

**Professional Services Agreement**  
**("ISA Provisions")**

This ("Professional Services Agreement" or "ISA Provisions") is made this 16<sup>th</sup> day of June, 2016, by and between Spacesaver Systems, Inc., d/b/a Infolinx System Solutions, a Maryland corporation with its corporate office located at at 10800 Connecticut Avenue, Kensington, MD 20895-2102 on behalf of itself and its subsidiaries providing services hereunder ("collectively Infolinx") and the Lexington-Fayette Urban County Government, an urban county government pursuant to Chapter 67A of the Kentucky Revised Statutes, located at 200 East Main Street, Lexington, KY 40507 ("LFUCG" or "Subscriber"). Infolinx or Subscriber may be referred to separately as a "Party" or jointly as "Parties" to the ISA.

In addition to the provisions set forth in RFP #9-2016 Records Inventory Management System ("RFP"), which is attached hereto as Exhibit A and incorporated herein by reference, the terms and conditions set forth in the accompanying Infolinx Service Level Agreement ("SLA"), which is attached hereto and incorporated herein by reference as Exhibit B, and the terms and conditions set forth in the accompanying Infolinx Subscription Agreement ("ISA"), which is attached hereto and incorporated herein by reference as Exhibit C, shall also apply whenever Infolinx furnishes assistance, or otherwise provides products or services to Subscriber. All terms defined in the ISA shall have the same meaning in the SLA unless expressly modified herein or by a separate Subscription Agreement.

**1. MULTIPLE DOCUMENTS.**

**1.1. ISA Documents.** Subscriber understands that this ISA consists of multiple documents including: (i) the RFP; (ii) ISA Subscription Agreement Specifications; (iii) these ISA Subscription Agreement Provisions and (iv) the Infolinx Service Level Agreement, including all other agreements and policies incorporated therein by reference, under which Microsoft Corporation ("Microsoft") provides Infolinx the technology supporting the Infolinx Cloud Services (all such documents jointly referred to as the "ISA Documents").

**2. INFOLINX CLOUD SERVICES.**

**2.1. Scope of Services.** As used in this ISA, "Infolinx Cloud Services" means Infolinx's cloud-based records management software application available via the web at [lfucg.cloudapp.net](http://lfucg.cloudapp.net)

**2.2. Rights.** As used in this ISA, "**IP Rights**" means all rights owned, licensed or otherwise held in patents, trademarks, service marks, copyrights, mask works, trade secrets, trade dress, moral rights, publicity rights or other intellectual property or proprietary rights recognized in any country or jurisdiction worldwide, and any applications or registrations thereof or therefore.

**2.3. Azure Agreement.** Subscriber acknowledges that Infolinx is providing its Infolinx Cloud Services via web-based services offered by Microsoft under the Azure Agreement (<https://azure.microsoft.com/en-us/support/legal/subscription-agreement/>), and that Subscriber's use of the Infolinx Cloud Services shall also be subject to all limitations set forth in the Azure Agreement, including all limitations on access, availability, security, warranties, defense of claims, disclaimers, liability, U.S. export jurisdiction and international availability, and all other limitations set forth in the Acceptable Use Policy, Services Terms, and SLAs incorporated into the Azure Agreement by reference. All such limitations shall apply to Subscriber under this ISA. To the extent that Subscriber's conduct, use or misuse of the Infolinx Cloud Services enables Microsoft to enforce rights against Infolinx under the Azure Agreement, Infolinx shall have the same rights against Subscriber under this ISA.

**2.4. No Third Party Beneficiary Rights.** Nothing in this ISA shall entitle Subscriber to enforce any rights that Infolinx may have under the Azure Agreement. Subscriber acknowledges that Subscriber is not intended to be and has no rights as a third party beneficiary under this ISA, the Azure Agreement, or any other ISA Documents.

### **3. SUBSCRIPTION PLAN.**

**3.1. Grant.** Subject to this ISA, Infolinx hereby grants Subscriber the right to access and use the Infolinx Cloud Services in accordance with the subscription plan specifications detailed in the Infolinx Cloud Services Subscription Agreement.

**3.2. Subscriber Account.** Subject to this ISA, Infolinx shall create an account enabling Subscriber's access to the Infolinx Cloud Services ("Subscriber Account"). Subscriber shall be responsible for all activity under the Subscriber Account.

**3.3. Access Credentials.** Subscriber shall maintain the confidentiality of all Subscriber Account and Authorized User credentials necessary to access and use the Infolinx Cloud Services.

**3.4. Authorized User Conduct.** Subscriber shall be responsible for each Authorized User's use of the Infolinx Cloud Services. Misuse, abuse, improper disclosure of Infolinx Cloud Services access credentials, or other conduct of any Authorized User that is inconsistent with or in material breach of this ISA, including the Azure Agreement or any other ISA Documents, shall be attributable to Subscriber and be grounds for immediate suspension of all access to the Infolinx Cloud Services via the Subscriber Account and termination of this ISA. Subscriber must promptly notify Infolinx of any misuse, abuse, improper disclosure of Subscriber's access credentials, security issues related to the Infolinx Cloud Services, or other conduct of any Authorized User that is inconsistent with or in material breach of this ISA, including the Azure Agreement or any other ISA Documents.

**3.5. Infolinx Service Level Agreement.** Subject to this ISA, the Infolinx Cloud Services will operate consistent with Infolinx's service level agreement ("SLA") and the RFP.

### **4. SUBSCRIBER CONTENT.**

**4.1. Content.** "Subscriber Content" means all content including all data, text, images, video, audio and/or other electronic files that an Authorized User uploads to the Infolinx Cloud Services via the Subscriber Account.

**4.2. Ownership of Subscriber Content.** As between Subscriber and Infolinx, Subscriber shall exclusively own or control all Subscriber Content and shall retain all IP Rights in and to the Subscriber Content. Subject to this ISA, and provided that Subscriber is not in material breach of this ISA or any other ISA Documents, Infolinx shall provide Subscriber with a copy of all Subscriber Content no later than thirty (30) days after the termination of this ISA, subject to the limitations in this ISA, including the Azure Agreement.

**4.3. Privacy, Data Processing and Location.** Subