managing small and large redevelopment projects, Abigail is fully versed in a variety of approaches and strategies. She identified and evaluated opportunities for public/private partnerships to support Washington, DC parks and recreation centers.

For the Urban Growth Master Plan in Lexington, KY, she analyzed market support for urban expansion areas. Abigail explored potential funding mechanisms for transportation improvements in Prince George's County, MD and along New York Avenue in Washington, DC.

## **Fiscal Impact Model for Lexington Urban Growth Master Plan**

Planning & Preservation Department, Lexington, KY

As part of the Urban Growth Master Plan, PES provided market inputs and developed a fiscal analysis model to test the impacts of new development. The model projects development-related population, jobs, and Metro government revenues and expenditures. Applying the model to projected development in each proposed expansion area demonstrated the potential returns associated with higher densities and the importance of commercial development given the local tax structure, which emphasizes wage taxes. PES worked with the planning team to quantify the costs of installing and operating the infrastructure and municipal services needed to support the new development. PES reviewed the range of potential funding tools.

Reference: Christopher Taylor, Manager of Long-Range Planning  
859 258-3181; ctaylor3@lexingtonky.gov  
Timeline: November 2023 to September 2024 Fee: \$117,105

## **New York Avenue Redevelopment Plan Infrastructure Financing Strategy**

District of Columbia Office of Planning

PES worked with the Office of Planning to develop infrastructure financing strategies to implement the vision for a 20- to 30-year redevelopment of Washington, DC's New York Avenue corridor. Among the funding mechanisms explored were special assessment districts, impact fees; tax-increment financing, service-fee financing and split-value taxation.

PES provided case studies for the use of these tools in other jurisdictions. In the project's final phase, PES applied the typologies to the corridor's required improvements to test for the associated revenue potential of each tool.

Reference: Ryan Hand, Associate Planning Director for Citywide Planning  
202 442-7619; Ryan.Hand@dc.gov  
Timeline: June to September 2023 Fee: \$48,955

## **Fiscal Impact Analysis of Tax Increment Financing (TIF) in Metro Nashville**

Metropolitan Development and Housing Agency

PES completed an in-depth analysis of the impacts of tax increment financing (TIF) in Metro Nashville redevelopment districts over the past 20 years. The project involved a massive data analysis effort using GIS analysis to review the history of assessed values in each redevelopment district. Individual TIF projects were identified and tracked over time, considering their impacts on adjoining properties. The analysis drew on PES's extensive experience in economic development, revitalization and public finance. In a follow-on assignment, PES tested the potential to use TIF for affordable housing, community amenities and transit corridor improvements.

Reference: Matt Loftis, Assistant Director of Urban Development  
615 252-2520; mloftis@nashville-mdha.org  
Timeline: December 2021 to July 2022 Fee: \$53,320

# Dwayne Guthrie, PhD, AICP

## PROFILE

Dwayne Guthrie is a certified planner who helps public and private sector leaders with the challenges of growth management, infrastructure planning, and funding strategies. He specializes in demographic analysis, capital improvements plans, fiscal evaluations, and stakeholder consensus building.

For a major portion of his career, Dwayne worked as a planning consultant for cities and counties across America. He directly interacts with top administrators and elected officials regarding best practices for impact fees, infrastructure funding, placemaking, and revenue sources. During the preparation of impact fee programs for approximately 170 local governments in 27 states, Dwayne helped community and government leaders make tough fiscal choices, while successfully managing all aspects of the consulting process.

Dwayne has 40 years of experience as a professional planner (30 years as a planning consultant and 10 years of public sector experience in Florida).

## KEY PROJECT EXPERIENCE

### City of Meridian ID

In 2022 and 2019, Dwayne crafted development impact fees for parks/recreation, police and fire facilities. After collaborating with staff and receiving input from the Impact Fee Advisory Committee, Dwayne recommended several changes to improve consistency with Idaho's enabling legislation, including: 1) updated development projections and land use assumptions based on Meridian data, 2) documentation of current infrastructure standards and projected need for additional facilities, and 3) proportionate fees for two types of non-residential development and five size thresholds for residential development

*Reference: Todd Lavoie, Chief Financial Officer*

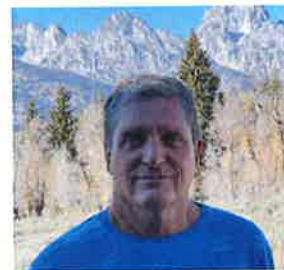
*work phone => 208-489-0420 or email => [tlavoie@meridiancity.org](mailto:tlavoie@meridiancity.org)*

### Manatee County (FL)

In 2017, Dwayne worked in the County Administrator's office as the Impact Fee Manager for Manatee County. As a consultant, he also produced a 2015 impact fee study that included parks, law enforcement, public safety, libraries, and significant revisions to transportation impact fees. The multimodal transportation fee included funding for complete streets (all modes), with unique capital plans and fee schedules by four geographic areas.

*Contact: John Osborne, former Planning Official for Manatee County*

*mobile phone => 941-962-4136 or email => [johnposborne@outlook.com](mailto:johnposborne@outlook.com)*



### Specialties

- Infrastructure planning
- Funding solutions
- Development impact fees
- Demography
- Spatial analysis
- Smart governance

### Professional History

- DP Guthrie, LLC (2021-present)
- Raftelis: Manager (2018-2020)
- Manatee County, FL: Impact Fee Manager (2017)
- TischlerBise: Principal (2012-2017); Consultant (1988-2010)
- Catholic University of America in Washington, DC: Associate Professor of Practice (2010-2012)
- Engineering Firm in Tampa, FL: Planner (1987-1988)
- Planning Commission in Tampa, FL: Planner (1979-1987)

### Education

- Doctor of Planning, Governance, & Globalization - Virginia Tech (2007)
- Master of Arts in Urban & Regional Planning - University of Florida (1979)
- Bachelor of Arts in Education - University of Florida (1977)

### Professional Memberships

- American Institute of Certified Planners (AICP)
- American Planning Association
- Arizona Chapter of the American Planning Association



## PROFILE

Drew has spent over a decade working in local government primarily working with state, county, and municipal governments on issues relating to property acquisition, site development, and contracting between the public and private sector.

His experience representing and working directly with local governments, special purpose government entities, elected officials, and private entities helps his clients meet their goals while protecting their interests through compliance with state and local laws.

## CONTACT

PHONE: 859-409-9861

EMAIL: drewcharris@gmail.com

## BAR ADMISSIONS

Kentucky, 2013  
 United States District Court for the Eastern District of Kentucky, 2014  
 Sixth Circuit Court of Appeals, 2014

# DREW HARRIS

Attorney at Law

## EDUCATION

J.D., University of Cincinnati College of Law  
 2013  
 Bachelor of Arts, Criminal Justice, Northern Kentucky University  
 2010

## EXPERIENCE

**Kenton County Attorney's Office**  
 Chief Prosecutor/Assistant County Attorney  
 Covington, Kentucky  
 2013 - Current

## RELEVANT PROJECTS

- Coordinated the privatization of the Golf Courses of Kenton County through a ground lease/operating agreement allowing for private development of a public asset.
- Led site acquisition and development for the Northern Kentucky 911 System replacement on behalf of the Kenton County Fiscal Court, including condemnation (eminent domain) actions, right-of-way acquisition, permanent and temporary easements, and contracting for the relevant services and construction.
- Assisted in the relocation of the Emergency Shelter of Northern Kentucky to comply with local zoning regulations within the City of Covington.
- Led the legal team in development of the Mary Gandy Travis Residential Treatment Facility in conjunction with the Kenton County Fiscal Court and Transitions, Inc., including site acquisition and compliance with local zoning regulations.
- Led the partnership between the residents of the former City of Latonia Lakes and the Kenton County Fiscal Court for the rebuilding of roadways after the dissolution of the city including condemnation (eminent domain) actions, right-of-way acquisition, permanent and temporary easements, with a unique project funding methodology.
- Development of the former Bavarian Brewery/Jillians site into the new Kenton County Administration Building.
- Planning for future private development above the Kenton County Administration Building parking structure.

# Offering a national perspective with a local feel.

Gresham Smith is an architecture, engineering and design practice that provides creative solutions while genuinely caring for each other, our clients and our communities. With 26 locations throughout the US, and an office in Lexington, we offer a national perspective with a local feel. That means we not only bring a broad range of experience to the picture, but we also really get to know our clients, their business and the entire landscape of their project. It's not about our personal accolades or portfolio—we define success by how well we solved the problem and served the greater good of the community.

## 65+

Projects Completed in Lexington, KY

## 418

Awards for Projects



## Erin Masterson, PLA, ASLA

### Senior Landscape Architect | Gresham Smith

As a project manager and senior landscape architect, Erin's work spans master planning, streetscapes, parks, campus design, commercial development, stormwater incentive grants, corridor planning and she led construction administration for Town Branch Commons. She excels at leading multidisciplinary teams on complex projects including Legacy Business Park, transforming a 200-acre site from master plan to design, engineering and permitting with a construction budget of \$18 million and Kelley's Landing Park master plan, a 30-acre site with floodplain complexities.

#### Years of Experience

16

#### Education

Bachelor of Science, Landscape Architecture, University of Kentucky  
Master Degree, Business of Art and Design, Maryland Institute College of Art

#### Registrations

Landscape Architect: KY

#### Relevant Projects

Lexington-Fayette Urban County Government (LFUCG) - Urban Growth Management Master Plan, Lexington, KY

LFUCG - Town Branch Commons, Lexington, KY

LFUCG - Splash! At Charles Young Park, Lexington, KY

LFUCG - NE New Circle Road Corridor Plan, Lexington, KY

LFUCG, Legacy Business Park

Beargrass - Oakdale Affordable Housing Development, Lexington, KY

Fund for Greater Lexington - Kelley's Landing Master Plan, Lexington, KY

Louisville Metro Advanced Planning and Sustainability - Broadway All the Way Master Plan, Louisville, KY



**Years of Experience**  
20

**Education**  
Bachelor of Civil Engineering, Civil Engineering, University of Kentucky  
Master of Science, Civil Engineering, University of Kentucky

**Registrations**  
Professional Engineer: FL, GA, KY, NC, TN

With a diverse background in all aspects of site civil engineering, Matt is an asset to any project. He excels in site design, stormwater analysis, and design, green infrastructure and low-impact development principals, grading, and erosion prevention and sediment control plan design. Matt is also a proven leader engaging in both mentorship and project team management to convey engineering topics to the public, elected officials and design professionals. He hopes that his input will help each project be the best in terms of profitability, sustainability, and design.

## Matthew McLaren, P.E.

Senior Civil Engineer | Gresham Smith

### Relevant Projects

Lexington-Fayette Urban County Government (LFUCG) - Urban Growth Management Master Plan, Lexington, KY  
LFUCG - Town Branch Commons, Lexington, KY  
LFUCG, Legacy Business Park, Lexington, KY

Fund for Greater Lexington - Kelley's Landing Master Plan, Lexington, KY

Louisville Metro Department of Public Works & Assets - Olmsted Parkway Improvements Phase II, Louisville, KY  
Beargrass -Oakdale Affordable Housing Development, Lexington, KY



**Years of Experience**  
17

**Education**  
Master of Civil Engineering, Civil Engineering, University of Kentucky

**Registrations**  
Professional Engineer: KY, OH

### Relevant Projects

Lexington-Fayette Urban County Government (LFUCG) - Urban Growth Management Master Plan, Lexington, KY  
Fund for Greater Lexington - Kelley's Landing Master Plan, Lexington, KY  
City of Danville - Main Street Streetscape, Danville, KY

Kenton County - Fiscal Court Parking Structure Pre-Development, Covington, KY  
KYTC - Highway Safety Improvement Program (HSIP), Multiple Locations, KY  
Northern Kentucky Port Authority - Kenton County Site Readiness Initiative, Kenton County, KY

Nick's engineering career spans over sixteen years, primarily serving in the public sector at the state and local levels. As Kenton County Engineer, he was responsible for developing and delivering site facilities and transportation projects with a record of successful stakeholder collaboration. His experience in this role included managing in-house and contract crews for vertical and horizontal construction projects.

## Nick Hendrix, P.E.

State Transportation Leader | Gresham Smith



## Andrea Cull, P.E.

### Transportation Engineer | Gresham Smith

Andrea takes a holistic approach to roadway design as she believes working on all aspects of the process produces a better product. She has completed multiple traffic impact studies as well as traffic modeling for Louisville and Lexington. She has also completed signal plans and lighting photometrics to meet municipal and KYTC standards. She enjoys being able to employ her creativity and problem-solving skills to complex roadway and traffic designs.

#### Years of Experience

12

#### Education

Bachelor of Science, Civil Engineering,  
University of Kentucky  
Master of Science, Civil Engineering,  
University of Kentucky

#### Registrations

Professional Engineer: KY

#### Relevant Projects

Lexington-Fayette Urban  
County Government  
(LFUCG) - Urban Growth  
Management Master Plan,  
Lexington, KY

LFUCG - Town Branch  
Commons, Lexington, KY

LFUCG - Tiger Grant  
Application, Lexington, KY

LFUCG - NE New Circle Road  
Corridor Plan, Lexington, KY

City of Danville - Main Street  
Streetscape, Danville, KY

KYTC - Statewide HSIP -  
Louisville Main Street 2-Way  
Conversion Analysis

Louisville Metro Advanced  
Planning and Sustainability -  
Broadway All the Way Master  
Plan, Louisville, KY



## Amanda Deatherage, AICP

### Planner | Gresham Smith

Amanda's specializes in bridging the gap between planning and implementation. Before joining Gresham Smith, Amanda managed Louisville Metro's \$243M capital improvement plan, including 57 federal projects. She also secured \$99M in grants for 36 projects due to her excellent technical writing. At KIPDA MPO, she oversaw the TIP, handled NOFOs, allocated funds, and tracked the progress of nearly 300 projects. Her expertise includes using data-driven methods to create project lists, prioritizing them with stakeholder input, and coordinating with teams for efficient project delivery.

#### Years of Experience

11

#### Education

Bachelor of Arts, Geography, University of  
Kentucky  
Master of Urban Planning, Urban Planning,  
University of Louisville

#### Certifications

American Institute of Certified Planners  
Certified Planner #31043

#### Relevant Projects

Lexington-Fayette Urban  
County Government  
(LFUCG) - Urban Growth  
Management Master Plan,  
Lexington, KY

Bowling Green Warren County  
Government (BGWC) - 2050  
Metro Transportation Plan,  
Bowling Green, KY

Louisville Metro Government -  
Broadway All the Way Planning  
Phase 1A, Louisville, KY

Capital Improvement Program  
(CIP) Manager, Louisville, KY\*

KIPDA Transportation  
Improvement Program (TIP)  
Manager, Louisville, KY\*

*\*Experience prior to Gresham Smith*

## Quality Infrastructure. Passionate People.

At Civil Design, Inc. (CDI), we strive to help our clients create quality infrastructure around a fundamental commitment to our communities. Our culture is centered while also contributing positively to our communities. **Building Stronger Communities**, meaning contribute to our daily lives.

Since its founding in 1996, our team has grown to over 150 team members with six locations, six service lines, and over 40 licensed professionals. Our experience lends us the ability to generate innovative solutions to project challenges, allowing our team to further the ambitions of our clients and the communities they serve.

Kevin joined CDI in 2024, bringing more than 20 years of project management experience to our Infrastructure + Analytics team. Kevin helps to develop and maintain capital program and life-cycle systems for owners and agencies, providing guidance from a system's inception all the way through construction closeout and future maintenance. These systems include process definition, technology implementation, and staff coaching. Whether as a consultant or capital program director, Kevin has worked with over 50 capital program owners and agencies on over 500 capital projects. Kevin captures and synthesizes best practices through his work with a multitude of capital programs and industry innovators.

Gary has gained an in-depth knowledge of all areas of water resources engineering and management, including stormwater management, sanitary sewer and combined sewer systems and overflows, hydrology and hydraulics, green infrastructure, floodplains, watershed planning, program management, and asset management. Gary also oversaw and completed the delivery of MSD's Stormwater System Master Improvement Plan, then developed the next stage for an updated Stormwater Facility Planning (2005122) program to enhance the SSMIP. In addition, Gary developed and led the Cityshed Mitigation Program for the City of St. Louis 55 watersheds resulting in various projects that have been implemented. Gary led the development of the MSD Stormwater Prioritization form as part of the Stormwater Planning performed in the last 2000's. He is nationally recognized as a technical leader, and is adept at developing practical, cost-effective solutions to real-world problems through the application of basic engineering principles. Gary has served as an expert witness and provided testimony during the 2008 flooding and other court cases related to stormwater runoff and flooding.

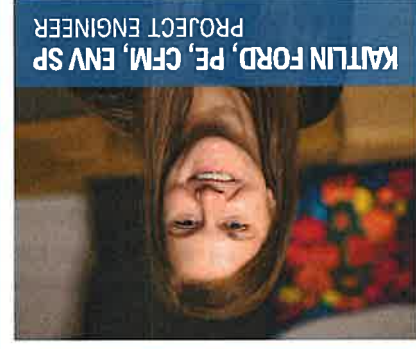
Katlin joined CDI in 2021, bringing five years of experience with hydraulics, stormwater and sanitary design to the Water Resources team. Her experience includes stormwater management, hydrologic and hydraulic modeling, floodplain analysis, bridge hydraulics, detention analysis, streambank stabilization, roadway drainage, and green infrastructure. Her experience spans both the private and public sectors, having completing projects for state DOTs, municipalities, sewer districts, and water agencies.



**KEVIN CORWIN, PE, PMP, PLS**  
PROJECT MANAGER



**GARY MOORE, MSCE, PE**  
PROJECT ENGINEER



**KATLIN FORD, PE, CFM, ENV SP**  
PROJECT ENGINEER

WOMAN-OWNED

25+ YEARS IN BUSINESS



## Project Approach

Our project approach emphasizes in-depth analysis, policy development and practical implementation tools developed in close collaboration with LFUCG throughout the project to provide the right tools to achieve UGMP goals.

### Project Kick-Off and Coordination

At the project's outset, the PES Consultant Team will meet virtually with City representatives to finalize the work scope, schedule, identify key stakeholders, discuss meeting logistics and exchange information. The project timeline will be refined and provided in electronic format for future adjustments.

We propose to meet with the LFUCG Project Manager every two weeks with periodic meetings with the Project Leadership Team and the Project Advisory Committee.

### Task 1 - Project Identification & Prioritization Process Development

While the Urban Growth Master Plan (UGMP) developed a transportation framework and regulatory plans, the next step will be to identify critical capital infrastructure projects needed to jump start private development.

#### Project Identification and Cost Estimates

Our team will work with LFUCG to develop a comprehensive list for each area that would include investment in necessary upgrades to adjacent existing infrastructure.

The comprehensive list will be presented in a chart format beginning with key descriptions, initial cost estimates in year-of-expenditure, life cycle cost estimates, budgetary impact, and projected schedules. In later tasks, priorities, funding sources and implementation strategies will be added to the comprehensive list.

As the Infrastructure Project List is developed, our team will update cost estimates from the original UGMP based on any new input such as the completion of the forthcoming complete streets manual. In addition to the estimated cost of construction updates, our team will develop estimates for design, right-of-way, and maintenance as applicable for each project identified. We understand the need to develop these estimates for capital improvement planning and strategic growth, but recognize there are no existing engineering plans and survey. This Capital Improvement Plan will therefore be considered planning-level estimates. If detailed engineering costs are desired, we are willing to negotiate scope and fee.

#### Project Evaluation & Prioritization

Once the Infrastructure Project List is drafted, our team will work to provide recommendations for what order the projects should be executed. The first step in the process will be to develop a list of the many factors that will help us determine the priority order, such as:

- Strategic alignment with goals of the UGMP;
- Financial consideration (both the initial cost and ongoing operational costs);
- Risk assessment (including financial, operational, and environmental risks);
- Regulatory requirements;
- Economic impact (including job creation and increased tax revenue);
- Likelihood of project to spur private development;
- Securing public-private partnerships (PPP);
- Environmental impacts;
- Capacity to execute and manage the project; and
- Sense of urgency as defined from stakeholder input.

We will also consider State-owned roadway improvements through the lens of SHIF (the Strategic Highway Investment Formula for Tomorrow) deployed by the Kentucky Transportation Cabinet's (KYTC) approach to capital improvement project prioritization. Many of the expansion areas will require improvements to state roads in order to have proper access in and out of the areas. Collaboration with KYTC will be imperative to implementation.

After LFUCG reviews the factors and recommends the top priorities, we will develop a weighted ranking system that will be applied to the project list, creating a ranking system and score for each project. This preliminary ranked score will be evaluated by our team and LFUCG for a ranked project list. Stakeholder meetings with developers and property owners would be appropriate at this stage to review the identified infrastructure needs.

### **Infrastructure Identification and Prioritization Plan**

A ranked project list is a valuable starting point, but the realities of funding, phasing and efficiency have real world implications on capital improvement plans. The final step in developing a usable tool for LFUCG is to align the project list to the financial and regulatory approach determined Task 2. We anticipate a handful of implementation strategies that range from public to private with various funding sources and timelines. This will have an impact on the ranking list. Working with LFUCG, we will align the list to resource allocation, phasing, and efficiencies to deliver a flexible roadmap towards implementation and build out, with revisions to align the prioritization plan with the Task 2 recommendations.

### **Task 2. Funding Mechanisms Assessment**

#### **Financial Reports and History Review**

PES will review LFUCG financial reports, recent bond documents and any relevant development agreements to better understand LFUCG's historic mechanisms for funding major infrastructure improvements. We are already familiar with the Exactions Plan for the last round of expansion areas. We will meet with LFUCG staff who negotiate developer contributions to infrastructure costs for projects not covered by the exactions program (e.g., sewer improvements) to confirm the structure of those agreements and the cost-sharing details.




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### **Market and Economic Analysis**

PES will update the market and economic impact analyses from the UGMP to consider any shifts in the market and any development projects that have been identified for the Urban Expansion Areas. We will coordinate with the LFUCG's Project Manager to reach out to active developers and property owners who may have development plans to inform the market update. The market analysis will inform the financial model's projection of future LFUCG revenues and phasing of expenditures. The fiscal impact model will be updated for the latest budget.

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### **Identification of Funding Sources**

PES has identified potential mechanisms for local funding. The analysis will be expanded to identify any state or federal funding sources that might be available to support expansion area improvements. Our team members who have worked at and for the Kentucky Transportation Cabinet (KYTC) bring particular knowledge as to state funding programs and how they might be leveraged to fund some critical infrastructure improvements. Drawing on the detailed list of capital projects, we will review the types of projects to distinguish those that benefit other residents (e.g., thoroughfare improvements) from those that benefit project residents only (e.g., local roads) and those that benefit more than one new development (shared entry road). Capital projects with additional issues (e.g., stream crossings) may affect this characterization as well. Other distinctions may arise relative to the availability of federal or state funding support.

Examples from other Kentucky communities and other areas will be researched to identify additional techniques and tools. Dwayne Guthrie and Drew Harris will contribute their knowledge and contacts to widen the search for viable funding tools. A matrix evaluation will be developed to summarize the pros and cons for each mechanism in its application to the different categories of capital projects.

Working with the LFUCG Project Manager and Leadership Team, PES will participate in developer conversations to elicit inputs on their ability to finance improvements and potential impacts of alternative funding mechanisms on project feasibility.

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### **Regulatory and Legal Review**

Drew Harris will review relevant local, state and federal regulations related to funding mechanisms identified in the preceding task. From that review, any legal constraints or requirements will be identified as input to the funding mechanism evaluation. We know that the use of impact fees may require new legislation or creation of a hybrid mechanism that can be approved under state law. Drew Harris has worked extensively on innovative funding strategies for infrastructure improvements in Kenton County, KY. He will draw on his experience and contacts with his legal counterparts around the Commonwealth to provide feedback on how other communities are addressing funding mechanism constraints imposed by state legislation.

LFUCG's Charter and relevant Ordinances will be reviewed to identify legal constraints and requirements, conferring with LFUCG's Law Department.

The purpose of the regulatory and legal review is to determine the constraints within which the funding mechanisms will need to be formulated and to identify ways to adjust the mechanisms for regulatory compliance. If necessary, legislative initiatives might be proposed.

## Financial Modeling and Projections

PES will develop financial models to project funding needs and revenue generation. The models will evaluate the alternative funding mechanisms to estimate costs and benefits for use with different types of improvements. The timing of development relative to the timing of required improvements will have significant implications for the effectiveness and cost of alternative funding mechanisms. The models will test for the impact of unexpected delays in completion of proposed development and other factors affecting the timing of revenue receipt. The analysis will identify key risks and sustainability issues.

The modeling will inform the recommendations of alternative funding mechanisms for different types of improvements. Excluding mechanisms that fail to generate sufficient resources, PES will prepare detailed financial projections for the short- and long-term periods.

## Strategic Planning and Recommendations

Drawing on the preceding analysis of funding mechanisms, review of legal and regulatory constraints, and the financial modeling, the PES team will develop a comprehensive funding strategy for the UGMP. The recommendations will prioritize funding mechanisms based on feasibility, impact, risks, sustainability, cost and efficiency.

Meetings with the Leadership Team, Advisory Committee and other stakeholders will test the draft recommendations. The PES team will refine the strategic recommendations, adding timelines and milestones to create a strategic capital improvements program.

## Execution Goals and Action Master Plan

The PES Team will recommend execution goals and create high-level action plans for each of the recommended funding mechanisms. The action plans will encompass step-by-step actions with responsible parties and timelines, staffing recommendations and required resources. These will serve as a framework for the Task 3 implementation handbooks.

We will identify specific deviations where needed to support UGMP and other LFUCG goals, particularly those related to affordable housing.

## Ongoing Monitoring and Evaluation

The PES Team will translate the Action Master Plan into an ongoing monitoring tool with performance indicators and milestones. PES and Dwayne Guthrie will recommend evaluation methodologies and timing for periodic reviews and updating/revisions to the funding mechanisms and action plans.

## Task 3. Funding Mechanisms Implementation (Optional)

As needed, the PES Team will be available to provide support and guidance to LFUCG staff in implementing the funding mechanisms. Our team members include individuals who have developed impact fee programs and who have worked directly with developing capital improvement plans; they bring hands-on experience and insights to the process development and training efforts.



Recognizing that the implementation details will depend on the nature of the strategic plan and recommendations, we would anticipate refining the Task 3 scope at the time any individual work item is requested. Our budget includes the list of tasks identified in the RFP. We also have reserved \$30,000 to respond to additional items or to supplement the budget for an individual item that requires more effort (e.g., more legal documents or more meetings) than currently anticipated. If LFUCG agrees, the contract for this task could be structured on an hourly basis with a not-to-exceed cap on fees.

The base budget includes:

- 1) Provide a methodology report outlining the creation of any new funding source and how it will be charged and collected.
- 2) Provide a schedule of charges that meets all legal and administrative requirements along with a detailed methodology and template for calculating the charges.
- 3) Draft ordinances or other legal documents required to adopt any new funding source, conferring with LFUCG's Law Department.
- 4) Prepare an implementation handbook outlining administrative processes, such as appeals, annual reporting and periodic updating.
- 5) Assess and project necessary staffing levels, including roles and responsibilities.
- 6) Propose an effective leadership and governance structure with a clear decision-making process.
- 7) Recommend relevant processes and software necessary for successful implementation, which may include computerized assessment and collection software that integrates with current LFUCG software and systems.
- 8) Assist with RFP development to procure software development and implementation consultants.
- 9) Conduct training sessions for LFUCG staff on new funding mechanisms and developed processes.
- 10) Offer ongoing support and assistance through the full implementation process.

## Deliverables

Contract deliverables will include:

- Infrastructure Identification and Priorization Plan with a detailed list of projects and associated costs
- Funding Strategy identifying resources and mechanisms to fund the Urban Growth Master Plan infrastructure improvements
- Funding Action Master Plan with detailed implementation tasks
- Presentation to the Urban County Council
- Optional implementation support documents including a methodology report, schedule of charges, draft ordinances, other legal documents, implementation handbooks, recommendation memoranda and software procurement assistance
- Optional training sessions and other ongoing implementation support and assistance.

## Proposed Schedule and Fee

### Proposed Schedule

Shown on the following page, we have proposed a preliminary schedule with Tasks 1 and 2 completed over a nine-month period followed by implementation support over a seven-month period at LFUCG's discretion. Upon selection, we will work with the LFUCG Project Manager to refine the schedule.

### Proposed Fee

We propose to complete the outlined scope of work for a total fee of \$744,195, including salaries, overhead and direct expenses. The fee includes time for 39 biweekly meetings with the LFUCG Project Manager, at times including the Leadership Team and Project Advisory Committee. Those meetings are assumed to be virtual. We have budgeted for PES to be in Lexington seven times for in-person meetings. Up to eight two-hour stakeholder meetings arranged by LFUCG with developers and property owners are budgeted. If in-person, we will work with the LFUCG Project Manager to schedule our visits accordingly. Gresham Smith team members are available to provide a local presence.

Payment for the kick-off, project coordination and Tasks 1 and 2 will be invoiced monthly based on the portion of work completed for each task item.

Our understanding of the project and the uncertain mix of implementation needs suggest that the third phase, exercised at LFUCG's option, should be handled on a time-and-materials basis with a not-to-exceed fee cap. We have included a \$30,000 reserve account for unanticipated tasks and those that are more extensive than now envisioned (e.g., multiple or more complex legal documents, additional meetings).

LPICG Infrastructure Punding Plan Proposed Schedule (Continued)

Task	February	March	April	May	June	July	August	September	October
Client Meetings									
1 Project Identification and Prioritization Process Development									
Project Kick-off									
Project List									
Cost Estimates									
Project Evaluation and Prioritization									
Cost Review									
Infrastructure Identification and Prioritization Plan									
2 Funding Mechanisms Assessment									
Financial Reports and History Review									
Market Analysis Update									
Funding Options Analysis									
Legal Review									
Financial Modeling									
Strategic Planning									
Client Review									
Execution Goals and Action Master Plan									
Presentation									
3 Funding Mechanisms Implementation									
Methodology Report									
Schedule of Changes									
Draft Contracts, Legal Documents									
Implementation Process									
Staffing Levels									
Leadership and Governance Structure									
Process and Software Recommendations									
Software Procurement									
Training Sessions									
Ongoing Support and Assistance									

LPICG Infrastructure Punding Plan Proposed Schedule (Continued)

Task	November	December	January	February	March	April	May	June	July
Client Meetings									
1 Project Identification and Prioritization Process Development									
Project Kick-off									
Project List									
Cost Estimates									
Project Evaluation and Prioritization									
Client Review									
Infrastructure Identification and Prioritization Plan									
2 Funding Mechanisms Assessment									
Financial Reports and History Review									
Market Analysis Update									
Funding Options Analysis									
Legal Review									
Financial Modeling									
Strategic Planning									
Client Review									
Execution Goals and Action Master Plan									
Presentation									
Council Adoption									
3 Funding Mechanisms Implementation									
Methodology Report									
Schedule of Changes									
Draft Contracts, Legal Documents									
Implementation Handbook									
Staffing Levels									
Leadership and Governance Structure									
Process and Software Recommendations									
Software Procurement									
Training Sessions									
Ongoing Support and Assistance									



		Partners for Economic Solutions				DP Guthrie	D. Harris	Gresham Smith			
		Morrison, Principal	Ferrelli, Principal	Analyst	PES Total	Guthrie, Principal	Harris, Attorney	Hendrix, Senior Transport. Engineer	Markerson, Senior Landscape Architect	McClaren, Senior Civil Engineer	Gull, Transport. Engineer
Tasks	Total Fee	\$225	\$195	\$80		\$200	\$300	\$270	\$190	\$255	\$200
Hourly Rate											
<b>Kick-Off</b>											
Project Kick-Off, Schedule	\$ 13,295	16	12	2	\$ 6,100	4	4	2	11	2	2
<b>Task 1 Project Identification and Prioritization</b>											
Project List, Cost Estimates	\$ 157,650	24	40	-	\$ 13,200			20	100	40	50
Project Evaluation, Prioritization	\$ 80,340	32	32	-	\$ 13,440	8		40	40	40	30
Infrastructure Prioritization Plan	\$ 71,840	40	40	8	\$ 17,440	8		40	40	40	20
<b>Task 1 Subtotal</b>	<b>\$ 309,830</b>	<b>96</b>	<b>112</b>	<b>8</b>	<b>\$ 44,080</b>	<b>16</b>	<b>-</b>	<b>100</b>	<b>180</b>	<b>120</b>	<b>100</b>
<b>Task 2 Funding Mechanisms Assessment</b>											
Financial Reports, History Review	\$ 5,980	16	4	-	\$ 4,380	8					
Market, Economic Analysis	\$ 6,140	12	16	4	\$ 6,140						
Funding Options Analysis	\$ 28,160	32	24		\$ 11,880	28		16	8	8	
Legal Review	\$ 27,790	8	2		\$ 2,190	8	80				
Financial Modeling	\$ 21,660	48	32		\$ 17,040	8		2	4	4	
Strategic Planning	\$ 35,880	56	40		\$ 20,400	24		16	8	8	
Execution Master Plan	\$ 32,340	64	40	8	\$ 22,840	20		2	8	8	
On-Going Monitoring, Evaluation	\$ 8,540	24	12		\$ 7,740	4					
Presentation	\$ 5,820	12	16		\$ 5,820						
<b>Task 2 Subtotal</b>	<b>\$ 172,310</b>	<b>272</b>	<b>186</b>	<b>12</b>	<b>\$ 98,430</b>	<b>100</b>	<b>80</b>	<b>36</b>	<b>28</b>	<b>28</b>	<b>-</b>
<b>Task 3 Funding Mechanisms Implementation</b>											
Methodology Report	\$ 8,540	24	12		\$ 7,740	4					
Schedule of Charges	\$ 15,800	16	32		\$ 9,840	4			8	8	
Draft Ordinance, Documents	\$ 14,700	12			\$ 2,700		40				
Implementation Handbook	\$ 13,980	32	16		\$ 10,320	4			4		
Staffing Levels	\$ 4,440	8	8		\$ 3,360				2		
Leadership, Governance	\$ 5,180	16	4		\$ 4,380	4					
Process Recommendations	\$ 14,060	16	24		\$ 8,280	6			2		
Software Procurement	\$ 8,260	8	24		\$ 6,480				2		
Training Sessions	\$ 14,660	24	24		\$ 10,080				2		
Reserve for Ongoing Support	\$ 30,000				\$ -						
<b>Task 3 Subtotal</b>	<b>\$ 129,620</b>	<b>156</b>	<b>144</b>	<b>-</b>	<b>\$ 63,180</b>	<b>22</b>	<b>40</b>	<b>-</b>	<b>20</b>	<b>8</b>	<b>8</b>
<b>Meetings</b>											
Client, Team Meetings	\$ 75,900	100	100	-	\$ 42,000	24	16	8	36	12	
Stakeholder Meetings	\$ 16,640	16	16	-	\$ 6,720				16	16	
<b>Meetings Subtotal</b>	<b>\$ 92,540</b>	<b>116</b>	<b>116</b>	<b>-</b>	<b>\$ 48,720</b>	<b>24</b>	<b>16</b>	<b>8</b>	<b>52</b>	<b>28</b>	<b>-</b>
<b>Total Labor</b>	<b>\$ 717,595</b>	<b>656</b>	<b>570</b>	<b>22</b>	<b>\$ 260,510</b>	<b>\$ 33,200</b>	<b>\$ 42,000</b>	<b>146</b>	<b>291</b>	<b>186</b>	<b>110</b>
Expenses	\$ 26,600				\$ 18,400	2,400	800				
<b>Total Fee</b>	<b>\$ 744,195</b>				<b>\$ 278,910</b>	<b>\$ 35,600</b>	<b>\$ 42,800</b>				

PES Team Budget (Continued)											
	Gresham Smith					Civil Design, Inc.					Total Hours
	Deatherage, Transport. Planner	Civil Engineer	Civil EIT	Admin Assistant	Gresham Smith Total	Corwin, Project Manager	Moore, Project Engineer	Ford, Project Engineer	CSI Total		
Tasks		\$185	\$135	\$100		\$210	\$180	\$110			
Hourly Rate	\$175	\$185	\$135	\$100		\$210	\$180	\$110			
Kick-Off	2	2	1	8	\$ 5,195				\$ -	68	
Project Kick-Off, Schedule											
Task 1 Project Identification and Prioritization Process Development											
Project List, Cost Estimates	50	80	200	4	\$ 95,550	120	40	150	\$ 48,900	608	
Project Evaluation, Prioritization	100	40	40	4	\$ 65,300				\$ -	406	
Infrastructure Prioritization Plan	40	40	40	4	\$ 52,800				\$ -	360	
Task 1 Subtotal	190	160	280	12	\$ 213,650	120	40	150	\$ 48,900	1,374	
Task 2. Funding Mechanisms Assessment											
Financial Reports, History Review					\$ -				\$ -	28	
Market, Economic Analysis					\$ -				\$ -	32	
Funding Options Analysis	16				\$ 10,680				\$ -	132	
Legal Review					\$ -				\$ -	98	
Financial Modeling	4				\$ 3,020				\$ -	102	
Strategic Planning	16				\$ 10,680				\$ -	168	
Execution Master Plan	8				\$ 5,500				\$ -	158	
On-Going Monitoring, Evaluation					\$ -				\$ -	28	
Presentation					\$ -				\$ -	28	
Task 2 Subtotal	44	-	-	-	\$ 29,880	-	-	-	\$ -	786	
Task 3. Funding Mechanisms Implementation											
Methodology Report					\$ -				\$ -	40	
Schedule of Charges					\$ 5,160				\$ -	76	
Draft Ordinance, Documents					\$ -				\$ -	52	
Implementation Handbook	12				\$ 2,860				\$ -	68	
Staffing Levels	4				\$ 1,080				\$ -	22	
Leadership, Governance					\$ -				\$ -	24	
Process Recommendations	24				\$ 4,580				\$ -	72	
Software Procurement	8				\$ 1,780				\$ -	42	
Training Sessions	24				\$ 4,580				\$ -	74	
Reserve for Ongoing Support					\$ -				\$ -	-	
Task 3 Subtotal	72	-	-	-	\$ 20,040	-	-	-	\$ -	470	
Meetings											
Client, Team Meetings	36	24		15	\$ 24,300				\$ -	371	
Stakeholder Meetings	16				\$ 9,920				\$ -	80	
Meetings Subtotal	52	24	-	15	\$ 34,220				\$ -	451	
Total Labor	360	186	281	35	\$ 302,985				\$ 48,900	3,149	
Expenses					\$ 4,000				\$ 1,000		
Total Fee					\$ 306,985				\$ 49,900		

Bid Submission Documents

## AMERICAN RESCUE PLAN ACT

### AMENDMENT 1 — CERTIFICATION OF COMPLIANCE FOR EXPENDITURES USING FEDERAL FUNDS, INCLUDING THE AMERICAN RESCUE PLAN ACT

The Lexington-Fayette Urban County Government ("LFUCG") may use Federal funding to pay for the goods and/or services that are the subject matter of this bid. That Federal funding may include funds received by LFUCG under the American Rescue Plan Act of 2021. Expenditures using Federal funds require evidence of the contractor's compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. 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.

The bidder (hereafter "bidder," or "contractor") agrees and understands that in addition to all conditions stated within the attached bid documents, the following conditions will also apply to any Agreement entered between bidder and LFUCG, if LFUCG uses Federal funds, including but not limited to funding received by LFUCG under the American Rescue Plan Act ("ARPA"), toward payment of goods and/or services referenced in this bid. The bidder also agrees and understands that if there is a conflict between the terms included elsewhere in this Request for Proposal and the terms of this Amendment 1, then the terms of Amendment 1 shall control. The bidder further certifies that it can and will comply with these conditions, if this bid is accepted and an Agreement is executed:

1. Any Agreement executed as a result of acceptance of this bid may be governed in accordance with 2 CFR Part 200 and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury.

2. Pursuant to 24 CFR § 85.43, any Agreement executed as a result of acceptance of this bid can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice by LFUCG. Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. However, if LFUCG suspects a breach of the terms of the Agreement and/or that the contractor is violating the terms of any applicable law governing the use of Federal funds, LFUCG may suspend the contractor's ability to receive payment by giving thirty (30) days' advance written notice. Further, either party may terminate this Agreement for cause shown with thirty (30) days written notice, which shall explain the party's cause for the termination. If the parties do not reach a settlement before the end of the 30 days, then the Agreement shall terminate on the thirtieth day. In the event of a breach, LFUCG reserves the right to pursue any and all applicable legal, equitable, and/or administrative remedies against the contractor.

3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

(1) 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 apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin. (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor 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.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by 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.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, 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 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.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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. 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 administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:

(1) Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.

(2) Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or

cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section. (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

5. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

6. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.

7. The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funding.

8. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

9. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.

10. The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funds.

11. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

12. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.

13. The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.

14. The contractor shall include this language in any subcontract it executes to fulfill the terms of this bid: "the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise

discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with 'Limited English Proficiency' in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement."

15. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient. The required certification is included here:

a. The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

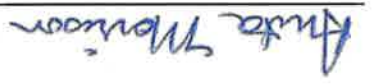
b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. The contractor acknowledges and certifies that it has not been debarred or suspended and further acknowledges and agrees that it must comply with regulations regarding debarred or suspended entities in accordance with 24 CFR § 570.489(l). Funds may not be provided to excluded or disqualified persons.

17. The contractor agrees and certifies that to the greatest extent practicable, it will prefer the purchase, acquisition, and use of all applicable goods, products or materials produced in the United States, in conformity with 2 CFR 200.322 and/or section 70914 of Public Law No. 117-58, §§ 70901-52, also known as the Infrastructure Investment and Jobs Act, whichever is applicable.

18. The contractor agrees and certifies that all activities performed pursuant to any Agreement entered as a result of the contractor's bid, and all goods and services procured under that Agreement, shall comply with 2 C.F.R. § 200.216 (Prohibition on certain telecommunications and video surveillance services and equipment) and 2 C.F.R. 200 § 200.323 (Procurement of recovered materials), to the extent either section is applicable.

19. If this bid involves construction work for a project totaling \$10 million or more, then the contractor further agrees that all laborers and mechanics, etc., employed in the construction of the public facility project assisted with funds provided under this Agreement, whether employed by contractor, or contractor's contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). Contractor agrees that all of contractor's contractors and subcontractors will pay laborers and mechanics the prevailing wage as determined by the Secretary of Labor and that said laborers and mechanics will be paid not less than once a week. The contractor agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The contractor further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). Contractor further agrees that it will report all suspected or reported violations of any of the laws identified in this paragraph to LFUCG.



Signature

Date

January 16, 2025

Type text here

**AFFIDAVIT**

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

1. His/her name is Anita Morrison and he/she is the individual submitting the proposal or is the authorized representative of Partners for Economic Solutions, LLC, 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.

Anita Morrison  
Anita Morrison  
STATE OF Florida  
COUNTY OF Pasco  
01/16/2025

By means of online notarization,  
The foregoing instrument was subscribed, sworn to and acknowledged before me  
— Personally Known OR — ☒ Produced Identification  
Type of Identification Produced DRIVER LICENSE

by Anita Morrison on this the 16th day  
of January, 2025  
My Commission expires: 05/31/2028



Bianca B Estes  
HH 526896  
NOTARY PUBLIC, STATE AT LARGE

Notarized remotely online using communication technology via Proof.

## EQUAL OPPORTUNITY AGREEMENT

### Standard Title VI Assurance

The Lexington Fayette-Urban County Government, (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78Stat.252, 42 U.S.C. 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that will promptly take any necessary measures to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

### 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

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

*Asta Moon* Signature  
Partners for Economic Solutions, LLC Name of Business

# **WORKFORCE ANALYSIS FORM**

Name of Organization: Partners for Economic Solutions, LLC

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	2		2														2
Superintendents																	
Supervisors																	
Foremen																	
Technicians																	
Protective Service																	
Para-Professionals																	
Office/Clerical																	
Skilled Craft																	
Service/Maintenance																	
<b>Total:</b>	2		2														2

Prepared by: Anita Morrison

Date: 1 / 16 / 25

(Name and Title)

Revised 2015-Dec-15

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

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

The Lexington-Fayette Urban County Government has a Certified Minority and Women Business Enterprise seventeen percent (17%) minimum goal including minimum subgoals of five percent (5%) for Minority Business Enterprises (MBE) and a subgoal of twelve percent (12%) for Women Business Enterprises (WBE); a three (3%) minimum goal for Certified Veteran-Owned Small Businesses and/or Certified Service- Disabled Veteran Owned Businesses; and a goal of utilizing Disadvantaged Business Enterprises (DBE), where applicable, for government contracts.

For assistance in locating certified DBEs, MBEs, WBEs, VOSBs and/or VOSBs, contact Sherita Miller at 859/258-3320 or by writing the address listed below:

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





LFUCG MWDBE PARTICIPATION FORM  
Bid/RFP/Quote Reference # 56-20244

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 the Division of Procurement for approval immediately. Failure to submit a completed form may cause rejection of the bid.

MWBE Company, Name, Address, Phone, Email	DBE/MBE WBE/VOSB/SDVOSB	Work to be Performed	Total Dollar Value of the Work	% Value of Total Contract
1. Partners for Economic Solutions, LLC	W E	Funding strategy, implementation support, project management	\$278,910	37.5%
2. Civil Design, Inc.	W E	Life-cycle costing, stormwater analysis	\$49,900	6.7%
3.				
4.				

The undersigned company representative submits the above list of MDWBE and veteran 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.

Partners for Economic Solutions, LLC  
Company

Anita Morrison  
Company Representative  
*Anita Morrison*

## ATTACHMENT A – SMALL AND DISADVANTAGED, MINORITY-, WOMEN-, AND VETERAN-OWNED BUSINESS OUTREACH PLAN

<b>Proposer Name:</b>	<u>Partners for Economic Solutions, LLC</u>	<b>Date:</b>	<u>January 16, 2025</u>
<b>Project Name:</b>	<u>Infrastructure Funding Plan</u>	<b>Project Number:</b>	<u>56-2024</u>
<b>Contact Name:</b>	<u>Anita Morrison</u>	<b>Telephone:</b>	<u>202 621-9103</u>
<b>Email:</b>	<u>amorrison@pesconsult.com</u>		

The mission of the Minority Business Enterprise Program is to facilitate the full participation of disadvantaged businesses, minority-, women-, veteran-, and service-disabled veteran-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, small and disadvantaged businesses, including minority-, woman-, veteran-, and service-disabled veteran-owned businesses, must have an equal opportunity to be utilized in the performance of contracts with public funds spent from certain discretionary agreements. By submitting its offer, Bidder/Proposer certifies that it has taken, and if there are further opportunities will take, reasonable steps to ensure that small and disadvantaged businesses, including minority-, woman-, veteran-, and service-disabled veteran-owned businesses, are provided an equal opportunity to compete for and participate in the performance of any subcontracts resulting from this procurement.

The information submitted in response to this clause will not be considered in any scored evaluation. Failure to submit this form may cause the bid or proposal to be rejected.

**Is the Bidder/ Proposer a certified firm?** Yes ☒ No ☐

If yes, indicate all certification type(s):

DBE ☐

MBE ☐

WBE ☒

SBE ☐

VOSB/SDVOSB ☐


and supply a copy of the certificate and/or certification letter if not currently listed on the city's Minority Business Enterprise Program's (MBEP) certified list.

**1. Include a list of firms that Bidder/ Proposer has had a contractual relationship with within the last two years that are minority-owned, woman-owned, veteran-owned or small businesses, regardless of their certification status.**

  And Access, LLC; Ochoa Urban Collaborative, LLC; GIS Education and Research Servies, LLC

**2. Does Bidder/Proposer foresee any subcontracting opportunities for this procurement?**

Yes ☒ No ☐

If no, please explain why in the field below. Do not complete the rest of this form and submit this first page with your bid and/or proposal.  Click or tap here to enter text.

If yes, please complete the following pages and submit all pages with your bid and/or proposal.

**Describe the steps Bidder/Proposer took to solicit small and disadvantaged businesses, including MBEs, WBEs, VOSBs, and SDVOSBs, for subcontracting opportunities for this procurement.**

**3. Check the good faith and outreach efforts the Bidder/Proposer used to encourage the participation of small and disadvantaged businesses including, MBEs, WBEs, VOSBs and SDVOSBs:**

- ☐ Bidder placed advertisements in search of prospective small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs for the solicitation.
- ☐ Bidder attended LFUCG Procurement Economic Inclusion Outreach event(s) within the past year.
- ☐ Bidder attended pre-bid and/or pre-proposal meetings for this solicitation.
- ☐ Bidder sponsored an Economic Inclusion Outreach event.
- ☒ Bidder requested a list of certified small, DBE, MBE, WBE, VOSB and/or SDVOSB subcontractors or suppliers from LFUCG.
- ☐ Bidder contacted organizations that work with small, DBE, MBE, WBE, VOSB and/or SDVOSB companies.
- ☐ Bidder sent written notices to certified small, DBE, MBE, WBE, VOSB and SDVOSB businesses.
- ☐ Bidder followed up to initial solicitations with interested small, DBE, MBE, WBE, VOSB and/or SDVOSB.
- ☒ Bidder provided small, DBE, MBE, WBE, VOSB and/or SDVOSB businesses interested in performing the solicited work with prompt access to the plans, specifications, scope of work, and requirements of the solicitation.
- ☒ Bidder made efforts to segment portions of the work to be performed by small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs, including dividing sub-bid/partnership opportunities into economically feasible units/parcels, to facilitate participation.

- ☒ Bidder negotiated in good faith with interested small, DBE, MBE, WBE, VOSB and/or SDVOSB businesses.
- ☐ Bidder provided adequate rationale for rejecting any small business', DBEs, MBEs, WBEs, VOSBs or SDVOSBs for lack of qualifications.
- ☐ Bidder offered assistance in obtaining bonding, insurance, financial, equipment, or other resources to small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs, in an effort to assist them in meeting project requirements.
- ☐ Bidder made efforts to expand the search for small businesses, DBEs MBEs, WBEs, VOSBs and/or SDVOSBs beyond the usual geographic boundaries.
- ☒ Bidder made other reasonable efforts to include small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs participation.

**4. Bidder/Proposer must include documentation, including the date each effort was made, the medium through which each effort was made, and the outcome of each effort with this form, regardless of the level of small, DBE, MBE, WBE, VOSB and/or SDVOSB participation. Examples of required documentation include copies of email communications, copies of newspaper advertisements, or copies of quotations received from interested small businesses, DBEs, MBEs, WBEs, VOSBs or SDVOSBs.**

 Click or tap here to enter text. 

**For detailed information regarding outreach efforts that satisfy the MBE Program's requirements, please see "Documentation Required for Good Faith Efforts and Outreach Plans" page.**

**Note: The Bidder/Proposer must be willing to report the identity of each subcontractor and the value of each subcontract to MBEP if awarded a contract from this procurement.**

**Failure to submit the documentation requested may be cause for rejection of the 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 and Outreach Efforts must be submitted with the bid, regardless of the proposed level of SBES, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs participation in the procurement. If the Good Faith and Outreach Effort Form and associated documentation is not submitted with the bid response, the bid may be rejected.**

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.

<p>Partners for Economic Solutions, LLC</p> <hr/> <p><b>Company</b></p> <p>January 16, 2025</p> <hr/> <p><b>Date</b></p>	<p>Anita Morrison</p> <hr/> <p><b>Company Representative</b></p> <p>Principal</p> <hr/> <p><b>Title</b></p>
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4870-1925-6809, v. 1

EBS contacted the following entities with direct phone call solicitations to participate in the above-referenced RFP:

- |  |                              |
|--|------------------------------|
| Paladin, Inc.                            | Non-responsive               |
| True Inspection Services, LLC            | Non-responsive               |
| Comerstone Engineering, Inc.             | Non-responsive               |
| Salt River Engineering                   | Non-responsive               |
| LECGI Inc.                               | Not able to provide services |
| Lone Camel PLLC                          | Not able to provide services |
| Team Fishel Engineering of Virginia, LLC | Non-responsive               |
| Brownsfield Development, LLC             | Not able to provide services |
| Third Rock Consultants, LLC              | Not able to provide services |
| Keramida, Inc                            | Not able to provide services |
| Capital Filtrations Inc.                 | Non-responsive               |

## 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 and IonWave Q&A, 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.
20. Contractor [or Vendor or Vendor's Employees] will not appropriate or make use of the Lexington-Fayette Urban County Government (LFUCG) name or any of its trade or service marks or property (including but not limited to any logo or seal), in any promotion, endorsement, advertisement, testimonial or similar use without the prior written consent of the government. If such consent is granted LFUCG reserves the unilateral right, in its sole discretion, to immediately terminate and revoke such use for any reason whatsoever. Contractor agrees that it shall cease and desist from any unauthorized use immediately upon being notified by LFUCG.

Signature



Date

January 16, 2025

349 Cedar Street, NW  
Washington, DC 20012  
[www.PESconsult.com](http://www.PESconsult.com)



**PART VI**

**CONTRACT AGREEMENT**

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## PART VI

### CONTRACT AGREEMENT

THIS AGREEMENT, made on the 27<sup>th</sup> day of MARCH, 2025, by and between **Lexington-Fayette Urban County Government**, acting herein called "OWNER" and **J.E.M. Properties dba JEM Services**, doing business as a corporation located in the City of Georgetown, County of Scott, and State of Kentucky, hereinafter called "CONTRACTOR."

WITNESSETH: That the CONTRACTOR and the OWNER in consideration of one hundred thirteen thousand eight hundred eighty-six Dollars and No Cents (\$113,886.00) quoted in the proposal by the CONTRACTOR, dated March 18, 2025, hereby agree to commence and complete the construction described as follows:

#### 1. SCOPE OF WORK

The CONTRACTOR shall furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, General Conditions, Special Conditions of the Contract, the Specifications, Contract Documents, and IonWave Q&A and Addenda, therefore as prepared by Brandstetter Carroll Inc. for the LFUCG Detention Center Portable Classroom Building project.

#### 2. TIME OF COMPLETION

The date estimated and authorized by the OWNER for the proper execution of the Work by the Contract, in full, is hereby fixed as May 5, 2025 to final completion date. The time shall begin in accordance with the Notice to Proceed provided by OWNER.

#### 3. ISSUANCE OF WORK ORDERS

Notice to begin Work will be given in whole or for part of the Work as determined by the OWNER pending the availability of funds. The order of construction will be as determined after consultation between the CONTRACTOR and the OWNER.

#### 4. THE CONTRACT SUM

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the Contract, as quoted in the proposal, subject to any additions and deductions, as provided therein and in accordance with CONTRACTOR's Lease Agreement 024-2025-01.

## **5. PROGRESS PAYMENTS**

The OWNER shall make payments on account of the Contract, as provided in accordance with the General Conditions, less the aggregate of previous payments.

## **6. ACCEPTANCE AND FINAL PAYMENT**

Final payment shall be due within ninety (90) days after completion of the Work, provided the Work be then fully completed and the Contract fully accepted.

Before issuance of final certificate, the CONTRACTOR shall submit evidence satisfactory to the Owner that all payrolls, material bills, and other indebtedness connected with the Work has been paid.

If, after the Work has been substantially completed, full completion thereof is materially delayed through no fault of the CONTRACTOR, the OWNER shall without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted and in accordance with CONTRACTOR's Lease Agreement 024-2025-01. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

## **7. THE CONTRACT DOCUMENTS**

The Advertisement for Bids, Information for Bidders, the General Conditions, Performance and Payment Bonds, Contract Agreement, Special Conditions, Technical Specifications, any and all Addenda, and Proposal, Ion Wave Q&A, CONTRACTOR's Lease Agreement 024-2025-01, and Plan Drawings form the Contract, and they are fully a part of the Contract as if hereto attached or herein repeated.

## **8. EXTRA WORK**

The OWNER, without invalidating the Contract, may order extra work or make changes by altering, adding to or deducting from the Work, the Contract Sum being adjusted accordingly. All such Work shall be executed and paid for in accordance with the General Conditions, which is a part of this Contract.

9. THE FOLLOWING IS AN ENUMERATION OF THE SPECIFICATIONS AND DRAWINGS (CONTRACT DOCUMENTS):

**SPECIFICATIONS**

**SECTION  
NO.**

**TITLE**

---

I	Advertisement for Bids
II	Information for Bidders
III	Form of Proposal
IV	General Conditions
V	Special Conditions
VI	Contract Agreement
VII	Performance and Payment Bonds
VIII	Addenda
IX	Technical Specifications and Drawings

IN WITNESSETH WHEREOF, the parties hereto have executed this Contract as of the date and year above written.

(Seal)

Lexington-Fayette Urban County Government.

Lexington, Kentucky

(Owner)

ATTEST:

*Mackenzie Stock*  
Deputy Clerk of the Urban County Council

BY:

*Linda Gorton*

MAYOR

*[Signature]*  
(Witness)

*Mayor*  
(Title)

(Seal)

*John McCullough*  
(Contractor)

*Amy McCullough*  
(Secretary)\*

BY: *John McCullough*

*Amy McCullough*  
(Witness)

*President*  
(Title)

*115 Bold Bidder Georgetown KY 40324*  
(Address and Zip Code)

IMPORTANT: \*Strike out any non-applicable terms.

Secretary of the Owner should attest. If the CONTRACTOR is corporation, Secretary should attest. Give proper title of each person-executing Contract.



Delivery, installation, and removal charges will be \$54,387.99 and includes the delivery, installation, skirting, decks, steps, ramps, temporary waste tank (weekly service of waste tank is included in monthly rental charges), as well as, knock down and removal of the facility and the time of return.


Lessee intends to use the Equipment for the following purpose: Classroom

The owner of the real estate on which the Equipment will be located is 200 East Main Street, Lexington, KY 40507, and the property where the Equipment will be installed and located is 600 Old Frankfort Cir, Lexington, KY 40510 (the "Property").

The attached pages (Form JEM-Op-Lease01) contain terms and conditions that are an integral part of this Lease and are incorporated herein by reference (the "Terms and Conditions"). **The Terms and Conditions include but are not limited to disclaimers of warranties of merchantability and fitness and limitations on damages.**

**Lessor will not proceed on any work under this Lease absent issuance of a full Notice to Proceed by Lessee.**

Signed by duly authorized agents, with the intent to be legally bound, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

<p>J.E.M. Properties, Ltd. ("Lessor")</p> <p>By: <u></u> Name: <u>John McWhorter</u> Title: <u>President</u></p>	<p>Lexington-Fayette Urban County Government Kentucky ("Lessee")</p> <p>By: _____ Name: _____ Title: _____</p>
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## TERMS AND CONDITIONS OF LEASE AGREEMENT

**1. Term**

The term of this Lease shall be effective for the Minimum Lease Period and will continue month-to-month thereafter until terminated pursuant to Section 5 (the "Term"). The Minimum Lease Period will not be delayed, and no abatement of rent will be granted to Lessee or alteration of the required (12) month minimum rental period, regardless of when the DAA is signed, including delays arising out of Covid-19 (including, without limitation, work shutdowns required by any governmental authority or worker shortage arising therefrom) or any other reason not caused by Lessor. Lessor reserves the right of rejection or require additional credit verification. Lessee shall not be responsible for damages to Lessor for any delay in the delivery of the Equipment at the Installation Site and execution of the DAA arising out of any cause outside the reasonable control of Lessee; provided, however, if such delay continues for more than sixty (60) days after the manufacturer's scheduled delivery date, Lessee shall reimburse Lessor for the actual costs incurred by Lessor to store the Equipment, plus overhead charges equal to five percent (5%) of such storage costs.

**2. Delivery and Installation of the Equipment**

Lessor shall deliver, assemble and make the Equipment operational in a timely manner in accordance with the Subcontract. Upon notification from Lessor that installation of the Equipment has been completed, Lessee shall visually inspect the equipment and advise Lessor of any deficiencies that require correction. Within three (3) days after correction of all such deficiencies is completed, Lessee shall fully execute the DAA confirming the Equipment has been accepted. Delivery of the DAA will start of the Minimum Lease Period and the beginning of Lessee's obligation to pay Monthly Rental Charges. Lessee shall not unreasonably withhold the fully executed DAA. If Lessee fails to deliver to Landlord the DAA or, in the alternative, written notice of previously noted deficiencies that remain uncorrected within the required three (3) day period Lessee shall be deemed to have accepted the Equipment and the Minimum Lease Period shall immediately commence (unless it has already commenced).

Lessee shall be solely responsible for site selection, local code compliance, all zoning approvals, permits (except transport permits), and providing a level and truck-accessible installation site (the "Installation Site"), both at time of installation and removal of the Equipment. The Installation Site shall be in sufficient condition to bear a minimum load of 2000 pounds PSF and be clear of all obstructions both above and below ground. Lessor shall not be responsible for any settlement of the Equipment at the Installation Site. If at any point in time before or during installation Lessor determines the Installation Site conditions are unsafe or insufficient for installation of the Equipment, as determined in Lessor's reasonable discretion, Lessee shall correct all such conditions prior to the completion of the installation of the Equipment.

Lessee may deliver change orders related to the Equipment to Lessor. Lessee will be solely responsible for all additional costs and expenses related to such change orders, which costs and expenses may, upon Lessor's approval, be added to the Monthly Rental Charges. Any delay in the delivery and installation of the Equipment caused by Lessee's change orders shall not cause a delay of commencement of the Minimum Lease Period.

**3. Rent; Late Charges; Interest**

During the Term, Lessee shall pay Lessor the Monthly Rental Charges in immediately available funds. Invoices for Monthly Rental Charges shall be billed on a 28-day billing cycle and Monthly Rental Charges will not be abated or prorated for any partial billing cycle. Each installment of Monthly Rental Charges shall be due and payable monthly, in advance, on the first day of each 28-day billing cycle during the Term, and shall be paid without notice, demand, counterclaim, set-off, deduction, abatement, deferment or recoupment. If any payment of Monthly Rental Charges is more than thirty (30) days late, Lessee shall pay a late fee equal to five percent (5%) of the outstanding amount. In the event any Monthly Rental Charges or any other amount due under this Lease is not timely paid, such amount shall bear interest at the lesser of eighteen percent (18%) per annum or the maximum non-usurious rate of interest permitted by applicable law (the "Default Rate").

**4. Return of Equipment**

Upon expiration or termination of this Lease, Lessee shall surrender the Equipment to Lessor in "broom clean" condition ordinary wear excepted. Prior to the return of the Equipment, whether upon termination of this lease or upon repossession by Lessor, Lessee shall immediately disconnect all utilities connected to the Equipment, remove all personal property of Lessee, its subtenant or their respective employees from the Equipment and vacate the Equipment. Prior to repossession the Equipment (whether upon expiration or termination of this Lease or Lessor's

## TERMS AND CONDITIONS OF LEASE AGREEMENT

exercise of its repossession rights) Lessee shall remove all barriers or restrictions to such repossession so that the Equipment is readily accessible for removal by truck without additional inconvenience or expense to Lessor. Lessor shall not be liable for keeping or storing any personal property left in, on or around the Equipment; such personal property will be deemed abandoned by Lessee and Lessee hereby consents to the disposal of such personal property by Lessor, at Lessee's expense. Lessor shall advise Lessee in writing of any required repairs to the Equipment, other than normal wear and tear, prior to removal from the Installation Site. To the extent permissible by law Lessee shall indemnify, defend and hold Lessor harmless from any and all claims of Lessee or third parties arising from any return, retaking or repossession of the Equipment by Lessor, unless caused by the sole negligence or willful misconduct of Lessor. This shall not be deemed a waiver of sovereign immunity or any other third party defense. Any restoration of the Installation Site after removal of the Equipment shall be Lessee's sole obligation. The foregoing indemnification obligation shall survive the termination of this Lease.

**5. Termination of Lease**

(a) Except as otherwise provided herein, this Lease shall terminate upon expiration of the Minimum Lease Period provided Lessee delivers written notice not less than sixty (60) days prior to expiration of the Minimum Lease Period confirming the Equipment will be ready for removal by Lessor upon expiration of the Minimum Lease Period (the "Termination Notice"). Late delivery of the Termination Notice shall result in a month-to-month renewal of this Lease pursuant to subsection (b) below until expiration of the sixtieth (60<sup>th</sup>) day after the date of the Termination Notice.

(b) Unless otherwise agreed in writing by the parties, if Lessee continues to possess or occupy the Equipment after expiration of Minimum Lease Period, with or without consent of Lessor, Lessee will be deemed to have renewed this Lease on a month-to-month basis on the same terms as set forth in this Lease, including the Monthly Rental Charges, and may be terminated by either party upon sixty (60) days prior written notice to the other party. Monthly Rental Charges shall increase to \$4,791.00 for up to an additional twelve months. If the Lease extends month-to-month beyond twelve months, Lessor reserves the right to increase the Monthly Rental Charges to align with market conditions.

(c) If, prior to the Minimum Lease Period, Lessee terminates this the Order for Equipment related to this Lease, Lessee will pay to Lessor all amounts permitted under the Federal Acquisition Regulations ("FAR") termination for convenience clause ("Early Termination Fees") and Lessee's obligation to pay Monthly Rental Charges shall cease as of expiration of the calendar month in which such early termination is effective. Payment of such Early Termination Fees to Lessee shall not be a condition precedent to Lessee's payment of the Early Termination Fees to Lessor.

**6. Ownership; No Liens**

The Equipment shall, at all times, remain the property of Lessor and no right, title or interest in the Equipment shall pass to Lessee other than the right to quiet enjoyment of the Equipment during the Term. Lessee shall keep the Equipment free from any and all liens, security interests, claims and other encumbrances (other than those placed on the Equipment by Lessor) and shall not do or permit any act or thing to occur which would cause Lessor's title or rights to be encumbered or impaired. The Equipment is, and shall at all times remain, personal property, notwithstanding that the Equipment or any component thereof may now be, or may hereafter become, in any manner affixed or attached to any other personal or real property. If permitted by Lease, Lessor may place advertising or its name on the Equipment and Lessee will assure that such advertising or name is not removed or concealed in whole or in part.

**7. Use**

Lessee shall cause the Equipment to be used solely for its intended purpose in the ordinary course of Lessee's business. The Equipment shall be used in compliance with any and all applicable federal, state and local laws, statutes, rules and regulations. The Equipment shall at all times be kept at the Installation Site and no portion of the Equipment shall be removed therefrom without Lessor's prior written consent, exercised in its sole and absolute discretion. Lessee shall pay all costs, expenses, fees, and charges incurred with its the use and operation of the Equipment during the lease period. Lessor shall pay licensing and registration fees and federal or state net income taxes assessed against Lessor on or measured by rents payable hereunder or the net income from the Equipment.

**8. Maintenance of the Equipment**

(a) Lessee will not make any alterations, additions or improvements to the Equipment without the prior written consent of Lessor. Notwithstanding Lessor's consent to any alteration, addition or improvement to the Equipment,

## TERMS AND CONDITIONS OF LEASE AGREEMENT

Lessee shall be liable for the cost of the removal of same or restoration of the Equipment upon expiration or termination of this Lease.

(b) Lessee shall, at its sole cost and expense, at all times keep the Equipment in good and efficient working order, condition, and repair, and shall keep, and maintain thereon such identification of ownership as Lessor may require. Lessee shall bear the risk of damage, theft or destruction of the Equipment from every cause, and shall make all replacements, repairs, or substitutions of parts or equipment thereon at its sole cost and expense, all of which shall constitute an accession to the Equipment, and title hereof shall vest in Lessor. Should the Equipment be damaged by any reason and be capable of repair, Lessor shall repair same at Lessee's expense, or, at Lessor's option, Lessee shall repair the same at Lessee's expense to Lessor's specifications, as quickly as circumstances permit. Lessee shall be responsible for all damages caused by moisture or water intrusion not reported promptly to Lessor for correction and repair.

9. **Limited Warranty**

The Equipment will have a 1-year warranty to be free from material defects; provided, however, Lessor shall be responsible for latent defects in the Equipment regardless of when they are identified.

**THE EQUIPMENT IS LEASED TO LESSEE "AS IS" "WHERE IS" AND "WITH ALL FAULTS", AND ALL RISKS, AS BETWEEN LESSEE AND LESSOR, ARE TO BE BORNE BY LESSEE AT ITS SOLE COST AND EXPENSE. EXCEPT AS OTHERWISE PROVIDED HEREIN, LESSOR MAKES NO WARRANTY OF ANY KIND WITH RESPECT TO THE EQUIPMENT, WHETHER EXPRESS OR IMPLIED, AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND OTHER WARRANTIES OF WHATEVER KIND, WHETHER ARISING BY STATUTE, FROM A COURSE OF DEALING OR USAGE OF TRADE, OR OTHERWISE, ARE HEREBY DISCLAIMED BY LESSOR AND WAIVED BY LESSEE. WITHOUT LIMITING THE FOREGOING, LESSOR EXPRESSLY WAIVES ANY LIABILITY WHATSOEVER FOR ANY DAMAGES INCURRED, DIRECTLY OR INDIRECTLY, IN CONNECTION WITH THE EQUIPMENT, INCLUDING LOSS OF REVENUE OR PROFIT AND ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. LESSEE HEREBY WAIVES ANY CLAIM (INCLUDING ANY CLAIM BASED ON STRICT LIABILITY, ABSOLUTE LIABILITY OR NEGLIGENCE) IT MIGHT HAVE AGAINST LESSOR FOR ANY LOSS, DAMAGE OR EXPENSE CAUSED BY OR WITH RESPECT TO ANY OF THE EQUIPMENT, EXCEPT FOR THEIR WORKERS CAUSING PERSONAL INJURY OR PROPERTY DAMAGE WHILE ON LFUCG PROPERTY.**

**LESSOR'S TOTAL LIABILITY FOR DAMAGES FOR ANY CAUSE WHATSOEVER ARISING UNDER OR RELATED TO THIS LEASE, OR THE TRANSACTIONS CONTEMPLATED HEREBY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, IN TORT OR OTHERWISE, SHALL BE LIMITED TO THE TOTAL MONTHLY RENTAL CHARGES PAID BY LESSEE TO LESSOR UNDER THIS LEASE. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS LEASE, INCLUDING INTERRUPTION OF SERVICE, LOSS OF REVENUE OR PROFIT, LOSS OF TIME OR BUSINESS, OR ANY SIMILAR LOSS, EVEN IF LESSOR IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF LESSEE ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS LEASE.**

10. **Indemnity**

Except for damages, claims or losses, due to Lessor's acts or negligence, Lessee, to the extent permitted by law, shall indemnify, defend and hold Lessor, its agents and employees, harmless of and from any liability for losses, damages, claims, injury to or death of any person, demands, damage to property or liability of any kind or nature whatsoever, including legal expenses and attorneys' fees to the extent arising from Lessee's use, maintenance and operation of the Equipment, or from the acts or omissions of any person or persons using or possessing the Equipment with Lessee's express or implied consent. This shall not be deemed a waiver of sovereign immunity or any other third party defense. This Section 10 shall survive the expiration or termination of this Lease.

11. **Insurance**

Lessee, at Lessee's sole cost and expense, shall obtain and maintain during the entire Term with an insurer acceptable to Lessor (a) comprehensive or commercial property damage and liability insurance and insurance against loss or damage to the Equipment, including, without limitation, loss by fire, theft, lightning, flood, vandalism, windstorm, named storms, collision, explosion and such other risks of loss as are customarily insured against with respect to the

## TERMS AND CONDITIONS OF LEASE AGREEMENT

type of Equipment for full replacement value of the Equipment with a maximum deductible of \$5,000; and (b) comprehensive general liability all-risk insurance for personal injury, bodily injury and property damage in the amounts of \$1,000,000 per occurrence as to personal injury liability and \$1,000,000 as to property damage.

Lessee's liability insurance shall be primary during the Term. It is understood that procurement of insurance by Lessee as herein provided shall not, and does not, affect Lessee's covenants, obligations and indemnities under this Lease, and the loss, damage to, or destruction of any of the Equipment shall not terminate this Lease, or any Equipment Order, and shall not, except to the extent, and only to the extent, Lessor is fully compensated by insurance paid for by Lessee, relieve Lessee of any of the Lessee's liability hereunder. Lessee is and shall be and remain a full insurer of the Equipment.

To the extent permissible by law, all insurance policies required under this Section 11 shall name Lessor as Additional Insured and Loss Payee and shall not be subject to material modification or cancellation without thirty (30) days' prior written notice of Lessor. Prior to delivery of the Equipment, Lessee shall delivery written evidence, reasonably satisfactory to Lessor, of all required insurance coverage. In the event Lessee retains possession of the Equipment after expiration of the Minimum Lease Period, Lessee shall pay to Lessor, in addition to the Monthly Rental Charges, an amount equal to Lessor's monthly cost to maintain loss of income insurance on the Equipment.

### 12. Default

Lessee shall be in default (a "Default") if: (i) Lessee fails to pay any installment of Monthly Rental Charges or other amounts payable under this Lease within thirty (30) days when due; (ii) Lessee fails to comply with any other of the terms, covenants, or conditions herein and fails to cure same within thirty (30) days of written notice from Lessor of same; or (iii) Lessee or any creditor of Lessee files for relief under any bankruptcy or similar law for the relief of debtors, or if Lessee shall make any assignment for benefit of creditors, or if a receiver be appointed to take possession of any of the assets of Lessee. Upon the occurrence of a Default Lessor may, at its option, terminate this Lease and Lessee's right to possession of the Equipment, upon which any rights of Lessee in the Equipment shall cease, the Equipment shall be surrendered to Lessor, and Lessor may take immediate possession thereof and Lessor is hereby authorized by Lessee to enter the Installation Site for the purpose of taking possession of the Equipment. Repossession by Lessor shall not effect the right of Lessor to recover from Lessee any and all damages that Lessor shall have sustained due to the breach of any of the covenants, terms, or conditions of this Lease. Lessee shall continue to be responsible for all remaining Monthly Rental Charges for the remainder of the Minimum Lease Period and for the payment of any other amounts to be made by it hereunder. Lessor shall make reasonable efforts to (a) relet the Equipment or any portion thereof for such periods, at such rental amounts as it deems advisable, and after deducting its costs and expenses in such reletting, may apply any net proceeds received therefrom to the amounts payable by Lessee hereunder, or (b) sell the equipment or any portion thereof, and after deducting its costs and expenses in connection with said sale or sales, apply the net proceeds thereof to the amounts payable by Lessee hereunder, and Lessee shall pay any deficiency as determined by the amount the net proceeds of said sale or reletting is less than the amount to be paid by Lessee hereunder. LESSEE ACKNOWLEDGES THAT PURSUANT TO THIS SECTION 12, LESSOR HAS THE RIGHT TO REPOSSESS THE EQUIPMENT SHOULD LESSEE DEFAULT ON ITS OBLIGATIONS UNDER THIS LEASE.

### 13. Assignment and Subletting

(a) Lessee will not have the right to assign this Lease or to sublet, rent or otherwise hire out or transfer possession of any of the Equipment to any person or entity other than Lease, without the prior written consent of Lessor. Lessor, at its option, may assign this Lease and the rentals received under this Lease. If Lessor makes such an assignment, the assignee will acquire all rights and remedies possessed by or available to Lessor under this Lease.

(b) Lessee agrees to furnish, from time to time, within seven (7) days after receipt of a request from Lessor or Lessor's assignee, a statement certifying, if applicable, all or some of the following: Lessee is in possession of the Equipment; this Lease is in full force and effect; this Lease is unmodified (except as disclosed in such statement); Lessee claims no present charge, lien, or claim of offset against Monthly Rental Charges; the Monthly Rental Charges have been paid for the current month, and are not prepaid for more the one (1) month and will not be prepaid for more than one (1) month in advance; there is no existing default by reason of some act or omission by Lessor; that Lessor has performed all inducements required of Lessor in connection with this Lease, including delivery and installation

## TERMS AND CONDITIONS OF LEASE AGREEMENT

obligations; an acknowledgment of the assignment of this Lease to the assignee and agreement to be bound thereby; and such other matters as may be reasonably required by Lessor or Lessor's assignee.

**14. Inspection by Lessor**

Lessor may inspect the Equipment after written notice, and subject to the security regulations of Lease. Prior to commencement of the Minimum Lease Period Lessee shall deliver notice to Occupant of Lessor's right to enter the Installation Site for inspection or repossession of the Equipment.

**15. Accidents and Claims**

Lessee shall notify Lessor of any casualty event involving the Equipment within 24 hours by telephone and within 48 hours in writing. Said report shall state the time, place, and nature of the casualty event, the damage sustained, the addresses of persons involved, persons injured, and witnesses, and any other information relating to said event, and shall promptly forward to Lessor all correspondence, notices, or documents received in connection with any claim or demand relating to the Equipment or its operation. Unless Lessor caused the casualty event, Lessee's obligation to pay Monthly Rental Charges will continue for any damaged equipment until a final settlement check has been received by Lessor from Lessee's insurance provider. If the casualty event was caused by Lessor, Monthly Rental Charges shall be reasonable abated based on the proportion of the Equipment that is damaged.

**16. Notices**

All notices required under the terms and provisions of this Lease shall be in writing addressed to the parties at the addresses appearing in the Summary of Terms, or at such other addresses either party may from time to time notify the other in writing, and such notices shall become effective: (i) upon hand delivery; (ii) the next business day when deposited with a national overnight delivery service, or (iii) three (3) days after deposit in the United States mail, with proper postage prepaid.

**17. Net Lease**

This Lease Agreement is a net lease and Lessee's obligations to pay all Monthly Rental Charges and other amounts payable hereunder shall be absolute and unconditional and, except as otherwise expressly provided in this Lease, shall not be subject to any; (i) delay, abatement, reduction, defense, counterclaim, set-off, or recoupment; (ii) damage to or destruction of the Equipment, or (iii) dissatisfaction with the Equipment, or (iv) off sets or charge backs from contracts of work scopes, or otherwise, including any claims against Lessor under the Subcontract or any present or future claim against Lessor or the manufacturer, supplier, reseller or vendor of the Equipment. Except as expressly provided herein, this Lease and any Order for Equipment related hereto shall not terminate for any reason, including and defect in the Equipment or Lessor's title thereto or any destruction or loss of use of any item of Equipment, except and to the extent a defect in the Equipment exists that is the responsibility of the Lessor which Lessor fails to cure within thirty (30) days' notice from Lessee, provide that if the defect cannot be cured within such thirty (30) day period, Lessor shall have a reasonable time to complete the cure if Lessor commences the cure within such thirty (30) day period and diligently pursues same. Lessee may terminate this Lease at any time by paying Lessor, in full, all Monthly Rental Charges for the Minimum Lease Period plus all other unpaid Lessee obligations, including, without limitation, additional amounts for month-to-month extensions beyond the Minimum Lease Period (including any applicable notice period) pursuant to Section 5.

**18. Uniform Commercial Code Provisions**

The parties intend for this Lease to constitute a true lease of the Equipment under the Uniform Commercial Code as in effect in the State of KY (the "UCC") and all other applicable laws. If this Lease is determined to be other than a true lease, Lessee hereby grants to Lessor a security interest in the Equipment and all proceeds and products thereof. Lessee hereby authorizes Lessor to file any financing statements or related filings as Lessor may reasonably deem necessary or appropriate.

**19. Further Assurances**

Lessee shall promptly execute and deliver to Lessor such further documents, including financing statements, and take such further action as Lessor may reasonably request in order to more effectively carry out the intent and purpose of this Lease.

## TERMS AND CONDITIONS OF LEASE AGREEMENT

**20. Entire Agreement**

This Lease constitutes the entire agreement of the parties and supersedes all previous and contemporaneous oral and written negotiations, commitments, writings and understandings. Nothing in this Lease is intended or shall be construed to create any rights in any third-party beneficiaries.

**21. Amendment**

This Lease may be amended only by written agreement of both parties.

**22. Choice of Law and Venue**

This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky (but not including its conflict of laws rules if and to the extent such rules would apply the substantive laws of another jurisdiction). Venue for litigation of any dispute arising under this Lease or any lawsuit to enforce or interpret this Lease shall be in an appropriate court located in Fayette County, Kentucky.

**23. Counterparts.**

This Lease may be executed in one or more counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

**24. Waiver of Breach**

The waiver by either Party of any breach or violation of any provision of this Lease shall not operate as, or be construed to be, a waiver of any subsequent breach or violation of the same or any other provision hereof.

**25. Severability**

In the event any provision of this Lease is held to be invalid, illegal or unenforceable for any reason and in any respect, such invalid, illegal or unenforceable provision shall in no event affect, prejudice or disturb the validity of the remainder of this Lease, which shall be in full force and effect, enforceable in accordance with its terms.

**26. Binding Effect**

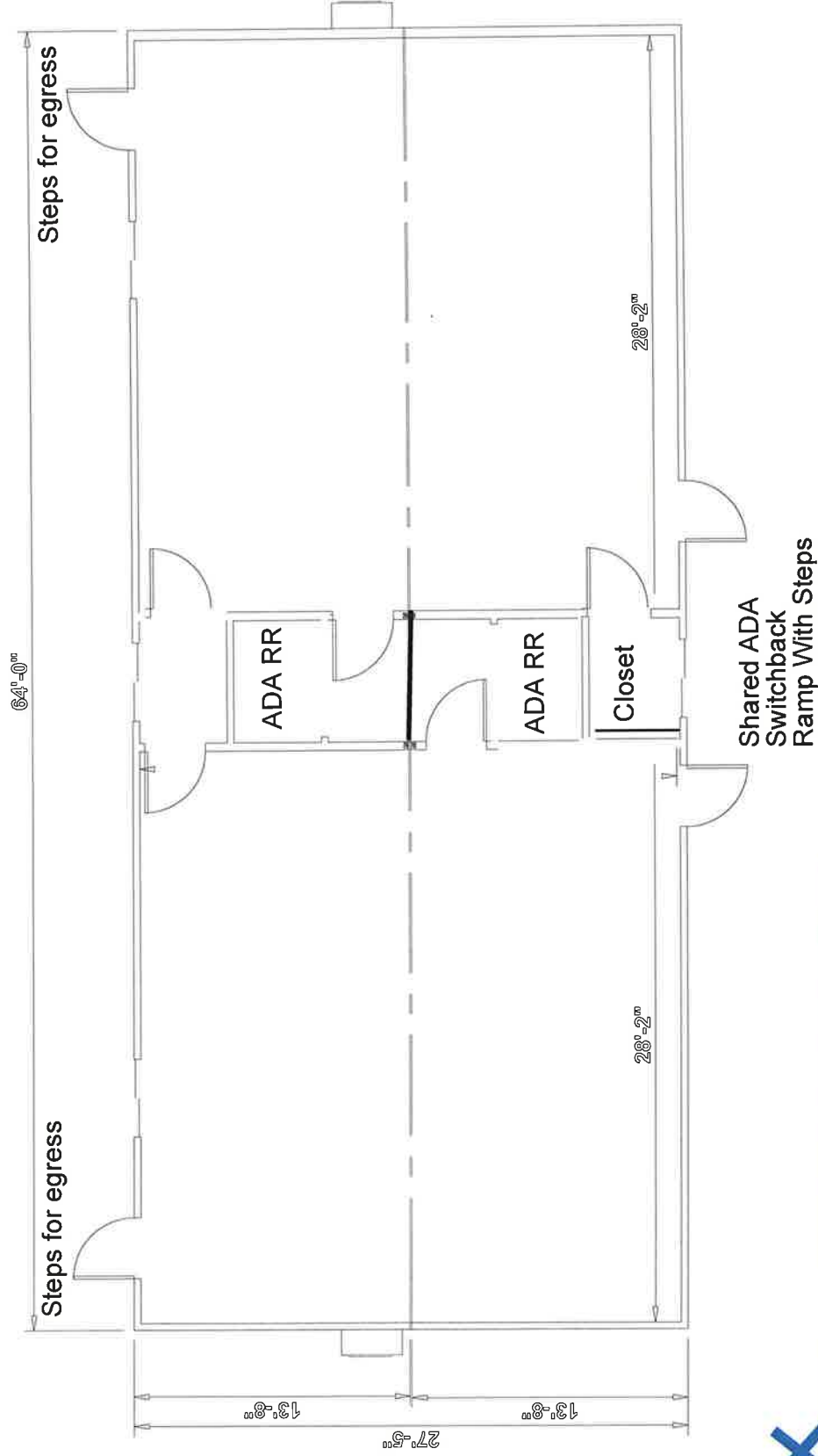
All of the terms and provisions of this Lease shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.



800.782.1500  
www.willscot.com

CL6828

CLASSROOM  
FLOOR PLAN



Customer Signature

CAD FILE:	DWG #	REV #	REP:	APPROVAL:
	A-1	0		
SCALE:	SERIAL #:	DATE	DWN BY:	APVL DATE:

THE USE OF THIS DRAWING FOR ANY MEANS OTHER THAN  
INTENDED IS STRICTLY PROHIBITED WITHOUT THE PRIOR  
WRITTEN CONSENT OF AN AUTHORIZED WILLIAMS  
SCOTSMAN REPRESENTATIVE.  
Williams Scotsman, Inc. All Rights Reserved.

Bond No. SUR4000589


**AIA® Document A312™ – 2010**
**Performance Bond****CONTRACTOR:***(Name, legal status and address)*

J.E.M. Properties, Ltd.  
115 Bold Bidder Court  
Georgetown, KY 40324

**OWNER:***(Name, legal status and address)*

Lexington-Fayette Urban County Government  
200 E. Main Street  
Lexington, KY 40507

**CONSTRUCTION CONTRACT****Date:** March 27th, 2025**Amount:** One Hundred Thirteen Thousand Eight Hundred Eighty-Six and 00/100 Dollars

\$113,886.00

**Description:***(Name and location)*

LFUCG Detention Center Portable Classroom Building Project

**BOND****Date:** April 1, 2025*(Not earlier than Construction Contract Date)***Amount:** Fifty-Six Thousand Five Hundred Eighty-Eight and 00/100 Dollars

\$56,588.00

**Modifications to this Bond:** ☒ None ☐ See Section 16**CONTRACTOR AS PRINCIPAL****Company:** *(Corporate Seal)*

J.E.M. Properties, Ltd.

**Signature:**

*John McGilburgh*  
**Name** John McGilburgh  
**and Title:** President

*(Any additional signatures appear on the last page of this Performance Bond.)***SURETY****Company:** *(Corporate Seal)*

Frankenmuth Insurance Company

**Signature:**

*Barbara Duncan*  
**Name** Barbara Duncan, Attorney-in-Fact  
**and Title:**

*(FOR INFORMATION ONLY — Name, address and telephone)***AGENT or BROKER:**

Acrisure  
2307 River Road, Suite 200  
Louisville, KY 40206  
Phone: 502-636-9191

**OWNER'S REPRESENTATIVE:***(Architect, Engineer or other party:)*

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

**§ 1** The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

**§ 2** If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

**§ 4** Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

**§ 5** When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

**§ 5.1** Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

**§ 5.2** Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

**§ 5.3** Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

**§ 5.4** Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

**§ 6** If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### § 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

Bond No. SUR4000589


**AIA Document A312™ – 2010**
**Payment Bond****CONTRACTOR:***(Name, legal status and address)*

J.E.M. Properties, Ltd.  
115 Bold Bidder Court  
Georgetown, KY 40324

**OWNER:***(Name, legal status and address)*

Lexington-Fayette Urban County Government  
200 E. Main Street  
Lexington, KY 40507

**CONSTRUCTION CONTRACT**

Date: March 27th, 2025

**SURETY:***(Name, legal status and principal place of business)*

Frankenmuth Insurance Company  
One Mutual Avenue  
Frankenmuth, MI 48787

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

Amount: One Hundred Thirteen Thousand Eight Hundred Eighty-Six and 00/100 Dollars  
\$113,886.00

**Description:***(Name and location)*

LFUCG Detention Center Portable Classroom Building Project

**BOND**

Date: April 1, 2025

*(Not earlier than Construction Contract Date)*

Amount: Fifty-Six Thousand Five Hundred Eighty-Eight and 00/100 Dollars  
\$56,588.00

Modifications to this Bond: ☒ None ☐ See Section 18

**CONTRACTOR AS PRINCIPAL**Company: *(Corporate Seal)*

J.E.M. Properties, Ltd.

Signature: 

Name: John McIlwain

and Title: President

*(Any additional signatures appear on the last page of this Payment Bond.)***SURETY**Company: *(Corporate Seal)*

Frankenmuth Insurance Company

Signature: 

Name: Barbara Duncan, Attorney-in-Fact

and Title:

*(FOR INFORMATION ONLY — Name, address and telephone)***AGENT or BROKER:**

Acrisure  
2307 River Road, Suite 200  
Louisville, KY 40208  
Phone: 502-636-9191

**OWNER'S REPRESENTATIVE:***(Architect, Engineer or other party:)*

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

**§ 10** The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

**§ 11** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 12** No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**§ 13** Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

**§ 14** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**§ 15** Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### **§ 16 Definitions**

**§ 16.1 Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

**§ 16.2 Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

**§ 16.3 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

**§ 16.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 16.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 17** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 18** Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company:

(Corporate Seal)

**SURETY**

Company:

(Corporate Seal)

Signature:

Name and Title:

Address

*John McLaughlin Resident*  
*115 Bold Bidder at Grosport KY*

Signature:

Name and Title:

Address

**CAUTION:** You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

# FRANKENMUTH INSURANCE COMPANY

## POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that Frankenmuth Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the State of Michigan, having its principal office at 1 Mutual Avenue, Frankenmuth, Michigan 48787, does hereby nominate, constitute and appoint:

Brook T. Smith, James T. Smith, Michael W. Dix, Jason D. Cromwell, Raymond M. Hundley, Deborah S. Neichter, William Precious, Ryan Britt, Mark Guidry, Theresa Hintzman, Jennifer Edwards, Susan Ritter, Lynnette Long, Leigh McCarthy, Amy Smith, Barbara Duncan, Beth Frymire, Jill Kemp, Jacob Motto

Their true and lawful attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal, acknowledge and deliver any and all bonds, contracts and undertakings of suretyship, with the exception of Financial Guaranty Insurance, provided, however, that the penal sum of any one such instrument shall not exceed the sum of:

**Fifty Million and 00/100 Dollars (\$50,000,000)**

This Power of Attorney is granted pursuant to the following Resolution duly adopted at a meeting of the Board of Directors of Frankenmuth Insurance Company:

"RESOLVED, that the President, Senior Vice President or Vice President and each of them under their respective designations, hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer of the Company, qualifying the attorney(s) named in the given power of attorney, to execute on behalf of, and acknowledge as the act and deed of Frankenmuth Insurance Company on all bonds, contracts and undertakings of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereto affixed this 15th day of December, 2022.



Frankenmuth Insurance Company

By Frederick A. Edmond, Jr.  
Frederick A. Edmond, Jr.,  
President and Chief Executive Officer

ss:

Sworn to before me, a Notary Public in the State of Michigan, by Frederick A. Edmond, Jr., to me personally known to be the individual and officer described in, and who executed the preceding instrument, deposited and said the Corporate Seal and his signature as Officer were affixed and subscribed to said instrument by the authority of the Company.

IN TESTIMONY WHEREOF, I have set my hand, and affixed my Official Seal this 15th day of December, 2022.

Susan L. Fresorger

(Seal)

Susan L. Fresorger, Notary Public  
Saginaw County, State of Michigan  
My Commission Expires: April 3, 2028



I, the undersigned, Executive Vice President of Frankenmuth Insurance Company, do hereby certify that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and is in full force and effect as of this date.

IN WITNESS WHEREOF, I have set my hand and affixed the Seal of the Company, this 15th day of April, 2025.

Andrew H. Knudsen  
Andrew H. Knudsen, Executive Vice President,  
Chief Operating Officer and Secretary

**ALL CORRESPONDENCE RELATED TO BOND VALIDATION AND/OR A CLAIM SHOULD BE DIRECTED TO  
VP SURETY, 701 U.S. ROUTE ONE, SUITE 1, YARMOUTH, ME 04096**

Bond No. SUR4000589


**AIA® Document A312™ – 2010**
**Performance Bond****CONTRACTOR:***(Name, legal status and address)*

J.E.M. Properties, Ltd.  
115 Bold Bidder Court  
Georgetown, KY 40324

**OWNER:***(Name, legal status and address)*

Lexington-Fayette Urban County Government  
200 E. Main Street  
Lexington, KY 40507

**CONSTRUCTION CONTRACT**

Date: March 27th, 2025

Amount: One Hundred Thirteen Thousand Eight Hundred Eighty-Six and 00/100 Dollars  
\$113,886.00

**Description:***(Name and location)*

LFUCG Detention Center Portable Classroom Building Project

**BOND**

Date: April 1, 2025

*(Not earlier than Construction Contract Date)*

Amount: Fifty-Six Thousand Five Hundred Eighty-Eight and 00/100 Dollars  
\$56,588.00

Modifications to this Bond: ☒ None ☐ See Section 16**CONTRACTOR AS PRINCIPAL**

Company: *(Corporate Seal)*  
J.E.M. Properties, Ltd.

Signature: 

Name: *John McGilburgh*  
and Title: *President*

*(Any additional signatures appear on the last page of this Performance Bond.)***SURETY**

Company: *(Corporate Seal)*  
Frankenmuth Insurance Company

Signature: 

Name: Barbara Duncan, Attorney-in-Fact  
and Title:

*(FOR INFORMATION ONLY — Name, address and telephone)***AGENT or BROKER:**

Acrisure  
2307 River Road, Suite 200  
Louisville, KY 40206  
Phone: 502-636-9191

**OWNER'S REPRESENTATIVE:***(Architect, Engineer or other party:)*

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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**§ 2** If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

**§ 4** Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

**§ 5** When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

**§ 5.1** Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

**§ 5.2** Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

**§ 5.3** Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

**§ 5.4** Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

**§ 6** If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### § 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

Bond No. SUR4000589


**AIA® Document A312™ – 2010**
**Payment Bond****CONTRACTOR:***(Name, legal status and address)*

J.E.M. Properties, Ltd.  
115 Bold Bidder Court  
Georgetown, KY 40324

**OWNER:***(Name, legal status and address)*

Lexington-Fayette Urban County Government  
200 E. Main Street  
Lexington, KY 40507

**CONSTRUCTION CONTRACT**

Date: March 27th, 2025

**SURETY:***(Name, legal status and principal place of business)*

Frankenmuth Insurance Company  
One Mutual Avenue  
Frankenmuth, MI 48787

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

Amount: One Hundred Thirteen Thousand Eight Hundred Eighty-Six and 00/100 Dollars  
\$113,886.00

**Description:***(Name and location)*

LFUCG Detention Center Portable Classroom Building Project

**BOND**

Date: April 1, 2025

*(Not earlier than Construction Contract Date)*

Amount: Fifty-Six Thousand Five Hundred Eighty-Eight and 00/100 Dollars  
\$56,588.00

Modifications to this Bond: ☒ None ☐ See Section 18

**CONTRACTOR AS PRINCIPAL**Company: *(Corporate Seal)*

J.E.M. Properties, Ltd.

Signature: 

Name *John McArthur*  
and Title: *President*

*(Any additional signatures appear on the last page of this Payment Bond.)***SURETY**Company: *(Corporate Seal)*

Frankenmuth Insurance Company

Signature: 

Name Barbara Duncan, Attorney-in-Fact  
and Title:

*(FOR INFORMATION ONLY — Name, address and telephone)***AGENT or BROKER:**

Acrisure  
2307 River Road, Suite 200  
Louisville, KY 40206  
Phone: 502-636-9191

**OWNER'S REPRESENTATIVE:***(Architect, Engineer or other party:)*

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
2. have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### § 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

**§ 16.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 16.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 17** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 18** Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company:

*(Corporate Seal)*

**SURETY**

Company:

*(Corporate Seal)*

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address \_\_\_\_\_

*[Handwritten Signature]*  
*[Handwritten Title: President]*

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address \_\_\_\_\_

**CAUTION:** You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

# FRANKENMUTH INSURANCE COMPANY

## POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS**, that Frankenmuth Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the State of Michigan, having its principal office at 1 Mutual Avenue, Frankenmuth, Michigan 48787, does hereby nominate, constitute and appoint:

Brook T. Smith, James T. Smith, Michael W. Dix, Jason D. Cromwell, Raymond M. Hundley, Deborah S. Neichter, William Precious, Ryan Britt, Mark Guidry, Theresa Hintzman, Jennifer Edwards, Susan Ritter, Lynnette Long, Leigh McCarthy, Amy Smith, Barbara Duncan, Beth Frymire, Jill Kemp, Jacob Motto

Their true and lawful attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal, acknowledge and deliver any and all bonds, contracts and undertakings of suretyship, with the exception of Financial Guaranty Insurance, provided, however, that the penal sum of any one such instrument shall not exceed the sum of:

**Fifty Million and 00/100 Dollars (\$50,000,000)**

This Power of Attorney is granted pursuant to the following Resolution duly adopted at a meeting of the Board of Directors of Frankenmuth Insurance Company:

"**RESOLVED**, that the President, Senior Vice President or Vice President and each of them under their respective designations, hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer of the Company, qualifying the attorney(s) named in the given power of attorney, to execute on behalf of, and acknowledge as the act and deed of Frankenmuth Insurance Company on all bonds, contracts and undertakings of suretyship, and to affix the corporate seal thereto."

**IN WITNESS WHEREOF**, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal herunto affixed this 15th day of December, 2022.



**Frankenmuth Insurance Company**

By Frederick A. Edmond, Jr.  
Frederick A. Edmond, Jr.,  
President and Chief Executive Officer

STATE OF MICHIGAN )  
COUNTY OF SAGINAW ) ss:

Sworn to before me, a Notary Public in the State of Michigan, by Frederick A. Edmond, Jr., to me personally known to be the individual and officer described in, and who executed the preceding instrument, deposed and said the Corporate Seal and his signature as officer were affixed and subscribed to said instrument by the authority of the Company.

**IN TESTIMONY WHEREOF**, I have set my hand, and affixed my Official Seal this 15th day of December, 2022.

Susan L. Fresorger

(Seal)

Susan L. Fresorger, Notary Public  
Saginaw County, State of Michigan  
My Commission Expires: April 3, 2028



I, the undersigned, Executive Vice President of Frankenmuth Insurance Company, do hereby certify that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and is in full force and effect as of this date.

**IN WITNESS WHEREOF**, I have set my hand and affixed the Seal of the Company, this 15th day of April, 2025.

Andrew H. Knudsen  
Andrew H. Knudsen, Executive Vice President,  
Chief Operating Officer and Secretary

**ALL CORRESPONDENCE RELATED TO BOND VALIDATION AND/OR A CLAIM SHOULD BE DIRECTED TO  
VP SURETY, 701 U.S. ROUTE ONE, SUITE 1, YARMOUTH, ME 04096**



**CONTRACT DOCUMENTS  
AND  
SPECIFICATIONS**

**DEPARTMENT OF GENERAL SERVICES**

**FOR**

**LFUCG Detention Portable Classroom  
Building**

**Bid No. 33-2025**

**Prepared by: Brandstetter Carroll Inc.**

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3. OBTAINING PLANS, SPECIFICATIONS, AND BID DOCUMENTS
4. METHOD OF RECEIVING BIDS
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## PART 1

### ADVERTISEMENT FOR BIDS

#### 1. INVITATION

Sealed proposals for the **LFUCG Detention Center Portable Classroom Building** will be received by the Lexington-Fayette Urban County Government (LFUCG) via Ion Wave until 2:00 p.m., local time, **March 18, 2025** for furnishing all labor and/or materials and performing all work as set forth by this advertisement, Ion Wave Q&A, conditions (general and special), specifications, and/or the drawings prepared by Brandstetter Carroll Inc. for Lexington-Fayette Urban County Government. Immediately following the scheduled closing time for reception of bids, all proposals which have been submitted in accordance with the above will be opened electronically and a bid tab sheet will be available via Ion Wave.

LFUCG will only be accepting bids on-line through Ion Wave for this solicitation. Base bid and alternate totals (if required) should be provided on the appropriate line items tab on Ion Wave. Submissions without line item totals (if required) may be rejected and deemed non-responsive. All forms normally provided with bid submission should be downloaded from Ion Wave, filled out and attached with bid submission. A copy of bid bond must be included with submission. THESE INSTRUCTIONS SUPERCEDE ALL OTHER BID SUBMISSION INSTRUCTIONS PROVIDED IN THIS PACKAGE. PLEASE SUBMIT ALL QUESTIONS VIA THE Q&A MODULE ON ION WAVE.

#### 2. DESCRIPTION OF WORK

Consisting of the construction and/or furnishing of items as listed in the Bid Schedule beginning on page P-6, Part III, Form of Proposal, of this document, for the **LFUCG Detention Center Portable Classroom Building Project**, Lexington-Fayette County, Kentucky.

Specs and drawings are available on Ion Wave only.

#### 3. OBTAINING PLANS, SPECIFICATIONS, AND BID DOCUMENTS

Plans, Specifications, and Contract Documents shall be obtained from Ion Wave (LFUCG's electronic bidding system). Ion Wave can be accessed at <https://lexingtonky.ionwave.net>

#### 4. METHOD OF RECEIVING BIDS

Bids will be received from Prime Contracting firms on a **Lump Sum** for total Project. Bidder must include a price for all bid items to be considered. **Bids shall be submitted in the manner and subject to the conditions as set forth and described in the Information for Bidders and Special Conditions.**

Bids/proposals should be submitted online via Ion Wave.

#### 5. METHOD OF AWARD

The Contract, if awarded, will be to the lowest responsive and responsible bidder for the total project whose qualifications indicate the award will be in the best interest of the OWNER and whose bid/proposal complies with all the prescribed requirements. No Notice of Award will be given until the OWNER has concluded such investigation as deemed necessary to establish the responsibility, qualifications and financial ability of Bidders to do the work in accordance with the Contract Documents to the satisfaction of the OWNER within the time prescribed. The OWNER reserves the right to reject the Bid of any Bidder who does not pass such investigation to the OWNER's satisfaction. The OWNER reserves the right to reject the Bid of any Bidder that is deemed to be unbalanced or front loaded. In analyzing Bids, the OWNER may take into consideration alternate and unit prices, if requested by the Bid forms.

**Bids will be evaluated based on the following weighted criteria:**

1. **Contractor to provide the date the specified modular classroom can be delivered and installed on site on or before the maximum deadline date of 5/5/25. 40 points**
2. **The lump sum proposal provided by the contractor shall include ALL costs associated with 12-month modular classroom building lease terms including installation, removal, fees, monthly rental, etc. 60 points**

#### 6. BID WITHDRAWAL

No bidder may withdraw his bid for a period of ninety (90) calendar days after the closing date for receipt of bids. Errors and omissions will not be cause for withdrawal of bid without forfeit of bid bond.

#### 7. BID SECURITY

If the bid is \$50,000 or greater, bid shall be accompanied by a certified check or bid bond payable to the Lexington-Fayette Urban County Government in an amount not less than Five Percent (5%) of the base bid. Bid bond shall be executed by a Surety Company authorized to do business in the Commonwealth of Kentucky and countersigned by a licensed Kentucky Resident Agent, representing the Surety Company. Bid Bonds are not

required for bids under \$50,000. A cashier's check or irrevocable letter of credit is an acceptable form of bid security.

**8. SUBMISSION OF BIDS**

CONTRACTORS shall submit their bids via Ion Wave not later than 2:00 p.m. local time, March 18, 2025. Bids will remain sealed until March 18 2025, 2:00 pm, the official Bid closure time. Bids will not be received after the scheduled closing time for receipt of bids. Bid tab sheet will be immediately available after bid opening, under the Documents link on Ion Wave.

**9. RIGHT TO REJECT**

The Lexington-Fayette Urban County Government reserves the right to reject any and all bids and to waive all informalities and/or technicalities where the best interest of the Lexington-Fayette Urban County Government may be served.

**10. NOTIFICATION TO THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT FOR AFFIRMATIVE ACTION PLAN AND CURRENT WORKFORCE**

The successful bidder must submit the following to the Lexington-Fayette Urban County Government:

1. Affirmative Action Plan for his/her firm.
2. Current Workforce Analysis Form

Failure to submit this as required herein may result in disqualification of the Bidder from the award of the contract.

**11. NOTICE CONCERNING MWDBE and VETERAN OWNED SMALL BUSINESS GOALS**

The Lexington-Fayette Urban County Government has a Certified Minority and Women Business Enterprise seventeen percent (17%) minimum goal including minimum subgoals of five percent (5%) for Minority Business Enterprises (MBE) and a subgoal of twelve percent (12%) for Women Business Enterprises (WBE); a three (3%) minimum goal for Certified Veteran-Owned Small Businesses and/or Certified Service- Disabled Veteran Owned Businesses; and a goal of utilizing Disadvantaged Business Enterprises (DBE), where applicable, for government contracts.

For assistance in locating certified DBEs, MBEs, WBEs, VOSBs and/or VOSBs, contact Sherita Miller at 859/258-3320 or by writing the address listed below:

Sherita Miller, MPA, CPSD  
Minority Business Enterprise Liaison  
Division of Procurement  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, Kentucky 40507  
[smiller@lexingtonky.gov](mailto:smiller@lexingtonky.gov)

**12. PRE-BID CONFERENCE**

No pre-bid conference is scheduled.

END OF SECTION

1.	RECEIPT AND OPENING OF BIDS
2.	PREPARATION OF BID
3.	SUBCONTRACTS
4.	QUALIFICATION OF BIDDER
5.	BID SECURITY
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IB-1

**PART II**  
**INFORMATION FOR BIDDERS**  
**INDEX**

**PART II**  
**INFORMATION FOR BIDDERS**

**1. RECEIPT AND OPENING OF BIDS**

The Lexington-Fayette Urban County Government (herein called the OWNER) invites bids from firms on the project described in the Advertisement for Bids. The OWNER will receive bids via Ion Wave, at the time and in the manner set forth in the Advertisement for Bids, and the Bids. The OWNER may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid may be withdrawn prior to the scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within 90 days after the actual time and date of the bid opening, but OWNER may, in its sole discretion, release any bid and return the Bid Security prior to that date.

The Lexington-Fayette Urban County Government assumes no responsibility for bids that are not delivered as indicated above.

**2. PREPARATION OF BID**

All sections of the bid package requiring Contractor information must be filled in and uploaded in the Response Attachments tab in IonWave. Bid bonds must be uploaded also. All pricing must be submitted in the Line Items tab in IonWave.

**3. SUBCONTRACTS**

The bidder is specifically advised that any person, firm, or other party to whom it is proposed to award a subcontract under this Contract must be acceptable to the OWNER. All proposed subcontractors must be identified on the Form of Proposal. Prior to the award of Contract, the OWNER or the OWNER'S representative will advise the CONTRACTOR of the acceptance and approval thereof or of any action necessary to be taken. Should any Subcontractor be rejected by the OWNER, the CONTRACTOR shall present a new name and/or firm to the OWNER at no change in the Contract Price.

**4. QUALIFICATION OF BIDDER**

The OWNER may make such investigations as the OWNER deems necessary to determine the ability of the bidder to perform the Work, and the bidder shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the OWNER that such bidder is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein. Conditional bids will not be accepted.

In evaluating Bids, OWNER shall consider the qualifications of the BIDDERS, whether or not the Bids comply with the prescribed requirements, and alternatives and unit prices, as requested. OWNER may consider maintenance requirements, performance data, and disruption or damage to private property. It is OWNER'S intent to accept alternatives by the bid forms, in the order in which they are listed in the Bid Form but OWNER may accept or decline them in order or combination. The contract, if awarded, will be awarded to the lowest responsive and qualified, responsible BIDDER based upon OWNER'S evaluation which indicates that the award will be in the best interest of OWNER and the general public.

In the event there is any question as to the bidder's qualifications and ability to complete the work, a final determination will be made in accordance with a fair evaluation by the Urban County Government of the above listed elements.

A. If the OWNER requires filling out a detailed financial statement, the bidder may provide its current certified financial statement(s) for the required time interval.

B. Corporate firms are required to be registered with the Office of the Secretary of State, Commonwealth of Kentucky.

C. Documents Required of CONTRACTOR - (1) A sworn statement signed by the President or owner of the Company regarding all current work in progress anywhere; (2) A document showing the percent of completion of each project and the total worth of each project; and (3) Documentation showing the percentage of the DBE employment levels on each project of the Bidder's current work force, and DBE participation levels for Subcontractors.

D. Optional OWNER Requirements - The OWNER, at its discretion, may require the BIDDER/CONTRACTOR to provide: (1) A current detailed financial statement for a period including up to 3 prior years. (2) Financial security or insurance in amounts and kinds acceptable to the OWNER to meet the financial responsibility requirements for the CONTRACTOR to indemnify the OWNER. (3) Additional information and/or DBE work force data, as well as DBE participation data.

Each bidder agrees to waive any claim it has or may have against the Owner and their respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any bid.

## **5. BID SECURITY**

- A. Each bid must be accompanied by a bid bond prepared on a Form of Bid Bond and attached hereto, duly executed by the bidder as principal and having as surety thereon a surety company approved by the OWNER, in the amount of 5% of the bid. Such bid bond will be returned to the unsuccessful bidder(s) only upon written request to the Director of Procurement within seven (7) days of opening of bids. Bid bond shall be made payable to the Lexington-Fayette Urban County Government. Bid security is not required for projects under \$50,000.
- B. Bonds shall be placed with an agent licensed in Kentucky with surety authorized to do business within the state. When the premium is paid for such coverage, the full commission payable shall be paid to such local agent who shall not divide such commission with any person other than a duly licensed resident local agent.

## **6. LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT**

The successful bidder, upon his failure or refusal to execute and deliver the Contract and bonds required within ten (10) days after he has received notice of the acceptance of his bid, shall forfeit to the OWNER, as liquidated damages for such failure or refusal, the security deposited with his bid.

## **7. TIME OF COMPLETION**

Bidder must agree to commence work on or before a date to be specified in a written "Notice to Proceed" from the OWNER and to fully complete the Project within the time as specified in the Contract. Bidder must agree also to pay \$1000.00 per day thereafter deadline for final completion.

## **8. EXAMINATION OF CONTRACT DOCUMENTS AND SITE**

- A. It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Contract Documents thoroughly, (b) visit the site(s) to become familiar with local conditions that may affect cost, progress, performance or furnishing of the work, (c) consider Federal, State and Local laws and regulations that may affect cost, progress, performance or furnishing of the work, (d) study and carefully correlate Bidder's observations with the Contract Documents, and (e) notify Owner of all conflicts, errors or discrepancies in the Contract Documents.
- B. Bidders should examine the requirements of Section 4 of the General Conditions for information pertaining to subsurface conditions, underground structures, underground facilities, and availability of lands, easements, and rights-of-way. The completeness of data, presented in the Contract Documents, pertaining to subsurface conditions, underground structures, and underground facilities for the purposes of bidding or construction is not assured. The Bidder will, at Bidder's

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A. Simultaneously with his delivery of the executed Contracts, the CONTRACTOR shall furnish a surety bond or bonds as security for the faithful performance of this Contract and for payment of all persons performing labor on the Project under this Contract and furnishing materials in connection with this Contract, as specified in the General Conditions. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the OWNER and authorized to do business in the Commonwealth of Kentucky.

## 10. SECURITY FOR FAITHFUL PERFORMANCE

No interpretation of the meaning of the Contract Documents will be made to any bidder orally. Every request for such interpretation should be in writing addressed to the Director of Procurement, who in turn will have an addendum issued under signature of the Project Manager for the Lexington-Fayette Urban County Government, and to be given consideration must be received at least seven (7) days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be mailed by certified mail with return receipt requested, faxed or emailed to all prospective bidders. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the Contract Documents.

## 9. ADDENDA AND INTERPRETATIONS

C. The submission of a Bid will constitute an incontrovertible representation by the Bidder that Bidder has complied with every requirement of this paragraph; that without exception the Bid is premised upon furnishing and performing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents; and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

own expense, make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface and subsurface) which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents. On request in advance, OWNER will provide access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.

- B. All bonds required by this Contract and laws of this State shall be placed with agents licensed in the State of Kentucky. When the premium is paid for such coverages, the full commission shall be paid to such local agent who shall not divide such commission with any person other than a duly licensed resident local agent.
- C. **Contractor shall use standard Performance and Payment Bond forms such as documents provided with this contract book or AIA form A312-1984 (or later).**

#### **11. POWER OF ATTORNEY**

Attorney-in-fact who signs bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

#### **12. TAXES AND WORKMEN'S COMPENSATION**

The CONTRACTOR and subcontractor will be required to accept liability for payment of all payroll taxes, sales and use tax, and all other taxes or deductions required by local, state or federal law. Each shall carry Workmen's Compensation Insurance to the full amounts as required by Statutes and shall include the cost of all foregoing items in the proposal. The CONTRACTOR will not otherwise be reimbursed or compensated for such tax payments. The CONTRACTOR is urged to ascertain at his own risk his actual tax liability in connection with the execution or performance of his Contract.

#### **13. LAWS AND REGULATIONS**

The bidder's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract throughout, and they will be deemed to be included in the contract, the same as though herein written out in full.

#### **14. EROSION AND SEDIMENT CONTROL AND PERMITS**

The CONTRACTOR and Subcontractors performing work on projects on behalf of the OWNER shall also comply with all applicable federal, state, and local environmental regulations and all requirements and conditions set forth in "special" permits including but not limited to Corp of Engineers 404 permits, 401 Water Quality Certifications, Stream Crossing and Floodplain Encroachment Permits as described in Part 4 General Conditions Paragraph 5.17.

#### **15. PREVAILING WAGE LAW AND MINIMUM HOURLY RATES**

Federal wage rates and regulations, if required for this Project, will be as described in the Special Conditions.

The successful Bidder must submit the entire proposal with their bid, the following items to the Urban County Government:

1. Certification of Bid Proposal/DBE – see Part III
2. LFUCG MWDBE Participation Form – see Part III
3. Documentation Required for Good Faith Efforts and Outreach Plans – see Part III

**16. AFFIRMATIVE ACTION PLAN**

A Work Force Analysis Form shall be submitted for each Contract. Failure to submit any of these items as required herein may result in disqualification of the Bidder from award of the Contract.

**17. CONTRACT TIME**

The number of calendar days within which the Work is to be substantially completed and ready for final payment (the Contract Time) is set forth in the Contract Agreement.

**18. SUBSTITUTE OR "APPROVED EQUAL" ITEMS**

The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "approved equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "approved equal" item of material or equipment may be furnished or used by the CONTRACTOR if acceptable to the OWNER, application for such acceptance will not be considered by the OWNER until after the effective date of the Agreement. The procedure for submission of any such application by the CONTRACTOR and consideration by the OWNER is set forth in the General Conditions.

**19. ALTERNATE BIDS**

**Bidders shall submit alternate bids/proposals only if and when such alternate bids/proposals have been specifically requested in an Invitation for Bids. If alternate bids/proposals are requested in an Invitation for Bids, the form of submission of such alternate bid and the conditions under which such alternate bids will be considered for award of a contract will be established in the Invitation.**

Any Bidder who submits a bid incorporating an alternate proposal when alternate bids/proposals have not been requested in the Invitation for Bids shall have his/her bid rejected as non-responsive.

Any Bidder who submits a bid incorporating two (2) or more prices for an item or groups of items (unless such method of pricing is requested in the Invitation for Bids), or which imposes conditions for acceptance other than those established in the Invitation for Bids, shall have their bid rejected as non-responsive.

## **20. SIGNING OF AGREEMENT**

When OWNER gives a Notice of Award to the successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within ten days thereafter, CONTRACTOR shall sign and deliver the required number of counterparts of the Agreement and attached documents to OWNER with the required Bonds, Certificate of Insurance, and Power of Attorney. The OWNER will deliver one fully signed counterpart to CONTRACTOR at such time as it has been signed by the Mayor.

## **21. ASSISTANCE TO BE OFFERED TO DISADVANTAGED BUSINESS ENTERPRISE (MWDDBE) CONTRACTORS AND VETERAN OWNED SMALL BUSINESSES**

### **A. Outreach for MWDDBE(s) and Veteran Owned Small Businesses (VOSB)**

The Lexington-Fayette Urban County Government (LFUCG) maintains a database of MWDDBE contractors and Veteran Owned Small Businesses. When a LFUCG construction project is advertised for bidding, notices are sent to companies registered at <https://lexingtonky.ionwave.net>. The notices describe the project and indicate the deadline for submitting bids.

If you wish to be added to the LFUCG MWDDBE and Veteran contractor database, please contact:

Sherita Miller, MPA, CPSD  
Minority Business Enterprise Liaison  
Division of Procurement  
Lexington-Fayette Urban County Government  
200 East Main Street, Room 338  
Lexington, Kentucky 40507  
[smiller@lexingtonky.gov](mailto:smiller@lexingtonky.gov)

B. Bid Bond Assistance for MWDBE(s)

For those MWDBE contractors who wish to bid on LFUCG project, bid bond assistance is available. This bid bond assistance is in the form of a "Letter of Certification" which is accepted by the LFUCG's Division of Purchasing, in lieu of a bid bond. The "Letter of Certification" must be included in the bid package when it is submitted to the Division of Purchasing. The "Letter of Certification" will reference the specific project for which the bid is being submitted, and the time and date on which the bid is due. Bid bond assistance must be requested from the Lexington-Fayette Urban County Government's Division of Procurement.

C. Eligibility for Bid Bond Assistance for MWDBE(s)

In order to be eligible for any Bid bonding assistance, a MWDBE construction company must be owned or controlled at the level of 51% or more by a member or members of a minority group or females. Prior to receiving assistance, a statement providing evidence of ownership and control of the company by a member or members of a minority group or females must be signed by the Owner or corporate officer and by an attorney or accountant submitted to:

Sherita Miller, MPA, CPSD  
Division of Procurement  
Lexington-Fayette Urban County Government  
200 East Main Street, Room 338  
Lexington, Kentucky 40507  
[smiller@lexingtonky.gov](mailto:smiller@lexingtonky.gov)  
859-258-3323

D. MWDBE and VETERAN OWNED SMALL BUSINESSES (VOSB)

The LFUCG will, upon request, assist prime contractors in the procurement of eligible DBE subcontractors in an effort to achieve a seventeen percent (17%) minimum goal including minimum subgoals of five percent (5%) for Minority Business Enterprises (MBE) and a subgoal of twelve percent (12%) for Women Business Enterprises (WBE); a three (3%) minimum goal for Certified Veteran-Owned Businesses and/or Certified Service- Disabled Veteran Owned Businesses; and a goal of utilizing Disadvantaged Business Enterprises (DBE), where applicable, for government contracts.

For a list of eligible subcontractors, please contact:

Sherita Miller, MPA, CPSD  
Minority Business Enterprise Liaison  
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Division of Procurement  
Lexington-Fayette Urban County Government  
200 East Main Street, Room 338  
Lexington, Kentucky 40507  
[smiller@lexingtonky.gov](mailto:smiller@lexingtonky.gov)  
[859-258-3323](tel:859-258-3323)

## **22. 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.

## **23. NOTICE OF CONTENTION**

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

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

END OF SECTION

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**PART III**

**FORM OF PROPOSAL**

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**PART III**

**Invitation to Bid No. 33-2025**

**LFUCG Detention Center Portable Classroom Specifications**

**1. FORM OF PROPOSAL**

The following Form of Proposal shall be followed exactly in submitting a proposal for this Work.

This Proposal Submitted by \_\_\_\_\_

(Name and Address of Bidding Contractor)

(Hereinafter called "Bidder"), organized and existing under the laws of the State of \_\_\_\_\_, doing business as \_\_\_\_\_, "a corporation," or an "individual" as applicable.

To:

Lexington-Fayette Urban County Government  
(Hereinafter called "OWNER")  
Office of the Director of Purchasing  
200 East Main Street, 3rd Floor  
Lexington, KY 40507

Gentlemen:

The Bidder, in compliance with your Invitation for Bids for **LFUCG Detention Center Portable Classroom Specifications** having examined the Plans and Specifications with related documents, having examined the site for proposed Work, and being familiar with all of the conditions surrounding the construction of the proposed Project, including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the Project in accordance with the Contract Documents, within the time set forth therein, and at the lump sum and/or unit prices stated hereinafter. These prices are to cover all expenses incurred in performing the Work required under the Contract Documents, of which this proposal is a part.

The Bidder hereby acknowledges receipt of the following addenda:

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Insert above the number and the date of any Addendum issued and received. If none has been issued and received, the word "NONE" should be inserted.

**2. LEGAL STATUS OF BIDDER**

Bidder \_\_\_\_\_

Date \_\_\_\_\_

- \* 1. A corporation duly organized and doing business under the laws of the State of \_\_\_\_\_, for whom \_\_\_\_\_, bearing the official title of \_\_\_\_\_, whose signature is affixed to this Bid/Proposal, is duly authorized to execute contracts.

- \* 2. A Partnership, all of the members of which, with addresses are: (Designate general partners as such)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- \* 3. An individual, whose signature is affixed to this Bid/Proposal (please print name)

\_\_\_\_\_  
\_\_\_\_\_

\*(The Bidder shall fill out the appropriate form and strike out the other two.)

3.

**BIDDERS 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 bid or is the authorized representative of \_\_\_\_\_, the entity submitting the bid (hereinafter referred to as "Bidder").
2. Bidder will pay all taxes and fees, which are owed to the Lexington-Fayette Urban County Government at the time the bid 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. Bidder will obtain a Lexington-Fayette Urban County Government business license, if applicable, prior to award of the contract.
4. Bidder has authorized the Division of Procurement 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. Bidder has not knowingly violated any provision of Chapter 25 of the Lexington-Fayette Urban County Government Code of Ordinances, known as the "Ethics Act."
6. Bidder 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.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Company Name \_\_\_\_\_

Address \_\_\_\_\_

Subscribed and sworn to before me by \_\_\_\_\_  
(Affiant)

\_\_\_\_\_  
(Title)

of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(Company Name)

\_\_\_\_\_  
Notary Public

[seal of notary]

My commission expires: \_\_\_\_\_

**4. BID SCHEDULE – SCHEDULE OF VALUES**

The Bidder agrees to perform all the Work described in the Specifications and shown on the Plans for the following proposed lump sum and/or unit prices, if applicable, which shall include the furnishing of all labor, materials, supplies, equipment and/or vehicle usage, services, all items of cost, overhead, taxes (federal, state, local), and profit for the Contractor and any Subcontractor involved, within the time set forth herein. If unit prices are applicable, Bidder must make the extensions and additions showing the total amount of bid.

Form of proposal must include unit bid prices written in words, unit price written in numbers and total amount bid (unit price x quantity) per line item OR bid may be considered non-responsive. In case of price discrepancy, unit bid price written in words will prevail followed by unit price written in numbers then total amount bid per line item.

If a discrepancy between the unit price and the item total exists, the unit price prevails except: If the unit price is illegible, omitted, or the same as the item total, item total prevails and the unit price is the quotient of the item total and the quantity.

If the unit price and the item total are illegible or are omitted, the bid may be determined nonresponsive. If a lump sum total price is illegible or is omitted, the bid may be determined nonresponsive.

For a unit price based bid, the sum of the item totals is the bid amount the Division uses for bid comparison.

The LFUCG's decision on the bid amount is final.

Item No.	Description	Unit	Total
1.	Portable Classroom Delivered and Installed, Move-in Ready, 12 Month Term, as per specs.	LS	\$ _____
2.	Monthly All-Inclusive Rental Extension Beyond Initial 12 Month Term, as per specs.	MO	\$ _____
3.	Date of Building Installation, Move-in Ready.		
	Description		Date

Submitted by:

\_\_\_\_\_  
Firm

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State & Zip

***Bid must be signed:  
(original signature)***

\_\_\_\_\_  
***Signature of Authorized Company Representative – Title***

\_\_\_\_\_  
*Representative/s Name (Typed or Printed)*

\_\_\_\_\_  
*Area Code – Phone –Fax #*

\_\_\_\_\_  
*E-Mail Address*

OFFICIAL ADDRESS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ (Seal if Bid is by Corporation)

***By signing this form you agree to ALL terms, conditions, and associated forms in this bid package***

**5. STATEMENT OF BIDDER'S QUALIFICATIONS**

The following statement of the Bidder's qualifications is required to be filled in, executed, and submitted with the Proposal:

1. Name of Bidder: \_\_\_\_\_

2. Permanent Place of Business: \_\_\_\_\_

3. When Organized: \_\_\_\_\_

4. Where Incorporated: \_\_\_\_\_

5. Construction Plant and Equipment Available for this Project: \_\_\_\_\_

6. Financial Condition: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Attach Separate Sheet If Necessary)

If specifically requested by the OWNER, the apparent low Bidder is required to submit its latest three (3) years audited financial statements to the OWNER'S Division of Procurement within seven (7) calendar days following the bid opening.

7. In the event the Contract is awarded to the undersigned, surety bonds will be furnished by: \_\_\_\_\_

\_\_\_\_\_  
(Surety)

Signed: \_\_\_\_\_  
(Representative of Surety)

8. The following is a list of similar projects performed by the Bidder: (Attach separate sheet if necessary).

<u>NAME</u>	<u>LOCATION</u>	<u>CONTRACT SUM</u>

9. The Bidder has now under contract and bonded the following projects:

<u>NAME</u>	<u>LOCATION</u>	<u>CONTRACT SUM</u>

10. List Key Bidder Personnel who will work on this Project.

<u>NAME</u>	<u>POSITION DESCRIPTION</u>	<u>NO. OF YEARS WITH BIDDER</u>

11. DBE Participation on current bonded projects under contract:

<u>SUBCONTRACTORS</u> <u>(LIST)</u>	<u>PROJECT</u> <u>(SPECIFIC TYPE)</u>	<u>DBE</u>	<u>% of WORK</u>

(USE ADDITIONAL SHEETS IF NECESSARY)

12. We acknowledge that, if we are the apparent low Bidder, we will submit to the OWNER within 7 calendar days following the Bid Opening, a sworn statement on the OWNER'S form regarding all current work on hand and under contract, and a statement on the OWNER'S form of the experience of our officers, office management and field management personnel. Additionally, if requested by the OWNER, we will within 7 days following the request submit audited financial statements and loss history for insurance claims for the 3 most recent years (or a lesser period stipulated by the OWNER)—all in accordance with the Bid Documents.

Respectfully submitted:

\_\_\_\_\_  
(Name of Contracting Firm)

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

TITLE: \_\_\_\_\_

DATE \_\_\_\_\_



**LIST OF MATERIALS/ SUPPLIERS**

Bidders are hereby advised that this list must be complete and submitted with the Bid.

Listing "as per plans and specifications", will not be considered as sufficient identification. Where more than one "Make or Brand" is listed for any one item, the Owner has the right to select the one to be used.

Item

Brand Name, Manufacturer and/or Supplier


MINORITY BUSINESS ENTERPRISE PROGRAM

Sherita Miller, MPA, CPSD  
 Minority Business Enterprise Liaison  
 Division of Procurement  
 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 (MBEP) 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 urban county council adopted and implemented Resolution 272-2024 – a Certified Minority and Women Business Enterprise seventeen percent (17%) minimum goal including minimum subgoals of five percent (5%) for Minority Business Enterprises (MBE) and a subgoal of twelve percent (12%) for Women Business Enterprises (WBE); a three (3%) minimum goal for Certified Veteran-Owned Small Businesses and/or Certified Service- Disabled Veteran Owned Businesses; and a goal of utilizing Disadvantaged Business Enterprises (DBE), where applicable, for government contracts.

The resolution states the following definitions shall be used for the purposes of reaching these goals:

**Certified Disadvantaged Business Enterprise (DBE)** – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a person(s) who is socially and economically disadvantaged as define by 49 CFR subpart 26.

**Certified Minority Business Enterprise (MBE)** – a business in which at least fifty-one percent (51%) is owned, managed and controlled by an ethnic minority (i.e. Black American, Asian American, Hispanic American, Native American)

**Certified Women Business Enterprise (WBE)** – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a woman.

**Certified Veteran-Owned Small Business (VOSB)** – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

**Certified Service-Disabled Veteran Owned Small Business (SDVOSB)** – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a disabled veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

The term “Certified” shall mean the business is appropriately certified, licensed, verified, or validated by an organization or entity recognized by the Division of Procurement as having the appropriate credentials to make a determination as to the status of the business.

The following certifications are recognized and accepted by the MBEP:

Kentucky Transportation Cabinet (KYTC), Disadvantaged Business Enterprise (DBE)  
 Kentucky Minority and Women Business Enterprise (MWBE)  
 Women’s Business Enterprise National Council (WBENC)  
 National Women Business Owners Corporation (NWBOC)  
 National Minority Supplier Development Council (NMSDC)  
 Tri-State Minority Supplier Development Council (TSMSSDC)  
 U.S. Small Business Administration Veteran Small Business Certification (VetCert)  
 Kentucky Service- Disabled Veteran Owned Small Business (SDVOSB)

To comply with Resolution 272-2024, prime contractors, minority and women business enterprises, veteran owned small businesses, and service-disabled veteran owned small businesses must complete monthly contract compliance audits in the Diverse Business Management Compliance system, <https://lexingtonky.diversitycompliance.com/>

A list of organizations that certify and/or maintain lists of certified businesses (i.e. DBE, MBE, WBE, VOSB and/or SDVOSB) is available upon request by emailing, Sherita Miller, [smiller@lexingtonky.gov](mailto:smiller@lexingtonky.gov).



**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 the Division of Procurement for approval immediately. Failure to submit a completed form may cause rejection of the bid.

MWBE Company, Name, Address, Phone, Email	DBE/MBE WBE/VOSB/SDVOSB	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 MDWBE and veteran 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.

<b>Company</b>	<b>Date</b>
<b>Company Representative</b>	<b>Title</b>


**LEXINGTON**
**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 the Division of Procurement 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. **Note: Form required if a subcontractor is being substituted on a contract.**

SUBSTITUTED DBE/MBE/WBE/VOSB Company Name, Address, Phone, Email	DBE/MBE/WBE/VOSB/SDVOSB 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**

## DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS AND OUTREACH PLANS

As affirmed in Resolution Number 272-2024, the Urban County Council has adopted an annual aspirational goal of utilizing at least seventeen percent (17%) of public funds spend from certain discretionary agreements with certified Minority Business Enterprises (MBEs) and certified Woman Business Enterprises (WBEs); utilizing at least three percent (3%) of public funds from certain discretionary agreements with Certified Veteran-Owned Small Business and Certified Service-Disabled Veteran-Owned Small Businesses (VOSBs); and utilizing Disadvantaged Business Enterprises (DBEs) where applicable. Bidders should make every effort to achieve these goals.

Therefore, as an element of the responsiveness of the bid, all Bidders are required to submit documentation of their good faith and outreach efforts to ensure all businesses, including small and disadvantaged businesses such as minority-, woman-, and veteran-owned businesses, have an equal opportunity to compete for and participate in the performance of any subcontracts resulting from this procurement. Examples of good faith and outreach efforts that satisfy this requirement to encourage the participation of, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs include:

1. Adversised 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, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs to participate.

2. Attended LFUCG Procurement Economic Inclusion Outreach event(s) within the past year to meet new small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs to partner with on LFUCG contracts and procurements.

3. Attended pre-bid/pre-proposal meetings that were scheduled by LFUCG to inform small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs of subcontracting opportunities.

4. Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs.

5. Requested a list of certified small, DBE, MBE, WBE, VOSB and/or SDVOSB subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).

6. Contacted organizations that work with small, DBE, MBE, WBE, and VOSB companies for assistance in finding certified DBEs, MBEs, WBEs, VOSB and/or SDVOSBs to work on this project. Those contacted and their responses must be a part of the bidder's outreach efforts documentation.

7. Sent written notices, by certified mail, email, or facsimile, to qualified, certified small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs 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.
8. Followed up initial solicitations by contacting small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs via tailored communications to determine their level of interest.
9. Provided the interested small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs with adequate and timely information about the plans, specifications, and requirements of the contract.
10. Selected portions of the work to be performed by small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs in order to increase the likelihood of subcontracting participation. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate small, DBE, MBE, WBE, VOSB and/or SDVOSB participation, even when the prime contractor may otherwise perform these work items with its own workforce.
11. Negotiated in good faith with interested small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs, not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection must be so noted in writing with a description as to why an agreement could not be reached.
12. Included documentation of quotations received from interested small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs that 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.
  - a. 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 small business', DBE's MBE's, WBE's, VOSB's and/or SDVOSB's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy the participation goals.
13. Made an effort to offer assistance to or refer interested small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal.
14. Made efforts to expand the search for small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs beyond the usual geographic boundaries.

15. Other – any other evidence that the bidder submits that may demonstrate that the bidder has made reasonable efforts to include small, DBE, MBE, WBE, VOSB and/or SDVOSB participation.

Bidder must document, with specificity, each of the efforts it made to include small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs as subcontractors in the procurement, including the date on which each effort was made, the medium through which each effort was made, and the outcome of each effort.

**Note:** Failure to submit 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 MBF Liaison. Documentation of Good Faith and Outreach Efforts must be submitted with the Bid, regardless of the proposed level of small, DBE, MBE, WBE, VOSB and/or SDVOSB participation in the procurement. If the Good Faith and Outreach Effort documentation is not submitted with the bid response, the bid may be rejected.

#### OUTREACH EFFORTS EVALUATION

Outreach efforts demonstrated by the bidder or respondent will be evaluated on a pass/fail basis.

## ATTACHMENT A – SMALL AND DISADVANTAGED, MINORITY-, WOMEN-, AND VETERAN-OWNED BUSINESS OUTREACH PLAN

**Proposer Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Project Name:** \_\_\_\_\_ **Project Number:** \_\_\_\_\_  
**Contact Name:** \_\_\_\_\_ **Telephone:** \_\_\_\_\_  
**Email:** \_\_\_\_\_

The mission of the Minority Business Enterprise Program is to facilitate the full participation of disadvantaged businesses, minority-, women-, veteran-, and service-disabled veteran-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, small and disadvantaged businesses, including minority-, woman-, veteran-, and service-disabled veteran-owned businesses, must have an equal opportunity to be utilized in the performance of contracts with public funds spent from certain discretionary agreements. By submitting its offer, Bidder/Proposer certifies that it has taken, and if there are further opportunities will take, reasonable steps to ensure that small and disadvantaged businesses, including minority-, woman-, veteran-, and service-disabled veteran-owned businesses, are provided an equal opportunity to compete for and participate in the performance of any subcontracts resulting from this procurement.

The information submitted in response to this clause will not be considered in any scored evaluation. Failure to submit this form may cause the bid or proposal to be rejected.

**Is the Bidder/ Proposer a certified firm?** Yes ☐ No ☐

If yes, indicate all certification type(s):

DBE ☐

MBE ☐


WBE ☐

SBE ☐

VOSB/SDVOSB  
☐

and supply a copy of the certificate and/or certification letter if not currently listed on the city's Minority Business Enterprise Program's (MBEP) certified list.

**1. Include a list of firms that Bidder/ Proposer has had a contractual relationship with within the last two years that are minority-owned, woman-owned, veteran-owned or small businesses, regardless of their certification status.**

 (Click or tap here to enter text.) 

**2. Does Bidder/Proposer foresee any subcontracting opportunities for this procurement?**

Yes ☐ No ☐

If no, please explain why in the field below. Do not complete the rest of this form and submit this first page with your bid and/or proposal.  (Click or tap here to enter text.)

If yes, please complete the following pages and submit all pages with your bid and/or proposal.

**Describe the steps Bidder/Proposer took to solicit small and disadvantaged businesses, including MBEs, WBEs, VOSBs, and SDVOSBs, for subcontracting opportunities for this procurement.**

**3. Check the good faith and outreach efforts the Bidder/Proposer used to encourage the participation of small and disadvantaged businesses including, MBEs, WBEs, VOSBs and SDVOSBs:**

- ☐ Bidder placed advertisements in search of prospective small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs for the solicitation.
- ☐ Bidder attended LFUCG Procurement Economic Inclusion Outreach event(s) within the past year.
- ☐ Bidder attended pre-bid and/or pre-proposal meetings for this solicitation.
- ☐ Bidder sponsored an Economic Inclusion Outreach event.
- ☐ Bidder requested a list of certified small, DBE, MBE, WBE, VOSB and/or SDVOSB subcontractors or suppliers from LFUCG.
- ☐ Bidder contacted organizations that work with small, DBE, MBE, WBE, VOSB and/or SDVOSB companies.
- ☐ Bidder sent written notices to certified small, DBE, MBE, WBE, VOSB and SDVOSB businesses.
- ☐ Bidder followed up to initial solicitations with interested small, DBE, MBE, WBE, VOSB and/or SDVOSB.
- ☐ Bidder provided small, DBE, MBE, WBE, VOSB and/or SDVOSB businesses interested in performing the solicited work with prompt access to the plans, specifications, scope of work, and requirements of the solicitation.
- ☐ Bidder made efforts to segment portions of the work to be performed by small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs, including dividing sub-bid/partnership opportunities into economically feasible units/parcels, to facilitate participation.

- ☐ Bidder negotiated in good faith with interested small, DBE, MBE, WBE, VOSB and/or SDVOSB businesses.
- ☐ Bidder provided adequate rationale for rejecting any small business', DBEs, MBEs, WBEs, VOSBs or SDVOSBs for lack of qualifications.
- ☐ Bidder offered assistance in obtaining bonding, insurance, financial, equipment, or other resources to small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs, in an effort to assist them in meeting project requirements.
- ☐ Bidder made efforts to expand the search for small businesses, DBEs MBEs, WBEs, VOSBs and/or SDVOSBs beyond the usual geographic boundaries.
- ☐ Bidder made other reasonable efforts to include small businesses, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs participation.

**4. Bidder/Proposer must include documentation, including the date each effort was made, the medium through which each effort was made, and the outcome of each effort with this form, regardless of the level of small, DBE, MBE, WBE, VOSB and/or SDVOSB participation. Examples of required documentation include copies of email communications, copies of newspaper advertisements, or copies of quotations received from interested small businesses, DBEs, MBEs, WBEs, VOSBs or SDVOSBs.**



**For detailed information regarding outreach efforts that satisfy the MBE Program's requirements, please see "Documentation Required for Good Faith Efforts and Outreach Plans" page.**

**Note: The Bidder/Proposer must be willing to report the identity of each subcontractor and the value of each subcontract to MBEP if awarded a contract from this procurement.**

**Failure to submit the documentation requested may be cause for rejection of the 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 and Outreach Efforts must be submitted with the bid, regardless of the proposed level of SBEs, DBEs, MBEs, WBEs, VOSBs and/or SDVOSBs participation in the procurement. If the Good Faith and Outreach Effort Form and associated documentation is not submitted with the bid response, the bid may be rejected.**

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.

P-24

4870-1925-6809, v. 1

<u>Company</u>	<u>Date</u>
<u>Company Representative</u>	<u>Title</u>

8. **AUTHENTICATION OF BID AND STATEMENT OF NON-COLLUSION, NON-CONFLICT OF INTEREST**

I hereby swear (or affirm) under the penalty for false swearing:

1. That I am the Bidder (if the Bidder is an individual), a partner of the Bidder (if the Bidder is a partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the Bidder is a corporation);
2. That the attached bid has been arrived at by the Bidder independently, and has been submitted without collusion with, and without any agreement, understanding or planned common course of action, with any other contractor, vendor of materials, supplies, equipment or services described in the Invitation to Bid, designed to limit independent bidding or competition;
3. That the contents of the bid or bids have not been communicated by the Bidder or its employees or agents to any person not an employee or agent of the Bidder or its surety on any bond furnished, with the bid or bids, and will not be communicated to any such person, prior to the official opening of the bid or bids;
4. That the Bidder is legally entitled to enter into the contracts with the Lexington-Fayette Urban County Government, and is not in violation of any prohibited conflict of interest;
5. (Applicable to corporation only) That as a foreign corporation, we are registered with the Secretary of State, Commonwealth of Kentucky, and authorized to do business in the State \_\_\_\_\_ or, that as a domestic corporation, we are in good standing with the Secretary of State, Commonwealth of Kentucky \_\_\_\_\_. Check the statement applicable.
6. This offer is for 60 calendar days from the date this bid is opened. In submitting the above, it is expressly agreed that, upon proper acceptance by the Lexington-Fayette Urban County Government of any or all items bid above, a contract shall thereby be created with respect to the items accepted.
7. That I have fully informed myself regarding the accuracy of the statements made in this statement.
8. That I certify that Subcontractors have not and will not be awarded to any firm(s) that have been debarred from noncompliance with the Federal Labor Standards, Title VI of the Civil Rights Act of 1964 As Amended, Executive Order 11246 As Amended or any other Federal Law.

**9. STATEMENT OF EXPERIENCE**

NAME OF INDIVIDUAL: \_\_\_\_\_  
 POSITION/TITLE: \_\_\_\_\_  
 STATEMENT OF EXPERIENCE: \_\_\_\_\_

NAME OF INDIVIDUAL: \_\_\_\_\_  
 POSITION/TITLE: \_\_\_\_\_  
 STATEMENT OF EXPERIENCE: \_\_\_\_\_

NAME OF INDIVIDUAL: \_\_\_\_\_  
 POSITION/TITLE: \_\_\_\_\_  
 STATEMENT OF EXPERIENCE: \_\_\_\_\_

NAME OF INDIVIDUAL: \_\_\_\_\_  
 POSITION/TITLE: \_\_\_\_\_  
 STATEMENT OF EXPERIENCE: \_\_\_\_\_

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NAME OF INDIVIDUAL: \_\_\_\_\_

POSITION/TITLE: \_\_\_\_\_

STATEMENT OF EXPERIENCE: \_\_\_\_\_

---

---

NAME OF INDIVIDUAL: \_\_\_\_\_

POSITION/TITLE: \_\_\_\_\_

STATEMENT OF EXPERIENCE: \_\_\_\_\_

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\* Include all officers, office management's, Affirmative Action officials, and field management personnel. (Attach separate sheets if necessary.)

10. **EQUAL OPPORTUNITY AGREEMENT**

Standard Title VI Assurance

The Lexington Fayette-Urban County Government, (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78Stat.252, 42 U.S.C. 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that will promptly take any necessary measures to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

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 subcontractor 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 contractor 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

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, religion, sex (including pregnancy, sexual orientation or gender identity), national origin, disability, age, genetic information, political affiliation, or veteran status, and to promote equal employment through a positive, continuing program from itself and each of its sub-contracting agents. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

The Kentucky equal Employment Opportunity Act of 1978 (KRS 45.560-45.640) requires that any count, 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 contract will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the non-discrimination 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 timetable.
- (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 – 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 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 quoted above to 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 work-force 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.

11. **EQUAL EMPLOYMENT OPPORTUNITY AFFIRMATIVE ACTION POLICY**

It is the policy of \_\_\_\_\_

to assure that all applicants for employment and all employees are treated on a fair and equitable basis without regard to their race, religion, sex, color, handicap, natural origin or age.

Such action shall include employment, promotion, demotion, recruitment or recruitment advertising, layoff or termination, rates of pay and other forms of compensation, and selection for training, whether apprenticeship and/or on-the-job-training.

Furthermore, this company agrees to make special recruitment efforts to hire the protected class whenever feasible. This company also agrees to adhere to all applicable federal, state, and local laws relating to Equal Employment Opportunity for all individuals.

**12. 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																	
Total:																	

 Prepared by: \_\_\_\_\_  
 (Name and Title)

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

Revised 2015-Dec-15

13. EVIDENCE OF INSURABILITY

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT CONSTRUCTION PROJECT  
(Use separate form for each Agency or Brokerage agreeing to provide coverage)

Names Insured: \_\_\_\_\_  
Address: \_\_\_\_\_  
Project to be insured: \_\_\_\_\_  
Employee ID: \_\_\_\_\_  
Phone: \_\_\_\_\_

In lieu of obtaining certificates of insurance at this time, the undersigned agrees to provide the above Named Insured with the minimum coverage listed below. These are outlined in the Insurance and Risk Management of Part V (Special Conditions), including all requirements, and conditions.

Section	Items	Coverage	Minimum Limits and Policy Requirements	Limits Provided To Insured	Name of Insurer	Code	A.M. Best's Rating
SC-2 - see provisions		CGL	\$1,000,000 per occ. And \$2,000,000 aggregate	\$			
SC-2 - see provisions		AUTO	\$1,000,000/per occ.	\$			
SC-2 - see provisions		WC	Statutory w/endorsement as noted	\$			
SC-2 - see provisions		EXC	\$2,000,000 per occ.	\$			

Section 2 includes required provisions, statements regarding insurance requirements, and the undersigned agrees to abide by all provisions for the coverage's checked above unless stated otherwise when submitting.

Agency or Brokerage \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Name of Authorized Representative \_\_\_\_\_  
Title \_\_\_\_\_  
Authorized Signature \_\_\_\_\_  
Date \_\_\_\_\_  
Telephone Number \_\_\_\_\_

NOTE: Authorized signatures may be the agent's if agent has placed insurance through an agency agreement with the insurer. If insurance is brokered, authorized signature must be that of authorized representative of insurer.

IMPORTANT: Contract may not be awarded if a completed and signed copy of this form for all coverage's listed above is not provided with the bid.

**14. DEBARRED FIRMS****PROJECT NAME:** \_\_\_\_\_**BID NUMBER:** \_\_\_\_\_**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
LEXINGTON, KY**

All prime Contractors shall certify that Subcontractors have not and will not be awarded to any firms that has been debarred for noncompliance with the Federal Labor Standards, Title VI of the Civil Rights Act of 1964 As Amended, Executive Order 11246 As Amended or any other Federal Law.

All bidders shall complete the attached certification in duplicate and submit both copies to the Owner with the bid proposal. The Owner (grantee) shall transmit one copy to the Lexington-Fayette Urban County Government, Division of Community Development, within fourteen (14) days after bid opening.

The undersigned hereby certifies that the firm of \_\_\_\_\_ has not and will not award a subcontract, in connection with any contract award to it as the result of this bid, to any firm that has been debarred for noncompliance with the Federal labor Standards, Title VI of the civil Rights Act of 1964, Executive Order 11246 as amended or any Federal Law.

\_\_\_\_\_  
Name of Firm Submitting Bid

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

15. DEBARMENT CERTIFICATION

All contractors/subcontractors shall complete the following certification and submit it with the bid proposal.

The contractor/subcontractor certifies in accordance with Executive Order 12549 (Debarment and Suspension 2/18/86) that to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared negligible, or voluntarily excluded from covered transactions or contract by any Federal department or agency for noncompliance with the Federal Labor Standards, Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended or any other Federal law;

- a) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- b) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(a) of this certification; and

- c) Have not within a three year period preceding this bid has one or more public (Federal, State or local) transactions or contracts terminated for cause or default.

- 2) Where the contractor is unable to certify to any of the statements in this certification, such prospective contractors shall attach an explanation to this certification form.

Firm Name:

\_\_\_\_\_

Project:

\_\_\_\_\_

Printed Name and Title of Authorized Representative:

\_\_\_\_\_

Signature:

\_\_\_\_\_

Date:

\_\_\_\_\_

END OF SECTION

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**GENERAL CONDITIONS**  
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END OF SECTION

- Wherever used in these General Conditions or the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof.
- 1.1 Addenda** Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bid Documents or the Contract Documents.
- 1.2 Agreement** The written agreement between OWNER and CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.
- 1.3 Application for Payment** The form accepted by CONSULTANT which is to be used by CONTRACTOR in requesting progress or final payments and which is to include such supporting documentation as is required by the Contract Documents.
- 1.4 Bid** The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
- 1.5 Bidder** An individual, partnership, or corporation, who submit a Bid for a prime contract with the OWNER, for the Work described in the proposed Contract Documents.
- 1.6 Bonds** Bid, performance and payment bonds and other instruments of security.
- 1.7 Calendar Day** A calendar day of twenty-four hours measured from midnight to the next midnight shall constitute a day.
- 1.8 Change Order** A document recommended by CONSULTANT, which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time, issued on or after the Effective Date of the Agreement.

**1. DEFINITIONS**

**GENERAL CONDITIONS**

**PART IV**

**1.9 Contract Documents**

The Advertisement for Bidders, Information for Bidders, Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR'S Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Bonds, these General Conditions, the Special Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all amendments, modifications and supplements.

**1.10 Contract Unit Price**

The monies payable by OWNER to CONTRACTOR under the Contract Documents as stated in the Agreement. Unit Prices are to be firm for the term of this Contract.

**1.11 Contract Time**

The number of consecutive calendar days between the date of issuance of the Notice to Proceed and the contract completion date.

**1.12 CONTRACTOR**

The person, firm or corporation with whom OWNER has entered into the Agreement.

**1.13 Defective**

An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to CONSULTANT'S recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER).

**1.14 Drawings**

The drawings which show the character and scope of the Work to be performed and which have been prepared or approved by CONSULTANT and are referred to in the Contract Documents.

**1.15 Effective Date of the Agreement**

The date indicated in the Agreement on which it becomes effective.

**1.16 CONSULTANT**

The Lexington-Fayette Urban County Government or its authorized representative.

**1.17 Field Order**

A documented order issued by CONSULTANT which orders minor changes in the Work, but which does not involve a change in the Contract Price or the Contract Time.

**1.18 Giving Notice**  
Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

**1.19 Laws and Regulations**  
Laws, rules, regulations, ordinances, codes and/or orders.

**1.20 Notice of Award**  
The written notice by OWNER to the apparent successful bidder stating that upon compliance by the apparent successful bidder with the conditions enumerated therein, within the time specified, OWNER will sign and deliver the Agreement.

**1.21 Notice to Proceed**  
A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Time will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR'S obligations under the Contract Documents.

**1.22 OWNER**  
The Lexington-Fayette Urban County Government.

**1.23 Partial Utilization**  
Placing a portion of the Work in service for the purpose for which it is intended (or related purpose) before reaching Completion for all the Work.

**1.24 Project**  
The total construction of which the Work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.

**1.25 Inspector**  
The authorized representative who is assigned to the site or any part thereof.

**1.26 Shop Drawings**  
All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for CONTRACTOR to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by CONTRACTOR to illustrate material or equipment for some portion of the Work.

**1.27 Specifications**  
Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and

workmanship as applied to the Work and certain administrative details applicable thereto.

**1.28 Standard Specifications**

The "Standard Specifications for Road and Bridge Construction", Transportation Cabinet, Department of Highways, Commonwealth of Kentucky, current edition. MUTCD shall refer to the "Manual of Uniform Traffic Control Devices.

**1.29 Subcontractor**

An individual, firm or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

**1.30 Special Conditions**

The part of the Contract Documents which amends or supplements these General Conditions.

**1.31 Supplier**

A manufacturer, fabricator, supplier, distributor, materialman or vendor.

**1.32 Underground Facilities**

All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

**1.33 Unit Price Work**

An amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

**1.34 Work**

The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.

**1.35 Time Period**

When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

## 2. PRELIMINARY MATTERS

- 2.1 Delivery of Bonds** When the CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER, such Bonds, Insurance Certificate, and Power of Attorney as CONTRACTOR may be required to furnish.
- 2.2 Copies of Documents** Owner shall furnish to CONTRACTOR up to three copies (unless otherwise specified in the Special Conditions) of the Contract Documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.
- 2.3 Commencement of Contract Time; Notice to Proceed** The Contract Time will commence to run on the day specified in the Notice to Proceed.
- 2.4 Starting the Project** CONTRACTOR shall start to perform the Work on the date when the Contract Time commences to run, but no Work shall be done at the site prior to the date on which the Contract Time commences to run.
- 2.5 Before Starting Construction** Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to CONSULTANT any conflict, error or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from CONSULTANT before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or CONSULTANT for failure to report any conflict, error or discrepancy in the Contract Documents, unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.
- 2.6 Submittal of Schedules** Within ten days after the effective date of the Agreement (unless otherwise specified) CONTRACTOR shall submit to CONSULTANT for review:
- 2.6.1** an estimated progress schedule indicating the starting and completion dates of the various stages of the Work;
- 2.6.2** a preliminary schedule of Shop Drawing submissions; and
- 2.6.3** a preliminary schedule of values for all of the Work which will include quantities and prices of items aggregating the Contract Price and will subdivide the Work into costs per labor and materials by specification

section to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work which will be confirmed in writing by CONTRACTOR at the time of submission. Schedule of values shall be submitted on AIA G702/703 forms, or approved equal.

## **2.7 Preconstruction Conference**

Before CONTRACTOR starts the Work at the proposed site, a conference attended by CONTRACTOR, CONSULTANT, EEO-Affirmative Action Officer, and other appropriate parties will be held to discuss the following issues: (1) The scheduling of the Work to be completed; (2) The procedures for handling shop drawings and other submittals; (3) The processing of applications for payment; (4) The establishment of an understanding among the involved parties in regard to the proposed project; (5) The establishment of procedures for effectively implementing the LFUCG's 10% minimum DBE goals; and (6) Requirement for Mechanic's Lien on Partial Applications for Payment.

## **2.8 Finalizing Schedules**

At least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, CONSULTANT and others as appropriate will be held to finalize the schedules submitted in accordance with paragraph 2.6. The finalized progress schedule will be acceptable to CONSULTANT as providing orderly progression of the Work to completion within the Contract Time, but such acceptance will neither impose on CONSULTANT responsibility for the progress or scheduling of the Work nor relieve CONTRACTOR from full responsibility thereof. The finalized schedule of Shop Drawing submissions will be acceptable to CONSULTANT as providing a workable arrangement for processing the submissions. The finalized schedule of values will be acceptable to CONSULTANT as to form and substance.

# **3. CONTRACT DOCUMENTS: INTENT, CONFLICTS, AMENDING AND REUSE**

## **3.1 General**

The Contract Documents comprise the entire agreement between OWNER and CONTRACTOR concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the place of the Project.

## **3.2 Intent**

It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used

to describe Work, materials or equipment such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of OWNER, CONTRACTOR or CONSULTANT, or any of their consultants, agents or employees from those set forth in the Contract Documents, nor shall it be effective to assign to CONSULTANT, or any of CONSULTANTS consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 8.12.3 or 8.12.4. Clarifications and interpretations of the Contract Documents shall be issued by CONSULTANT as provided in paragraph 8.4.

### 3.3

#### Conflicts

If, during the performance of the Work, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so report to CONSULTANT in writing at once and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from CONSULTANT; however, CONTRACTOR shall not be liable to OWNER or CONSULTANT for failure to report any conflict, error or discrepancy in the Contract Documents unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

In resolving such conflicts, errors and discrepancies, the documents shall be given precedence in the following order:

1. Agreement
2. Field and Change Orders
3. Addenda
4. Special Conditions
5. Instruction to Bidders
6. General Conditions
7. Specifications and Drawings

Figure dimension on drawings shall govern over scale dimensions and detailed Drawings shall govern over general Drawings.

### **3.4 Amending and Supplementing Contract Documents**

The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof by means of a Change Order or a Field Order. Contract Price and Contract Time may only be changed by a Change Order.

### **3.5 Reuse of Documents**

Neither CONTRACTOR nor any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with OWNER shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of CONSULTANT; and they shall not reuse any of them on extensions of the Project or any other project without written consent of OWNER and CONSULTANT and specific written verification or adaptation by CONSULTANT.

## **4. AVAILABILITY OF LANDS; PHYSICAL CONDITIONS, REFERENCE POINTS**

### **4.1 Availability of Lands**

OWNER shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise provided in the Contract Documents. If CONTRACTOR believes that any delay in OWNER'S furnishing these lands, rights-of-way or easements entitles CONTRACTOR to an extension of the Contract Time, CONTRACTOR may make a claim therefor as provided in Article 11. CONSULTANT shall determine if the claim is legitimate or not. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

### **4.2 Physical Conditions**

#### **4.2.1 Explorations and Reports**

Reference is made to the Special Conditions for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by CONSULTANT in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such reports, but not upon non-technical data, interpretations or opinions contained therein or for the completeness thereof for CONTRACTOR'S purposes. Except as indicated in the immediately preceding sentence and in paragraph 4.2.6, CONTRACTOR shall have full responsibility with respect to subsurface conditions at the site.

#### **4.2.2 Existing Structures**

Reference is made to the Special Conditions for identification of those drawings of physical conditions in or relating to existing surface and

subsurface structures (except Underground Facilities referred to in paragraph 4.3 which are at or contiguous to the site that have been utilized by CONSULTANT in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such drawings, but not for the completeness thereof for CONTRACTOR'S purposes. Except as indicated in the immediately preceding sentence and in paragraph 4.2.6, CONTRACTOR shall have full responsibility with respect to physical conditions in or relating to such structures.

4.2.3

Report of Differing Conditions  
If CONTRACTOR believes that:

4.2.3.1 any technical data on which CONTRACTOR is entitled to rely as provided in paragraphs 4.2.1 and 4.2.2 is inaccurate, or

4.2.3.2 any physical conditions uncovered or revealed at the site differ materially from that indicated, reflected or referred to in the Contract Documents,

CONTRACTOR shall, promptly after becoming aware thereof and before performing and WORK in connection therewith (except in an emergency) notify OWNER and CONSULTANT in writing about the inaccuracy or difference.

4.2.4

CONSULTANT'S Review

CONSULTANT will promptly review the pertinent conditions, determine the necessity of obtaining additional explorations or tests with respect thereto and advise CONTRACTOR of CONSULTANT'S findings and conclusions.

4.2.5

Possible Document Change

If CONSULTANT concludes that there is a material error in the Contract Documents or that because of newly discovered conditions a change I the Contract Documents is required, a Change Order will be issued as provided in Article 10 to reflect and document the consequences of the inaccuracy or difference.

4.2.6

Possible Price and Time Adjustments

In each such case, an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, or any combination thereof, will be allowable to the extent that they are attributable to any such inaccuracy or difference.

4.3

**Physical Conditions-Underground Facilities**

4.3.1

Shown or Indicated

The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is

based on information and data furnished to OWNER or CONSULTANT by the owners of such underground facilities or by others. Unless it is otherwise expressly provided in the Special Conditions:

4.3.1.1 OWNER and CONSULTANT shall not be responsible for the accuracy or completeness of any such information or data; and,

4.2.1.2 CONTRACTOR shall have full responsibility for reviewing and checking all such information and data; for locating all underground facilities shown or indicated in the Contract Documents; for coordination of the Work with the owners of such underground facilities during construction; and for the safety and protection thereof and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.

4.3.2 Not Shown or Indicated

If an underground facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of, CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency), identify the owner of such Underground Facility and give written notice thereof to that owner and to OWNER and CONSULTANT. CONSULTANT will promptly review the underground facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents will be amended or supplemented to the extent necessary. During such time, CONTRACTOR shall be responsible for the safety and protection of such underground facility. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, to the extent that they are attributable to the existence of any underground facility that was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of.

**4.4 Reference Points**

OWNER shall provide engineering surveys to establish reference points for construction which in CONSULTANT'S judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work (unless otherwise specified), shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to CONSULTANT whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by a Registered Land Surveyor.

5. CONTRACTOR'S RESPONSIBILITIES

5.1

Supervision

CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall assure that all CONTRACTOR personnel (including subcontractors, etc.) conduct themselves in a courteous and respectful manner toward the CONSULTANT and the general public. CONTRACTOR shall keep at the Project Site during the progress of the Work a competent project manager/superintendent and all necessary assistants, all of whom shall be satisfactory to OWNER. OWNER reserves the right to reject CONTRACTOR'S construction superintendent and project management personnel if they are unsatisfactory to OWNER and upon such rejection CONTRACTOR shall designate and provide competent successors. Failure to comply with this condition of the Contract will result in immediate suspension of the Work. Following a review by the Commissioner of Public Works, the Contract may be terminated (see GC section 14). CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence or procedure of construction which is indicated in and required by the Contract Documents. CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.

5.2

Superintendence

CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to OWNER and CONSULTANT except under extraordinary circumstances. The superintendent will be CONTRACTOR'S representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

5.3

Labor

CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site. OWNER reserves the right to require CONTRACTOR to remove from the Project any of its personnel, or subcontractor's personnel for violating LFUCG Policies, Rules or Regulations. Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday or any legal holiday without OWNER'S written consent given after prior written notice to CONSULTANT.

#### **5.4 Start-Up and Completion of Work**

Unless otherwise specified, CONTRACTOR shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.

#### **5.5 Materials and Equipment**

All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by CONSULTANT, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to CONSULTANT, or any of CONSULTANT'S consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 8.12.3 or 8.12.4.

##### **5.5.1 Not Clearly Specified or Indicated**

In all instances where materials specified are obtainable in different sizes, weights, trade grades, qualities or finishes, etc., whose weights, trade grades, qualities or finishes, etc., are not clearly specified or indicated on the Drawings, the CONTRACTOR shall notify the CONSULTANT of all such instances at least five (5) days in advance of receiving the proposals. The CONSULTANT will then determine which size, weight, trade grade, quality, finish, etc., is required.

##### **5.5.2 Coordination of Work**

The CONTRACTOR shall see that for his own Work and for the work of each subcontractor, proper templates and patterns necessary for the coordination of the various parts of the Work are prepared. The CONTRACTOR shall furnish or require the Subcontractor to furnish such duplicates as will enable the Subcontractors to fit together and execute fully their respective portions of the Work.

#### **5.6 Adjusting Progress Schedule**

CONTRACTOR shall submit to CONSULTANT for acceptance (to the extent indicated in paragraph 2.8) adjustments in the progress schedule to reflect the impact thereon of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the Contract Documents applicable thereto.

5.7 Substitutes or "Or-Equal" Items

5.7.1 General

Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function, and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other Suppliers may be accepted by OWNER/CONSULTANT if sufficient information is submitted by CONTRACTOR to allow OWNER/CONSULTANT to determine that the material or equipment proposed is equivalent or equal to that named. The procedure for review by OWNER/CONSULTANT will include the following. Requests for review of substitute items of material and equipment will not be accepted by OWNER/CONSULTANT from anyone, other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall make written application to OWNER/CONSULTANT for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice CONTRACTOR'S achievement of completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by OWNER/CONSULTANT in evaluating the proposed substitute. OWNER/CONSULTANT may require CONTRACTOR to furnish at CONTRACTOR'S expense additional data about the proposed substitute.

5.7.2 Substitutes

If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to OWNER/CONSULTANT, if CONTRACTOR submits sufficient information to allow OWNER/CONSULTANT to determine that the substitute proposed is equivalent to that indicated or required by the Contract

Documents. The procedure for review by OWNER/CONSULTANT will be similar to that provided in paragraph 5.7.1 as applied by OWNER/CONSULTANT.

**5.7.3 OWNER/CONSULTANT'S Approval**

OWNER/CONSULTANT will be allowed a reasonable time within which to evaluate each proposed substitute. OWNER/CONSULTANT will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without OWNER/CONSULTANT'S prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. OWNER may require CONTRACTOR to furnish at CONTRACTOR'S expense a special performance guarantee or other surety with respect to any substitute. OWNER/CONSULTANT will record time required by OWNER/CONSULTANT and OWNER/CONSULTANT'S consultants in evaluating substitutions proposed by CONTRACTOR and in making changes in the Contract Documents occasioned thereby. Whether or not OWNER/CONSULTANT accepts a proposed substitute, CONTRACTOR shall reimburse OWNER for the charges of OWNER/CONSULTANT and OWNER/CONSULTANT'S consultants for evaluating each proposed substitute.

**5.8 Subcontractors, Suppliers, and Others**

**5.8.1 Acceptable to CONSULTANT**

CONTRACTOR shall not employ any Subcontractor, Supplier or other person or organization (including those acceptable to OWNER and CONSULTANT as indicated in paragraph 5.8.2), whether initially or as a substitute, against whom OWNER or CONSULTANT may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier or other person or organization to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.

**5.8.2 Objection After Due Investigation**

If the Contract Documents require the identity of certain Subcontractors, Suppliers or other persons or organizations (including those who are to furnish the principal items of materials and equipment) to be submitted to OWNER in advance of the specified date prior to the Effective Date of the Agreement for acceptance by OWNER and CONSULTANT and if CONTRACTOR has submitted a list thereof, OWNER'S or CONSULTANT'S acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the Contract Documents) of any such Subcontractor, Supplier or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case CONTRACTOR shall submit an acceptable substitute. No acceptance by

5.8.6 Statements and Comments by CONTRACTOR Neither the CONTRACTOR, his employees, nor his subcontractors shall at any time make any statement or comment as

5.8.5 Agreement Between Contractor and Subcontractors All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and CONSULTANT.

5.8.4 Division of Specifications The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

CONTRACTOR shall be fully responsible to OWNER and CONSULTANT for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR'S own acts and omissions. Nothing in the Contract Documents shall create any contractual relationship between OWNER or CONSULTANT and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of OWNER or CONSULTANT to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Laws and Regulations.

The CONTRACTOR shall, at the time he submits his proposal for the Contract, notify the OWNER in writing of the names of Subcontractors proposed for the Work. He shall not employ any Subcontractor without the prior written approval of the OWNER.

5.8.3 Contractor Responsible for Acts of Subcontractors The CONTRACTOR shall perform on the site, and with its own organization, work equivalent to at least fifty (50) percent of the total amount of Work to be performed under the Contract. This percentage may be reduced by a supplemental agreement to this Contract if, during performing the Work, the CONTRACTOR requests a reduction and the Urban County project manager determines that the reduction would be to the advantage of the Urban County Government.

OWNER or CONSULTANT of any such Subcontractor, Supplier or other person or organization shall constitute a waiver of any right of OWNER or CONSULTANT to reject defective Work.

to the project scope, nature, intention, design, or construction method to any third party or parties without the explicit written consent of the OWNER.

Any third party requesting such information shall be referred to the OWNER or his representative.

Should there be any change from the original intent of the project as a result of any statement or comment by the contractor, his employees or subcontractors, contractor shall be held liable for any change in the scope, nature, design, or construction method and shall bear the full cost for the previously mentioned changes.

#### **5.9 Patent Fees and Royalties**

CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others.

#### **5.10 Permits**

Unless otherwise provided in the Special conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening of Bids, or if there are no Bids on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

## 5.11 Laws and Regulations

### 5.11.1 CONTRACTOR to Comply

CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor CONSULTANT shall be responsible for monitoring CONTRACTOR'S compliance with any Laws and Regulations.

### 5.11.2 Specifications and Drawings at Variance

If CONTRACTOR observes that the Specifications or Drawings are at variance with any Laws or Regulations, CONTRACTOR shall give CONSULTANT prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in paragraph 3.4. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such Laws, or Regulations, and without such notice to CONSULTANT, CONTRACTOR shall bear all costs arising therefrom; however, it shall not be CONTRACTOR'S primary responsibility to make certain that the Specifications and Drawings are in accordance with such Laws and Regulations.

Any party, firm or individual submitting a proposal pursuant to invitation must have paid all taxes owed to the Lexington-Fayette Urban County Government at the time the proposal is submitted, and must maintain a "current" status in regard to those taxes throughout the Contract. If applicable, business must be licensed in Fayette County.

## 5.12 Taxes

CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work. Any party, firm or individual submitting a proposal pursuant to invitation must have paid all taxes owed to the Lexington-Fayette Urban County Government at the time the proposal is submitted, and must maintain a "current" status in regard to those taxes throughout the Contract. If applicable, business must be licensed in Fayette County.

## 5.13 Use of Premises

### 5.13.1 Project Site

CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the staging areas or work site areas identified in and permitted by the Contract Documents and other land and areas permitted by Laws and Regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such

land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against OWNER or CONSULTANT by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim by arbitration or at law. CONTRACTOR shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold OWNER and CONSULTANT harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any such other party against OWNER or CONSULTANT to the extent based on a claim arising out of CONTRACTOR'S performance of the Work.

#### 5.13.2 Clean UP

During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by OWNER. CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents.

#### 5.13.1 Loading of Structures

CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

### 5.14 **Record Drawings**

CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Change Orders, Field Orders and written interpretations and clarifications (issued pursuant to paragraph 9.4) in good order and annotated to show all changes made during construction. These record documents together with all approved samples and a counterpart of all approved Shop Drawings will be available to CONSULTANT for reference. Upon completion of the Work, these record documents, samples and Shop Drawings will be delivered to CONSULTANT for OWNER.

### 5.15 **Shop Drawings and Samples**

#### 5.15.1 Shop Drawing Submittals

After checking and verifying all field measurements and after complying

with applicable procedures specified, CONTRACTOR shall submit to CONSULTANT for review and approval in accordance with the accepted schedule of Shop Drawing submissions (see paragraph 2.8), or for other appropriate action if so indicated in the Special Conditions, five copies (unless otherwise specified) of all Shop Drawings, which will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR'S responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as CONSULTANT may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable CONSULTANT to review the information as required.

#### 5.15.2 Sample Submittals

CONTRACTOR shall also submit to CONSULTANT for review and approval with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that CONTRACTOR has satisfied CONTRACTOR'S responsibilities under the Contract Documents with respect to the review of the submission and will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.

#### 5.15.3 Review by CONTRACTOR

Before submission of each Shop Drawing or sample CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.

#### 5.15.4 Notice of Variation

At the time of each submission, CONTRACTOR shall give CONSULTANT specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to CONSULTANT for review and approval of each such variation.

#### 5.15.5 CONSULTANT'S Approval

CONSULTANT will review and approve with reasonable promptness Shop Drawings and samples, but CONSULTANT'S review and approval will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or

procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make corrections required by CONSULTANT, and shall return the required number of corrected copies of Shop Drawings and submit, as required, new samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by CONSULTANT on previous submittals.

**5.15.6 Responsibility for Errors and Omissions**

CONSULTANT'S review and approval of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called CONSULTANT'S attention to each such variation at the time of submission as required by paragraph 5.15.4 and CONSULTANT has given written approval of each such variation by a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample approval; nor will any approval by CONSULTANT relieve CONTRACTOR from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions of paragraph 5.15.3.

**5.15.7 Cost of Related Work**

Where a Shop or sample is required by the Specifications, any related Work performed prior to CONSULTANT'S review and approval of the pertinent submission will be the sole expense and responsibility of CONTRACTOR.

**5.16 Continuing the Work**

CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolutions of any disputes or disagreements, except as permitted by paragraph 14.5 or as CONTRACTOR and OWNER may otherwise agree in writing.

**5.17 Erosion and Sediment Control**

**5.17.1 General Environmental Requirements**

The CONTRACTOR and Subcontractors performing work on projects on behalf of the OWNER shall comply with all applicable federal, state, and local environmental regulations and all requirements and conditions set forth in "special" permits including but not limited to Corp of Engineers 404 permits, 401 Water Quality Certifications, Stream Crossing and Floodplain Encroachment Permits.

Any fines or penalties resulting from the failure to comply with the terms of the federal, state or local permits or perform necessary corrective action are solely the obligation of the CONTRACTOR.

## 5.17.2 Stormwater Pollution Prevention

A. The CONTRACTOR shall exercise due care to prevent or minimize any damage to any stream or wetland from pollution by debris, sediment or other material. The operation of equipment and/or materials in a jurisdictional wetland is expressly prohibited. Water that has been used for washing or processing, or that contains oils, sediments or other pollutants shall not be discharged from the job site. Such waters shall be collected and properly disposed of by the CONTRACTOR in accordance with applicable local, state and federal law.

B. The CONTRACTOR is solely responsible for securing all required state and local permits associated with stormwater discharges from the project including, but not necessarily limited to the KY Notice of Intent to Disturb (NOI) for Coverage of Storm Water Discharges Associated with Construction Activities under the KPDES Storm Water General Permit KYR100000 and the LFUCG, Land Disturbance Permit. Permit application preparation and all required documentation are the responsibility of the CONTRACTOR. The CONTRACTOR is solely responsible for maintaining compliance with the stormwater pollution prevention plan or erosion and sediment control plan and ensuring the following:

- a. That the Stormwater Pollution Prevention Plan (SWPPP) or erosion control plan is current and available for review on site;
- b. That any and all stormwater inspection reports required by the permit are conducted by qualified personnel and are available for review onsite; and
- c. That all best management practices (BMPs) are adequately maintained and effective at controlling erosion and preventing sediment from leaving the site.

C. The CONTRACTOR shall provide the necessary equipment and personnel to perform any and all emergency measures that may be required to contain any spillage or leakage and to remove materials, soils or liquids that become contaminated. The collected spill material shall be properly disposed at the CONTRACTOR's expense.

D. Upon completion of the work and with the concurrence of the OWNER, the CONTRACTOR must file a Notice of Termination (NOT) of Coverage Under the KPDES General Permit for Storm Water Discharges Associated with Construction Activity with the appropriate local and state authorities.

E. Any fines or penalties resulting from the failure to comply with the terms of the state or local stormwater permits or perform necessary corrective action are solely the obligation of the CONTRACTOR.

## **6. OTHER WORK**

### **6.1 Related Work at Site**

OWNER may perform other work related to the Project at the site by OWNER'S own forces, have other work performed by utility owners or let other direct contracts therefor which shall contain General Conditions similar to these. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to CONTRACTOR prior to starting any such other work; and, if such performance will involve additional expense to CONTRACTOR or requires additional time, a Change Order to the Contract will be negotiated.

### **6.2 Other Contractors or Utility Owners**

CONTRACTOR shall afford each utility owner and other contractor who is a party to such a direct contract (or OWNER, if OWNER is performing the additional work with OWNER'S employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with theirs. CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of CONSULTANT and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between OWNER and such utility owners and other contractors.

### **6.3 Delays Caused by Others**

If any part of CONTRACTOR'S Work depends for proper execution or results upon the work of any such other contractor or utility owner (or OWNER), CONTRACTOR shall inspect and promptly report to CONSULTANT in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. CONTRACTOR'S failure so to report will constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR'S Work except for latent or non-apparent defects and deficiencies in the other work.

### **6.4 Coordination**

If OWNER contracts with others for the performance of other work on the Project at the site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime contractors will be identified in the Special Conditions, and the specific matters to be covered by such authority and

responsibility will be itemized, and the extent of such authority and responsibilities will be provided, in the Special Conditions.

**7. OWNER'S RESPONSIBILITIES**

**7.1 Communications**  
OWNER shall issue all communications to CONTRACTOR through CONSULTANT.

**7.2 Data and Payments**  
OWNER shall furnish the data required of OWNER under the Contract Documents promptly after they are due.

**7.3 Lands, Easements, and Surveys**  
OWNER'S duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.1 and 4.4. Paragraph 4.2 refers to OWNER'S identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions at the site and in existing structures which have been utilized by CONSULTANT in preparing the Drawings and Specifications.

**7.4 Change Orders**  
OWNER is obligated to execute Change Orders as indicated in paragraph 9.4.

**7.5 Inspections, Tests and Approvals**  
OWNER'S responsibility in respect to certain inspections, tests and approvals is set forth in paragraph 13.3.

**7.6 Stop or Suspend Work**  
In connection with OWNER'S right to stop Work or suspend Work, see paragraph 12.4 and 14.1 Paragraph 14.2 deals with OWNER'S rights to terminate services of CONTRACTOR under certain circumstances.

**8. CONSULTANT'S STATUS DURING CONSTRUCTION**

**8.1 OWNER'S Representative**  
CONSULTANT will be OWNER'S representative during the construction period. The duties and responsibilities and the limitations of authority of CONSULTANT as OWNER'S representative during construction are set forth in the Contract Documents and shall not be extended without written consent of OWNER and CONSULTANT.

**8.2 Visits to Site**  
CONSULTANT will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. CONSULTANT will not be required to make exhaustive or

continuous on-site inspections to check the quality or quantity of the Work. CONSULTANT'S efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-site observations, CONSULTANT will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defects and deficiencies in the Work.

**8.3 Project Representation**

CONSULTANT will provide an Inspector to assist CONSULTANT in observing the performance of the Work. If OWNER designates another agent to represent OWNER at the site who is not CONSULTANT'S agent or employee, the duties, responsibilities and limitations of authority of such other person will be as provided in the Special Conditions.

**8.4 Clarifications and Interpretations**

CONSULTANT will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as CONSULTANT may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.

**8.5 Authorized Variations in Work**

CONSULTANT may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order.

**8.6 Rejecting Defective Work**

CONSULTANT will have authority to disapprove or reject Work which CONSULTANT believes to be defective, and will also have authority to require special inspection or testing of the Work as provided in paragraph 12.3, whether or not the Work is fabricated, installed or completed.

**8.7 Shop Drawings**

In connection with CONSULTANT'S responsibility for Shop Drawings and samples, see paragraphs 5.15.1 through 5.16 inclusive.

**8.8 Change Orders**

In connection with CONSULTANT'S responsibilities as to Change Orders, see Articles 10, 11 and 12.

**8.9 Payments**

In connection with CONSULTANT'S responsibilities with respect to Applications for Payment, etc., see Article 13.

**8.10 Determinations for Unit Prices**  
CONSULTANT will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR.

CONSULTANT will review with CONTRACTOR CONSULTANT'S preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise).

**8.11 Decision on Disputes**  
CONSULTANT will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims under Articles 10 and 11 in respect of changes in the Contract Price or Contract Time will be referred initially to CONSULTANT in writing with a request for a formal decision in accordance with this paragraph, which CONSULTANT will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter will be delivered to CONSULTANT promptly (but in no event later than thirty days) after the occurrence of the event giving rise thereto, and written supporting data will be submitted to CONSULTANT within sixty days after such occurrence unless CONSULTANT allows an additional period of time to ascertain more accurate data in support of the claim.

## **8.12 Limitations on CONSULTANT'S Responsibilities**

**8.12.1 CONTRACTOR, Supplier, or Surety**  
Neither CONSULTANTS authority to act under this Article 8 or elsewhere in the Contract Documents nor any decision made by CONSULTANT in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of CONSULTANT to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.

**8.12.2 To Evaluate the Work**  
Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved" or terms of like effect, or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper", or "satisfactory" or adjectives or like "effect" or "import" are used to describe a requirement, direction, review or judgment of CONSULTANT as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign CONSULTANT any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 8.12.3 or 8.12.4.

#### 8.12.3 CONTRACTOR'S Means, Methods, Etc.

CONSULTANT will not be responsible for CONTRACTOR'S means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and CONSULTANT will not be responsible for CONTRACTOR'S failure to perform or furnish the Work in accordance with the Contract Documents.

#### 8.12.4 Acts of Omissions of CONTRACTOR

CONSULTANT will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

### 9. **CHANGES IN THE WORK**

#### 9.1 **OWNER May Order Change**

Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by a Change Order. Upon receipt of such notice, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

#### 9.2 **Claims**

Claims for an increase or decrease in the Contract Price or an extension or shortening of the Contract Time that should be allowed as a result of a Change Order will be settled as provided for in Article 10 or Article 11.

#### 9.3 **Work Not in Contract Documents**

CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in paragraph 3.4, except in the case of an emergency and except in the case of uncovering Work as provided in paragraph 12.3.4.

#### 9.4 **Change Orders**

OWNER and CONTRACTOR shall execute appropriate Change Orders covering:

9.4.1 changes in the Work which are ordered by OWNER pursuant to paragraph 9.1, are required because of acceptance of defective Work under paragraph 12.7 or corrective defective Work under paragraph 12.8, or are agreed to by the parties;

Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of

### 10.3.1 Unit Prices

The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

### 10.3 Value of Work

The Contract Price may only be changed by a Change Order. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the CONTRACTOR to the CONSULTANT promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty days after such occurrence (unless CONSULTANT allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by CONTRACTOR'S written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which the CONTRACTOR is entitled as a result of the occurrence of said event.

### 10.2 Claim for Increase or Decrease in Price

The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR shall be at his expense without change in the Contract Price.

### 10.1 Total Compensation

## 10. CHANGE OF CONTRACT PRICE

If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Time) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be CONTRACTOR'S responsibility, and the amount of each applicable Bond will be adjusted accordingly.

### 9.5 Notice of Change

9.4.3 changes in the Contract Price or Contract Time which embody the substance of any written decision rendered by CONSULTANT pursuant to paragraph 8.11; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and REGULATIONS, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 5.16.

9.4.2 changes in the Contract Price or Contract Time which are agreed to by the parties; and

the items involved (subject to the provisions of paragraphs 10.9.1. through 10.9.3, inclusive).

**10.3.2 Lump Sum**

By mutual acceptance of a lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 10.6.2.1).

**10.3.3 Cost Plus Fee**

On the basis of the Cost of the Work (determined as provided in paragraphs 10.4 and 10.5) plus a CONTRACTOR'S fee for overhead and profit (determined as provided in paragraphs 10.6 and 10.7).

**10.4 Cost of the Work**

The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project; shall include only the following items; and shall not include any of the costs itemized in paragraph 10.5:

**10.4.1 Payroll Costs**

Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above to the extent authorized by OWNER.

**10.4.2 Materials and Equipment Costs**

Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

10.4.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of CONSULTANT, and the costs of transportation, loading, unloading, installation, dismantling and removal shall be in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

10.4.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, and cost less consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR.

10.4.5.1 The proportion of necessary transportation, travel and subsistence expenses of CONTRACTOR'S employees incurred in discharge of duties connected with the Work.

#### 10.4.5 Supplemental Costs

Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys and accountants) employed for services specifically related to the Work.

#### 10.4.4 Special Consultant Costs

Payments made by CONTRACTOR to the Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to CONTRACTOR and shall deliver such bids to OWNER who will then determine, with the advice of CONSULTANT, which bids will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a Fee, the Subcontractor's Cost of the Work shall be determined in the same manner as CONTRACTOR'S Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

#### 10.4.3 Subcontractor Costs

10.4.5.4 Sales, consumer, use or similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.

10.4.5.5 Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

10.4.5.6 Losses and damages (and related expenses), not compensated by insurance or otherwise, to the Work or otherwise sustained by CONTRACTOR in connection with the performance and furnishing of the Work (except losses and damages within the deductible amounts of property insurance established by OWNER), provided they have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR'S fee. If, however, any such loss or damage requires reconstruction and CONTRACTOR is placed in charge thereof, CONTRACTOR shall be paid a fee proportionate to that stated in paragraph 10.6.2 for services.

10.4.5.7 The cost of utilities, fuel and sanitary facilities at the site.

10.4.5.8 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

10.4.5.9 Cost of premiums for additional Bonds and insurance required because of changes in the Work and premiums for property insurance coverage within the limits of the deductible amounts established by OWNER.

## **10.5 Not to Be Included in Cost of the Work**

The term Cost of the Work shall not include any of the following:

### **10.5.1 Costs of Officers and Executives**

Payroll costs and other compensation of CONTRACTOR'S officers, executives, principals (of partnership and sole proprietorships), general

managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR'S principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 10.4.1 or specifically covered by paragraph 10.4.4 - all of which are to be considered administrative costs covered by the CONTRACTOR'S fee.

10.5.2 Principal Office Expenses of CONTRACTOR'S principal and branch offices other than CONTRACTOR'S office at the site.

10.5.3 Capital Expense Any part of CONTRACTOR'S capital expenses, including interest on CONTRACTOR'S capital employed for the Work and charges against CONTRACTOR for delinquent payments.

10.5.4 Bonds and Insurance Cost of premiums for all Bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by subparagraph 10.4.5.9 above).

10.5.5 Costs Due to Negligence Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

10.5.6 Other Costs Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 10.4.

## **10.6 Contractor's Fee**

The CONTRACTOR'S Fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

10.6.1 a mutually acceptable fixed fee; or if none can be agreed upon,

10.6.2 a fee based on the following percentages of the various portions of the Cost of the Work:

10.6.2.1 for costs incurred under paragraphs 10.4.1 and 10.4.2, the CONTRACTOR'S fee shall be fifteen percent;

10.6.2.2 for costs incurred under paragraph 10.4.3, the CONTRACTOR'S fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a fee, the maximum allowable to CONTRACTOR on account of overhead and profit of all Subcontractors shall be fifteen percent;

10.6.2.3 no fee shall be payable on the basis of costs itemized under paragraphs 10.4.4, 10.4.5 and 10.5;

10.6.2.4 the amount of credit to be allowed by CONTRACTOR to OWNER for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in CONTRACTOR'S Fee by an amount equal to ten percent of the net decrease; and

10.6.2.5 when both additions and credits are involved in any one change, the adjustment in CONTRACTOR'S fee shall be computed on the basis of the net change in accordance with paragraphs 10.6.2.1 through 10.6.2.4, inclusive.

## **10.7 Itemized Cost Breakdown**

Whenever the cost of any Work is to be determined pursuant to paragraph 10.4 or 10.5, CONTRACTOR will submit in form acceptable to CONSULTANT an itemized cost breakdown together with supporting data.

## **10.8 Cash Allowances**

It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such Subcontractors or Suppliers and for such sums within the limit of the allowances as may be acceptable to CONSULTANT, CONTRACTOR agrees that:

Where the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement and there is no corresponding adjustment with respect to any other item of Work and if CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof, CONTRACTOR may make a claim for an increase in the Contract Price in accordance with Article 10.

#### 10.9.3 Claim for Increase in Unit Price

Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR'S overhead and profit for each separately identified item.

#### 10.9.2 Overhead and Profit

Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by CONSULTANT in accordance with Paragraph 8.10.

#### 10.9.1 General

### 10.9 Unit Price Work

Prior to final payment, an appropriate Change Order will be issued as recommended by CONSULTANT to reflect actual amounts due CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

#### 10.8.3 Change Order

CONTRACTOR'S costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances. No demand for additional payment on account of any thereof will be valid.

#### 10.8.2 Other Costs

The allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes; and

#### 10.8.1 Materials and Equipment

## **11. CHANGE OF CONTRACT TIME**

### **11.1 Change Order**

The Contract Time may only be changed by a Change Order. Any claim for an extension or shortening of the Contract Time shall be based on written notice delivered to CONSULTANT promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within sixty days after such occurrence (unless CONSULTANT allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time shall be determined by CONSULTANT in accordance with paragraph 8.11. No claim for an adjustment in the Contract Time will be valid if not submitted in accordance with the requirements of this paragraph 11.1.

### **11.2 Justification for Time Extensions**

The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if a claim is made therefore as provided in paragraph 11.1. Such delays shall include, but not be limited to, acts or neglect by OWNER or others performing additional work as contemplated by Article 6, or to fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

### **11.3 Time Limits**

All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 11 shall not exclude recovery for damages (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court costs) for delay by either party.

## **12. WARRANTY AND GUARANTEE; TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**

### **12.1 Warranty and Guarantee**

CONTRACTOR warrants and guarantees to OWNER and CONSULTANT that all Work will be in accordance with the Contract Documents and will not be defective. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article 12.

### **12.2 Access to Work**

CONSULTANT and CONSULTANT'S representatives, other representatives of OWNER, testing agencies and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide proper and safe conditions for such access.

## 12.3 Tests and Inspections

### 12.3.1 Timely Notice

CONTRACTOR shall give CONSULTANT timely notice of readiness of the Work for all required inspections, tests or approvals.

### 12.3.2 Requirements and Responsibilities

The CONSULTANT may require such inspection and testing during the course of the Work as he/she deems necessary to ascertain and assure the integrity and acceptable quality of the materials incorporated and the work performed. Inspection presence may be either full-time or intermittent, and neither the presence nor absence at any time of the CONSULTANT or the INSPECTOR shall relieve the CONTRACTOR of sole responsibility for the acceptability and integrity of the Work or any part thereof.

The costs of sampling, testing, and inspection on-site to ascertain acceptability of the Work and materials will be borne by the OWNER except as otherwise provided. The OWNER will select a testing laboratory to perform such sampling and testing. Sampling and/or testing required by the CONTRACTOR or necessitated by failure of Work or materials to meet the above acceptability test shall be at the expense of the CONTRACTOR.

Inspection services may be performed by the employees of the OWNER or by others selected or designated by the OWNER or the CONSULTANT. Sampling and/or testing required for manufacturing quality and/or process control, for certification that raw mineral materials or manufactured products are the quality specified in the contract, or to assure the acceptability for incorporation into the Work shall be borne by the CONTRACTOR or the material supplier.

Cost for inspection, sampling, testing, and approvals required by the laws or regulations of any public body having competent jurisdiction shall be borne by the CONTRACTOR or the material supplier. Sampling and testing will be in accord with pertinent codes and regulations and with appropriate standards of the American Society of Testing Materials or other specified standards.

### 12.3.3 On-Site Construction Test and Other Testing

All inspections, tests or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to OWNER and CONTRACTOR (or by CONSULTANT if so specified).

#### 12.3.4 Covered Work

If any Work (including the work of others) that is to be inspected, tested or approved is covered without written concurrence of CONSULTANT, it must, if requested by CONSULTANT, be uncovered for observation. Such uncovering shall be at CONTRACTOR'S expense unless CONTRACTOR has given CONSULTANT timely notice of CONTRACTOR'S intention to cover the same and CONSULTANT has not acted with reasonable promptness in response to such notice.

#### 12.3.5 CONTRACTOR'S Obligation

Neither observations by CONSULTANT nor inspections, tests or approvals by others shall relieve CONTRACTOR from CONTRACTOR'S obligations to perform the Work in accordance with the Contract Documents.

### 12.4 **OWNER May Stop the Work**

If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any other party.

### 12.5 **Correction or Removal of Defective Work**

If required by CONSULTANT, CONTRACTOR shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by CONSULTANT, remove it from the site and replace it with non-defective Work. CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

### 12.6 **One Year Correction Period**

If within one year after the date of Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER'S written instructions, either correct such defective Work, or, if it has been rejected by OWNER, remove it from the site and replace it with non-defective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement

(including but not limited to fees and charges of engineers, architects, attorneys and other professionals) will be paid by CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service before Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Change Order.

## 12.7

### Acceptance of Defective Work

If, instead of requiring correction or removal and replacement of defective Work, OWNER prefers to accept it, OWNER may do so. CONTRACTOR shall bear all direct, indirect and consequential costs attributable to OWNER'S evaluation of and determination to accept such defective Work (such costs to be approved by CONSULTANT as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals).

## 12.8

### OWNER May Correct Defective Work

If CONTRACTOR fails within a reasonable time after written notice of CONSULTANT to proceed to correct and to correct defective Work or to remove and replace rejected Work as required by CONSULTANT in accordance with paragraph 12.5, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph OWNER shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR'S services related thereto, take possession of CONTRACTOR'S tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER'S representatives, agents and employees such access to the site as may be necessary to enable OWNER to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of OWNER in exercising such rights and remedies will be charged against CONTRACTOR in an amount approved as to reasonableness by CONSULTANT, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price. Such direct, indirect and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR'S defective Work. CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by OWNER of OWNER'S rights and remedies hereunder.

### **13. PAYMENTS TO CONTRACTOR AND COMPLETION**

#### **13.1 Schedule of Values**

The schedule of values established as provided in paragraph 2.8 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to CONSULTANT. Progress payments on account of Unit Price Work will be based on the number of units completed.

#### **13.2 Application for Progress Payment**

At least ten days before each progress payment is scheduled (but not more often than once a month), CONTRACTOR shall submit to CONSULTANT for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that OWNER has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect OWNER'S interest therein, all of which will be satisfactory to OWNER. OWNER shall, within thirty (30) calendar days of presentation to him of an approved Application for Payment, pay CONTRACTOR the amount approved by CONSULTANT. Monthly progress payments shall be ninety (90) percent of the sum obtained by applying the respective bid unit prices to the approved estimated quantities of work completed by the Contractor during the preceding month. The remaining ten (10) percent will be held by the Owner, as retainage. At such time as the CONSULTANT deems appropriate - based on the quality of work performed, progress of cleanup, and other pertinent factors - the rate of retainage, or the total amount retained, may be reduced; although, any reduction in retainage, below the ten (10) percent level, is made solely at the CONSULTANT's discretion. All remaining retainage held will be included in the final payment to the Contractor.

##### **13.2.1 Waivers of Mechanic's Lien**

With each Application for Payment OWNER may require CONTRACTOR to submit waivers of mechanic's lien from entities lawfully entitled to file a mechanic's lien arising out of the Contract and related to the Work covered by the payment.

13.2.1.1 Requirement for waivers of Mechanic's Lien on Partial Applications for Payment will be determined and communicated at the Preconstruction Conference.

13.2.1.2 Submit partial waivers on each item for amount requested in previous application, after deduction for retainage, on each item.

13.2.1.3 When an application shows completion of an item, submit conditional final or full waivers.

13.2.1.4 Owner reserves the right to designate which entities involved in the Work must submit waivers.

13.2.1.5 Waiver Forms: Submit executed waivers of lien on forms acceptable to Owner.

**13.3 CONTRACTOR'S Warranty of Title**

CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens.

### **13.4 Review of Applications for Progress Payment**

#### **13.4.1 Submission of Application for Payment**

CONSULTANT will, after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER, or return the Application to CONTRACTOR indicating in writing CONSULTANT'S reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

#### **13.4.2 CONSULTANT'S Recommendation**

CONSULTANT may refuse to recommend the whole or any part of any payment, if, in CONSULTANT'S opinion, it would be incorrect to make such representations to OWNER. CONSULTANT may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in CONSULTANT'S opinion to protect OWNER from loss because:

13.4.2.1 the Work is defective, or completed Work has been damaged requiring correction or replacement;

13.4.2.2 the Contract Price has been reduced by Written Amendment or Change Order;

13.4.2.3 OWNER has been required to correct defective Work or complete Work in accordance with paragraph 12.8; or

13.4.2.4 of CONSULTANT's actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.2.1 through 14.2.9 inclusive.

### **13.5 Partial Utilization**

OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and has been completed. If CONTRACTOR agrees, CONTRACTOR will certify to OWNER that said part of the Work is complete and request that a Certificate of Completion be issued for that part of the Work.

### **13.6 Final Inspection**

Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, CONSULTANT will make a final inspection with CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

### **13.7 Final Application for Payment**

After CONTRACTOR has completed all such corrections to the satisfaction of CONSULTANT and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents (as provided in paragraph 5.14) and other documents - all as required by the Contract Documents, and after CONSULTANT has indicated that the Work is acceptable (subject to the provisions of paragraph 13.10), CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to OWNER) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full; an affidavit of CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or OWNER'S property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any Subcontractor or Supplier fails to

furnish a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

### **13.8 Final Payment and Acceptance**

#### **13.8.1 CONSULTANT'S Approval**

If, on the basis of CONSULTANT'S observation of the Work during construction and final inspection, and CONSULTANT'S review of the final Application for Payment and accompanying documentation - all as required by the Contract Documents, CONSULTANT is satisfied that the Work has been completed and CONTRACTOR'S other obligations under the Contract Documents have been fulfilled, CONSULTANT will, after receipt of the final Application for Payment, indicate in writing CONSULTANT'S recommendation of payment and present the Application to OWNER for payment. Thereupon CONSULTANT will give written notice to OWNER and CONTRACTOR that the Work is acceptable, subject to the provisions of paragraph 13.10. Otherwise, CONSULTANT will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application.

#### **13.8.2 Delay in Completion of Work**

If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed, OWNER shall, upon receipt of CONTRACTOR'S final Application for Payment and recommendation of CONSULTANT, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 10 of Part II, Information for Bidders, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to CONSULTANT with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

#### **13.8.3 Retainage**

**Retainage is not applicable to this project.**

### **13.9**

#### **CONTRACTOR'S Continuing Obligation**

CONTRACTOR'S obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by CONSULTANT, nor the issuance of a certificate of Completion, nor any payment by OWNER to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Work or any part thereof by OWNER, nor any act of acceptance by OWNER nor any failure to do so, nor any review and

approval of a Shop Drawing or sample submission, nor any correction of defective Work by OWNER will constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR'S obligation to perform the Work in accordance with the Contract Documents (except as provided in paragraph 13.10).

#### **13.10 Waiver of Claims**

The making and acceptance of final payment will constitute:

**13.10.1** a waiver of all claims by OWNER against CONTRACTOR, except claims arising from unsettled Liens, from defective Work appearing after final inspection or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein; however, it will not constitute a waiver by OWNER of any rights in respect of CONTRACTOR'S continuing obligations under the Contract Documents; and

**13.10.2** a waiver of all claims by CONTRACTOR against OWNER other than those previously made in writing and still unsettled.

### **14. SUSPENSION OF WORK AND TERMINATION**

#### **14.1 OWNER May Suspend Work**

OWNER may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and CONSULTANT which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if CONTRACTOR makes an approved claim therefor as provided in Articles 10 and 11.

#### **14.2 OWNER May Terminate**

The OWNER may terminate the Work upon the occurrence of any one or more of the following events:

**14.2.1** if CONTRACTOR commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if CONTRACTOR takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;

**14.2.2** if a petition is filed against CONTRACTOR under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against

CONTRACTOR under any other federal or state law in effect at the time relating to bankruptcy or insolvency;

**14.2.3** if CONTRACTOR makes a general assignment for the benefit of creditors;

**14.2.4** if a trustee, receiver, custodian or agent of CONTRACTOR is appointed under applicable law or under contract, whose appointment or authority to take charge of property of CONTRACTOR is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of CONTRACTOR'S creditors;

**14.2.5** if CONTRACTOR admits in writing an inability to pay its debts generally as they become due;

**14.2.6** if CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.8 as revised from time to time);

**14.2.7** if CONTRACTOR disregards Laws or Regulations of any public body having jurisdiction;

**14.2.8** if CONTRACTOR disregards the authority of CONSULTANT, or

**14.2.9** if CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents;

OWNER may, after giving CONTRACTOR (and the surety) seven days' written notice and to the extent permitted by Laws and Regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTOR'S tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect and consequential costs of completing the Work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) such excess will be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the

difference to OWNER. Such costs incurred by OWNER will be approved as to reasonableness by CONSULTANT and incorporated in a Change Order, but when exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

**14.2.10** If safety violations are observed and brought to the Contractors attention and Contractor fails to take immediate corrective measures any repeat of similar safety violations, Owner will order an immediate termination of contract. Note: it is the Contractor's responsibility to know proper safety measures as they pertain to construction and OSHA.

**14.2.11** This contract may be canceled by either party thirty (30) days after delivery by canceling party of written notice of intent to cancel to the other contracting party.

**14.2.12** This contract may be canceled by the Lexington-Fayette Urban County Government if it is determined that the Bidder has failed to perform under the terms of this agreement, such cancellation to be effective upon receipt of written notice of cancellation by the Bidder.

#### **14.3 CONTRACTOR'S Services Terminated**

Where CONTRACTOR'S services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

#### **14.4 Payment After Termination**

Upon seven days' written notice to CONTRACTOR, OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Agreement. In such case, CONTRACTOR shall be paid for all Work executed and any expense sustained plus reasonable termination expenses, which will include, but not be limited to, direct, indirect and consequential costs (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs).

#### **14.5 CONTRACTOR May Stop Work or Terminate**

If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety days by OWNER or under an order of court or other public authority, or CONSULTANT fails to act on any Application for Payment within sixty days after it is submitted, or OWNER fails for sixty days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days' written notice to OWNER and CONSULTANT, terminate the Agreement and recover from OWNER payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if CONSULTANT has failed to act on an Application

for Payment or OWNER has failed to make any payment as aforesaid, CONTRACTOR may upon seven days' written notice to OWNER and CONSULTANT stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve CONTRACTOR of the obligations under paragraph 5.16 to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with OWNER.

## 15. MISCELLANEOUS

### 15.1

#### Claims for Injury or Damage

Should OWNER or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this paragraph 15.1 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

### 15.2

#### Non-Discrimination in Employment

The CONTRACTOR shall comply with the following requirements prohibiting discrimination:

**15.2.1** That no person (as defined in KRS 344.010) shall bid on Lexington-Fayette Urban County Government construction projects, or bid to furnish materials or supplies to the Lexington-Fayette Urban County Government, if, within six months prior to the time of opening of bids, said person shall have been found, by declaratory judgment action in Fayette Circuit Court, to be presently engaging in an unlawful practice, as hereinafter defined. Such declaratory judgment action may be brought by an aggrieved individual or upon an allegation that an effort at conciliation pursuant to KRS 344.200 has been attempted and failed, by the Lexington-Fayette County Human Rights Commission.

**15.2.2** That it is an unlawful practice for an employer:

**15.2.2.1** to fail or refuse to hire, or to discharge any individual or otherwise to discriminate against an individual, with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, age, or national origin; or

**15.2.2.2** to limit, segregate or classify his employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's sex, race, color, religion, age, or national origin.

**15.2.3** That it is an unlawful practice for an employer, labor organization, or joint-labor management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against an individual because of his race, color, religion, sex, age, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

**15.2.4** That a copy of this Ordinance shall be furnished all suppliers and made a part of all bid specifications.

**15.2.5** This Ordinance shall take effect after it is signed, published and recorded, as required by law.

**15.3 Temporary Street Closing or Blockage**

The CONTRACTOR will notify the CONSULTANT at least 72 hours prior to making any temporary street closing or blockage. This will permit orderly notification to all concerned public agencies. Specific details and restrictions on street closure or blockage are contained in the Special Conditions.

**15.4 Percentage of Work Performed by prime CONTRACTOR**

The CONTRACTOR shall perform on site, and with its own organization, Work equivalent to at least fifty (50%) percent of the total amount of Work to be performed under the Contract. This percentage may be reduced by a supplemental agreement to this Contract if, during performing the Work, the CONTRACTOR requests a reduction and the CONSULTANT determines that the reduction would be to the advantage of the OWNER.

**15.5 Clean-up**

Cleanup shall progress, to the greatest degree practicable, throughout the course of the Work. The Work will not be considered as completed, and final payment will not be made, until the right-of-way and all ground occupied or affected by the Contractor in connection with the Work has been cleared of all rubbish, equipment,

excess materials, temporary structures, and weeds. Rubbish and all waste materials of whatever nature shall be disposed of, off of the project site, in an acceptable manner. All property, both public and private, which has been damaged in the prosecution of the Work, shall be restored in an acceptable manner. All areas shall be draining, and all drainage ways shall be left unobstructed, and in such a condition that drift will not collect or scour be induced.

#### **15.6 General**

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR by paragraphs 12.1, 12.3.5, 13.3, and 15.2 and all of the rights and remedies available to OWNER and CONSULTANT thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply. All representations, warranties and guarantees made in the Contract Documents will survive final payment and termination or completion of the Agreement.

#### **15.7 Debris Disposal**

For all LFUCG projects any trash, construction demolition debris, yard waste, dirt or debris of any kind that is removed from the project site must be disposed of in accordance with local, state, and federal regulations. The disposal site or facility must be approved in advance by the LFUCG and disposal documentation is required. The Contractor will be responsible for payment of any fines associated with improper disposal of material removed from the project site.

END OF SECTION

PART V  
SPECIAL CONDITIONS  
INDEX

- 1 BLASTING
- 2 RISK MANAGEMENT PROVISIONS –  
INSURANCE AND INDEMNIFICATION
- 3 WEATHER RELATED DELAYS
- 4 WAGE SCALES

1. BLASTING – not applicable.

SC-2

**2. RISK MANAGEMENT PROVISIONS**  
**INSURANCE AND INDEMNIFICATION**

**INDEMNIFICATION AND HOLD HARMLESS PROVISION**

(1) It is understood and agreed by the parties that Contractor 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 Contractor or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "CONTRACTOR") 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) CONTRACTOR 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 CONTRACTOR'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 CONTRACTOR; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.

(3) In the event LFUCG is alleged to be liable based upon the above, CONTRACTOR 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.

(4) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.

(5) LFUCG is a political subdivision of the Commonwealth of Kentucky. CONTRACTOR acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the CONTRACTOR in any manner.

**FINANCIAL RESPONSIBILITY**

BIDDER/CONTRACTOR understands and agrees that it shall, prior to final acceptance of its bid and the commencement of any work, 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**

BIDDER/CONTRACTOR 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 hereunder by CONTRACTOR. The cost of such insurance shall be included in any bid:

<b><u>Coverage</u></b>	<b><u>Limits</u></b>
General Liability aggregate	\$1 million per occurrence, \$2 million or \$2 million combined single limit
Commercial Automobile Liability (Insurance Services Office Form CG 00 01)	combined single, \$1 million per occurrence
Worker's Compensation	Statutory
Employer's Liability	\$100,000.00
Excess/Umbrella Liability	\$2 million per occurrence

The policies above shall contain the following conditions:

- 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 (DOI). LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- 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 unless it is deemed not to apply by LFUCG.
- d. 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.
- e. 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 BIDDER/CONTRACTOR'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 BIDDER/CONTRACTOR satisfies any portion of the insurance requirements through deductibles, self-insurance programs, or self-insured retentions, BIDDER/CONTRACTOR 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

CONTRACTOR 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

BIDDER/CONTRACTOR 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

CONTRACTOR 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

BIDDER/CONTRACTOR 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 BIDDER/CONTRACTOR for any such insurance premiums purchased, or suspending or terminating the work.

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### 3. WEATHER RELATED DELAYS

- A. The Project Completion date shall be established with the understanding that no extension of time will be granted for weather related delays that are within the average temperature or number of rain or snow days within a particular month. The average weather conditions shall be established by referencing the records of the National Oceanic and Atmospheric Administration (NOAA) and as defined herein.
- B. Extensions of inclement weather shall be granted only when the work affected must be on schedule at the time of delay. No time will be granted for work which is behind schedule in excess of the actual delay caused by the weather, assuming the work had been on schedule.
- C. Time granted for weather delays shall be requested on a monthly basis.
- D. The weather experienced at the project site during the contract period must be found to be unusually severe, that is more severe than the adverse weather anticipated for the project location during any given month. The unusually severe weather must actually cause a delay to the completion of the project. The delay must be beyond the control and without the fault or negligence of the contractor.
- E. The anticipated adverse weather delays shall be based on the National Oceanic and Atmospheric Administration (NOAA) climatology ten year average for the Lexington Bluegrass Airport KY US location. The Mean Number of Days of daily precipitation using  $\geq 0.10$  will determine the base line for monthly anticipated adverse weather evaluations. The contractor's progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities. Upon acknowledgement of the Notice to Proceed (NTP) and continuing throughout the contract, the contractor will record the occurrence of actual adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on critical path activities for 50 percent or more of the contractor's scheduled work date. The number of actual adverse weather delay days shall be calculated chronologically from the first to the last day of each month, and be recorded as full days. The number of actual adverse weather days greater than the number of anticipated adverse weather days, listed above, shall be the number of unusually severe weather days for the purposes of any contract extensions (actual adverse weather days - anticipated adverse weather days = unusually severe weather days.)
- F. Definitions:
  - 1. "Unusually severe weather" - weather that is more severe than the adverse weather anticipated for the season or location involved.

2. "Adverse weather" - atmospheric conditions at a definite time and place that are unfavorable to construction activities.

4. WAGE SCALES.

**PART VI**  
**CONTRACT AGREEMENT**  
**INDEX**

1.	SCOPE OF WORK.....	CA-2
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3.	ISSUANCE OF WORK ORDERS .....	CA-2
4.	THE CONTRACT SUM .....	CA-2
5.	PROGRESS PAYMENTS .....	CA-3
6.	ACCEPTANCE AND FINAL PAYMENT.....	CA-3
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CA-2

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the Contract, as quoted in the proposal, subject to any additions and deductions, as provided therein.

#### 4. THE CONTRACT SUM

Notice to begin Work will be given in whole or for part of the Work as determined by the OWNER pending the availability of funds. The order of construction will be as determined after consultation between the CONTRACTOR and the OWNER.

#### 3. ISSUANCE OF WORK ORDERS

The date estimated and authorized by the OWNER for the proper execution of the Work by the Contract, in full, is hereby fixed as May 5, 2025 to final completion date. The time shall begin in accordance with the Notice to Proceed provided by OWNER.

#### 2. TIME OF COMPLETION

The CONTRACTOR shall furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, General Conditions, Special Conditions of the Contract, the Specifications, Contract Documents, and IonWave Q&A and Addenda, therefore as prepared by Brandstetter Carroll Inc. for the LFUCG Detention Center Portable Classroom Building Project.

#### 1. SCOPE OF WORK

WITNESSETH: That the CONTRACTOR and the OWNER in consideration of \_\_\_\_\_ Dollars and \_\_\_\_\_ Cents (\$) \_\_\_\_\_, quoted in the \_\_\_\_\_, hereby agree to commence and complete the construction described as follows:

THIS AGREEMENT, made on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Lexington-Fayette Urban County Government, acting herein called "OWNER" and \_\_\_\_\_ (bidder's name) \_\_\_\_\_, doing business as \*(an individual) (a partnership) (a corporation) located in the City of \_\_\_\_\_, County of \_\_\_\_\_, and State of \_\_\_\_\_, hereinafter called "CONTRACTOR."

### CONTRACT AGREEMENT

### PART VI

## **5. PROGRESS PAYMENTS**

The OWNER shall make payments on account of the Contract, as provided in accordance with the General Conditions, less the aggregate of previous payments.

## **6. ACCEPTANCE AND FINAL PAYMENT**

Final payment shall be due within ninety (90) days after completion of the Work, provided the Work be then fully completed and the Contract fully accepted.

Before issuance of final certificate, the CONTRACTOR shall submit evidence satisfactory to the Owner that all payrolls, material bills, and other indebtedness connected with the Work has been paid.

If, after the Work has been substantially completed, full completion thereof is materially delayed through no fault of the CONTRACTOR, the OWNER shall without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

## **7. THE CONTRACT DOCUMENTS**

The Advertisement for Bids, Information for Bidders, the General Conditions, Performance and Payment Bonds, Contract Agreement, Special Conditions, Technical Specifications, any and all Addenda, and Proposal, Ion Wave Q&A, and Plan Drawings form the Contract, and they are fully a part of the Contract as if hereto attached or herein repeated.

## **8. EXTRA WORK**

The OWNER, without invalidating the Contract, may order extra work or make changes by altering, adding to or deducting from the Work, the Contract Sum being adjusted accordingly. All such Work shall be executed and paid for in accordance with the General Conditions, which is a part of this Contract.

9. THE FOLLOWING IS AN ENUMERATION OF THE SPECIFICATIONS AND DRAWINGS (CONTRACT DOCUMENTS):

**SPECIFICATIONS**

SECTION NO.	TITLE
I	Advertisement for Bids
II	Information for Bidders
III	Form of Proposal
IV	General Conditions
V	Special Conditions
VI	Contract Agreement
VII	Performance and Payment Bonds
VIII	Addenda
IX	Technical Specifications and Drawings

IN WITNESSETH WHEREOF, the parties hereto have executed this Contract as of the date and year above written.

(Seal)

Lexington-Fayette Urban County Government.  
Lexington, Kentucky  
 (Owner)

ATTEST:

\_\_\_\_\_  
 Clerk of the Urban County Council

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

\_\_\_\_\_  
 (Witness)

\_\_\_\_\_  
 (Title)

(Seal)

\_\_\_\_\_  
 (Contractor)

\_\_\_\_\_  
 (Secretary)\*

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

\_\_\_\_\_  
 (Witness)

\_\_\_\_\_  
 (Title)

\_\_\_\_\_  
 (Address and Zip Code)

IMPORTANT: \*Strike out any non-applicable terms.

Secretary of the Owner should attest. If the CONTRACTOR is corporation, Secretary should attest. Give proper title of each person-executing Contract.

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- 1. PERFORMANCE BOND
- 2. PAYMENT BOND

**PART VII**  
**PERFORMANCE AND PAYMENT BONDS**

**PART VII****PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS, that

\_\_\_\_\_  
(Name of CONTRACTOR)

\_\_\_\_\_  
(Address of CONTRACTOR)

a \_\_\_\_\_, hereinafter  
(Corporation, Partnership, or Individual)

called Principal, and \_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
200 East Main Street, Third Floor  
Lexington, Kentucky 40507

hereinafter called "OWNER" in the penal sum of: \_\_\_\_\_  
Dollars, (\$ \_\_\_\_\_), for the payment of whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal by written agreement is entering into a Contract with OWNER for \_\_\_\_\_ (project name) \_\_\_\_\_ in accordance with drawings and specifications prepared by: \_\_\_\_\_ (the Engineer) \_\_\_\_\_ which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the OWNER.

Whenever, Principal shall be, and declared by OWNER to be in default under the Contract, the OWNER having performed OWNER'S obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) Complete the Contract in accordance with its terms and conditions or
- (2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or if the OWNER elects, upon determination by the OWNER and Surety jointly of the lowest responsible bidder, arrange for a Contract between such bidder and OWNER, and make available as Work progresses (even though there may be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price", as used in this paragraph shall mean the total amount payable by OWNER to Principal under the Contract and any amendments thereto, less the amount properly paid by OWNER to Principal.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the OWNER named herein or the heirs, executors, administrators or successors of OWNER.

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ each one of which shall be  
(number)  
deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Principal

\_\_\_\_\_  
(Principal) Secretary

BY: \_\_\_\_\_(s)

\_\_\_\_\_  
(Address)  
\_\_\_\_\_

\_\_\_\_\_  
Witness as to Principal

\_\_\_\_\_  
(Address)  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Surety

BY: \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
(Surety) Secretary

\_\_\_\_\_  
(Address)  
\_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TITLE: \_\_\_\_\_  
Surety

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

TITLE: \_\_\_\_\_

NOTE: The number of executed counterparts of the bond shall coincide with the number of executed counterparts of the Contract.

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1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions.

WHEREAS, Principal by written agreement is entering into a Contract with OWNER for specifications prepared by: (the Engineer) in accordance with drawings and made a part hereof, and is hereinafter referred to as the Contract.

Obligee, hereinafter called OWNER, for the use and benefit of claimants as hereinafter defined, in the amount of \_\_\_\_\_ Dollars (\$) \_\_\_\_\_ and assigns, jointly and severally, firmly by these presents, the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors,

hereinafter called Surety, are held and firmly bound unto:

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
200 East Main Street, Third Floor  
Lexington, Kentucky 40507

\_\_\_\_\_  
(Address of Surety)

\_\_\_\_\_  
(Name of Surety)

called Principal, and

\_\_\_\_\_  
(Corporation, Partnership or Individual)

a \_\_\_\_\_, hereinafter

\_\_\_\_\_  
(Address of Contractor)

\_\_\_\_\_  
(Name of Contractor)

KNOW ALL MEN BY THESE PRESENT: that

**PAYMENT BOND**

**PART VII**

2. The above named Principal and Surety hereby jointly and severally agree with the OWNER that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The OWNER shall not be liable for the payment of any costs or expenses of any such suit.
  
3. No suit or action shall be commenced hereunder by any claimant:
  - (a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the OWNER, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the Work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the Work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, OWNER, or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.
  
  - (b) After the expiration of one (1) year following the date on which Principal ceased Work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
  
  - (c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.
  
4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against aid improvement, whether or not claim for the amount of such lien be presented under and against this bond.

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ (number) counterparts, each one of which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

\_\_\_\_\_  
(Principal) Secretary

(SEAL)

\_\_\_\_\_  
(Witness to Principal)

\_\_\_\_\_  
(Address)

ATTEST:

\_\_\_\_\_  
(Surety) Secretary

(SEAL)

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Principal)

BY: \_\_\_\_\_ (s)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Surety)

BY:

\_\_\_\_\_  
(Attorney-in-Fact)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

NOTE: The number of executed counterparts of the bond shall coincide with the number of executed counterparts of the Contract.

END OF SECTION

**PART VIII****ADDENDA**

All addenda issued during the bidding of the Project will be reproduced in the signed Contract Documents, on the pages following this heading sheet.

Addendum  
Number

Title

Date

1.

2.

3.

4.

5.

## IX. TECHNICAL SPECIFICATIONS

**PROJECT MANUAL**

**for**

**LFUCG DETENTION CENTER –**

**MODULAR CLASSROOM BUILDING PROJECT**

**for**

**LEXINGTON, KENTUCKY**

**LFUCG Bid No. 33-2025**

**BCI Project No. 24062**

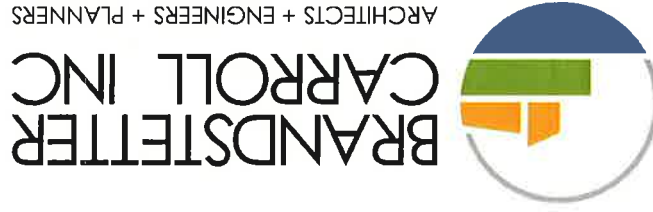


**BRANDSTETTER  
CARROLL INC**

ARCHITECTS + ENGINEERS + PLANNERS

**March 3, 2025**

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PROJECT NO. 24062  
 LFUCG BID NO. 33-2025

LFUCG DETENTION CENTER – MODULAR CLASSROOM  
 BUILDING PROJECT

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### **DIVISION 00 - PROCUREMENT AND CONTRACTING REQUIREMENTS**

*(The Grey items represent City Provisions)*

#### TABLE OF CONTENTS

PART I	ADVERTISEMENT FOR BIDS
PART II	INFORMATION TO BIDDERS
PART III	FORM OF PROPOSAL
PART IV	GENERAL CONDITIONS
PART V	SPECIAL CONDITIONS
PART VI	CONTRACT AGREEMENT
PART VII	PERFORMANCE AND PAYMENT BONDS
PART VIII	ADDENDA
PART IX	GENERAL REQUIREMENTS AND TECHNICAL SPECIFICATIONS

### **DIVISION 01 - GENERAL REQUIREMENTS**

011000	SUMMARY
012200	UNIT PRICES

### **DIVISION 13 – SPECIAL CONSTRUCTION**

133423.14	FABRICATED CLASSROOMS
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END OF TABLE OF CONTENTS

SECTION 011000 - SUMMARY

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
1. Work under separate contracts.
  2. Access to site.
  3. Coordination with occupants.
  4. Work restrictions.
  5. Specification and drawing conventions.
  6. Verification of Existing Conditions

1.2 WORK UNDER SEPARATE CONTRACTS

- A. General: Cooperate fully with separate contractors so work on those contracts may be carried out smoothly, without interfering with or delaying work under this Contract or other contracts. Coordinate the Work of this Contract with work performed under separate contracts.
- B. Subsequent Work: Owner will award separate contract(s) for the following additional work to be performed at site following Substantial Completion. Completion of that work will depend on successful completion of preparatory work under this Contract.
1. Electric and Technology Final Connections and Raceways to Classroom Building – Walker Electric and LFUCG is installing the conduits from building to the Classroom and will do final connections to existing building power and data system network.

1.3 ACCESS TO SITE

- A. Prior to gaining access to the site, each contractor shall complete the LFUCG Criminal History Request Form.
- B. General: Contractor shall have limited use of Project site for construction operations as indicated by the Contract limits and as indicated by requirements of this Section.
- C. Use of Site: Limit use of Project site to area where Classroom will be located. Do not disturb portions of Project site beyond areas in which the Work is indicated.
1. Driveways, Walkways and Entrances: Keep driveways parking, loading areas, and entrances serving premises clear and available to Owner, Owner's employees, and emergency vehicles at all times. Do not use these areas for parking or storage of materials.
- a. Schedule deliveries to minimize use of driveways and entrances by construction operations.

- b. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on-site.

#### 1.4 COORDINATION WITH OCCUPANTS AND NEIGHBORING BUSINESSES

- A. Full Occupancy: The Owner will occupy portions of the building during the entire construction period. Cooperate with Owners during construction operations to minimize conflicts and facilitate Owner usage. Perform the Work so as not to interfere with their day-to-day operations. Maintain existing exits unless otherwise indicated.
  - 1. Notify the Owner not less than 72 hours in advance of activities that will affect Owner's operations.

#### 1.5 WORK RESTRICTIONS

- A. Delivery and Installation: Fabricated Classrooms and restrooms to be delivered in a timeframe from issuance of Notice to Proceed/Purchase Order, no later than date identified in other specifications unless modified and authorized by Owner in writing.
- B. Lease Duration is 12 months. Any adjustment beyond the duration will be made via Change Order and based on unit pricing.
- C. Work Restrictions, General: Comply with restrictions on construction operations.
  - 1. Comply with limitations on the use of public streets and with other requirements of authorities having jurisdiction.
- D. The owner will provide refuse container use for contractor/vendor. Contractor/Vendor to coordinate with owner on use and locations.
- E. Contractor/Vendor should provide toilet for project site for personnel during installation and removal of the classrooms unless owner allows use of existing restrooms in building.
- F. Jobsite supervision:
  - 1. Contractor/Vendor shall provide a dedicated job superintendent/foreman for the building delivery and installation and demobilization and removal while on site.
- G. On-Site Work Hours: Limit work in the existing building to normal business working hours of 8 a.m. to 5 p.m., Monday through Friday, unless otherwise indicated or approved by the Owner. All security and other protocols for the owner and facility will be followed in strict compliance while arriving, during, and leaving the facility and site.
- H. Noise, Vibration, and Odors: Coordinate operations that may result in high levels of noise and vibration, odors, or other disruption to Owner occupancy with Owner.
  - 1. Notify Owner not less than two days in advance of proposed disruptive operations.
  - 2. Obtain Owner's written permission before proceeding with disruptive operations.

- I. Nonsmoking Building: Smoking of any kind is not permitted within the building or within 50 feet of entrances, operable windows, or outdoor-air intakes.
- J. Use of smokeless tobacco products and other illegal or controlled substances on the Project site is not permitted.

1.6 SPECIFICATION AND DRAWING CONVENTIONS

- A. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:

1. Imperative mood and streamlined language are generally used in the Specifications. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.
2. Specification requirements are to be performed by Contractor unless specifically stated otherwise.

- B. Division 01 General Requirements: Requirements of Sections in Division 01 apply to the Work of all Sections in the Specifications.

1.7 VERIFICATION OF EXISTING CONDITIONS

- A. Contractor/Vendor to review existing conditions prior to delivery of products or installation to become familiar with site and building conditions and any limitations that may exist. Failure to do so and coordinate with owner does not warrant reason for failure to deliver and install products on time and as indicated in the contract documents.
- B. Contractor/Vendor is responsible for calling 811/Call Before you Dig prior to coming to the site to verify all existing utilities and appurtenances.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 011000

SUMMARY

## SECTION 012200 - UNIT PRICES

### PART 1 - GENERAL

#### 1.1 SUMMARY

- A. Section includes administrative and procedural requirements for unit prices.

#### 1.2 DEFINITIONS

- A. Unit price is an amount incorporated in the Agreement, applicable during the duration of the Work as a price per unit of measurement for materials, equipment, or services, or a portion of the Work, added to or deducted from the Contract Sum by appropriate modification, if the scope of Work or estimated quantities of Work required by the Contract Documents are increased or decreased.

#### 1.3 PROCEDURES

- A. Unit prices include all necessary material, plus cost for delivery, installation, insurance, applicable taxes, overhead, and profit.
- B. Measurement and Payment: See individual Specification Sections for work that requires establishment of unit prices. Methods of measurement and payment for unit prices are specified in those Sections.
- C. Owner reserves the right to reject Contractor's measurement of work-in-place that involves use of established unit prices and to have this work measured, at Owner's expense, by an independent surveyor acceptable to Contractor.

### PART 2 - PRODUCTS (Not Used)

### PART 3 - EXECUTION (Not used)

### PART 4 – UNIT PRICE SCHEDULE

- A. Vendor to provide an **all-inclusive unit price** to extend the lease on a **per month** basis if it extends **beyond the 12-month term** in the base bid.

END OF SECTION 012200

SECTION 133423.14 - FABRICATED CLASSROOMS

PART 1 - GENERAL

1.1 SUMMARY

A. Section Includes:

1. Provide, install, dismantle, and remove Fabricated Classrooms. Classrooms to be either New, Refurbished, or Gently Used meeting requirements of the items below.

1.2 ACTION SUBMITTALS

- A. Shop Drawings: For Classrooms. Include plans, elevations, sections, details, accessories, and fastening and anchorage details, including mechanical fasteners.

- B. Samples: For each type of exposed finish in manufacturer's standard sizes.

- C. Permit Drawings and other pertinent documents for authorities-having-jurisdiction (AHJ) including but not limited to drawings, product data, testing certificates, inspection reports, ramp and stair design, calculations, footing and structural related items, code analysis meeting local codes and ordinances, etc.
  1. Contractor/Vendor is responsible for permitting the portable classrooms. This includes any transportation permits, building permits, structural plans, electrical, plumbing, or other local permitting by AHJ.

- D. Delegated Design Submittals: For fabricated classrooms, including analysis data signed and sealed by the qualified professional engineer responsible for their preparation.

1.3 ITEMS OF RESPONSIBILITY FOR VENDOR

- A. Terms of Lease along with Lease Payments for duration.
- B. Warranty.
- C. Certificate of Liability and Workers Compensation Insurance.
- D. Performance and Payment Bonds
- E. Install all state labels in the center of wall on hitch end below ceiling covered with plexiglass.
- F. All Costs including but not limited to Fuel, Transport, Escorts, Transportation and Classroom Permitting, Licensing, Portable Toilet, Inspection Fees, Testing, Taxes, Bonding, Delivery, Anchorage, Skirting, Stairs, Ramps, Installation, Maintenance of Restrooms, Demobilization, Removal, etc. are to be included in the bid.

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- G. Provide weekly maintenance of septic or sanitary holding tanks for the restrooms in the classroom buildings.
  - 1. Contractor/Vendor shall contract with a local vendor and will be responsible for scheduling and handling weekly maintenance/emptying of the septic or sanitary holding tanks for the portable restrooms in the classroom buildings.
  - 2. The owner will contact Classroom vendor if any additional servicing is required on a case by case basis above and beyond the weekly service.

#### 1.4 WARRANTY

- A. Warranty: Manufacturer agrees to repair finish or replace classrooms that fail in materials or workmanship within specified warranty period.
  - 1. Warranty Period: Equal to duration of lease from date of Occupancy.

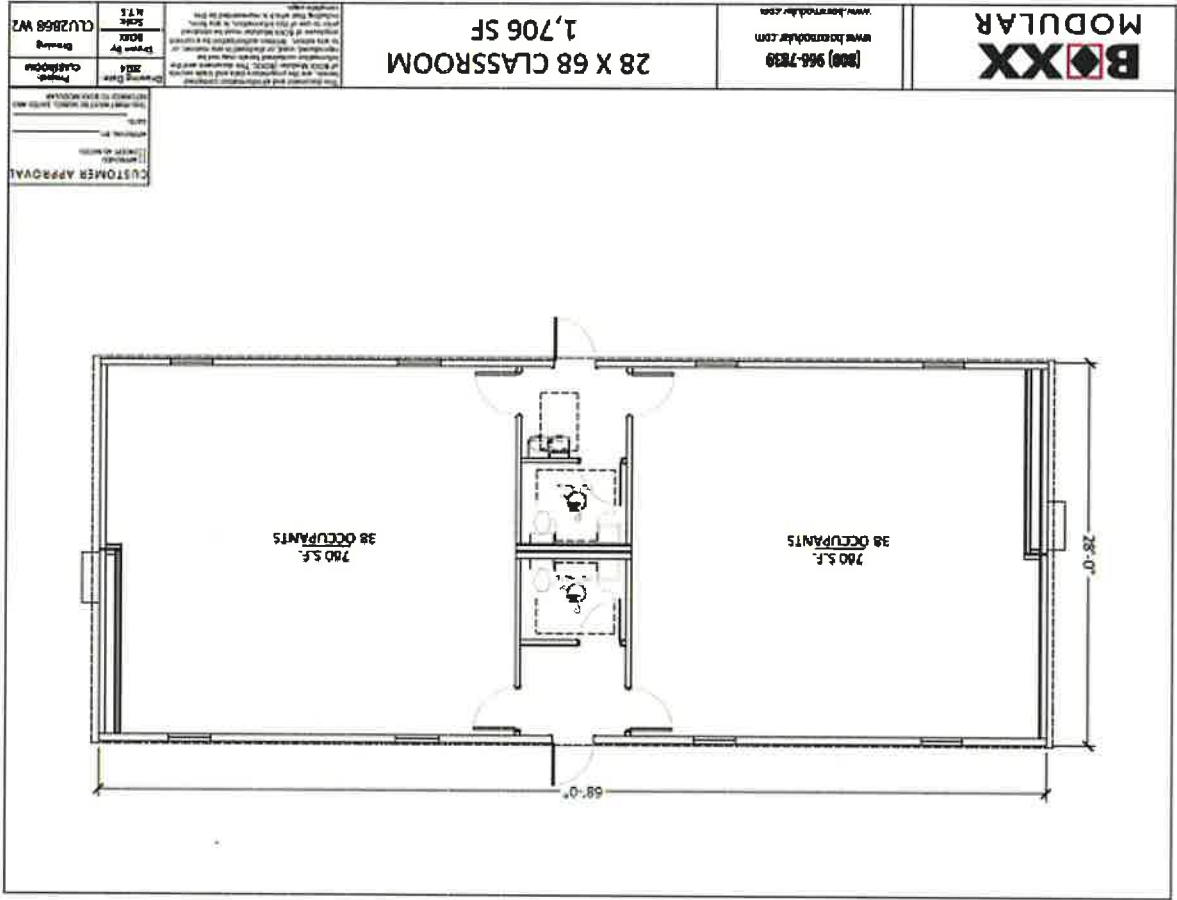
### PART 2 - PRODUCTS

#### 2.1 REQUIREMENTS

- A. Delegated Design: Engage a qualified professional engineer, as defined in Section 014000 "Quality Requirements," to design fabricated classrooms.
- B. Structural Performance: Fabricated Classrooms to withstand the loads and stresses within limits and under conditions indicated in accordance with all local building codes and ordinances.
- C. Seismic Performance: Fabricated Classrooms to withstand the effects of earthquake motions determined by local building codes for the seismic classification for the city.
- D. Thermal Movements: Allow for thermal movements from ambient and surface temperature changes.
- E. Electrical Components, Devices, and Accessories: Listed and labeled in accordance with NFPA 70 and marked for intended location and application.
- F. Safety Glazing: Comply with 16 CFR 1201, Category II.
- G. Regulatory Requirements: Comply with applicable provisions in the U.S. Department of Justice's "2010 ADA Standards for Accessible Design" and ICC A117.1.

#### 2.2 FABRICATED STEEL CLASSROOMS

- A. Building Style: 28' x 68' fabricated classroom building consisting of (2) divided classrooms and (2) ADA restrooms back to back with dividing wall. Classrooms should accommodate 38 occupants per room. See similar plan below by Boxx Modular.



- B. Manufacturer Standard Detachable Hitch, Axles and Tires along with the down clips and footings and anchorage meeting local codes for wind speeds, snow loads, and other applicable loads to be considered for meeting AHJ requirements.
- C. Structural Framework: Manufacturer standard steel frame including I-beams. Framework to be sized and spaced as required per local codes.
- D. Foundations: Manufacturer standard leveling blocks, concrete Footings, surface bonded dry-stack block/steel piers on concrete footers for classrooms. Ramps and Stairs to have manufacturer standard concrete footings and piers as required per local codes.
- E. Windows: Manufacturers standard with Tinted Insulated Glass. Provide a minimum of (2) 3' foot windows in each classroom or (1) large 3' foot x 5' foot window in each classroom.
1. Provide Blinds or window shades for each window.
- F. Exterior Swinging Doors: Manufacturers standard 36x80 Steel Door and Frames. Door to be 18 gauge and frame to be 16 gauge. Equip door with code required Grade hardware such as egress/panic hardware, Closer, deadlock, three butt hinges, thresholds, and full weather stripping.
1. Glazing: Fixed unit with clear insulating glass.

2. Deadlock: Mortised, with lever handle and removable cylinder capable of being master keyed.
- G. Interior Swinging Doors: Manufacturers standard 36x80 20-Min Wood Doors and Frames. Equip door with code required Grade 2 hardware such as self-closing hinges or Closers, keyed levers, three butt hinges, and floor mounted doorstops.
1. Deadlock: Mortised, with lever handle and removable cylinder capable of being master keyed.
- H. Exterior Wall Panel Assembly: Assembly to be Manufacturer standard assembly or a minimum assembly consisting of Ribbed Steel panels minimum of 26 gauge or manufacturer standard panel thickness. Walls to be 8'-0" tall with Double Top Plate. 2x6 Wood Studs with OSB sheathing and Moisture Resistant House Wrap on full perimeter. Panels to follow roof line and be cut to fit around any equipment mounted on exterior walls. Provide all trim. Provide required flashings at all exterior windows, doors, roof lines, etc.
1. Exterior Wall Insulation to be R-19.
  2. Provide manufacturer's standard skirting with frame, venting, and access panel(s).
- I. Interior Wall Panel Assembly: Assembly to be Manufacturer standard assembly or a minimum assembly consisting of 8'-0" tall walls. 2x4x8 Wood Studs at 16" o.c. Provide 5/8 inch Type X Gypsum Board in Corridor and 5/8" Vinyl Covered Type X Gypsum Board Ruff Stuff White in Classrooms. Restroom walls to be FRP (textured) Wall Covering full height.
1. Provide Standard Trim
  2. Provide 4-inch Vinyl Cove Base
  3. Interior Wall Insulation to be R-11.
- J. Raised Base Assembly: Bottom Board with Wood Joists and Rim Joists equal to Manufacturer standard sizes to meet local codes. Joists and other structural floor members to be pressure treated where applicable. Decking to be manufacturers standard or a minimum of 3/4" Plywood SturdiFloor Advantech.
1. Insulation to be R-30.
  2. Flooring in Restrooms to be Commercial Vinyl Floor Covering with Welded Seams.
  3. Flooring in Classrooms and Corridor to be VCT 12x12 Tiles.
  4. Provide aluminum ADA Ramps and Stairs meeting all local codes and requirements of AHJ. Ramps and stairs to have minimum 5x5 or 6x6 platforms with slope of ramp, stair risers, and treads per local codes and requirements of AHJ.
- K. Ceiling: Manufacturer Standard ceiling or a minimum of T-Grid Ceilings. Height to be minimum of 8'.
- L. Roof Assembly: Assembly consisting of manufacturers exterior roof structure, sheathing, covering, attic ventilation, and insulation; sloped to drain at perimeter.
1. Exterior Roof Structure: Manufacturers standard framing or minimum Box Truss and Structure 1 Ridgebeam. Overhang 2" at sides and 6" at ends. Spacing of trusses per local codes but no more than 24" o.c.
    - a. Sheathing to be manufacturer standard or minimum 7/16" OSB Decking, meeting local code requirements.
    - b. Hurricane Straps to be per manufacturer standards or per local codes whichever is more stringent.

2. Exterior Roof Materials: Manufacturer Standard or minimum 45 mil. EPDM membrane with underlay, continuously welded seams, and full-perimeter gutter.
  3. Gutters and Downspouts: Manufacturers Standard 5" gutters and downspouts extending beyond walls and splash blocks.
  4. Insulation: Manufacturer Standard meeting local codes or a minimum of R-38 batt insulation.
  5. Canopy: Provide Manufacturer Standard Canopy at exterior doors.
- M. Fire Protection:
1. No Sprinkler or Fire Alarm is to be provided.
  2. The owner will provide AED and Fire Extinguishers.
- N. Plumbing:
1. Restrooms: (2) Vendor typical ADA Restrooms.
  2. Plumbing Piping: Plumbing piping for water supply to be manufacturers standard or minimum PEX Piping. Manufacturers standard or minimum PVC waste piping.
  3. Water Heating: Manufacturer Standard Instant Flow Water Heater or Instantaneous Water Heaters at each lavatory.
  4. Sanitary Collection: Manufacturer standard septic or sanitary holding tank located below restrooms with maintenance accessibility for emptying by outside vendor.
  - a. Contractor/Vendor of Classrooms to provide weekly maintenance of septic or sanitary holding tank.
  5. Plumbing Fixtures and Accessories (Minimums):
    - a. (2) ADA Lavatories (1 per restroom) wall mounted with Metal Faucets and drains.
    - b. (2) ADA Water Closets (1 per restroom) tank-type.
    - c. (1) Hi-Low Water Cooler
    - d. (2) 36" Stainless Steel Grab bars (1 per restroom) wall mounted.
    - e. (2) 42" Stainless Steel Grab bars (1 per restroom) wall mounted.
    - f. (2) 18" Stainless Steel Grab bars (1 per restroom) wall mounted.
    - g. (2) Stainless Steel Mirrors (1 per restroom) wall mounted.
    - h. (2) Stainless Steel Hooks (1 per restroom) wall mounted.
    - i. (2) Vinyl-Anti-Scald Covers for Trap and Supply (1 per restroom)
    - j. The owner will provide all other accessories including toilet tissue, paper towels, trash receptacles, and soap dispensers.

O. Electrical:

1. Single-Point Connection: Vendors typical connections but a minimum of a Service-entrance-rated, fused safety switch located on exterior for connection of 150 A, 120/240 V, single-phase, feeder with equipment ground conductor.
2. Grounding: Grounding electrode bonded to equipment ground conductor at single-point connection in accordance with NFPA 70 and NEC.
3. Power Distribution: Readily accessible panelboard(s) per vendor typical requirements installed at interior or exterior location per vendor typical requirements.
4. Power Connections (Minimums):
  - a. (4) Four 2x4 blank J-Boxes with ¾ inch EMT Stub @ 16" AFF.
  - b. Occupancy Sensors (wall) with Switch (As Required by local codes)

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- c. Romex Wiring per code.
  - d. Duplex Receptacles at 12' feet o.c.
  - e. (1) GFCI Receptacles at each restroom.
  - f. (2) Exterior GFCI Receptacles.
  - g. (1) Heat Tape GFCI Receptacle
  - h. Provide power connections and means of disconnect for exhaust HVAC, and any other equipment.
5. Lighting:
- a. Interior: LED.
    - 1) Provide recessed lighting for classrooms.
    - 2) Surface Mounted in Restrooms.
    - 3) Emergency/Exit Lighting with Dual Remote Head
  - b. Exterior: LED,
    - 1) Exterior Porch Lights (Photocell)
  - c. Controls: Provide manual switches for interior lighting on the wall inside doors. Provide automatic photocontrol for exterior lighting, with manual override located on the wall inside door.
- P. Communications:
- 1. Provide communications outlets with two TIA-1096-A miniature eight-position series jack(s) for connecting telephone and data equipment.
- Q. Heating Unit: Manufacturer standard Wall or Roof-mounted, thermostatically controlled, 110-V, electric heater with fan-forced operation and with capacity meeting local codes and ASHRAE requirements. Enclosed in enameled-steel cabinet.
- R. Cooling Unit: Manufacturer Wall or Roof-mounted, thermostatically controlled air conditioner with cooling capacity meeting local codes and ASHRAE requirements. Enclosed in enameled-steel cabinet.
- S. Accessories: Provide the following for each building:
- 1. Signage: Uni-Sex Restroom and Exit Code Required Signage for accessibility and egress.
  - 2. Ventilation fan(s)
  - 3. Insect screens on operable openings
- T. Anchorage: All tie down, auger, or other anchors as required by vendor and local building codes. Fabricated from non-ferrous or corrosion-resistant materials, with allowable load or strength design greater than or equal to the design load, as determined by testing conducted by a qualified testing agency.
- U. Finish: Manufacturer standard colors.
- 1. Colors: As selected by Owner from manufacturer's full range.

2.3 FABRICATION

- A. Factory fabricate complete Classrooms, with accessories and options installed at factory.
- B. Factory pre-glaze operable windows and doors.
- C. Factory prewire Classrooms, ready for connection to service at Project site.
- D. Fabricate Classrooms with forklift pockets in base of booth or removable lifting eye centered in roof.
- E. If utilizing existing pre-used classroom, contractor/vendor to refurbish prior to transport including all cleaning, repairing, or replacing any damaged finishes, parts, lights, equipment, etc. Classroom needs to be in fully operational and good condition upon arrival and installation.
- F. Accessible Classrooms: Where indicated to be accessible, fabricate Classrooms as follows:
  - 1. Provide door opening with a minimum of 36-inch clear width.
  - 2. Provide minimum 60-inch clear turning spacing.
  - 3. Locate controls and operable parts no lower than 15 inches and no higher than 48 inches above the floor where reach is unobstructed. Where side reach is obstructed, locate controls and operable parts no lower than 15 inches and no higher than 46 inches above the floor.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. The owner has a location for fabricated classrooms to be located with adequate turning radius and clearances for truck and trailer access. The area is dewatered and is located on the pavement.
- B. The owner will repair the asphalt pavement from anchorage when the classroom is dismantled and removed from the site.
- C. Contractor/Vendor to call Utility Locator 811 or Call-Before-You-Dig before coming to site.
- D. Install Classrooms in accordance with manufacturer's written instructions.
- E. Accessible Classrooms: Install with interior floor surface at same elevation as adjacent paved surfaces. Otherwise provide ramps and stairs from pavement to raised interior floor surface.
- F. Set Classrooms plumb and aligned. Level baseplates are true to planes, with full bearing on concrete bases.
- G. Fasten Classrooms securely to concrete base with anchorage indicated.
- H. The owner will do the final connection to electrical power service and communication systems to the existing building systems. They will also do disconnections at time of removal.

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- I. The owner will provide a water hose connected to the existing building water source. Installer to connect the water hose to water connection of the classroom restrooms and disconnection at time of removal.
- J. Perform startup checks of heating and cooling units in accordance with manufacturer's written instructions.

3.2 ADJUSTING, CLEANING, AND REPAIRS

- A. Adjust doors, windows, and hardware to operate smoothly, easily, properly, and without binding. Confirm that locks engage accurately and securely without forcing or binding.
- B. Adjust interior and exterior lighting controls.
- C. Lubricate hardware and other moving parts.
- D. After completing installation, inspect exposed finishes and repair any damaged finishes or any site items damaged during the maneuvering, setting, leveling, and installation of the classrooms unless specifically noted above to be performed by the owner.
- E. After demobilization and removal, repair any site items damaged during demobilization, maneuvering, and removal of the classrooms unless specifically noted above to be performed by the owner.
- F. Contractor/Vendor to discard trash in compliance with all local and state ordinances and laws. The owner has trash containers that can be used and contractor/vendor shall coordinate with owner for location and use.

END OF SECTION 133423.16







# Lexington-Fayette Urban County Government Master

200 E. Main St  
Lexington, KY 40507

**File Number: 0176-25**

**File ID:** 0176-25

**Type:** Resolution

**Status:** Approved

**Version:** 1

**Contract #:** 067-2025

**In Control:** Urban County  
Council

**File Created:** 02/12/2025

**File Name:** TouchPhrase Agreement

**Final Action:** 03/20/2025

**Title:** A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Touchphrase Development LLC., d/b/a Julota to improve Community Paramedicine Program Efficiency and Data Management, a cost not to exceed \$37,096. [Div. of Fire and Emergency Services, Wells]

**Notes:** SAF in CCO 2 copies given back to Rita in Fire 3.25.25 AA

**Sponsors:**

**Enactment Date:** 03/20/2025

**Attachments:** TouchPhrase Blue Sheet Memo\_022025,  
TouchPhrase Service Agreement\_022025, 176-25  
touchphrase 4926-4018-0511 v.1.doc, R-094-2025,  
Contract #067-2025

**Enactment Number:** R-094-2025

**Deed #:**

**Hearing Date:**

**Drafter:** Tammy James

**Effective Date:**

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Urban County Council Work Session	02/25/2025	Approved and Referred to Docket	Urban County Council	03/06/2025		Pass
1	Urban County Council	03/06/2025	Received First Reading	Urban County Council	03/20/2025		
1	Urban County Council	03/20/2025	Approved				Pass

## Text of Legislative File 0176-25

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### Summary

Authorization to enter into a software service Agreement with TouchPhrase Development

LLC, d/b/a Julota, to enhance Lexington Fire Department Community Paramedicine's ability to conduct specialized and integrated reporting to improve Program efficiency and data management. At a cost of \$37,096.00. Funds are Budgeted. (L0176-25)(Wells/Armstrong)

Budgetary Implications: Yes

Advance Document Review:

**Law:** Yes, M. Sanner

**Risk Management:** No

Fully Budgeted: Yes

Account Number: 3190 505701 5701 75103

This Fiscal Year Impact: \$37,096.00

Annual Impact:

Project: CCCR\_FIRE\_2024

Activity: FED\_GRANT

Budget Reference: 2024

Current Balance: \$ 46,675



TO: Mayor Linda Gorton  
FROM: Jason G. Wells, Fire Chief  
DATE: February 12, 2025  
SUBJECT: Service Agreement TouchPhrase Development LLC

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The Division of Fire and Emergency Services request authorization to enter into a Software service agreement with TouchPhrase Development LLC.

Why are you requesting? This agreement will provide the Lexington Fire Department Community Paramedicine with access to the Julota software. enhancing our ability to conduct more specialized and integrated reporting to improve program efficiency and data management.

Department needs this action completed because: It will enhance our ability to conduct more specialized and integrated reporting to improve program efficiency and data management

In Section 10 of the agreement it states that either party shall have the right to terminate this Agreement or the applicable SOW upon written notice if the other party has breached a material term of this Agreement or the applicable SOW and has not cured such breach within thirty (30) days of receipt of notice from the non-breaching party specifying the breach.

What is the cost in this budget year and future budget years?

The cost for this FY is: \$37,096.00

The cost for future FY is: \$27,576.00

Are the funds budgeted? Will be using the Kentucky Department for Medicaid Services Grant

*3190 505701 5701 75103 571 LFUCG CCCR\_ Fire\_ 2024 FED\_GRANT*

File Number:

Director/Commissioner: Wells/Armstrong





Julota® SaaS Agreement

**Software as a Service (SaaS) License Agreement**

This Software as a Service Agreement ("SaaS Agreement" or "Agreement"), effective on the date on which the last of the parties executes this Agreement ("Effective Date"), is made by and between TouchPhrase Development, LLC d/b/a Julota, which has a place of business at 102 S. Tejon St., Ste. 1100, Colorado Springs, CO 80903 ("Julota"), and the Lexington Fayette Urban County Government,, which has a place of business at: 219 East Third St., Lexington, KY 40508 ("Customer"), in exchange for the mutual promises contained herein, the receipt and legal sufficiency of which are acknowledged. Julota and Customer shall be collectively referred to as the "Parties".

Julota provides a platform for organizations: a) to provide services directly to individuals seeking assistance through it; b) to coordinate with other individuals or organizations to provide services to individuals seeking assistance that it does not provide directly; c) to cooperate with other organizations to identify services needed for individuals seeking assistance; or d) to assemble, monitor and direct Care Team(s) (defined below).

**1. DEFINITIONS.**

**1.1 Care Team** means an individual or an organization used or assembled by or through Customer or on behalf of Customer or in conjunction with Customer to assist Customer, directly or indirectly, in providing to a Help Seeker (defined below) the assistance he or she seeks or requires.

**1.2 Trusted Partner** means any organization that provides services to a Help Seeker through Customer utilizing the Hosted Service.

**1.3 Customer Data** means any data collected through the provision of these services, excluding publicly available data and data previously obtained by Julota. Customer Data may include Personal Data.

**1.4 Customer Website** means the website owned and operated by Customer as identified in the applicable Order Schedule.

**1.5 Documentation** means any user guide, help information and other documentation and information regarding the Hosted Service that is delivered by Julota to Customer in electronic or other form, if any, including any updates provided by Julota from time to time.

**1.6 Health Privacy Laws** means (i) the Health Insurance Portability and Accountability Act of 1996, as amended and including any implementing regulations ("HIPAA"); (ii) HITECH; (iii) 42 C.F.R. Part 2; and (iv) any other applicable federal or state statute, regulation, administrative or judicial ruling requiring a party to protect the confidentiality, privacy and/or security of Personal Data and other healthcare-related information pertaining to Help Seekers.

**1.7 Help Seeker(s)** means the individual seeking assistance from or through the Customer for health or non-health related assistance.

**1.8 Hosted Service** means the real-time website service hosted by Julota and provided to Customer from time to time. The Hosted Service includes any change, improvement, extension or other new version thereof that is developed or otherwise made available to Customer.

**1.9 Julota API** means the Julota application programming interface, scripts, widgets, embeddable snippets and other tools that allow Customer to integrate the Customer's website or any other system of Customer with all or part of the Hosted Services.

**1.10 Personal Data** means any personal information that Julota collects, receives, or obtains, from Customer that does or can identify a specific individual or by or from which that specific individual may be identified, contacted or located, such as the individual's name, address, social security number, or any information that applicable law proscribes as personally identifiable information. Personal Data may include Protected Health Information (defined below).

**1.11 Platform** means all ideas, concepts, inventions, systems, platforms, software, interfaces, tools, utilities, templates, forms, content, graphics, techniques, methods, processes, algorithms, code, know-how, trade secrets and other technologies, implementations and information that are used by Julota in providing the Julota services, including any innovations, revisions, enhancements, upgrades or improvements of the foregoing.



Julota® SaaS Agreement

**1.12 Protected Health Information or PHI** shall have the same meaning as the term “protected health information” as defined in HIPAA.

**1.5 Services** means, collectively, the Hosted Service, Platform, Julota API (if available or applicable), and Documentation, as described in the applicable SOW (defined below).

**2. SERVICES.** Subject to the terms and conditions of this Agreement, Julota will provide Customer with access to the Services as described in each Statement of Work “SOW”. The first SOW will be Exhibit A-1 and each subsequent SOW will be designated “Exhibit A-\_\_\_”, completing the blank for each subsequent SOW with the appropriate number, in ascending numerical order. A sample form SOW is attached as Exhibit A. Each SOW will be subject to the terms of this Agreement. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of a SOW, the terms and conditions of the SOW shall govern as to that SOW only. Customer’s use of the Services is subject to this Agreement and the applicable SOW.

**3. LICENSE GRANT.**

**3.1 License Grant to Customer.** Subject to the terms and conditions of this Agreement, Julota grants Customer (defined in the applicable SOW), during the term of the applicable SOW and the term of this Agreement (whichever period is shorter), a non-exclusive, non-transferable right and license to access and use the Services as provided for in the applicable SOW. The Services will also be provided pursuant to the service levels set forth in the Service Level Agreement (“SLA”), which is attached as Exhibit B.

**3.2 License Restrictions for Customer.** Customer shall not, directly or indirectly, permit any third party to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Services; (ii) modify, translate, or create derivative works based on the Services; (iii) rent, lease, distribute, sell, resell, assign, or otherwise transfer its rights to use the Services; (iv) make the use of the Services available to anyone other than for its own internal purposes; (v) use the Services for timesharing or service bureau purposes or otherwise for the benefit of a third party; (vi) remove any proprietary notices from the Services or any other Julota materials furnished or made available hereunder; (vii) publish or disclose to third parties any evaluation of the Services; (viii) use the Services in automatic, semi-automatic or manual tools designed to create virus signatures, virus detection routines, or any other data or code for detecting malicious code or data; or (ix) use the Services to build a competitive product or service, or copy any features, functions or graphics of the Services.

**3.3 API License.** If provided for in the applicable SOW, Julota hereby grants Customer, during the term of the applicable SOW, a nonexclusive, nontransferable, nonassignable, license to access and use the Julota API solely in connection with its use of the Services.

**3.4 License Grant to Julota.** Customer grants Julota, during the term of this Agreement and the applicable SOW, a non-exclusive, non-transferable, non-sublicensable license for it to use Customer Data and its trademarks (the “Marks”) for the sole purpose of providing the Services or as otherwise set forth in this Agreement. Customer reserves all ownership and other rights in the Customer Data and the Marks not expressly included herein and nothing in this Agreement shall be deemed to convey or transfer to Julota any ownership rights in or to the Customer Data or the Marks. Notwithstanding the foregoing, Customer understands that it may not be the exclusive owner of Customer Data.

**3.5 License Restrictions for Julota.** Julota's license to the Marks is subject to the following restrictions: (i) all of Julota's uses of the Marks must be preapproved by Customer; (ii) Julota shall not use any Marks in such a way as to give the impression that they are the property of anyone other than Customer; and (iii) Julota shall comply with Customer's trademark guidelines, if any, and any other reasonable requirements established by Customer concerning the style, design, display, and use of its Marks. Customer's trademark guidelines, if any, are attached as Exhibit C.

**4. PRIVACY.** Julota may collect or store Customer Data, which may contain Personal Data concerning Help Seekers in connection with the provision of the Services. Julota will comply with its non-disclosure obligations set forth in this Agreement. The



#### Julota® SaaS Agreement

Parties agree to comply with the requirements of all Health Privacy Laws. The Parties agree that Julota will serve as a Business Associate with respect to certain Services it provides to Customer. Accordingly, as it applies to such Services, the Parties shall execute and abide by the terms set forth in the business associate agreement attached hereto and incorporated herein as Exhibit D ("BAA").

### 5. PASSWORDS / SECURITY / DISCLOSURE.

**5.1 Passwords.** Customer is responsible for maintaining the confidentiality of its passwords. Customer is solely responsible for any and all activities that occur under its account and all charges incurred from use of the Services accessed with Customer's passwords. Customer agrees to immediately notify Julota of any unauthorized use of Customer's account or any other breach of security known to Customer. Julota shall have no liability for any loss or damage arising from Customer's failure to comply with these requirements.

**5.2 Security.** Julota will maintain the Services at a third-party hosting facility and will implement industry standard security precautions, which are intended to prevent unauthorized access to Customer Data. Customer acknowledges that, notwithstanding such security precautions, use of, or in connection to, the internet provides the opportunity for unauthorized third parties to circumvent such precautions and gain access to the Services and Customer Data.

**5.3 Disclosure.** Customer agrees that Julota and its agents, which have agreed to confidentiality obligations at least as restrictive as Julota's obligations in this Agreement, can access Customer Data and its account information in order to respond to its service requests and/or as necessary, in Julota's sole discretion, to provide Customer with the Service. Julota will not otherwise disclose such data except if compelled by law, permitted by Customer, or pursuant to the terms of the BAA and the terms of Julota's Privacy Policy, which is available at [www.Julota.com/privacy-policy/](http://www.Julota.com/privacy-policy/) (the "Privacy Policy") and is incorporated into this Agreement. The terms of this Agreement shall supersede any inconsistent terms in the Privacy Policy.

**5.4 Permission to Disclose.** By submitting any Help Seeker's Personal Data to the Hosted Services and providing said Personal Data to Julota for processing, Customer warrants that it has: (i) legal authority to disclose such Personal Data in compliance with Health Privacy Laws and (ii) if required by Health Privacy Laws, this Agreement, or Julota's Privacy Policy or other policies, the necessary permissions, authorizations and consents from the Help Seekers that it enters Personal Data about through the Services and for the viewing and processing of their Personal Data and Customer Data by Julota, its agents, third-party service providers, other organizations utilizing the Hosted Services to provide assistance to Help Seekers, and Care Teams as set forth herein.

### 6. OWNERSHIP.

**6.1** With the exception of Customer Data, the Platform, the Hosted Services, and all information, reports, studies, object and source code (including without limitation the Services and all modifications, enhancements, additions, upgrades, or other works based thereon or related thereto), flow charts, product documentation, diagrams, specifications, methods and other tangible or intangible material of any nature whatsoever produced through or as a result of or related to any product, service or deliverable (collectively, "Works") or development of any data analytics or usage models hereunder, and all patents, copyrights, trademarks and other proprietary rights related to such Works and models, shall be the sole and exclusive property of Julota, its Affiliates (defined below) or their third party providers (collectively, "Julota Property"). Nothing in the Agreement shall convey to Customer any title to or ownership of any Julota Property. Customer hereby irrevocably assigns and transfers to Julota, its Affiliates or their third-party providers all rights, title, and interest in any such Works and models. "Affiliate" means an entity that controls, is controlled by, or under common control with a party, where "control" means the direct or indirect ownership of more than 50% of the voting securities of such entity or party. No rights are granted to Customer hereunder other than as expressly set forth herein.

**6.2** Customer acknowledges and agrees that Julota shall have the right to utilize data capture, syndication, and analysis tools, and other similar tools, to extract, compile, synthesize, and analyze any non-personally and non-Customer identifiable data or information resulting from Customer's use of the Service ("Statistical Data"). Statistical Data may be collected by Julota for any lawful

business purpose without a duty of accounting to Customer, provided that the Statistical Data is used only in an aggregated form, without specifically identifying the source of the Statistical Data. Except for the limited rights granted herein, at no time shall Julota acquire any ownership, license, rights or other interest in or to the Customer Data, all of which shall, as between Customer and Julota, be and remain the confidential and proprietary information of Customer.

**6.3** Julota shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable and perpetual license to incorporate into the Service or otherwise use Statistical Data, any suggestions, enhancement requests, recommendations or other feedback Julota receives from Customer.

## **7. CUSTOMER OBLIGATIONS.**

**7.1 Process.** Customer shall assign two (2) representatives who will be responsible for all communications with Julota related to the use of the Services.

**7.2 Conduct.** Customer is and will be solely responsible for its actions and the actions of its authorized users while using the Services. Customer is and will also be solely responsible for the actions of each Care Team and each of the Care Team's officers, directors, members, employees, agents, contractors, subcontractors and individual(s) related to Customer's use of the Services or the provision of assistance to any Help Seeker. Customer is and will be responsible for all claims made by a Care Team related to any transaction related to the Services. Customer acknowledges and agrees that Julota is not liable for, or responsible to, remediate any issues found on Customer's network or in Customer's web traffic through the Services. In addition to the conduct restricted in Section 3.2 (License Restrictions for Customer), Customer agrees, on behalf of itself and its authorized user(s) to: (i) abide by all laws and regulations including, without limitation, all laws applicable to any service Customer provides or any Care Team provides to a Help Seeker and all laws applicable to the transmission of technical data exported from the United States through the Services and to wireless e-mail marketing and advertising; (ii) not to upload or distribute in any way content that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Services or another's computer or mobile device; (iii) not to use the Services for illegal, fraudulent, unethical or inappropriate purposes; (iv) not to interfere or disrupt networks connected to the Services or interfere with the ability of others to access or use the Services; (v) not to distribute, promote or transmit through the Services any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene, pornographic, indecent, defamatory, hateful, racially, ethnically, unwanted or otherwise objectionable material of any kind or nature; (vi) not to transmit or post any material that encourages conduct that could constitute a criminal offense or give rise to civil liability; (vii) not to interfere with another customer's use and enjoyment of the Services or another entity's use and enjoyment of similar services; (viii) not to engage in, or permit others to engage in, contests, chain letters or post or transmit "junk mail," "spam," "chain letters," or unsolicited mass distribution of e-mail; and (ix) to comply with all regulations, policies and procedures of networks connected to the Services, Julota, or Julota's service providers, as the same may be promulgated from time to time. Julota may remove any violating data on the website posted or stored using the Services or transmitted through the Services, without notice to Customer; however, Julota has no obligation to do so.

**7.3** Customer will maintain privacy policies and will provide copies or access to its privacy policies as required by applicable law to each Help Seeker prior to entering any information about the Help Seeker through the Services. Customer will ensure that its practices for storing and safeguarding Help Seeker related information are consistent with industry privacy, security standards and all applicable legal requirements. Customer must obtain the necessary authorizations and its privacy policy must include the following disclosures and terms sufficient to allow for: (i) the collection and processing of data from Help Seekers, including any Personal Data from a Help Seeker; (ii) Julota's processing of Help Seeker data; (iii) the use of Personal Data belonging to Help Seekers as contemplated in the provision of the Services and in the applicable SOW; (iv) the maintenance and retention of Personal Data after assistance is rendered by Customer to a Help Seeker; (v) the processing and sharing of Personal Data and other data of Help Seekers with other organizations utilizing the Hosted Services and by Care Teams; and (vi) the sharing and utilizing of each Help Seeker's Personal Data and the aggregate data derived therefrom by Julota. Customer shall be solely responsible for obtaining and

maintaining documentation of any and all legally required written permissions, consents or authorizations from Help Seekers before a Help Seeker's Personal Data is provided to Julota or placed on the Platform. Any and all information provided by Customer to Julota via the Hosted Services or any other Services relating to any Help Seeker's permissions, consents or authorizations shall be accurate and valid. Customer shall notify Julota, on a form provided and/or approved by Julota, of any restrictions on the use or disclosure of a Help Seeker's Personal Data that Customer is required to abide by to the extent that such restriction may affect Julota's use or disclosure of that Help Seeker's Personal Data. Customer shall notify Julota of any changes in, or revocation of, the permission, authorization or consent by a Help Seeker for Customer to disclose such Help Seeker's Personal Data on the Platform. Notwithstanding the foregoing revocation or change in authorization, Julota may retain copies of that data in read only format to the extent permitted by law in order to comply with its statutory or regulatory requirements or to defend against a claim or complaint.

## 8. FEES AND TAXES.

**8.1 Fees.** Customer agrees to pay Julota the fees set forth on the applicable SOW for the Services, in accordance with the fees, charges, and billing terms set forth in this Agreement (collectively, "Fees"). All Fees are quoted in United States currency. Except as otherwise provided in this Agreement, Fees are non-refundable.

**8.2 Additional Charges.** Customer shall pay travel and living expenses and other out-of-pocket expenses reasonably incurred by Julota in connection with the Services. As applicable, such out-of-pocket expenses shall be incurred in accordance with Julota's then-current corporate travel and expense policy. If an out-of-pocket expense is listed in an Exhibit, such expense may be changed to reflect changes issued by the applicable vendor. All expenses incurred by Julota for which it seeks reimbursement from Customer must be preapproved in writing by Customer.

**8.3 Payments.** Unless stated otherwise on the applicable SOW, all Fees are due and payable by Customer within thirty (30) days after the invoice date. Any payment not received from Customer by the due date shall accrue (except with respect to charges then under reasonable and good faith dispute), at the lower of one and a half percent (1.5%) of the outstanding balance per month (being 18% per annum), or the maximum rate permitted by law, from the date such payment is due until the date paid. Customer shall also pay all sums expended (including, without limitation, reasonable legal fees) in collecting overdue payments.

**8.4 Taxes.** All fees set forth in this Agreement are exclusive of all taxes and similar fees. Customer shall be responsible for and shall pay in full all sales, use, excise or similar governmental taxes imposed by any federal, state, or local governmental entity upon the fees charged the Customer under this Agreement, exclusive, however, of taxes based on Julota's income, which taxes shall be paid by Julota. If any taxes for which Customer is responsible hereunder are paid by Julota, Customer will promptly reimburse Julota upon Customer's receipt of proof of payment.

**9. TERM.** This Agreement commences on the Effective Date and shall continue for one year, unless earlier terminated in accordance with this Agreement. Following the initial Term, this Agreement shall renew for successive twelve (12)-month periods unless either party provides written termination notice 60 days prior to the end of the Term.

## 10. TERMINATION.

**10.1 Breach.** Except as otherwise provided in this Section 10, either party shall have the right to terminate this Agreement or the applicable SOW upon written notice if the other party has breached a material term of this Agreement or the applicable SOW and has not cured such breach within thirty (30) days of receipt of notice from the non-breaching party specifying the breach.

**10.2 Insolvency.** Either party shall have the right to terminate this Agreement if (i) the other party has a receiver appointed for it or its property; (ii) any proceedings are commenced by the other party under a Chapter 7 bankruptcy; or (iii) the other party is liquidated or dissolved.

**10.3 Failure to Pay/Customer Conduct.** Julota shall have the right to suspend or terminate access to the Services, at its sole option, with or without notice to Customer, if: (i) any payment is delinquent by more than sixty (60) days, or (ii) if Customer breaches Sections 3.2, 5 or 7 of this Agreement

**10.4 Immediate Termination.** Julota may immediately suspend or terminate this Agreement or the applicable SOW, in its sole and absolute discretion, if Customer violates Section 7.2 of this Agreement or violates or misappropriates Julota's intellectual property rights related to the Services.

**10.5 Effect of Termination.** Termination of this Agreement will terminate all SOWs. Termination of an individual SOW will only terminate that SOW and will not result in the termination of this Agreement, unless the SOW provides otherwise. Julota shall not be liable to Customer or any third party for suspension or termination of Customer's access to, or right to use, the Services under this Agreement. If Customer terminates this Agreement or an SOW pursuant to Section 10.1 or if Julota terminates this Agreement or an SOW without cause, Customer will be obligated to pay the balance due for the Services up to the date of termination. If Julota terminates this Agreement or an SOW pursuant to Section 10.1 or if Customer terminates this Agreement or SOW without cause, Customer shall pay any unpaid fees through the date of termination and shall pay any unpaid fees covering the remainder of the term of all SOWs, if the Agreement is terminated, or the applicable SOW, if only the SOW is terminated. Upon the effective date of termination of this Agreement for any reason, Customer's access to the Services will terminate and Customer shall cease accessing and using the Services immediately and Julota shall cease use immediately of any Marks. Sections 3.2, 4, 5, 6, 8 through 16 and 18 of this Agreement shall survive termination for any reason.

## **11. CONFIDENTIALITY.**

**11.1 Obligations.** Each of the Parties agrees to maintain in confidence any proprietary or non-public information of the other party, whether written or otherwise, disclosed by the other party in the course of performance of this Agreement that a party knows or reasonably should know is considered confidential by the disclosing party ("Confidential Information"). The Parties hereby agree the terms and conditions of this Agreement, and any discussions related to the Services shall be considered Confidential Information. Confidential Information also includes: (i) trade secrets and proprietary information (including that of any client, supplier or licensor); (ii) customer lists, client lists, business plans, information security plans, business continuity plans, requests for proposals or requests for information and responses to such requests that the Parties may change after the Effective Date, and proprietary software programs; and (iii) any other information received from or on behalf of a disclosing party that is marked confidential or that the recipient of the information could reasonably be expected to know is confidential. The receiving party shall not disclose, use, transmit, inform or make available to any entity, person or body any of the Confidential Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Confidential Information and the Parties' respective rights therein, at all times exercising at least a reasonable level of care. Each party agrees to restrict access to the Confidential Information of the other party to those employees or agents who require access in order to perform their obligations under this Agreement and who agreed to be bound by these obligations of confidentiality and non-disclosure. Except as otherwise expressly provided in this Agreement, upon termination of this Agreement for any reason, and at the request of the disclosing party, the receiving party shall promptly return or destroy (at the disclosing party's option), all copies of the other party's Confidential Information. Notwithstanding the foregoing, each party may maintain archival copies of Confidential Information for the applicable statutory periods.

**11.2 Exclusions.** Confidential Information shall not include any information that is (i) already known to the receiving party at the time of the disclosure; (ii) publicly known at the time of the disclosure or becomes publicly known through no wrongful act or failure of the receiving party; (iii) subsequently disclosed to the receiving party on a non-confidential basis by a third party not having a confidential relationship with the other party hereto that rightfully acquired such information; (iv) communicated to a third party by the receiving party with the express written consent of the other party hereto; or (v) requests for information pursuant to the Freedom of

Information Act, or any open-records or public disclosure laws, provided an exemption to said disclosure or other law superseding the requirement for disclosure does not apply, and provided that the disclosure does not include data solely stored in the Hosted Service. A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process shall not be considered a breach of this Agreement; provided the receiving party provides prompt notice of any such subpoena, order, or the like to the other party so that such party will have the opportunity to obtain a protective order or otherwise oppose the disclosure.

## **12. WARRANTY.**

**12.1 Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED “AS IS,” AND, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, JULOTA MAKES NO AND HEREBY DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, IMPLIED WARRANTIES OR MERCHANTABILITY, WITH RESPECT TO THE USE, MISUSE, OR INABILITY TO USE THE SERVICES (IN WHOLE OR IN PART) OR ANY OTHER PRODUCTS OR SERVICES PROVIDED TO CUSTOMER BY JULOTA, OR OTHERWISE UNDER THESE TERMS. WITHOUT LIMITING THE FOREGOING, JULOTA DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. JULOTA DISCLAIMS ALL LIABILITY FOR ANY MALFUNCTIONING, IMPOSSIBILITY OF ACCESS, OR POOR USE CONDITIONS OF THE SERVICE DUE TO INAPPROPRIATE OR DEFECTIVE EQUIPMENT, DISTURBANCES RELATED TO INTERNET SERVICE PROVIDERS, TO THE SATURATION OF THE INTERNET NETWORK, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMMUNICATIONS LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, OR ALTERATION OF, USER COMMUNICATIONS, PROBLEMS RELATED TO THE SERVICES OR ITS USE, LOSS OF PERSONAL CONTENT, OR ANY OTHER REASONS. JULOTA ALSO EXPLICITLY DISCLAIMS ANY WARRANTIES RELATED TO BUSINESS RESULTS THAT MAY BE OBTAINED BY USE OF THE SERVICES AND SPECIFICALLY STATES NO SUCH REPRESENTATIONS ARE OR HAVE BEEN MADE TO CUSTOMER. CUSTOMER WILL BE SOLELY RESPONSIBLE FOR (I) ESTABLISHING AND MAINTAINING AN INTERNET CONNECTION SUFFICIENT FOR THE SERVICES TO FUNCTION PROPERLY, (II) THE CONTENT AND EFFICACY OF ALL MARKETING INITIATIVES, AND (III) FULFILLING ALL ITS OBLIGATIONS TO HELP SEEKERS IN CONNECTION WITH THE USE OF THE SERVICES. CUSTOMER WILL FOLLOW PROPER BACK-UP PROCEDURES FOR ANY OTHER PROGRAMMING AND ALL DATA TO PROTECT AGAINST LOSS OR ERROR RESULTING FROM THE USE OF ANY EQUIPMENT OR THE SERVICES. CUSTOMER AGREES THAT JULOTA AND THE PLATFORM AND SERVICES DO NOT MAKE CLINICAL, MEDICAL OR OTHER DECISIONS OR RECOMMEND, ENDORSE OR MAKE ANY MEDICAL, CLINICAL OR RELATED REPRESENTATIONS OR WARRANTIES. CUSTOMER ASSUMES ALL RESPONSIBILITY IN CONNECTION WITH DISCLOSING CUSTOMER DATA ON THE PLATFORM.

**12.2 Open Source.** Parts of the software for the Services may be subject to the GPL (General Public License) for open source software, and all warranties are disclaimed for such parts by the Free Software Foundation, Inc. See the GNU General Public License for more details. Similarly, parts of such software may be subject to the MIT License for open source software, and therefore, the following restrictions: MIT grants permission, free of charge to any person obtaining a copy of the software and associated documentation files, to deal in the software without restriction, including without limitation the rights to use, copy, modify, merge, publish, distribute, sublicense, and/or sell copies of the software, and to permit persons to whom the software is furnished to do so, subject to the following conditions and notwithstanding anything to the contrary in this Agreement: the software is provided “AS IS” without warranty of any kind, express or implied, including but not limited to, the warranties of merchantability, fitness for a particular purpose and non-infringement, In no event shall the authors or copyright holders be liable for any claim, damages or other liability, whether in an action of contract, tort or otherwise, arising from, out of or in connection with the software or the use of other dealings in the software.

**12.3 Mutual Warranties.** Each party represents and warrants that: (i) it does not have any contractual obligations that would prevent it from entering into this Agreement; and (ii) it will comply with all laws and regulations directly applicable to its performance of its obligations under this Agreement or its use of the Services.

**13. INDEMNIFICATION.** Julota shall indemnify, defend, or at its option settle, any third party claim or suit based on any third party claim or suit based on a claim that the provision of the Services violate applicable law or that the Services (excluding any third party software) violate, infringe or misappropriate any United States patent, copyright, trademark or trade secret and Julota shall pay any final judgment entered against Customer in any such proceeding or agreed to in settlement; provided (i) Julota is promptly notified in writing of such claim or suit, (ii) Julota or its designee has sole control of such defense or settlement, and (iii) Customer gives all information and assistance requested by Julota or such designee. To the extent that use of the Services is enjoined, Julota may at its option either (a) procure for Customer the right to use the Services, (b) replace the Services with other suitable products, or (c) refund the prepaid portion of the Fee(s) paid by Customer for the Services or the affected part thereof. Julota shall have no liability under this Section 13 or otherwise to the extent a claim or suit is based upon (1) use of the Services in combination with software or hardware not provided by Julota if infringement would have been avoided in the absence of such combination, (2) modifications to the Services not made by Julota, if infringement would have been avoided by the absence of such modifications, or (3) use of any version other than a current release of the Services, if infringement would have been avoided by use of a current release.

THIS SECTION 13 STATES JULOTA'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR VIOLATION, INFRINGEMENT AND MISAPPROPRIATION CLAIMS BASED ON THE SERVICES.

**14. LIMITATION OF LIABILITY.**

**14.1 Limitation on Direct Damages.** EXCEPT AS IT RELATES TO JULOTA'S INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL JULOTA'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CUSTOMER FOR THE SERVICES FOR THE PERIOD OF TWELVE (12) MONTHS PRIOR TO THE EVENT THAT DIRECTLY GAVE RISE TO THE DAMAGES CLAIMED, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE.

**14.2 Waiver of Consequential Damages.** EXCEPT AS IT RELATES TO JULOTA'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, IN NO EVENT SHALL JULOTA BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR LOSS OF PROFITS, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF JULOTA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**14.3 No Liability for Wrongful Third-Party Disclosures.** Notwithstanding anything to the contrary herein, Julota will have no liability to Customer or any other organization or individual related to the wrongful disclosure by Customer, the Care Team, a Trusted Partner or any director, officer, employee, agent or service provider of the foregoing.

**15. NON-SOLICITATION.** During the term and for a period of twelve (12) months thereafter, Julota and Customer shall not knowingly, directly or indirectly, solicit, recruit, employ or contract with any employees of one another.

**16. INSURANCE.** Julota will maintain (and shall cause each of its agents, independent contractors and subcontractors performing any services hereunder to maintain) at its sole cost and expense at least the following insurance covering its obligations under this Agreement:

**16.1 Commercial General Liability.** With coverage of not less than One Million Dollars (\$1,000,000) each occurrence (for bodily injury and for damage to property); including coverage for premises and operations, contractual liability, broad form property damage and products and completed operations and Three Million Dollars (\$3,000,000) in the aggregate.

**16.2 Cyber Liability Insurance.** With coverage of not less than Three Million Dollars (\$3,000,000) in the aggregate which shall include at a minimum coverage for (i) unauthorized access by an outside party, which may take the form of a “hacker attack” or a “virus” introduced by a third party; (ii) failure to prevent a party other than an insured from unauthorized access to, use of, tampering with or introduction of malicious code into data, programs or systems; and (iii) breach of Customer’s data.

**16.3 Policy Terms.** Such insurance shall name Customer as an additional insured. A blanket endorsement or an additional insured endorsement evidencing the policy shall be provided to Customer upon execution. Julota shall provide Customer with written notice of any policy cancellation within thirty (30) days of the receipt of such notice. Julota shall obtain replacement insurance policies meeting the requirements of this Section 17.

## **17. GENERAL.**

**17.1 Notices.** All notices to a party shall be in writing and sent to the addresses specified in this Agreement (and in the case of Julota, to the attention of the Chief Operating Officer) or such other address as a party notifies the other party, and shall be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or email; three days after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

**17.2 Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of the State that the Customer is located, excluding its conflict of laws rules. Each party hereby irrevocably submits to the exclusive jurisdiction of the Courts within Fayette County in the State of Kentucky. Any provision of this Agreement held to be unenforceable shall not affect the enforceability of any other provisions of this Agreement. Each party further hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

**17.3 Dispute Resolution.** Before initiating legal action against the other party relating to a dispute herein, the Parties agree to work in good faith to resolve disputes and claims arising out of this Agreement. To this end, each party may request that the other party designate an officer or other management employee with authority to bind such party to meet to resolve the dispute or claim. If the dispute is not resolved within 30 days of the commencement of informal efforts under this paragraph, either party may pursue formal legal action. This paragraph will not apply if expiration of the applicable time for bringing an action is imminent and will not prohibit a party from pursuing injunctive or other equitable relief to which it may be entitled.

**17.4 Relationship of the Parties.** The Parties to this agreement are independent entities, and no agency, partnership franchise, joint venture or employee-employer relationship is intended or created by this Agreement.

**17.5 Assignment.** Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of Julota (not to be unreasonably withheld). Notwithstanding the foregoing, either Party may assign this Agreement in its entirety (including all SOWs), without consent of the other Party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, provided that, in the case of Customer, the assignment is not to a direct competitor of Julota. In the event that either Party assigns its rights or obligations hereunder, in violation of this Section, either Party may at its election, terminate this Agreement, provided it does so within sixty (60) days of the date that written notice of the assignment is provided to the non-assigning Party. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**17.6 Entire Agreement.** This Agreement, including all SOWs, exhibits and addenda hereto, constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any SOW,



Julota® SaaS Agreement

exhibit or addendum hereto, the terms of such SOW, exhibit, or addendum shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or other order documentation (excluding SOWs) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void. Further, notwithstanding the foregoing, terms of the SOW that conflict with or are inconsistent with this Agreement, which conflict with statutory or regulatory requirements will not control or supersede this Agreement and such terms will be deemed waived.

**17.7 Force Majeure.** Neither party shall be in default if its failure to perform any obligation under this Agreement is caused solely by supervening conditions beyond that party's reasonable control including, without limitation, acts of God, civil commotion, war, strikes, labor disputes, third party Internet service interruptions or slowdowns, vandalism or "hacker" attacks, acts of terrorism or governmental demands or requirements.

**17.8 No Third-Party Beneficiary Rights.** This Agreement is not intended to and shall not be construed to give any third-party any interest or rights (including, without limitation, any third-party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby.

**17.9 Headings.** The headings of the sections of this Agreement are for reference only and shall not modify, define or limit any of the terms or provisions of this Agreement.

**17.10 Severability.** If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, that provision will be enforced to the maximum extent permissible so as to affect the intent of the parties and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**17.11 Construction.** This Agreement has been negotiated by the Parties and will be fairly interpreted in accordance with its terms and without any strict construction in favor or against any party.

**17.12 Counterparts and Signatures.** This Agreement and any SOWs, exhibits, addenda and amendments may be executed in counterparts, each of which shall be deemed an original and which shall together constitute one instrument. Each party may execute this Agreement and any SOWs, exhibits, addenda Exhibit or amendment hereto in the form of an electronic record utilizing electronic signatures, as such terms are defined in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.). Customer and its affiliates will not dispute the validity or authenticity of electronic signatures submitted to Julota by Customer or its affiliates, nor will Customer or its affiliates dispute the legal authority, validity or authenticity of those who sign with such electronic signatures to bind Customer and its affiliates. Electronic signatures by Customer and its affiliates, as well as signatures by either party transmitted by facsimile or electronically via PDF or similar file delivery method, shall have the same effect as an original signature.

**17.13 Federal Government End Use Provisions.** If Customer is a U.S. federal government end user, the Services are a "Commercial Item" as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as those terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, these Services are licensed to You with only those rights as provided under the terms and conditions of this Agreement.

Each party hereto has caused this Agreement to be executed by its authorized representative with effect from the Effective Date.



Julota® SaaS Agreement

**TouchPhrase Development, LLC d/b/a Julota**

By:

A handwritten signature in black ink that reads 'Scott Cravens'.

Name: Scott Cravens

Title: CEO

Date Signed:

2/3/25

**Lexington-Fayette Urban County Government,  
("Customer")**

By:

---

Name: Linda Gorton

Title: Mayor

Date Signed:



Julota® SaaS Agreement

**EXHIBIT A**

**Statement of Work No. 1**

**Service and Fees**

This Statement of Work No. 1 ("SOW") entered on the date on which the last of the parties executes this Agreement (the "Effective Date") by and between TouchPhrase Development, LLC d/b/a Julota ("Julota") and the Lexington-Fayette Urban County Government (LFUCG) ("Customer"). Except as otherwise specifically provided herein, the terms and conditions of the agreement between Julota and Customer are incorporated herein by reference. Any capitalized term used but not defined in this SOW shall have the meaning first assigned to it in the Agreement.

**A. Term:**

The term of this SOW is set forth in Appendix 1 to this SOW.

**B. License and Deliverables:**

1. Services: Julota will license to Customer access to a web-based and mobile integrated software for tracking services provided to Help Seekers on the Platform, which is called "Julota Reach." Customer and its authorized users may access the Services for the purpose of providing long-term Health Seeker contact, tracking, monitoring and care. Customer will, through the administration panel of Julota Reach, create and authorize new authorized users. Julota Reach software will allow Customer and its authorized users to communicate action steps necessary to integrate and coordinate the care of Help Seekers.
2. Authorized users: Authorized users may be individuals from Customer's organization or Care Teams and their employees. Customer may authorize an unlimited number of authorized users to access Julota Reach through Customer's license.
3. Usage and Storage: The amount of usage of the Hosted Services (not including enrollments) and data storage is unlimited.
4. Excess Hosted Service Usage Fee: \$0
5. Service Levels: Julota will provide general support for Julota Reach as provided for in the SLA attached as Exhibit "B" to the Agreement.

**C. Fees and Expenses:**

1. Fees and expenses will be as provided in Appendix 1 to this Statement of Work.
2. **Payment**: All payments are due by 30 days from the date on the invoice. Payments should be made via ACH or wire. Please contact us for ACH/wire instructions. If ACH is unavailable, payment via check made payable to Julota will be accepted at the following address:

TouchPhrase Development, LLC ( or TouchPhrase Development, LLC d/b/a Julota)  
Attention: Accounting Department  
102 S. Tejon St., Suite 1100  
Colorado Springs, CO 80903

Contact: [billing@julota.com](mailto:billing@julota.com)

## Julota® SaaS Agreement

Julota may change the payment method provided it does so in writing to Customer. Payments not paid within 30 days of the date on the invoice will be charged at the lower of one and a half percent (1.5%) of the outstanding balance per month (being 18% per annum), or the maximum rate permitted by law, from the date such payment is due until the date paid, whichever is lower. Customer shall also pay all sums expended (including, without limitation, reasonable legal fees) in collecting overdue payments.

**D. Schedule:**

Upon execution of the Agreement and this SOW, provided the fee for the Initial Term is paid upon execution of this SOW, Julota will commence the planning and execution of the Services with the intent of launching the Services for Customer by TBD.

**E. Service Changes:**

Julota reserves the right, in its sole discretion, to make any changes to the Services that it deems necessary or useful to:

1. maintain or enhance (i) the quality or delivery of the Services for its customers, (ii) the competitive strength of or market for Julota's services, or (iii) the cost efficiency or performance of the Services; or
2. to comply with applicable Law.

Notwithstanding the foregoing, in no event will such Julota initiated changes result in increased cost to Customer during the term of this SOW.

Customer understands that daily and weekly Julota initiated changes may occur without advance notice and such changes are for the purpose of bug fixes and minor improvements.

During the term of this SOW, Julota shall provide to Customer at no additional charge the following:

1. any and all changes that it develops with respect to the Services, unless such changes are considered optional to the Customer and bear additional costs to Julota outside of costs for Julota initiated implementation and development;
2. any and all changes required by federal or state governmental, or professional regulatory mandates related to the Customer's use of the Services; and
3. the Documentation associated with any changes.

Without limiting the foregoing, Customer may, at any time during the Term, request in writing changes to the Services. The Parties shall evaluate the requested changes and, if agreed, implement all such requested changes in accordance with a mutually agreed change order. No requested changes will be effective unless and until memorialized in a written change order signed by both Parties.

**F. Subcontractors:**

Julota may from time to time in its discretion engage third parties to perform Services (each, a "Subcontractor")

**G. On-Site Resources:**

Any Julota personnel visiting Customer's facilities shall comply with all applicable Customer policies regarding access to, use of, and conduct within such facilities. Customer will provide copies of such policies to Julota upon request.



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**H. Customer Acknowledgments:**

Customer shall be responsible for purchasing, acquiring and installing all hardware associated with the Agreement and this SOW. Customer shall also be responsible for all training. Julota has no responsibility related to any of the hardware, including, but not limited to, in-store hardware (iPads, cables, cases, etc.). Julota may advise Customer regarding proper deployment of Services, but such advice is without warranty and provided "As Is".

**I. Definitions:**

1. "Dataset Migration" is the process of selecting, preparing, extracting, and transforming data from one computer storage system to another."
2. "Monthly Active Client(s)" is a Help Seeker whose name has been added to the Hosted Services, through Customer's subscription to the Services, for a service, encounter or enrollment for a particular month.

Each party hereto has caused this Statement of Work to be executed by its authorized representative as of the Effective Date.

**TouchPhrase Development, LLC d/b/a Julota**

**Lexington- Fayette Urban County Government (LFUCG),  
("Customer")**

By:

By:

Name: Scott Cravens

Title: CEO

Date Signed: 2/3/25

Name: Linda Gorton

Title: Mayor

Date Signed:



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**Appendix 1 to the Statement of Work No. 1**

This Appendix 1 to the Statement of Work No. 1 ("Appendix"), except as otherwise specifically provided herein, incorporates by reference the terms of the Agreement and the SOW. Any capitalized term used but not defined in this Appendix shall have the meaning first assigned to it in the SOW and, to the extent not defined in the SOW, then the meaning assigned to it in the Agreement.

The terms for Julota will provide the Services according to the following:

1. **Term:** The "Term" of the SOW shall be for one (1) year from the Effective Date (the "Initial Term"), after which date this SOW shall automatically renew for successive 1-year periods, not to exceed five (5) years (each, a "**Renewal Term**"), or until such time as either party elects not to renew this SOW by providing written notice of non-renewal to the other party at least 60 days prior to the expiration of the Initial Term or the current Renewal Term.
2. **Fees (the following fees do not include applicable taxes):**

Name	Units	Price per Unit	Subtotal
One Time Fee Schedule			
Implementation Package Per Hub Includes: <ul style="list-style-type: none"><li>• Workflow understanding and guidance</li><li>• 1 PDF Workflow Training Documents</li><li>• 7 Days of Premium Launch Support</li><li>• 2 Custom Form (up to 30 fields)</li></ul>	1	\$3,970.00	\$3,970.00
Simple Interface Implementation ESO	1	\$1,350.00	\$1,350.00
CJIS/42 CFR Part 2 42 CFR Part 2	1	\$4,800.00	\$4,800.00
			<b>\$10,120.00</b>
Recurring Annual Fees Schedule (non-refundable)			
Julota Base Platform License Includes basic reports and data extractions	1	\$9,850.00	\$9,850.00
EMS/Social Services Hubs LFUCG division of fire/emergency services	1	\$3,200.00	\$3,200.00
Community Resource Organizations	20	\$0.00	\$0.00



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Services Quick Response Team (QRT) MIH/CP Crisis Response Team (CRT)	3	\$400.00	\$1,200.00
Simple Interface Maintenance ESO	1	\$1,350.00	\$1,350.00
Annualized Monthly Active Clients	1200	\$5.13	\$6,156.00
Clinical Module	1	\$1,020.00	\$1,020.00
42 CFR Part 2 Compliant Workflows	1	\$4,800.00	\$4,800.00
			<b>\$27,576.00</b>
Support Services			
Yearly Julota Essential Support Services <ul style="list-style-type: none"> <li>Support for ongoing configuration to platform</li> <li>Help Desk access via web portal and email</li> <li>Critical outage response within 1 hour on any business day or 2 hours for any non-business day</li> <li>1 video Training session (recorded) included</li> </ul>	1	\$5,400.00	\$5,400.00
			<b>\$5,400.00</b>

Subtotal	<b>\$43,096.00</b>
Champion Discount	<b>-\$6,000.00</b>
<b>Total</b>	<b>\$37,096.00</b>

- For the completion of the Dataset Migration, Customer is responsible for providing its "data dictionary," which provides the name of the data fields in the old system, the definition of each data field, and the name of the field it is being moved to on Julota's system.
- If Customer exceeds the estimated number of Monthly Active Clients during a year, it will not be charged for additional Monthly Active Clients, but Julota reserves the right to adjust the fee for Monthly Active Clients in the following year.



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5. At the end of the Initial Term and each Renewal Term, Julota may increase the charges set forth in this SOW. Julota agrees to notify Customer in writing at least sixty (60) days prior to any such price increase.
6. Additional services listed above may be purchased at any time by Customer by providing written notice to Julota requesting the additional services. The rates set forth above in the "Recurring Annual Fees Schedule" are valid if ordered during the Term for Non-Recurring Term subscriptions and during the Initial Term for Auto-Renew Term subscriptions. Thereafter, the rates will be at the then current rates set by Julota.
7. The fees in the "Recurring Annual Fees Schedule" are based upon anticipated usage for the first year of the Term and then based on anticipated or actual usage for any additional years following the first year of the Term.
8. The Data Warehouse services require a two-year commitment ("Data Warehouse Term"), which will commence on the Effective Date of the SOW. Regardless of the term of the Agreement or the SOW, if the Agreement or SOW terminate prior to the end of the Data Warehouse Term, Customer will remain responsible for the full cost of the Data Warehouse Term.

Each party hereto approves of and accepts the terms of this Appendix.

**TouchPhrase Development, LLC d/b/a Julota**

**Lexington-Fayette Urban County Government (LFUCG),  
("Customer")**

By:

By:

Name: Scott Cravens

Title: CEO

Date Signed: 2/3/25

Name: Linda Gorton

Title: Mayor

Date Signed:



Julota® SaaS Agreement

**EXHIBIT B**

**Service Level Agreement**

In performing the Services for Customer, Julota's level of performance shall be at least equal to or exceed the Service Levels set forth in this Service Level Agreement (this "SLA") at all times during the Term of the applicable Statement of Work.

**A. Definitions.** Unless otherwise defined in this Addendum, the capitalized terms in this Addendum have the following meaning. Defined terms that are not defined in this Addendum will have the same meaning as in the Agreement.

1. **"Authorized User"** is a person who has been granted authority to use the Services by the Customer Representative.
2. **"Availability"** means that the Services are readily available to Customer and operating without material Error, excluding any Outages and "Low" level incidents (defined below).
3. **"Customer Representative"** means the single person that Customer has designated in writing to Julota to be its Customer Representative. Customer may change the Customer Representative by written notice to Julota. Only one person may be designated as Customer Representative at any time. In addition to the authority designated in this Addendum, the Customer Representative is awarded all rights designated to Authorized Users (e.g., the ability to contact the Support Desk). Only the Authorized Users may contact the Support Desk.
4. **"Emergency Maintenance"** means the downtime required by Julota for upgrading or maintaining the Services; provided, that Julota has given Customer at least twenty-four hours prior written notice of such downtime, provided that Emergency Maintenance does not exceed five (5) hours per month, and provided that Emergency Maintenance does not occur more than six (6) times per year.
5. **"Failure"** means any failure of Julota to meet a Service Level requirement; but excludes those failures attributable to a Force Majeure event.
6. **"Monthly Availability Percentage"** means the amount equal to the total number of minutes (multiply the number of calendar days in any given month by the product of 24 times 60) in the applicable calendar month, minus the total Outage time for that month, then divided by the total number of minutes.
7. **"Outage"** means the period (measured in minutes) that the Services are not readily available to Customer and/or are operating with material Error; but shall not include: (i) Scheduled Downtime (which will not exceed ten (10) hours in aggregate per month); (ii) emergency maintenance activities which will not exceed five (5) hours per month; (iii) periods of unavailability attributable to Customer's negligent acts or omissions; or (iv) Customer's failure to timely respond to Julota in connection with the resolution of any Problem.
8. **"Regular Release"** means releases of minor product updates for upgrading or maintaining the Services; provided that there shall be no more than two regular releases per week and downtime for these weekly releases does not exceed sixty (60) minutes for each release.
9. **"Scheduled Downtime"** means the downtime required by Julota for upgrading or maintaining the Services; provided, that (i) such downtime occurs between the hours of 22:00 MT USA and 5:00 MT USA (or such other hours that Customer has previously and specifically approved in writing); and (ii) Julota has provided five (5) business days prior written notice of such downtime. This may also be referred to as "Scheduled Maintenance". (iii) not to exceed 10 hours each month.
10. **"Support Desk"** is a resource that provides administrative support and technical support to Authorized Users.

**B. Technical Support.**

## Julota® SaaS Agreement

1. Contact Methods. Julota will make available to the Authorized Users two means of contacting the Support Desk: an email ("Support Email") and Web Portal.

1. Email Support: [Julota-Support@julota.com](mailto:Julota-Support@julota.com)

2. Web Portal: <http://support.julota.com>

2. User Support Hours. Unless otherwise stated, standard user support hours are Monday – Friday from 8 AM to 5 PM Mountain time with the exception of state and Federal holidays. In the event calls or emails are received outside of User Support Hours, Julota will address the Authorized User's query during User Support Hours with the exception of Critical events (as discussed below).
3. Technical support will be limited to the permissions of the Authorized User, which will be determined by the Customer Representative pursuant to the "Protocol Authorization Form," a sample of which is attached as "Annex A" in blank format. The permissions will be defined in the Protocol Authorization Form. The Protocol Authorization Form will set forth the Authorized User's permissions granted to him or her.
4. At the time that the Authorized User contacts the Support Desk, the Authorized Users permissions will be verified in order to determine the scope of support that may be granted. If an Authorized User does not have sufficient permissions (e.g., they are attempting to report an issue for an area that they do not have the authority to access, the event will be deemed unreported).

**C. Severity Levels and Response Times.** The following are a description of the service levels and the service level response times:

1. **Critical.** An incident with a severity level of "Critical" is defined as one that produces an emergency situation (e.g., system down) in which the Services are substantially or completely non-functional or inoperable. In the event of a Critical incident, the Authorized User shall contact the Support Desk to report the problem. If the reported event is Critical and outside of User Support Hours, the Authorized User shall contact the Support Desk via the hotline, which is monitored 24x7x365, excluding State and Federal holidays. The Support Desk will contact the Authorized User, who reported the incident within four (4) hours to diagnose and begin remediation of the event and will use commercially reasonable efforts to resolve the event as soon as is reasonably possible under the circumstances. Any Authorized User may contact the support desk to report a Critical incident, even if the issue in question relates to a portion of Julota that is not under the purview of the Authorized User's permissions. In this case, the Support Desk will take the report of the issue, but will not contact the reporting user with resolution, but instead, will contact the Customer Representative to report resolution.
2. **High.** An incident with a severity level of "High" is defined as one that produces a detrimental situation in which the Services are usable, but materially incomplete; performance (response time) of the Services is degraded substantially such that there is a severe impact on use under reasonable loads; one or more mainline functions or commands is inoperable; or the use is otherwise significantly impacted. If the reported event is a High severity, the Support Desk will contact the Authorized User who reported the event within eight (8) User Support Hours to diagnose and begin remediation of the event, and will use commercially reasonable efforts to resolve the event with five (5) business days. Any authorized user may contact the support desk to report any issue, even if the issue in question relates to a portion of Julota that is not under the purview of the authorized user's permissions. Notwithstanding the foregoing, if the Authorized User that reported the event is not under the purview of the Authorized User's permissions, the Support Desk will take the report of the issue, but will not contact the reporting user with resolution, but instead, will contact the Customer Representative to report resolution.

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3. **Low.** An incident with severity level of "Low" is defined as one that produces an inconvenient situation in which the Services are usable but do not provide a function in the most convenient or expeditious manner and the Authorized User suffers little or no significant impact. If the reported event is Low severity, Julota will attempt to resolve the event in a commercially reasonable manner in future maintenance releases. Only the Authorized User may contact the support desk to report the issue.

	Essential Services	Premium Services	Elite Services
Coverage	Business Hours	Business Hours	24/7
Response Time			
Critical	4 hours via hotline	2 hours via hotline	1 hour via hotline
High	2 business days via email or web portal	1 business day via email or web portal	1/2 day via email or web portal
Low	3 business days via email or web portal	1 business day via email or web portal	1 business day via email or web portal

**D. Availability and Responsiveness Customer**

1. **Monthly Availability Percentage.** Julota shall maintain Availability of the hosting Services in accordance with at least the following Monthly Availability Percentage (as defined in this **Exhibit B** below):

Monthly Availability Percentage
99.9%

2. **Failure to meet Monthly Availability Percentage.** In the event of a Failure by Julota to meet the Monthly Availability Percentage set forth above in any calendar month during the Term, Julota shall issue Customer a service credit ("**Service Credit**") as follows:

Performance Level	Monthly Availability Percentage	Service Credit
1	Between 97% and 99.8%	2% of the monthly subscription fees paid in the month preceding the Failure.
2	Between 95% and 96.99%	3% of the monthly subscription fees paid in the month preceding the Failure.
3	Less than 94.99%	5% of the monthly subscription fees paid in the month preceding the Failure.

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Customer shall have the right to immediately terminate this Agreement upon written notice to Julota if a) the Monthly Availability Percentage falls below 85% for one calendar month, or b) the Monthly Availability Percentage falls below 94.99% for two consecutive calendar months, or c) if the Monthly Availability Percentage falls below 94.99% for five or more calendar months per calendar year.

E. Plan Coverage

Coverage	Basic Services	Premium Services	Elite Services
Help Desk via Email/Portal Support (standard support hours)	X	X	X
Email Access via Email/Portal Support (standard support hours)	X	X	X
Training (one on one training: maximum 4 hours/month)			X
Post Implementation Development	X (\$225/hour)	X (\$175/hour)	X (\$150/hour)
Telephone support from 8:00 am – 5:00 pm (Mountain time zone)		X	
Telephone support—24/7 dedicated phone line for all hub users.			X
Travel—if training not provided virtually			X (charged at cost)
10 Trusted Partners engaged, trained, on boarded, and supported once contract provided per year.			X



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**EXHIBIT C**

**Customer Trademark Guidelines**

Julota ® Is a registered trademark of TouchPhrase Development, LLC

Connecting Your Community ® Is a registered trademark of TouchPhrase Development, LLC



Julota® SaaS Agreement

**EXHIBIT D**

**HIPAA Business Associate Agreement**

This HIPAA Business Associate Agreement ("Agreement") entered into and effective on the date on which the last of the parties executes this Agreement ("Effective Date") by and between the Lexington Fayette Urban County Government ("Customer") and TouchPhrase Development, LLC d/b/a Julota ("Business Associate").

WHEREAS, Customer is subject to the "HIPAA Rules," which for purposes of this Agreement shall include the Privacy Rule, Security Rule, Breach Notification Rule and Enforcement Rule (45 CFR Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended; and

WHEREAS, Business Associate may maintain, transmit, create or receive Protected Health Information ("PHI") of individuals in the course of providing services to Customer. A description of the services that Business Associate will perform for the Customer is set forth in the SaaS Agreement entered into between the parties.

THE PARTIES THEREFORE AGREE TO THE FOLLOWING:

1. Definitions

Terms used, but not otherwise defined, in this Agreement, shall have the same meaning as those terms as defined in the HIPAA Rules. The parties recognize that electronic PHI is a subset of PHI, all references to PHI in this Agreement shall include electronic PHI.

2. Obligations and Activities of Business Associate

(a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as required by law.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement and to comply with the HIPAA Security Rule (Subpart C of 45 CFR Part 164).

(c) Business Associate agrees to mitigate, to the extent practicable, any harmful effects that are known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

(d) Business Associate agrees to report to Customer any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware, including a Breach of Unsecured PHI as required by 45 CFR 164.410.

(e) Business Associate agrees, in accordance with 45 CFR 164.502(e)(1)(ii) and 45 CFR 164.308(b)(2) to ensure that any individual or entity that subcontracts with Business Associate to create, receive, maintain or transmit PHI received from, or created or received by Business Associate on behalf of Company agrees to the same restrictions and conditions that apply through the HIPAA Rules and this Agreement to Business Associate with respect to such information.



Julota® SaaS Agreement

(f) To the extent that Business Associate maintains a designated record set on behalf of Customer, Business Associate agrees to provide access, at the request of Customer, as necessary to allow Customer to meet the requirements under 45 CFR 164.524.

(g) To the extent that Business Associate maintains a designated record set on behalf of Customer, Business Associate agrees to make any amendment(s) to PHI that the Customer directs as necessary for compliance with 45 CFR 164.526.

(h) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Customer available to the Customer, or at the request of the Customer to the Secretary, within a reasonable time of such request for purposes of the Secretary determining Customer's compliance with the HIPAA Rules.

(i) If Business Associate is required to make a disclosure of information because of a legal requirement, it will track such a disclosure and will provide information to Customer that would be necessary for Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

(j) Business Associate agrees that it will use or disclose only the minimal amount of PHI necessary to accomplish the intended purpose.

(k) Business Associate agrees to alert Customer of any Security Incident of which it becomes aware.

(l) To the extent Business Associate is to carry out one of Customer's obligations under the Privacy Rule, Business Associate agrees to comply with the requirements of the HIPAA Rules that apply to Customer in the performance of such obligation.

3. Permitted Uses and Disclosures by Business Associate

(a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Customer as requested by Customer provided that such use or disclosure would not violate the HIPAA Rules if done by Customer.

(b) Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(c) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide data aggregation services to Customer as permitted by 45 CFR 164.504(e)(2)(i)(B).

## Julota® SaaS Agreement

(d) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

4. Obligations of Customer

(a) Customer shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(b) Customer shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Customer shall notify Business Associate of any restriction to the use or disclosure of PHI that Customer has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5. Permissible Requests by Customer

Except as otherwise permitted by this Agreement, Customer shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Customer.

6. Term and Termination

(a) Term. The Term of this Agreement shall be effective as of the Effective Date and shall continue in full force and effect until termination as set forth below.

(b) Termination. This Agreement may be terminated as set forth in the Software as a Service Agreement. In the event of termination or expiration of this Agreement, to the extent feasible, Business Associate will return or destroy all PHI received from Customer.

(c) Continued Safeguard of Information. Depending on the nature of Business Associate's Services, the parties may mutually agree that immediate return or destruction of the information is infeasible. Under such circumstances, Business Associate will extend the protections of this Agreement for as long as the information is maintained and will limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible. When the information is no longer needed by Business Associate, the information will be returned or destroyed. The Business Associate's obligations to continue to safeguard PHI shall survive the termination of the Agreement.

7. Miscellaneous

(a) No Third-Party Beneficiary Rights. Nothing express or implied in this Agreement is intended to give, nor shall anything herein give any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.



Julota® SaaS Agreement

(b) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended, and for which compliance is required.

(c) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Customer to comply with the HIPAA Rules.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
(LFUCG)

BUSINESS ASSOCIATE

By:

By:

---

Name: Linda Gorton

Title: Mayor

Date Signed:

A handwritten signature in black ink that reads 'Scott A. Cravens'.

Name: Scott Cravens

Title: CEO

Date Signed:

2/3/25

RESOLUTION NO. \_\_\_\_-2025

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT WITH TOUCHPHRASE DEVELOPMENT LLC., D/B/A JULOTA TO IMPROVE COMMUNITY PARAMEDICINE PROGRAM EFFICIENCY AND DATA MANAGEMENT, A COST NOT TO EXCEED \$37,096.00.

---

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the Agreement, which is attached hereto and incorporated herein by reference, with TouchPhrase Development LLC., d/b/a Julota to improve Community Paramedicine program efficiency and data management.

Section 2 - That an amount, not to exceed the sum of \$37,096.00, be and hereby is approved for payment to TouchPhrase Development LLC., from account #3190-505701-75103.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

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MAYOR

ATTEST:

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CLERK OF URBAN COUNTY COUNCIL

176-25:MRS: 4926-4018-0511, v. 1

RESOLUTION NO. 094-2025

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT WITH TOUCHPHRASE DEVELOPMENT LLC., D/B/A JULOTA TO IMPROVE COMMUNITY PARAMEDICINE PROGRAM EFFICIENCY AND DATA MANAGEMENT, A COST NOT TO EXCEED \$37,096.00.

---

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the Agreement, which is attached hereto and incorporated herein by reference, with TouchPhrase Development LLC., d/b/a Julota to improve Community Paramedicine program efficiency and data management.

Section 2 - That an amount, not to exceed the sum of \$37,096.00, be and hereby is approved for payment to TouchPhrase Development LLC., from account #3190-505701-75103.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 20, 2025

*Linda Gorton*

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MAYOR

ATTEST:

*[Signature]*

CLERK OF URBAN COUNTY COUNCIL

176-25:MRS: 4926-4018-0511, v. 1

## Julota® SaaS Agreement

**Software as a Service (SaaS) License Agreement**

This Software as a Service Agreement ("SaaS Agreement" or "Agreement"), effective on the date on which the last of the parties executes this Agreement ("Effective Date"), is made by and between TouchPhrase Development, LLC d/b/a Julota, which has a place of business at 102 S. Tejon St., Ste. 1100, Colorado Springs, CO 80903 ("Julota"), and the Lexington Fayette Urban County Government,, which has a place of business at: 219 East Third St., Lexington, KY 40508 ("Customer"), in exchange for the mutual promises contained herein, the receipt and legal sufficiency of which are acknowledged. Julota and Customer shall be collectively referred to as the "Parties".

Julota provides a platform for organizations: a) to provide services directly to individuals seeking assistance through it; b) to coordinate with other individuals or organizations to provide services to individuals seeking assistance that it does not provide directly; c) to cooperate with other organizations to identify services needed for individuals seeking assistance; or d) to assemble, monitor and direct Care Team(s) (defined below).

**1. DEFINITIONS.**

**1.1 Care Team** means an individual or an organization used or assembled by or through Customer or on behalf of Customer or in conjunction with Customer to assist Customer, directly or indirectly, in providing to a Help Seeker (defined below) the assistance he or she seeks or requires.

**1.2 Trusted Partner** means any organization that provides services to a Help Seeker through Customer utilizing the Hosted Service.

**1.3 Customer Data** means any data collected through the provision of these services, excluding publicly available data and data previously obtained by Julota. Customer Data may include Personal Data.

**1.4 Customer Website** means the website owned and operated by Customer as identified in the applicable Order Schedule.

**1.5 Documentation** means any user guide, help information and other documentation and information regarding the Hosted Service that is delivered by Julota to Customer in electronic or other form, if any, including any updates provided by Julota from time to time.

**1.6 Health Privacy Laws** means (i) the Health Insurance Portability and Accountability Act of 1996, as amended and including any implementing regulations ("HIPAA"); (ii) HITECH; (iii) 42 C.F.R. Part 2; and (iv) any other applicable federal or state statute, regulation, administrative or judicial ruling requiring a party to protect the confidentiality, privacy and/or security of Personal Data and other healthcare-related information pertaining to Help Seekers.

**1.7 Help Seeker(s)** means the individual seeking assistance from or through the Customer for health or non-health related assistance.

**1.8 Hosted Service** means the real-time website service hosted by Julota and provided to Customer from time to time. The Hosted Service includes any change, improvement, extension or other new version thereof that is developed or otherwise made available to Customer.

**1.9 Julota API** means the Julota application programming interface, scripts, widgets, embeddable snippets and other tools that allow Customer to integrate the Customer's website or any other system of Customer with all or part of the Hosted Services.

**1.10 Personal Data** means any personal information that Julota collects, receives, or obtains, from Customer that does or can identify a specific individual or by or from which that specific individual may be identified, contacted or located, such as the individual's name, address, social security number, or any information that applicable law proscribes as personally identifiable information. Personal Data may include Protected Health Information (defined below).

**1.11 Platform** means all ideas, concepts, inventions, systems, platforms, software, interfaces, tools, utilities, templates, forms, content, graphics, techniques, methods, processes, algorithms, code, know-how, trade secrets and other technologies, implementations and information that are used by Julota in providing the Julota services, including any innovations, revisions, enhancements, upgrades or improvements of the foregoing.

**1.12 Protected Health Information or PHI** shall have the same meaning as the term “protected health information” as defined in HIPAA.

**1.5 Services** means, collectively, the Hosted Service, Platform, Julota API (if available or applicable), and Documentation, as described in the applicable SOW (defined below).

**2. SERVICES.** Subject to the terms and conditions of this Agreement, Julota will provide Customer with access to the Services as described in each Statement of Work “SOW”. The first SOW will be Exhibit A-1 and each subsequent SOW will be designated “Exhibit A-\_\_\_”, completing the blank for each subsequent SOW with the appropriate number, in ascending numerical order. A sample form SOW is attached as Exhibit A. Each SOW will be subject to the terms of this Agreement. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of a SOW, the terms and conditions of the SOW shall govern as to that SOW only. Customer’s use of the Services is subject to this Agreement and the applicable SOW.

### **3. LICENSE GRANT.**

**3.1 License Grant to Customer.** Subject to the terms and conditions of this Agreement, Julota grants Customer (defined in the applicable SOW), during the term of the applicable SOW and the term of this Agreement (whichever period is shorter), a non-exclusive, non-transferable right and license to access and use the Services as provided for in the applicable SOW. The Services will also be provided pursuant to the service levels set forth in the Service Level Agreement (“SLA”), which is attached as Exhibit B.

**3.2 License Restrictions for Customer.** Customer shall not, directly or indirectly, permit any third party to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Services; (ii) modify, translate, or create derivative works based on the Services; (iii) rent, lease, distribute, sell, resell, assign, or otherwise transfer its rights to use the Services; (iv) make the use of the Services available to anyone other than for its own internal purposes; (v) use the Services for timesharing or service bureau purposes or otherwise for the benefit of a third party; (vi) remove any proprietary notices from the Services or any other Julota materials furnished or made available hereunder; (vii) publish or disclose to third parties any evaluation of the Services; (viii) use the Services in automatic, semi-automatic or manual tools designed to create virus signatures, virus detection routines, or any other data or code for detecting malicious code or data; or (ix) use the Services to build a competitive product or service, or copy any features, functions or graphics of the Services.

**3.3 API License.** If provided for in the applicable SOW, Julota hereby grants Customer, during the term of the applicable SOW, a nonexclusive, nontransferable, nonassignable, license to access and use the Julota API solely in connection with its use of the Services.

**3.4 License Grant to Julota.** Customer grants Julota, during the term of this Agreement and the applicable SOW, a non-exclusive, non-transferable, non-sublicensable license for it to use Customer Data and its trademarks (the “Marks”) for the sole purpose of providing the Services or as otherwise set forth in this Agreement. Customer reserves all ownership and other rights in the Customer Data and the Marks not expressly included herein and nothing in this Agreement shall be deemed to convey or transfer to Julota any ownership rights in or to the Customer Data or the Marks. Notwithstanding the foregoing, Customer understands that it may not be the exclusive owner of Customer Data.

**3.5 License Restrictions for Julota.** Julota’s license to the Marks is subject to the following restrictions: (i) all of Julota’s uses of the Marks must be preapproved by Customer; (ii) Julota shall not use any Marks in such a way as to give the impression that they are the property of anyone other than Customer; and (iii) Julota shall comply with Customer’s trademark guidelines, if any, and any other reasonable requirements established by Customer concerning the style, design, display, and use of its Marks. Customer’s trademark guidelines, if any, are attached as Exhibit C.

**4. PRIVACY.** Julota may collect or store Customer Data, which may contain Personal Data concerning Help Seekers in connection with the provision of the Services. Julota will comply with its non-disclosure obligations set forth in this Agreement. The

Parties agree to comply with the requirements of all Health Privacy Laws. The Parties agree that Julota will serve as a Business Associate with respect to certain Services it provides to Customer. Accordingly, as it applies to such Services, the Parties shall execute and abide by the terms set forth in the business associate agreement attached hereto and incorporated herein as Exhibit D ("BAA").

## 5. PASSWORDS / SECURITY / DISCLOSURE.

**5.1 Passwords.** Customer is responsible for maintaining the confidentiality of its passwords. Customer is solely responsible for any and all activities that occur under its account and all charges incurred from use of the Services accessed with Customer's passwords. Customer agrees to immediately notify Julota of any unauthorized use of Customer's account or any other breach of security known to Customer. Julota shall have no liability for any loss or damage arising from Customer's failure to comply with these requirements.

**5.2 Security.** Julota will maintain the Services at a third-party hosting facility and will implement industry standard security precautions, which are intended to prevent unauthorized access to Customer Data. Customer acknowledges that, notwithstanding such security precautions, use of, or in connection to, the internet provides the opportunity for unauthorized third parties to circumvent such precautions and gain access to the Services and Customer Data.

**5.3 Disclosure.** Customer agrees that Julota and its agents, which have agreed to confidentiality obligations at least as restrictive as Julota's obligations in this Agreement, can access Customer Data and its account information in order to respond to its service requests and/or as necessary, in Julota's sole discretion, to provide Customer with the Service. Julota will not otherwise disclose such data except if compelled by law, permitted by Customer, or pursuant to the terms of the BAA and the terms of Julota's Privacy Policy, which is available at [www.Julota.com/privacy-policy/](http://www.Julota.com/privacy-policy/) (the "Privacy Policy") and is incorporated into this Agreement. The terms of this Agreement shall supersede any inconsistent terms in the Privacy Policy.

**5.4 Permission to Disclose.** By submitting any Help Seeker's Personal Data to the Hosted Services and providing said Personal Data to Julota for processing, Customer warrants that it has: (i) legal authority to disclose such Personal Data in compliance with Health Privacy Laws and (ii) if required by Health Privacy Laws, this Agreement, or Julota's Privacy Policy or other policies, the necessary permissions, authorizations and consents from the Help Seekers that it enters Personal Data about through the Services and for the viewing and processing of their Personal Data and Customer Data by Julota, its agents, third-party service providers, other organizations utilizing the Hosted Services to provide assistance to Help Seekers, and Care Teams as set forth herein.

## 6. OWNERSHIP.

**6.1** With the exception of Customer Data, the Platform, the Hosted Services, and all information, reports, studies, object and source code (including without limitation the Services and all modifications, enhancements, additions, upgrades, or other works based thereon or related thereto), flow charts, product documentation, diagrams, specifications, methods and other tangible or intangible material of any nature whatsoever produced through or as a result of or related to any product, service or deliverable (collectively, "Works") or development of any data analytics or usage models hereunder, and all patents, copyrights, trademarks and other proprietary rights related to such Works and models, shall be the sole and exclusive property of Julota, its Affiliates (defined below) or their third party providers (collectively, "Julota Property"). Nothing in the Agreement shall convey to Customer any title to or ownership of any Julota Property. Customer hereby irrevocably assigns and transfers to Julota, its Affiliates or their third-party providers all rights, title, and interest in any such Works and models. "Affiliate" means an entity that controls, is controlled by, or under common control with a party, where "control" means the direct or indirect ownership of more than 50% of the voting securities of such entity or party. No rights are granted to Customer hereunder other than as expressly set forth herein.

**6.2** Customer acknowledges and agrees that Julota shall have the right to utilize data capture, syndication, and analysis tools, and other similar tools, to extract, compile, synthesize, and analyze any non-personally and non-Customer identifiable data or information resulting from Customer's use of the Service ("Statistical Data"). Statistical Data may be collected by Julota for any lawful

business purpose without a duty of accounting to Customer, provided that the Statistical Data is used only in an aggregated form, without specifically identifying the source of the Statistical Data. Except for the limited rights granted herein, at no time shall Julota acquire any ownership, license, rights or other interest in or to the Customer Data, all of which shall, as between Customer and Julota, be and remain the confidential and proprietary information of Customer.

**6.3** Julota shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable and perpetual license to incorporate into the Service or otherwise use Statistical Data, any suggestions, enhancement requests, recommendations or other feedback Julota receives from Customer.

## **7. CUSTOMER OBLIGATIONS.**

**7.1 Process.** Customer shall assign two (2) representatives who will be responsible for all communications with Julota related to the use of the Services.

**7.2 Conduct.** Customer is and will be solely responsible for its actions and the actions of its authorized users while using the Services. Customer is and will also be solely responsible for the actions of each Care Team and each of the Care Team's officers, directors, members, employees, agents, contractors, subcontractors and individual(s) related to Customer's use of the Services or the provision of assistance to any Help Seeker. Customer is and will be responsible for all claims made by a Care Team related to any transaction related to the Services. Customer acknowledges and agrees that Julota is not liable for, or responsible to, remediate any issues found on Customer's network or in Customer's web traffic through the Services. In addition to the conduct restricted in Section 3.2 (License Restrictions for Customer), Customer agrees, on behalf of itself and its authorized user(s) to: (i) abide by all laws and regulations including, without limitation, all laws applicable to any service Customer provides or any Care Team provides to a Help Seeker and all laws applicable to the transmission of technical data exported from the United States through the Services and to wireless e-mail marketing and advertising; (ii) not to upload or distribute in any way content that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Services or another's computer or mobile device; (iii) not to use the Services for illegal, fraudulent, unethical or inappropriate purposes; (iv) not to interfere or disrupt networks connected to the Services or interfere with the ability of others to access or use the Services; (v) not to distribute, promote or transmit through the Services any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene, pornographic, indecent, defamatory, hateful, racially, ethnically, unwanted or otherwise objectionable material of any kind or nature; (vi) not to transmit or post any material that encourages conduct that could constitute a criminal offense or give rise to civil liability; (vii) not to interfere with another customer's use and enjoyment of the Services or another entity's use and enjoyment of similar services; (viii) not to engage in, or permit others to engage in, contests, chain letters or post or transmit "junk mail," "spam," "chain letters," or unsolicited mass distribution of e-mail; and (ix) to comply with all regulations, policies and procedures of networks connected to the Services, Julota, or Julota's service providers, as the same may be promulgated from time to time. Julota may remove any violating data on the website posted or stored using the Services or transmitted through the Services, without notice to Customer; however, Julota has no obligation to do so.

**7.3** Customer will maintain privacy policies and will provide copies or access to its privacy policies as required by applicable law to each Help Seeker prior to entering any information about the Help Seeker through the Services. Customer will ensure that its practices for storing and safeguarding Help Seeker related information are consistent with industry privacy, security standards and all applicable legal requirements. Customer must obtain the necessary authorizations and its privacy policy must include the following disclosures and terms sufficient to allow for: (i) the collection and processing of data from Help Seekers, including any Personal Data from a Help Seeker; (ii) Julota's processing of Help Seeker data; (iii) the use of Personal Data belonging to Help Seekers as contemplated in the provision of the Services and in the applicable SOW; (iv) the maintenance and retention of Personal Data after assistance is rendered by Customer to a Help Seeker; (v) the processing and sharing of Personal Data and other data of Help Seekers with other organizations utilizing the Hosted Services and by Care Teams; and (vi) the sharing and utilizing of each Help Seeker's Personal Data and the aggregate data derived therefrom by Julota. Customer shall be solely responsible for obtaining and

maintaining documentation of any and all legally required written permissions, consents or authorizations from Help Seekers before a Help Seeker's Personal Data is provided to Julota or placed on the Platform. Any and all information provided by Customer to Julota via the Hosted Services or any other Services relating to any Help Seeker's permissions, consents or authorizations shall be accurate and valid. Customer shall notify Julota, on a form provided and/or approved by Julota, of any restrictions on the use or disclosure of a Help Seeker's Personal Data that Customer is required to abide by to the extent that such restriction may affect Julota's use or disclosure of that Help Seeker's Personal Data. Customer shall notify Julota of any changes in, or revocation of, the permission, authorization or consent by a Help Seeker for Customer to disclose such Help Seeker's Personal Data on the Platform. Notwithstanding the foregoing revocation or change in authorization, Julota may retain copies of that data in read only format to the extent permitted by law in order to comply with its statutory or regulatory requirements or to defend against a claim or complaint.

## **8. FEES AND TAXES.**

**8.1 Fees.** Customer agrees to pay Julota the fees set forth on the applicable SOW for the Services, in accordance with the fees, charges, and billing terms set forth in this Agreement (collectively, "Fees"). All Fees are quoted in United States currency. Except as otherwise provided in this Agreement, Fees are non-refundable.

**8.2 Additional Charges.** Customer shall pay travel and living expenses and other out-of-pocket expenses reasonably incurred by Julota in connection with the Services. As applicable, such out-of-pocket expenses shall be incurred in accordance with Julota's then-current corporate travel and expense policy. If an out-of-pocket expense is listed in an Exhibit, such expense may be changed to reflect changes issued by the applicable vendor. All expenses incurred by Julota for which it seeks reimbursement from Customer must be preapproved in writing by Customer.

**8.3 Payments.** Unless stated otherwise on the applicable SOW, all Fees are due and payable by Customer within thirty (30) days after the invoice date. Any payment not received from Customer by the due date shall accrue (except with respect to charges then under reasonable and good faith dispute), at the lower of one and a half percent (1.5%) of the outstanding balance per month (being 18% per annum), or the maximum rate permitted by law, from the date such payment is due until the date paid. Customer shall also pay all sums expended (including, without limitation, reasonable legal fees) in collecting overdue payments.

**8.4 Taxes.** All fees set forth in this Agreement are exclusive of all taxes and similar fees. Customer shall be responsible for and shall pay in full all sales, use, excise or similar governmental taxes imposed by any federal, state, or local governmental entity upon the fees charged the Customer under this Agreement, exclusive, however, of taxes based on Julota's income, which taxes shall be paid by Julota. If any taxes for which Customer is responsible hereunder are paid by Julota, Customer will promptly reimburse Julota upon Customer's receipt of proof of payment.

**9. TERM.** This Agreement commences on the Effective Date and shall continue for one year, unless earlier terminated in accordance with this Agreement. Following the initial Term, this Agreement shall renew for successive twelve (12)-month periods unless either party provides written termination notice 60 days prior to the end of the Term.

## **10. TERMINATION.**

**10.1 Breach.** Except as otherwise provided in this Section 10, either party shall have the right to terminate this Agreement or the applicable SOW upon written notice if the other party has breached a material term of this Agreement or the applicable SOW and has not cured such breach within thirty (30) days of receipt of notice from the non-breaching party specifying the breach.

**10.2 Insolvency.** Either party shall have the right to terminate this Agreement if (i) the other party has a receiver appointed for it or its property; (ii) any proceedings are commenced by the other party under a Chapter 7 bankruptcy; or (iii) the other party is liquidated or dissolved.

**10.3 Failure to Pay/Customer Conduct.** Julota shall have the right to suspend or terminate access to the Services, at its sole option, with or without notice to Customer, if: (i) any payment is delinquent by more than sixty (60) days, or (ii) if Customer breaches Sections 3.2, 5 or 7 of this Agreement

**10.4 Immediate Termination.** Julota may immediately suspend or terminate this Agreement or the applicable SOW, in its sole and absolute discretion, if Customer violates Section 7.2 of this Agreement or violates or misappropriates Julota's intellectual property rights related to the Services.

**10.5 Effect of Termination.** Termination of this Agreement will terminate all SOWs. Termination of an individual SOW will only terminate that SOW and will not result in the termination of this Agreement, unless the SOW provides otherwise. Julota shall not be liable to Customer or any third party for suspension or termination of Customer's access to, or right to use, the Services under this Agreement. If Customer terminates this Agreement or an SOW pursuant to Section 10.1 or if Julota terminates this Agreement or an SOW without cause, Customer will be obligated to pay the balance due for the Services up to the date of termination. If Julota terminates this Agreement or an SOW pursuant to Section 10.1 or if Customer terminates this Agreement or SOW without cause, Customer shall pay any unpaid fees through the date of termination and shall pay any unpaid fees covering the remainder of the term of all SOWs, if the Agreement is terminated, or the applicable SOW, if only the SOW is terminated. Upon the effective date of termination of this Agreement for any reason, Customer's access to the Services will terminate and Customer shall cease accessing and using the Services immediately and Julota shall cease use immediately of any Marks. Sections 3.2, 4, 5, 6, 8 through 16 and 18 of this Agreement shall survive termination for any reason.

## **11. CONFIDENTIALITY.**

**11.1 Obligations.** Each of the Parties agrees to maintain in confidence any proprietary or non-public information of the other party, whether written or otherwise, disclosed by the other party in the course of performance of this Agreement that a party knows or reasonably should know is considered confidential by the disclosing party ("Confidential Information"). The Parties hereby agree the terms and conditions of this Agreement, and any discussions related to the Services shall be considered Confidential Information. Confidential Information also includes: (i) trade secrets and proprietary information (including that of any client, supplier or licensor); (ii) customer lists, client lists, business plans, information security plans, business continuity plans, requests for proposals or requests for information and responses to such requests that the Parties may change after the Effective Date, and proprietary software programs; and (iii) any other information received from or on behalf of a disclosing party that is marked confidential or that the recipient of the information could reasonably be expected to know is confidential. The receiving party shall not disclose, use, transmit, inform or make available to any entity, person or body any of the Confidential Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Confidential Information and the Parties' respective rights therein, at all times exercising at least a reasonable level of care. Each party agrees to restrict access to the Confidential Information of the other party to those employees or agents who require access in order to perform their obligations under this Agreement and who agreed to be bound by these obligations of confidentiality and non-disclosure. Except as otherwise expressly provided in this Agreement, upon termination of this Agreement for any reason, and at the request of the disclosing party, the receiving party shall promptly return or destroy (at the disclosing party's option), all copies of the other party's Confidential Information. Notwithstanding the foregoing, each party may maintain archival copies of Confidential Information for the applicable statutory periods.

**11.2 Exclusions.** Confidential Information shall not include any information that is (i) already known to the receiving party at the time of the disclosure; (ii) publicly known at the time of the disclosure or becomes publicly known through no wrongful act or failure of the receiving party; (iii) subsequently disclosed to the receiving party on a non-confidential basis by a third party not having a confidential relationship with the other party hereto that rightfully acquired such information; (iv) communicated to a third party by the receiving party with the express written consent of the other party hereto; or (v) requests for information pursuant to the Freedom of

Information Act, or any open-records or public disclosure laws, provided an exemption to said disclosure or other law superseding the requirement for disclosure does not apply, and provided that the disclosure does not include data solely stored in the Hosted Service. A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process shall not be considered a breach of this Agreement; provided the receiving party provides prompt notice of any such subpoena, order, or the like to the other party so that such party will have the opportunity to obtain a protective order or otherwise oppose the disclosure.

## **12. WARRANTY.**

**12.1 Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS IS," AND, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, JULOTA MAKES NO AND HEREBY DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, IMPLIED WARRANTIES OR MERCHANTABILITY, WITH RESPECT TO THE USE, MISUSE, OR INABILITY TO USE THE SERVICES (IN WHOLE OR IN PART) OR ANY OTHER PRODUCTS OR SERVICES PROVIDED TO CUSTOMER BY JULOTA, OR OTHERWISE UNDER THESE TERMS. WITHOUT LIMITING THE FOREGOING, JULOTA DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. JULOTA DISCLAIMS ALL LIABILITY FOR ANY MALFUNCTIONING, IMPOSSIBILITY OF ACCESS, OR POOR USE CONDITIONS OF THE SERVICE DUE TO INAPPROPRIATE OR DEFECTIVE EQUIPMENT, DISTURBANCES RELATED TO INTERNET SERVICE PROVIDERS, TO THE SATURATION OF THE INTERNET NETWORK, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMMUNICATIONS LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, OR ALTERATION OF, USER COMMUNICATIONS, PROBLEMS RELATED TO THE SERVICES OR ITS USE, LOSS OF PERSONAL CONTENT, OR ANY OTHER REASONS. JULOTA ALSO EXPLICITLY DISCLAIMS ANY WARRANTIES RELATED TO BUSINESS RESULTS THAT MAY BE OBTAINED BY USE OF THE SERVICES AND SPECIFICALLY STATES NO SUCH REPRESENTATIONS ARE OR HAVE BEEN MADE TO CUSTOMER. CUSTOMER WILL BE SOLELY RESPONSIBLE FOR (I) ESTABLISHING AND MAINTAINING AN INTERNET CONNECTION SUFFICIENT FOR THE SERVICES TO FUNCTION PROPERLY, (II) THE CONTENT AND EFFICACY OF ALL MARKETING INITIATIVES, AND (III) FULFILLING ALL ITS OBLIGATIONS TO HELP SEEKERS IN CONNECTION WITH THE USE OF THE SERVICES. CUSTOMER WILL FOLLOW PROPER BACK-UP PROCEDURES FOR ANY OTHER PROGRAMMING AND ALL DATA TO PROTECT AGAINST LOSS OR ERROR RESULTING FROM THE USE OF ANY EQUIPMENT OR THE SERVICES. CUSTOMER AGREES THAT JULOTA AND THE PLATFORM AND SERVICES DO NOT MAKE CLINICAL, MEDICAL OR OTHER DECISIONS OR RECOMMEND, ENDORSE OR MAKE ANY MEDICAL, CLINICAL OR RELATED REPRESENTATIONS OR WARRANTIES. CUSTOMER ASSUMES ALL RESPONSIBILITY IN CONNECTION WITH DISCLOSING CUSTOMER DATA ON THE PLATFORM.

**12.2 Open Source.** Parts of the software for the Services may be subject to the GPL (General Public License) for open source software, and all warranties are disclaimed for such parts by the Free Software Foundation, Inc. See the GNU General Public License for more details. Similarly, parts of such software may be subject to the MIT License for open source software, and therefore, the following restrictions: MIT grants permission, free of charge to any person obtaining a copy of the software and associated documentation files, to deal in the software without restriction, including without limitation the rights to use, copy, modify, merge, publish, distribute, sublicense, and/or sell copies of the software, and to permit persons to whom the software is furnished to do so, subject to the following conditions and notwithstanding anything to the contrary in this Agreement: the software is provided "AS IS" without warranty of any kind, express or implied, including but not limited to, the warranties of merchantability, fitness for a particular purpose and non-infringement. In no event shall the authors or copyright holders be liable for any claim, damages or other liability, whether in an action of contract, tort or otherwise, arising from, out of or in connection with the software or the use of other dealings in the software.

**12.3 Mutual Warranties.** Each party represents and warrants that: (i) it does not have any contractual obligations that would prevent it from entering into this Agreement; and (ii) it will comply with all laws and regulations directly applicable to its performance of its obligations under this Agreement or its use of the Services.

**13. INDEMNIFICATION.** Julota shall indemnify, defend, or at its option settle, any third party claim or suit based on any third party claim or suit based on a claim that the provision of the Services violate applicable law or that the Services (excluding any third party software) violate, infringe or misappropriate any United States patent, copyright, trademark or trade secret and Julota shall pay any final judgment entered against Customer in any such proceeding or agreed to in settlement; provided (i) Julota is promptly notified in writing of such claim or suit, (ii) Julota or its designee has sole control of such defense or settlement, and (iii) Customer gives all information and assistance requested by Julota or such designee. To the extent that use of the Services is enjoined, Julota may at its option either (a) procure for Customer the right to use the Services, (b) replace the Services with other suitable products, or (c) refund the prepaid portion of the Fee(s) paid by Customer for the Services or the affected part thereof. Julota shall have no liability under this Section 13 or otherwise to the extent a claim or suit is based upon (1) use of the Services in combination with software or hardware not provided by Julota if infringement would have been avoided in the absence of such combination, (2) modifications to the Services not made by Julota, if infringement would have been avoided by the absence of such modifications, or (3) use of any version other than a current release of the Services, if infringement would have been avoided by use of a current release.

THIS SECTION 13 STATES JULOTA'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR VIOLATION, INFRINGEMENT AND MISAPPROPRIATION CLAIMS BASED ON THE SERVICES.

**14. LIMITATION OF LIABILITY.**

**14.1 Limitation on Direct Damages.** EXCEPT AS IT RELATES TO JULOTA'S INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL JULOTA'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CUSTOMER FOR THE SERVICES FOR THE PERIOD OF TWELVE (12) MONTHS PRIOR TO THE EVENT THAT DIRECTLY GAVE RISE TO THE DAMAGES CLAIMED, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE.

**14.2 Waiver of Consequential Damages.** EXCEPT AS IT RELATES TO JULOTA'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, IN NO EVENT SHALL JULOTA BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR LOSS OF PROFITS, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF JULOTA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**14.3 No Liability for Wrongful Third-Party Disclosures.** Notwithstanding anything to the contrary herein, Julota will have no liability to Customer or any other organization or individual related to the wrongful disclosure by Customer, the Care Team, a Trusted Partner or any director, officer, employee, agent or service provider of the foregoing.

**15. NON-SOLICITATION.** During the term and for a period of twelve (12) months thereafter, Julota and Customer shall not knowingly, directly or indirectly, solicit, recruit, employ or contract with any employees of one another.

**16. INSURANCE.** Julota will maintain (and shall cause each of its agents, independent contractors and subcontractors performing any services hereunder to maintain) at its sole cost and expense at least the following insurance covering its obligations under this Agreement:

**16.1 Commercial General Liability.** With coverage of not less than One Million Dollars (\$1,000,000) each occurrence (for bodily injury and for damage to property); including coverage for premises and operations, contractual liability, broad form property damage and products and completed operations and Three Million Dollars (\$3,000,000) in the aggregate.

**16.2 Cyber Liability Insurance.** With coverage of not less than Three Million Dollars (\$3,000,000) in the aggregate which shall include at a minimum coverage for (i) unauthorized access by an outside party, which may take the form of a “hacker attack” or a “virus” introduced by a third party; (ii) failure to prevent a party other than an insured from unauthorized access to, use of, tampering with or introduction of malicious code into data, programs or systems; and (iii) breach of Customer’s data.

**16.3 Policy Terms.** Such insurance shall name Customer as an additional insured. A blanket endorsement or an additional insured endorsement evidencing the policy shall be provided to Customer upon execution. Julota shall provide Customer with written notice of any policy cancellation within thirty (30) days of the receipt of such notice. Julota shall obtain replacement insurance policies meeting the requirements of this Section 17.

## **17. GENERAL.**

**17.1 Notices.** All notices to a party shall be in writing and sent to the addresses specified in this Agreement (and in the case of Julota, to the attention of the Chief Operating Officer) or such other address as a party notifies the other party, and shall be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or email; three days after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

**17.2 Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of the State that the Customer is located, excluding its conflict of laws rules. Each party hereby irrevocably submits to the exclusive jurisdiction of the Courts within Fayette County in the State of Kentucky. Any provision of this Agreement held to be unenforceable shall not affect the enforceability of any other provisions of this Agreement. Each party further hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

**17.3 Dispute Resolution.** Before initiating legal action against the other party relating to a dispute herein, the Parties agree to work in good faith to resolve disputes and claims arising out of this Agreement. To this end, each party may request that the other party designate an officer or other management employee with authority to bind such party to meet to resolve the dispute or claim. If the dispute is not resolved within 30 days of the commencement of informal efforts under this paragraph, either party may pursue formal legal action. This paragraph will not apply if expiration of the applicable time for bringing an action is imminent and will not prohibit a party from pursuing injunctive or other equitable relief to which it may be entitled.

**17.4 Relationship of the Parties.** The Parties to this agreement are independent entities, and no agency, partnership franchise, joint venture or employee-employer relationship is intended or created by this Agreement.

**17.5 Assignment.** Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of Julota (not to be unreasonably withheld). Notwithstanding the foregoing, either Party may assign this Agreement in its entirety (including all SOWs), without consent of the other Party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, provided that, in the case of Customer, the assignment is not to a direct competitor of Julota. In the event that either Party assigns its rights or obligations hereunder, in violation of this Section, either Party may at its election, terminate this Agreement, provided it does so within sixty (60) days of the date that written notice of the assignment is provided to the non-assigning Party. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**17.6 Entire Agreement.** This Agreement, including all SOWs, exhibits and addenda hereto, constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any SOW,

exhibit or addendum hereto, the terms of such SOW, exhibit, or addendum shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or other order documentation (excluding SOWs) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void. Further, notwithstanding the foregoing, terms of the SOW that conflict with or are inconsistent with this Agreement, which conflict with statutory or regulatory requirements will not control or supersede this Agreement and such terms will be deemed waived.

**17.7 Force Majeure.** Neither party shall be in default if its failure to perform any obligation under this Agreement is caused solely by supervening conditions beyond that party's reasonable control including, without limitation, acts of God, civil commotion, war, strikes, labor disputes, third party Internet service interruptions or slowdowns, vandalism or "hacker" attacks, acts of terrorism or governmental demands or requirements.

**17.8 No Third-Party Beneficiary Rights.** This Agreement is not intended to and shall not be construed to give any third-party any interest or rights (including, without limitation, any third-party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby.

**17.9 Headings.** The headings of the sections of this Agreement are for reference only and shall not modify, define or limit any of the terms or provisions of this Agreement.

**17.10 Severability.** If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, that provision will be enforced to the maximum extent permissible so as to affect the intent of the parties and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**17.11 Construction.** This Agreement has been negotiated by the Parties and will be fairly interpreted in accordance with its terms and without any strict construction in favor or against any party.

**17.12 Counterparts and Signatures.** This Agreement and any SOWs, exhibits, addenda and amendments may be executed in counterparts, each of which shall be deemed an original and which shall together constitute one instrument. Each party may execute this Agreement and any SOWs, exhibits, addenda Exhibit or amendment hereto in the form of an electronic record utilizing electronic signatures, as such terms are defined in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.). Customer and its affiliates will not dispute the validity or authenticity of electronic signatures submitted to Julota by Customer or its affiliates, nor will Customer or its affiliates dispute the legal authority, validity or authenticity of those who sign with such electronic signatures to bind Customer and its affiliates. Electronic signatures by Customer and its affiliates, as well as signatures by either party transmitted by facsimile or electronically via PDF or similar file delivery method, shall have the same effect as an original signature.

**17.13 Federal Government End Use Provisions.** If Customer is a U.S. federal government end user, the Services are a "Commercial Item" as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as those terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, these Services are licensed to You with only those rights as provided under the terms and conditions of this Agreement.

Each party hereto has caused this Agreement to be executed by its authorized representative with effect from the Effective Date.



Julota® SaaS Agreement

**TouchPhrase Development, LLC d/b/a Julota**

By:

A handwritten signature in blue ink, reading 'Scott Cravens', written over a horizontal line.

Name: Scott Cravens

Title: CEO

Date Signed: 2/3/25

**Lexington-Fayette Urban County Government,  
("Customer")**

By:

A handwritten signature in blue ink, reading 'Linda Gorton', written over a horizontal line.

Name: Linda Gorton

Title: Mayor

Date Signed: 3/25/2025



Julota® SaaS Agreement

**EXHIBIT A**

**Statement of Work No. 1**

**Service and Fees**

This Statement of Work No. 1 ("SOW") entered on the date on which the last of the parties executes this Agreement (the "Effective Date") by and between TouchPhrase Development, LLC d/b/a Julota ("Julota") and the Lexington-Fayette Urban County Government (LFUCG) ("Customer"). Except as otherwise specifically provided herein, the terms and conditions of the agreement between Julota and Customer are incorporated herein by reference. Any capitalized term used but not defined in this SOW shall have the meaning first assigned to it in the Agreement.

**A. Term:**

The term of this SOW is set forth in Appendix 1 to this SOW.

**B. License and Deliverables:**

1. Services: Julota will license to Customer access to a web-based and mobile integrated software for tracking services provided to Help Seekers on the Platform, which is called "Julota Reach." Customer and its authorized users may access the Services for the purpose of providing long-term Health Seeker contact, tracking, monitoring and care. Customer will, through the administration panel of Julota Reach, create and authorize new authorized users. Julota Reach software will allow Customer and its authorized users to communicate action steps necessary to integrate and coordinate the care of Help Seekers.
2. Authorized users: Authorized users may be individuals from Customer's organization or Care Teams and their employees. Customer may authorize an unlimited number of authorized users to access Julota Reach through Customer's license.
3. Usage and Storage: The amount of usage of the Hosted Services (not including enrollments) and data storage is unlimited.
4. Excess Hosted Service Usage Fee: \$0
5. Service Levels: Julota will provide general support for Julota Reach as provided for in the SLA attached as Exhibit "B" to the Agreement.

**C. Fees and Expenses:**

1. Fees and expenses will be as provided in Appendix 1 to this Statement of Work.
2. **Payment**: All payments are due by 30 days from the date on the invoice. Payments should be made via ACH or wire. Please contact us for ACH/wire instructions. If ACH is unavailable, payment via check made payable to Julota will be accepted at the following address:

TouchPhrase Development, LLC ( or TouchPhrase Development, LLC d/b/a Julota)  
Attention: Accounting Department  
102 S. Tejon St., Suite 1100  
Colorado Springs, CO 80903

Contact: [billing@julota.com](mailto:billing@julota.com)

Julota may change the payment method provided it does so in writing to Customer. Payments not paid within 30 days of the date on the invoice will be charged at the lower of one and a half percent (1.5%) of the outstanding balance per month (being 18% per annum), or the maximum rate permitted by law, from the date such payment is due until the date paid, whichever is lower. Customer shall also pay all sums expended (including, without limitation, reasonable legal fees) in collecting overdue payments.

**D. Schedule:**

Upon execution of the Agreement and this SOW, provided the fee for the Initial Term is paid upon execution of this SOW, Julota will commence the planning and execution of the Services with the intent of launching the Services for Customer by TBD.

**E. Service Changes:**

Julota reserves the right, in its sole discretion, to make any changes to the Services that it deems necessary or useful to:

1. maintain or enhance (i) the quality or delivery of the Services for its customers, (ii) the competitive strength of or market for Julota's services, or (iii) the cost efficiency or performance of the Services; or
2. to comply with applicable Law.

Notwithstanding the foregoing, in no event will such Julota initiated changes result in increased cost to Customer during the term of this SOW.

Customer understands that daily and weekly Julota initiated changes may occur without advance notice and such changes are for the purpose of bug fixes and minor improvements.

During the term of this SOW, Julota shall provide to Customer at no additional charge the following:

1. any and all changes that it develops with respect to the Services, unless such changes are considered optional to the Customer and bear additional costs to Julota outside of costs for Julota initiated implementation and development;
2. any and all changes required by federal or state governmental, or professional regulatory mandates related to the Customer's use of the Services; and
3. the Documentation associated with any changes.

Without limiting the foregoing, Customer may, at any time during the Term, request in writing changes to the Services. The Parties shall evaluate the requested changes and, if agreed, implement all such requested changes in accordance with a mutually agreed change order. No requested changes will be effective unless and until memorialized in a written change order signed by both Parties.

**F. Subcontractors:**

Julota may from time to time in its discretion engage third parties to perform Services (each, a "Subcontractor")

**G. On-Site Resources:**

Any Julota personnel visiting Customer's facilities shall comply with all applicable Customer policies regarding access to, use of, and conduct within such facilities. Customer will provide copies of such policies to Julota upon request.



**H. Customer Acknowledgments:**

Customer shall be responsible for purchasing, acquiring and installing all hardware associated with the Agreement and this SOW. Customer shall also be responsible for all training. Julota has no responsibility related to any of the hardware, including, but not limited to, in-store hardware (iPads, cables, cases, etc.). Julota may advise Customer regarding proper deployment of Services, but such advice is without warranty and provided "As Is".

**I. Definitions:**

1. "Dataset Migration" is the process of selecting, preparing, extracting, and transforming data from one computer storage system to another."
2. "Monthly Active Client(s)" is a Help Seeker whose name has been added to the Hosted Services, through Customer's subscription to the Services, for a service, encounter or enrollment for a particular month.

Each party hereto has caused this Statement of Work to be executed by its authorized representative as of the Effective Date.

**TouchPhrase Development, LLC d/b/a Julota**

**Lexington- Fayette Urban County Government (LFUCG),  
("Customer")**

By:

Name: Scott Cravens

Title: CEO

Date Signed: 2/3/25

By:

Name: Linda Gorton

Title: Mayor

Date Signed: 3/25/2025



Julota® SaaS Agreement

**Appendix 1 to the Statement of Work No. 1**

This Appendix 1 to the Statement of Work No. 1 ("Appendix"), except as otherwise specifically provided herein, incorporates by reference the terms of the Agreement and the SOW. Any capitalized term used but not defined in this Appendix shall have the meaning first assigned to it in the SOW and, to the extent not defined in the SOW, then the meaning assigned to it in the Agreement.

The terms for Julota will provide the Services according to the following:

1. **Term:** The "Term" of the SOW shall be for one (1) year from the Effective Date (the "Initial Term"), after which date this SOW shall automatically renew for successive 1-year periods, not to exceed five (5) years (each, a "**Renewal Term**"), or until such time as either party elects not to renew this SOW by providing written notice of non-renewal to the other party at least 60 days prior to the expiration of the Initial Term or the current Renewal Term.
2. **Fees (the following fees do not include applicable taxes):**

Name	Units	Price per Unit	Subtotal
One Time Fee Schedule			
Implementation Package Per Hub Includes: <ul style="list-style-type: none"><li>• Workflow understanding and guidance</li><li>• 1 PDF Workflow Training Documents</li><li>• 7 Days of Premium Launch Support</li><li>• 2 Custom Form (up to 30 fields)</li></ul>	1	\$3,970.00	\$3,970.00
Simple Interface Implementation ESO	1	\$1,350.00	\$1,350.00
CJIS/42 CFR Part 2 42 CFR Part 2	1	\$4,800.00	\$4,800.00
			<b>\$10,120.00</b>
Recurring Annual Fees Schedule (non-refundable)			
Julota Base Platform License Includes basic reports and data extractions	1	\$9,850.00	\$9,850.00
EMS/Social Services Hubs LFUCG division of fire/emergency services	1	\$3,200.00	\$3,200.00
Community Resource Organizations	20	\$0.00	\$0.00

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Services	3	\$400.00	\$1,200.00
Quick Response Team (QRT)			
MIH/CP			
Crisis Response Team (CRT)			
Simple Interface Maintenance	1	\$1,350.00	\$1,350.00
ESO			
Annualized Monthly Active Clients	1200	\$5.13	\$6,156.00
Clinical Module	1	\$1,020.00	\$1,020.00
42 CFR Part 2 Compliant Workflows	1	\$4,800.00	\$4,800.00
			<b>\$27,576.00</b>
Support Services			
Yearly Julota Essential Support Services	1	\$5,400.00	\$5,400.00
<ul style="list-style-type: none"> <li>Support for ongoing configuration to platform</li> <li>Help Desk access via web portal and email</li> <li>Critical outage response within 1 hour on any business day or 2 hours for any non-business day</li> <li>1 video Training session (recorded) included</li> </ul>			
			<b>\$5,400.00</b>

Subtotal	<b>\$43,096.00</b>
Champion Discount	<b>-\$6,000.00</b>
<b>Total</b>	<b>\$37,096.00</b>

- For the completion of the Dataset Migration, Customer is responsible for providing its "data dictionary," which provides the name of the data fields in the old system, the definition of each data field, and the name of the field it is being moved to on Julota's system.
- If Customer exceeds the estimated number of Monthly Active Clients during a year, it will not be charged for additional Monthly Active Clients, but Julota reserves the right to adjust the fee for Monthly Active Clients in the following year.



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5. At the end of the Initial Term and each Renewal Term, Julota may increase the charges set forth in this SOW. Julota agrees to notify Customer in writing at least sixty (60) days prior to any such price increase.
6. Additional services listed above may be purchased at any time by Customer by providing written notice to Julota requesting the additional services. The rates set forth above in the "Recurring Annual Fees Schedule" are valid if ordered during the Term for Non-Recurring Term subscriptions and during the Initial Term for Auto-Renew Term subscriptions. Thereafter, the rates will be at the then current rates set by Julota.
7. The fees in the "Recurring Annual Fees Schedule" are based upon anticipated usage for the first year of the Term and then based on anticipated or actual usage for any additional years following the first year of the Term.
8. The Data Warehouse services require a two-year commitment ("Data Warehouse Term"), which will commence on the Effective Date of the SOW. Regardless of the term of the Agreement or the SOW, if the Agreement or SOW terminate prior to the end of the Data Warehouse Term, Customer will remain responsible for the full cost of the Data Warehouse Term.

Each party hereto approves of and accepts the terms of this Appendix.

**TouchPhrase Development, LLC d/b/a Julota**

**Lexington-Fayette Urban County Government (LFUCG),  
("Customer")**

By:

By:

Name: Scott Cravens

Title: CEO

Date Signed: 2/3/25

Name: Linda Gorton

Title: Mayor

Date Signed: 3/25/2025

**EXHIBIT B****Service Level Agreement**

In performing the Services for Customer, Julota's level of performance shall be at least equal to or exceed the Service Levels set forth in this Service Level Agreement (this "SLA") at all times during the Term of the applicable Statement of Work.

**A. Definitions.** Unless otherwise defined in this Addendum, the capitalized terms in this Addendum have the following meaning. Defined terms that are not defined in this Addendum will have the same meaning as in the Agreement.

1. **"Authorized User"** is a person who has been granted authority to use the Services by the Customer Representative.
2. **"Availability"** means that the Services are readily available to Customer and operating without material Error, excluding any Outages and "Low" level incidents (defined below).
3. **"Customer Representative"** means the single person that Customer has designated in writing to Julota to be its Customer Representative. Customer may change the Customer Representative by written notice to Julota. Only one person may be designated as Customer Representative at any time. In addition to the authority designated in this Addendum, the Customer Representative is awarded all rights designated to Authorized Users (e.g., the ability to contact the Support Desk). Only the Authorized Users may contact the Support Desk.
4. **"Emergency Maintenance"** means the downtime required by Julota for upgrading or maintaining the Services; provided, that Julota has given Customer at least twenty-four hours prior written notice of such downtime, provided that Emergency Maintenance does not exceed five (5) hours per month, and provided that Emergency Maintenance does not occur more than six (6) times per year.
5. **"Failure"** means any failure of Julota to meet a Service Level requirement; but excludes those failures attributable to a Force Majeure event.
6. **"Monthly Availability Percentage"** means the amount equal to the total number of minutes (multiply the number of calendar days in any given month by the product of 24 times 60) in the applicable calendar month, minus the total Outage time for that month, then divided by the total number of minutes.
7. **"Outage"** means the period (measured in minutes) that the Services are not readily available to Customer and/or are operating with material Error; but shall not include: (i) Scheduled Downtime (which will not exceed ten (10) hours in aggregate per month); (ii) emergency maintenance activities which will not exceed five (5) hours per month; (iii) periods of unavailability attributable to Customer's negligent acts or omissions; or (iv) Customer's failure to timely respond to Julota in connection with the resolution of any Problem.
8. **"Regular Release"** means releases of minor product updates for upgrading or maintaining the Services; provided that there shall be no more than two regular releases per week and downtime for these weekly releases does not exceed sixty (60) minutes for each release.
9. **"Scheduled Downtime"** means the downtime required by Julota for upgrading or maintaining the Services; provided, that (i) such downtime occurs between the hours of 22:00 MT USA and 5:00 MT USA (or such other hours that Customer has previously and specifically approved in writing); and (ii) Julota has provided five (5) business days prior written notice of such downtime. This may also be referred to as "Scheduled Maintenance". (iii) not to exceed 10 hours each month.
10. **"Support Desk"** is a resource that provides administrative support and technical support to Authorized Users.

**B. Technical Support.**

## Julota® SaaS Agreement

1. Contact Methods. Julota will make available to the Authorized Users two means of contacting the Support Desk: an email ("Support Email") and Web Portal.

1. Email Support: [Julota-Support@julota.com](mailto:Julota-Support@julota.com)

2. Web Portal: <http://support.julota.com>

2. User Support Hours. Unless otherwise stated, standard user support hours are Monday – Friday from 8 AM to 5 PM Mountain time with the exception of state and Federal holidays. In the event calls or emails are received outside of User Support Hours, Julota will address the Authorized User's query during User Support Hours with the exception of Critical events (as discussed below).
3. Technical support will be limited to the permissions of the Authorized User, which will be determined by the Customer Representative pursuant to the "Protocol Authorization Form," a sample of which is attached as "Annex A" in blank format. The permissions will be defined in the Protocol Authorization Form. The Protocol Authorization Form will set forth the Authorized User's permissions granted to him or her.
4. At the time that the Authorized User contacts the Support Desk, the Authorized Users permissions will be verified in order to determine the scope of support that may be granted. If an Authorized User does not have sufficient permissions (e.g., they are attempting to report an issue for an area that they do not have the authority to access, the event will be deemed unreported).

**C. Severity Levels and Response Times.** The following are a description of the service levels and the service level response times:

1. **Critical.** An incident with a severity level of "Critical" is defined as one that produces an emergency situation (e.g., system down) in which the Services are substantially or completely non-functional or inoperable. In the event of a Critical incident, the Authorized User shall contact the Support Desk to report the problem. If the reported event is Critical and outside of User Support Hours, the Authorized User shall contact the Support Desk via the hotline, which is monitored 24x7x365, excluding State and Federal holidays. The Support Desk will contact the Authorized User, who reported the incident within four (4) hours to diagnose and begin remediation of the event and will use commercially reasonable efforts to resolve the event as soon as is reasonably possible under the circumstances. Any Authorized User may contact the support desk to report a Critical incident, even if the issue in question relates to a portion of Julota that is not under the purview of the Authorized User's permissions. In this case, the Support Desk will take the report of the issue, but will not contact the reporting user with resolution, but instead, will contact the Customer Representative to report resolution.
2. **High.** An incident with a severity level of "High" is defined as one that produces a detrimental situation in which the Services are usable, but materially incomplete; performance (response time) of the Services is degraded substantially such that there is a severe impact on use under reasonable loads; one or more mainline functions or commands is inoperable; or the use is otherwise significantly impacted. If the reported event is a High severity, the Support Desk will contact the Authorized User who reported the event within eight (8) User Support Hours to diagnose and begin remediation of the event, and will use commercially reasonable efforts to resolve the event with five (5) business days. Any authorized user may contact the support desk to report any issue, even if the issue in question relates to a portion of Julota that is not under the purview of the authorized user's permissions. Notwithstanding the foregoing, if the Authorized User that reported the event is not under the purview of the Authorized User's permissions, the Support Desk will take the report of the issue, but will not contact the reporting user with resolution, but instead, will contact the Customer Representative to report resolution.

## Julota® SaaS Agreement

3. **Low.** An incident with severity level of “Low” is defined as one that produces an inconvenient situation in which the Services are usable but do not provide a function in the most convenient or expeditious manner and the Authorized User suffers little or no significant impact. If the reported event is Low severity, Julota will attempt to resolve the event in a commercially reasonable manner in future maintenance releases. Only the Authorized User may contact the support desk to report the issue.

	Essential Services	Premium Services	Elite Services
Coverage	Business Hours	Business Hours	24/7
Response Time			
Critical	4 hours via hotline	2 hours via hotline	1 hour via hotline
High	2 business days via email or web portal	1 business day via email or web portal	1/2 day via email or web portal
Low	3 business days via email or web portal	1 business day via email or web portal	1 business day via email or web portal

D. Availability and Responsiveness Customer

1. **Monthly Availability Percentage.** Julota shall maintain Availability of the hosting Services in accordance with at least the following Monthly Availability Percentage (as defined in this **Exhibit B** below):

Monthly Availability Percentage
99.9%

2. **Failure to meet Monthly Availability Percentage.** In the event of a Failure by Julota to meet the Monthly Availability Percentage set forth above in any calendar month during the Term, Julota shall issue Customer a service credit (“**Service Credit**”) as follows:

Performance Level	Monthly Availability Percentage	Service Credit
1	Between 97% and 99.8%	2% of the monthly subscription fees paid in the month preceding the Failure.
2	Between 95% and 96.99%	3% of the monthly subscription fees paid in the month preceding the Failure.
3	Less than 94.99%	5% of the monthly subscription fees paid in the month preceding the Failure.

## Julota® SaaS Agreement

Customer shall have the right to immediately terminate this Agreement upon written notice to Julota if a) the Monthly Availability Percentage falls below 85% for one calendar month, or b) the Monthly Availability Percentage falls below 94.99% for two consecutive calendar months, or c) if the Monthly Availability Percentage falls below 94.99% for five or more calendar months per calendar year.

**E. Plan Coverage**

Coverage	Basic Services	Premium Services	Elite Services
Help Desk via Email/Portal Support (standard support hours)	X	X	X
Email Access via Email/Portal Support (standard support hours)	X	X	X
Training (one on one training: maximum 4 hours/month)			X
Post Implementation Development	X (\$225/hour)	X (\$175/hour)	X (\$150/hour)
Telephone support from 8:00 am – 5:00 pm (Mountain time zone)		X	
Telephone support—24/7 dedicated phone line for all hub users.			X
Travel—if training not provided virtually			X (charged at cost)
10 Trusted Partners engaged, trained, on boarded, and supported once contract provided per year.			X



Julota® SaaS Agreement

**EXHIBIT C**

**Customer Trademark Guidelines**

Julota ® Is a registered trademark of TouchPhrase Development, LLC

Connecting Your Community ® Is a registered trademark of TouchPhrase Development, LLC



Julota® SaaS Agreement

**EXHIBIT D**

**HIPAA Business Associate Agreement**

This HIPAA Business Associate Agreement (“Agreement”) entered into and effective on the date on which the last of the parties executes this Agreement (“Effective Date”) by and between the Lexington Fayette Urban County Government (“Customer”) and TouchPhrase Development, LLC d/b/a Julota (“Business Associate”).

WHEREAS, Customer is subject to the “HIPAA Rules,” which for purposes of this Agreement shall include the Privacy Rule, Security Rule, Breach Notification Rule and Enforcement Rule (45 CFR Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended; and

WHEREAS, Business Associate may maintain, transmit, create or receive Protected Health Information (“PHI”) of individuals in the course of providing services to Customer. A description of the services that Business Associate will perform for the Customer is set forth in the SaaS Agreement entered into between the parties.

THE PARTIES THEREFORE AGREE TO THE FOLLOWING:

1. **Definitions**

Terms used, but not otherwise defined, in this Agreement, shall have the same meaning as those terms as defined in the HIPAA Rules. The parties recognize that electronic PHI is a subset of PHI, all references to PHI in this Agreement shall include electronic PHI.

2. **Obligations and Activities of Business Associate**

(a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as required by law.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement and to comply with the HIPAA Security Rule (Subpart C of 45 CFR Part 164).

(c) Business Associate agrees to mitigate, to the extent practicable, any harmful effects that are known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

(d) Business Associate agrees to report to Customer any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware, including a Breach of Unsecured PHI as required by 45 CFR 164.410.

(e) Business Associate agrees, in accordance with 45 CFR 164.502(e)(1)(ii) and 45 CFR 164.308(b)(2) to ensure that any individual or entity that subcontracts with Business Associate to create, receive, maintain or transmit PHI received from, or created or received by Business Associate on behalf of Company agrees to the same restrictions and conditions that apply through the HIPAA Rules and this Agreement to Business Associate with respect to such information.

(f) To the extent that Business Associate maintains a designated record set on behalf of Customer, Business Associate agrees to provide access, at the request of Customer, as necessary to allow Customer to meet the requirements under 45 CFR 164.524.

(g) To the extent that Business Associate maintains a designated record set on behalf of Customer, Business Associate agrees to make any amendment(s) to PHI that the Customer directs as necessary for compliance with 45 CFR 164.526.

(h) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Customer available to the Customer, or at the request of the Customer to the Secretary, within a reasonable time of such request for purposes of the Secretary determining Customer's compliance with the HIPAA Rules.

(i) If Business Associate is required to make a disclosure of information because of a legal requirement, it will track such a disclosure and will provide information to Customer that would be necessary for Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

(j) Business Associate agrees that it will use or disclose only the minimal amount of PHI necessary to accomplish the intended purpose.

(k) Business Associate agrees to alert Customer of any Security Incident of which it becomes aware.

(l) To the extent Business Associate is to carry out one of Customer's obligations under the Privacy Rule, Business Associate agrees to comply with the requirements of the HIPAA Rules that apply to Customer in the performance of such obligation.

3. Permitted Uses and Disclosures by Business Associate

(a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Customer as requested by Customer provided that such use or disclosure would not violate the HIPAA Rules if done by Customer.

(b) Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(c) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide data aggregation services to Customer as permitted by 45 CFR 164.504(e)(2)(i)(B).

## Julota® SaaS Agreement

(d) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

4. Obligations of Customer

(a) Customer shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(b) Customer shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Customer shall notify Business Associate of any restriction to the use or disclosure of PHI that Customer has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5. Permissible Requests by Customer

Except as otherwise permitted by this Agreement, Customer shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Customer.

6. Term and Termination

(a) Term. The Term of this Agreement shall be effective as of the Effective Date and shall continue in full force and effect until termination as set forth below.

(b) Termination. This Agreement may be terminated as set forth in the Software as a Service Agreement. In the event of termination or expiration of this Agreement, to the extent feasible, Business Associate will return or destroy all PHI received from Customer.

(c) Continued Safeguard of Information. Depending on the nature of Business Associate's Services, the parties may mutually agree that immediate return or destruction of the information is infeasible. Under such circumstances, Business Associate will extend the protections of this Agreement for as long as the information is maintained and will limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible. When the information is no longer needed by Business Associate, the information will be returned or destroyed. The Business Associate's obligations to continue to safeguard PHI shall survive the termination of the Agreement.

7. Miscellaneous

(a) No Third-Party Beneficiary Rights. Nothing express or implied in this Agreement is intended to give, nor shall anything herein give any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.



Julota® SaaS Agreement

(b) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended, and for which compliance is required.

(c) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Customer to comply with the HIPAA Rules.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
(LFUCG)

BUSINESS ASSOCIATE

By:

By:

A handwritten signature in blue ink that reads 'Linda Gorton'.

Name: Linda Gorton

Title: Mayor

Date Signed: 3/25/2025

A handwritten signature in black ink that reads 'Scott A. Cravens'.

Name: Scott Cravens

Title: CEO

Date Signed: 2/3/25



# Lexington-Fayette Urban County Government Master

200 E. Main St  
Lexington, KY 40507

**File Number: 0177-25**

**File ID:** 0177-25

**Type:** Resolution

**Status:** Approved

**Version:** 1

**Contract #:**

**In Control:** Urban County  
Council

**File Created:** 02/12/2025

**File Name:** Community Action Council Grant PSA Amendment

**Final Action:** 03/20/2025

**Title:** A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute the First Amendment to an Agreement with Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc., related to administration of the ONE Lexington Community Partners Violence Prevention Grant Program, to provide that the Grant Administrator must disburse Grant awards to recipients with a 501(c)(3) designation or to a fiscal sponsor with a 501(c)(3) designation, at no additional cost to the Urban County Government. [Mayor's Office, Carama]

**Notes:**

**Sponsors:**

**Enactment Date:** 03/20/2025

**Attachments:** Blues Sheet Memo CAC FY26, PSA w revised Scope  
1.30.25 4932-6191-9508 v.1, RESO 0177-25 1st  
Amend to CAC Fiscal Agreement 4919-6011-4975  
v.1.docx, R-095-2025

**Enactment Number:** R-095-2025

**Deed #:**

**Hearing Date:**

**Drafter:**

**Effective Date:**

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Urban County Council Work Session	02/25/2025	Approved and Referred to Docket	Urban County Council	03/06/2025		Pass
1	Urban County Council	03/06/2025	Received First Reading	Urban County Council	03/13/2025		
1	Urban County Council	03/20/2025	Approved				Pass

## Text of Legislative File 0177-25

### Title

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute the First Amendment to an Agreement with Community Action Council for

Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc., related to administration of the ONE Lexington Community Partners Violence Prevention Grant Program, to provide that the Grant Administrator must disburse Grant awards to recipients with a 501(c)(3) designation or to a fiscal sponsor with a 501(c)(3) designation, at no additional cost to the Urban County Government. [Mayor's Office, Carama]

**Summary**

Authorization to execute Amendment No. 1 to a purchase of services Agreement with Community Action Council related to the administration of ONE Lexington Community Partners Violence Prevention Grant Program to provide that the Grant administrator will disburse the Grant awards to award recipients who either have a 501(c)(3) designation or else have a fiscal sponsor with a 501(c)(3) designation at no additional cost. (L0177-25) (Carama/Scott)

Budgetary Implications [select]: No

Advance Document Review:

**Law:** { Yes, Completed by [Brittany Smith, 2/12/2025]}

**Risk Management:** {Select Yes/No, Completed by [Official, Date]}

Fully Budgeted [select]:

Account Number:

This Fiscal Year Impact:

Annual Impact: N/A

Project:

Activity:

Budget Reference:

Current Balance:



Lexington-Fayette Urban County Government

OFFICE OF THE MAYOR

Linda Gorton  
Mayor

TO: Mayor Linda Gorton  
Urban County Council

FROM: Devine Carama,  
Director, ONE Lexington

CC: Tyler Scott, Chief of Staff

DATE: February 12, 2023

SUBJECT: Fiscal Agent Amendment Agreement for ONE Lexington Grants and Scholarship

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**Request**

Authorization to execute the first amendment to a purchase of services agreement with Community Action Council (CAC) related to the administration of ONE Lexington Community Partners Violence Prevention Grant Program to provide that the grant administrator will disburse the grant awards to award recipients who either have a 501(c)(3) designation or else have a fiscal sponsor with a 501(c)(3) designation at no additional cost.

**Reason For Request**

The Urban County Council approved Resolution 301-2023 to execute multi-year agreement with the CAC for the administration of Community Partners Violence Prevention Grant programming. This amendment updates the scope of work as outlined above. All other provisions of the Agreement, except as modified herein, shall remain in full force and effect.

**What is the cost in this budget year and future budget years?**

This amendment does not change the cost. The total cost for CPVPG programming per this agreement is \$100,000 for FY2025. There is no additional cost for this amendment.

**Are the funds budgeted? Yes**

Account number: 1101 1330006 1321 71299

File Number: 0177-25

Director/Commissioner: Camara/Scott



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200 East Main Street | Lexington, KY 40507 | (859) 425-2255 | [www.lexingtonky.gov](https://www.lexingtonky.gov)



## **FIRST AMENDMENT TO PURCHASE OF SERVICE AGREEMENT**

**THIS FIRST AMENDMENT TO A PURCHASE OF SERVICE AGREEMENT** (the “Amendment”), made and entered into on the \_\_\_\_\_ day of February, 2025, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A (“LFUCG”), 200 East Main Street, Lexington, Kentucky 40507, on behalf of LFUCG’s ONE Lexington initiative (“Sponsor”), and **COMMUNITY ACTION COUNCIL FOR LEXINGTON-FAYETTE, BOURBON, HARRISON AND NICHOLAS COUNTIES, INC.**, a Kentucky 501(c)(3) organization, (“Organization”) with offices located at 710 West High Street, Lexington, Kentucky 40508.

**WHEREAS**, the parties entered into an Agreement on June 26, 2023, to set forth the terms and conditions pursuant to which Organization shall serve as a Grants Administrator for the Sponsor,

**WHEREAS**, the parties now desire to amend the Scope of Work of the Agreement;

**WHEREAS**, all Amendments to the Agreement require a separate signed writing.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. Exhibit “A” of the Agreement, titled “Scope of Work,” shall now be amended to provide that the grants administrator will disburse the grant awards to award recipients who either have a 501(c)(3) designation or else have a fiscal sponsor with a 501(c)(3) designation.
2. All other provisions of the Agreement, except as modified herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

BY: \_\_\_\_\_  
Linda Gorton, Mayor

ATTEST:

\_\_\_\_\_  
Clerk of the Urban County Council

COMMUNITY ACTION COUNCIL FOR  
LEXINGTON-FAYETTE, BOURBON,  
HARRISON AND NICHOLAS COUNTIES, INC.

BY: \_\_\_\_\_  
Sharon Price, Executive Director

COMMONWEALTH OF KENTUCKY)  
COUNTY OF FAYETTE )

The foregoing instrument was acknowledged before me this the \_\_\_\_\_ day of \_\_\_\_\_, 2025, by Sharon Price, Executive Director of Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc., a Kentucky nonprofit organization.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State-at-Large, Kentucky

4932-6191-9508, v. 1

RESOLUTION NO. \_\_\_\_\_ - 2025

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE THE FIRST AMENDMENT TO AN AGREEMENT WITH COMMUNITY ACTION COUNCIL FOR LEXINGTON-FAYETTE, BOURBON, HARRISON AND NICHOLAS COUNTIES, INC., RELATED TO ADMINISTRATION OF THE ONE LEXINGTON COMMUNITY PARTNERS VIOLENCE PREVENTION GRANT PROGRAM, TO PROVIDE THAT THE GRANT ADMINISTRATOR MUST DISBURSE GRANT AWARDS TO RECIPIENTS WITH A 501(C)(3) DESIGNATION OR TO A FISCAL SPONSOR WITH A 501(C)(3) DESIGNATION, AT NO ADDITIONAL COST TO THE URBAN COUNTY GOVERNMENT.

---

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the First Amendment to an Agreement, attached hereto and incorporated herein by reference, with Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc., related to administration of ONE Lexington’s Gun Violence Prevention Grant Program, to provide that the grant administrator must disburse grant awards to recipients with a 501(c)(3) designation or to a fiscal sponsor with a 501(c)(3) designation.

Section 2 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL  
0177-25:BGS:4919-6011-4975, v. 1

RESOLUTION NO. 095 - 2025

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE THE FIRST AMENDMENT TO AN AGREEMENT WITH COMMUNITY ACTION COUNCIL FOR LEXINGTON-FAYETTE, BOURBON, HARRISON AND NICHOLAS COUNTIES, INC., RELATED TO ADMINISTRATION OF THE ONE LEXINGTON COMMUNITY PARTNERS VIOLENCE PREVENTION GRANT PROGRAM, TO PROVIDE THAT THE GRANT ADMINISTRATOR MUST DISBURSE GRANT AWARDS TO RECIPIENTS WITH A 501(C)(3) DESIGNATION OR TO A FISCAL SPONSOR WITH A 501(C)(3) DESIGNATION, AT NO ADDITIONAL COST TO THE URBAN COUNTY GOVERNMENT.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the First Amendment to an Agreement, attached hereto and incorporated herein by reference, with Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc., related to administration of ONE Lexington's Gun Violence Prevention Grant Program, to provide that the grant administrator must disburse grant awards to recipients with a 501(c)(3) designation or to a fiscal sponsor with a 501(c)(3) designation.

Section 2 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 20, 2025

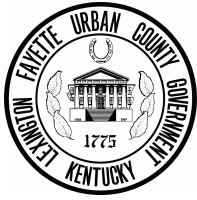
*Linda Gorton*

MAYOR

ATTEST:

*[Signature]*  
CLERK OF URBAN COUNTY COUNCIL

0177-25:BGS:4919-6011-4975, v. 1



# Lexington-Fayette Urban County Government Master

200 E. Main St  
Lexington, KY 40507

**File Number: 0182-25**

**File ID:** 0182-25

**Type:** Resolution

**Status:** Approved

**Version:** 2

**Contract #:** 055-2025

**In Control:** Urban County  
Council

**File Created:** 02/13/2025

**Final Action:** 03/20/2025

**File Name:** Request Council authorization to execute an amendment to the agreement with AVOL Kentucky, Inc. under the HOME Investment Partnerships Program to extend the period of performance through April 30, 2025.

**Title:** A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Amendment to the Agreement with AVOL Ky., Inc., related to an award of HOME Investment Partnerships Program funds, extending the period of performance through April 30, 2025. [Div. of Grants and Special Programs, Reynolds]

**Notes:** SAF in the CCO. Returned to Celia 3/21/2025. MS

**Sponsors:**

**Enactment Date:** 03/20/2025

**Attachments:** 25-Bluesheet Memo - AVOL Extension, Amendment No. 1 FY22-TBRA Extension - AVOL Kentucky-revised, RESO 0182-25- Amendment No. 1 to HOME Agreement with AVOL Kentucky, Inc. 4915-1918-5443 v.1.docx, R-096-2025, Contract #055-2025

**Enactment Number:** R-096-2025

**Deed #:**

**Hearing Date:**

**Drafter:** Katrina James

**Effective Date:**

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
2	Urban County Council Work Session	02/25/2025	Approved and Referred to Docket	Urban County Council	03/06/2025		Pass
2	Urban County Council	03/06/2025	Received First Reading	Urban County Council	03/20/2025		
2	Urban County Council	03/20/2025	Approved				Pass

## Text of Legislative File 0182-25

### Title

A Resolution authorizing and directing the Mayor, on behalf of the Urban County

Government, to execute an Amendment to the Agreement with AVOL Ky., Inc., related to an award of HOME Investment Partnerships Program funds, extending the period of performance through April 30, 2025. [Div. of Grants and Special Programs, Reynolds]

### Summary

Authorization to execute Amendment No. 1 to the Agreement with AVOL Kentucky, Inc. under the HOME Investment Partnerships Program to extend the period of performance through April 30, 2025. This amendment does not have a Budgetary impact. (L0182-25) (Reynolds/Lanter)

Budgetary Implications: NO

Advance Document Review:

**Law:** Yes, Completed by William Razor, 2/12/2025

**Risk Management:** N/A

Fully Budgeted: All Grant funds are Budgeted

Account Number:

This Fiscal Year Impact: \$36,850

Annual Impact: \$0

Project: HOME\_2023

Activity: H06

Budget Reference: 2023

Current Balance:



**TO: LINDA GORTON, MAYOR  
URBAN COUNTY COUNCIL**

**FROM: THERESA REYNOLDS, DIRECTOR  
DIVISION OF GRANTS AND SPECIAL PROGRAMS**

**DATE: FEBRUARY 12, 2025**

**SUBJECT: Amendment to HOME Agreement with AVOL Kentucky, Inc.**

---

**Request:** Council authorization to execute an amendment to the agreement with AVOL Kentucky, Inc. under the HOME Investment Partnerships Program to extend the period of performance through April 30, 2025.

**Purpose of Request:** On May 5, 2022 (Resolution No. 229-2022) Council approved the 2022 Consolidated Plan and AVOL Kentucky, Inc. was awarded \$36,850 of HOME Investment Partnerships Program funds for the operation of a Tenant Based Rental Assistance program for eligible low-income households who reside in Fayette County. AVOL Kentucky Inc. has requested additional time to complete program activities.

The amendment would extend the period of performance through April 30, 2025

**What is the cost in this budget year and future budget years?** No impact on FY25 budget. No future budget years anticipated.

**Are the funds budgeted?** N/A

**File Number:** 0182-25

**Director/Commissioner:** Reynolds/Lanter



## **FIRST AMENDMENT TO AGREEMENT**

**THIS AMENDMENT TO AGREEMENT**, made and entered into on this \_\_\_\_ day of \_\_\_\_\_ 2025, by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government pursuant to KRS Chapter 67A, and located at 200 East Main Street, Lexington, Fayette County, Kentucky 40507 (hereinafter referred to as "GOVERNMENT"), and, **AVOL KENTUCKY, INC.**, a Kentucky non-profit corporation pursuant to KRS Chapter 273, and whose post office address is 1824 Hill Rise Drive, Suite 100, Lexington, Kentucky 40504 (hereinafter referred to as "SUBRECIPIENT").

**WHEREAS**, GOVERNMENT and SUBRECIPIENT entered into an Agreement dated January 31, 2023 ("Agreement"), in which the SUBRECIPIENT was allocated \$36,850 in federal HOME funds (CFDA # 14.239) pursuant to which HUD has agreed to make a grant to the Government under Federal Award Number M22-MC-21-0201 awarded October 4, 2022 as provided by the 2022 Consolidated Plan for the operation of a Tenant Based Rental Assistance Program for very low-income persons infected with HIV/AIDS who reside in Fayette County, Kentucky;

**WHEREAS**, SUBRECIPIENT, AVOL Kentucky, Inc., with Unique Entity Identifier ZVM1K1F92768 has requested additional time to complete program activities;

**WHEREAS**, the Agreement provides for all amendments to be in writing executed by GOVERNMENT and SUBRECIPIENT;

**NOW, THEREFORE**, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, the parties hereto agree as follows:

Section I. STATEMENT OF WORK, Subsection E. SCHEDULE - TIME OF PERFORMANCE, shall be amended in its entirety to read as follows:

"The SUBRECIPIENT agrees to complete all activities under this Agreement no later than April 30, 2025."

In all other respects, except as specifically modified herein, the terms of the Agreement dated January 31, 2023, shall remain in full force and effect with respect to the provisions outlined therein, and all the terms and conditions of that Agreement are incorporated herein by reference.

**SIGNATURE PAGES TO FOLLOW**

**IN WITNESS WHEREOF**, the parties executed this Amendment at Lexington, Kentucky, the day, month, and year above written.

**LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT**

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Linda Gorton, Mayor

**ATTEST:**

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Clerk of Urban County Council

**AVOL KENTUCKY INC.**

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Jon Parker, Executive Director

RESOLUTION NO. \_\_\_\_\_ - 2025

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH AVOL KENTUCKY, INC., RELATED TO AN AWARD OF HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS, EXTENDING THE PERIOD OF PERFORMANCE THROUGH APRIL 30, 2025.

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BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute an Amendment to the Agreement, which is attached hereto and incorporated herein by reference, with AVOL Kentucky, Inc., related to an award of HOME Investment Partnerships Program funds, extending the period of performance through April 30, 2025.

Section 2 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

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MAYOR

ATTEST:

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CLERK OF URBAN COUNTY COUNCIL

182-25:WR:4915-1918-5443, v. 1

RESOLUTION NO. 096 - 2025

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH AVOL KENTUCKY, INC., RELATED TO AN AWARD OF HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS, EXTENDING THE PERIOD OF PERFORMANCE THROUGH APRIL 30, 2025.

---

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute an Amendment to the Agreement, which is attached hereto and incorporated herein by reference, with AVOL Kentucky, Inc., related to an award of HOME Investment Partnerships Program funds, extending the period of performance through April 30, 2025.

Section 2 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 20, 2025

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MAYOR

ATTEST:

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CLERK OF URBAN COUNTY COUNCIL

182-25:WR:4915-1918-5443, v. 1

### FIRST AMENDMENT TO AGREEMENT

**THIS AMENDMENT TO AGREEMENT**, made and entered into on this 21 day of March 2025, by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government pursuant to KRS Chapter 67A, and located at 200 East Main Street, Lexington, Fayette County, Kentucky 40507 (hereinafter referred to as "GOVERNMENT"), and, **AVOL KENTUCKY, INC.**, a Kentucky non-profit corporation pursuant to KRS Chapter 273, and whose post office address is 1824 Hill Rise Drive, Suite 100, Lexington, Kentucky 40504 (hereinafter referred to as "SUBRECIPIENT").

**WHEREAS**, GOVERNMENT and SUBRECIPIENT entered into an Agreement dated January 31, 2023 ("Agreement"), in which the SUBRECIPIENT was allocated \$36,850 in federal HOME funds (CFDA # 14.239) pursuant to which HUD has agreed to make a grant to the Government under Federal Award Number M22-MC-21-0201 awarded October 4, 2022 as provided by the 2022 Consolidated Plan for the operation of a Tenant Based Rental Assistance Program for very low-income persons infected with HIV/AIDS who reside in Fayette County, Kentucky;

**WHEREAS**, SUBRECIPIENT, AVOL Kentucky, Inc., with Unique Entity Identifier ZVM1K1F92768 has requested additional time to complete program activities;

**WHEREAS**, the Agreement provides for all amendments to be in writing executed by GOVERNMENT and SUBRECIPIENT;

**NOW, THEREFORE**, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, the parties hereto agree as follows:

Section I. STATEMENT OF WORK, Subsection E. SCHEDULE - TIME OF PERFORMANCE, shall be amended in its entirety to read as follows:

"The SUBRECIPIENT agrees to complete all activities under this Agreement no later than April 30, 2025."

In all other respects, except as specifically modified herein, the terms of the Agreement dated January 31, 2023, shall remain in full force and effect with respect to the provisions outlined therein, and all the terms and conditions of that Agreement are incorporated herein by reference.

**SIGNATURE PAGES TO FOLLOW**

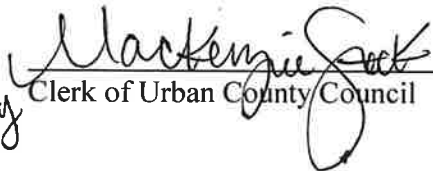
**IN WITNESS WHEREOF**, the parties executed this Amendment at Lexington, Kentucky, the day, month, and year above written.

**LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT**



\_\_\_\_\_  
Linda Gorton, Mayor

**ATTEST:**

*Deputy*   
\_\_\_\_\_  
Clerk of Urban County Council

**AVOL KENTUCKY INC.**



\_\_\_\_\_  
Jon Parker, Executive Director



# Lexington-Fayette Urban County Government Master

200 E. Main St  
Lexington, KY 40507

**File Number: 0195-25**

**File ID:** 0195-25

**Type:** Resolution

**Status:** Approved

**Version:** 2

**Contract #:**

**In Control:** Urban County  
Council

**File Created:** 02/14/2025

**Final Action:** 03/20/2025

**File Name:** Request Council authorization to approve and adopt a substantial amendment to the 2020, 2021, 2022, and 2023 Annual Action Plans and reallocate funding from several existing Community Development Block Grant projects to the Family Care Centers' Playground

**Title:** A Resolution approving and adopting substantial amendments to the 2020, 2021, 2022, and 2023 Annual Action Plans decreasing funds from multiple Community Development Block Grant projects and reallocating those funds to the Family Care Centers' Playground Upgrade, and authorizing the Mayor to transfer unencumbered funds within the Grant Budget. [Div. of Grants and Special Programs, Reynolds]

**Notes:**

**Sponsors:**

**Enactment Date:** 03/20/2025

**Attachments:** 25 -Parks Bluesheet Memo Con Plan Substantial Amendment, BA 13514, 0195-25- Substantial Amendments to the 2020, 2021, 2022, and 2023 Annual Action Plans 4930-6504-8867 v.1.docx, R-097-2025

**Enactment Number:** R-097-2025

**Deed #:**

**Hearing Date:**

**Drafter:** Celia Moore

**Effective Date:**

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
2	Urban County Council Work Session	02/25/2025	Approved and Referred to Docket	Urban County Council	03/06/2025		Pass
2	Urban County Council	03/06/2025	Received First Reading	Urban County Council	03/20/2025		
2	Urban County Council	03/20/2025	Approved				Pass

## Text of Legislative File 0195-25

### Title

A Resolution approving and adopting substantial amendments to the 2020, 2021, 2022, and 2023 Annual Action Plans decreasing funds from multiple Community Development Block Grant projects and reallocating those funds to the Family Care Centers' Playground Upgrade, and authorizing the Mayor to transfer unencumbered funds within the Grant Budget. [Div. of Grants and Special Programs, Reynolds]

**Summary**

Authorization to execute an Amendment to the 2020, 2021, 2022, and 2023 Annual Action Plans and reallocate funding in the amount of \$227,760.51 from several existing Community Development Block Grant (CDBG) projects to the Family Care Centers' Playground upgrade to remove old and worn playground equipment and install new and safer equipment. Funds will be reallocated within the existing CDBG Grant Budgets; there are no additional costs.

(L0195-25)(Reynolds/Lanter)

Budgetary Implications: Yes

Advance Document Review:

**Law:** N/A

**Risk Management:** N/A

Fully Budgeted: Budget amendment in process

Account Number: 3120-707602-7221-90320

This Fiscal Year Impact: \$227,760.51

Annual Impact: \$0

Project: CDBG\_2021, CDBG\_2022, CDBG\_2023 and CDBG\_2024

Activity: FED\_GRANT

Budget Reference: 2021, 2022, 2023 and 2024

Current Balance:



**TO:** LINDA GORTON, MAYOR  
URBAN COUNTY COUNCIL

**FROM:** THERESA REYNOLDS, DIRECTOR  
DIVISION OF GRANTS & SPECIAL PROGRAMS

**DATE:** FEBRUARY 14, 2025

**SUBJECT:** Amendment to the 2020, 2021, 2022, and 2023 Consolidated Plans – Public Hearing on March 20, 2025, for Family Care Centers Playground upgrade

**Request:** Council authorization to approve and adopt a substantial amendment to the 2020, 2021, 2022, and 2023 Annual Action Plans and reallocate funding from several existing Community Development Block Grant projects to the Family Care Centers' Playground upgrade to remove old and worn playground equipment and install new and safer equipment, resulting in a net zero change in total CDBG funding and expense to LFUCG.

**Purpose of Request:** Several existing projects in the Community Development Block Grant (CDBG) program were completed or are expected to be completed without spending all allocated funds. To ensure these funds are utilized for other eligible activities in the CDBG program, the Division of Parks requested additional funding to install new playground equipment and remove existing equipment at the Family Care Center, funding will be reallocated as follows:

Existing Project/Funds To Be Reallocated	Amount to be Reallocated to New Projects	HUD Annual Action Plan Year(s)	LFUCG Project ID(s)
Salvation Amy	\$15,000.00	2020	CDBG_2021
Realtor Community Housing Foundation	\$39,380.22	2020	CDBG_2021
Realtor Community Housing Foundation	\$51,728.00	2021	CDBG_2022
Kirklevington Park	\$13,682.29	2021	CDBG_2022
Community Development Block Grant sidewalk	\$16,242.00	2021	CDBG_2022
Community Development Block Grant sidewalk	\$20,000.00	2022	CDBG_2023
Realtor Community Housing Foundation	\$51,728.00	2022	CDBG_2023
Community Action Council	\$10,000.00	2022	CDBG_2023



Community Action Council	\$10,000.00	2023	CDBG_2024
<b>Total</b>	<b>\$227,760.51</b>		

<b>New or Expanded Project/Activity</b>	<b>Amount of New Allocation</b>	<b>HUD Annual Action Plan Year(s)</b>	<b>LFUCG Project ID(s)</b>
Parks Family Care Center upgrade aging equipment	\$227,760.51	2020, 2021, 2022, 2023	CDBG_2021 CDBG_2022 CDBG_2023 CDBG_2024
<b>Total</b>	<b>\$227,760.51</b>		

In accordance with federal regulations found at 24 CFR Part 91 and the amended Citizen Participation Plan approved by the Urban County Council on May 28, 2020 (Resolution 219-2020), these modifications require a substantial amendment to the Annual Action Plan. Substantial amendments require opportunities for citizen comment. **Therefore, a public hearing will be held in conjunction with the regularly scheduled Urban County Council meeting on Thursday, March 20, 2025, at 6:00 pm.**

**What is the cost in this budget year and future budget years?** Funds will be reallocated within the existing CDBG grant budgets. There are no additional costs.

**Are the funds budgeted?** Budget adjustments will be submitted to reallocate funds within the existing grant budgets as needed.

**File Number:** 0195-25

**Director/Commissioner:** Reynolds/Lanter

\*Business Unit:  \*Journal  \*Budget  Bid: ☐ Admin Review: ☐

## ► Revenue Accounts

### ► Project/Grant Expenditures

BA to move money from CDBG\_2021 (54,380.22), CDBG\_2022(81,652.29) , CDBG\_2023(81,728.00) and CDBG\_2024(10,000) to Parks for the Family Care Centers playground equipment upgrade.

Add

RESOLUTION NO. \_\_\_\_\_ -2025

A RESOLUTION APPROVING AND ADOPTING SUBSTANTIAL AMENDMENTS TO THE 2020, 2021, 2022, AND 2023 ANNUAL ACTION PLANS DECREASING FUNDS FROM MULTIPLE COMMUNITY DEVELOPMENT BLOCK GRANT PROJECTS AND REALLOCATING THOSE FUNDS TO THE FAMILY CARE CENTERS' PLAYGROUND UPGRADE, AND AUTHORIZING THE MAYOR TO TRANSFER UNENCUMBERED FUNDS WITHIN THE GRANT BUDGET.

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BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Council of Lexington-Fayette Urban County Government does hereby approve and adopt substantial amendments to the 2020, 2021, 2022, and 2023 Annual Action Plans decreasing funds for multiple Community Development Block Grant (CDBG) projects and reallocating those funds to the Family Care Centers' Playground upgrade.

Section 2 - That subject to the provisions of Section 7-48 of the Lexington-Fayette Urban County Government Code of Ordinances, the Mayor is hereby authorized, in her discretion as Chief Executive Officer of the Urban County Government, to transfer the unencumbered balance of any operating or capital account appropriation to another operating or capital account appropriation within the Grant budget established for this Grant.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL  
0195-25:WDR:4930-6504-8867, v. 1

RESOLUTION NO. 097 -2025

A RESOLUTION APPROVING AND ADOPTING SUBSTANTIAL AMENDMENTS TO THE 2020, 2021, 2022, AND 2023 ANNUAL ACTION PLANS DECREASING FUNDS FROM MULTIPLE COMMUNITY DEVELOPMENT BLOCK GRANT PROJECTS AND REALLOCATING THOSE FUNDS TO THE FAMILY CARE CENTERS' PLAYGROUND UPGRADE, AND AUTHORIZING THE MAYOR TO TRANSFER UNENCUMBERED FUNDS WITHIN THE GRANT BUDGET.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Council of Lexington-Fayette Urban County Government does hereby approve and adopt substantial amendments to the 2020, 2021, 2022, and 2023 Annual Action Plans decreasing funds for multiple Community Development Block Grant (CDBG) projects and reallocating those funds to the Family Care Centers' Playground upgrade.

Section 2 - That subject to the provisions of Section 7-48 of the Lexington-Fayette Urban County Government Code of Ordinances, the Mayor is hereby authorized, in her discretion as Chief Executive Officer of the Urban County Government, to transfer the unencumbered balance of any operating or capital account appropriation to another operating or capital account appropriation within the Grant budget established for this Grant.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 20 , 2025



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

0195-25:WDR:4930-6504-8867, v. 1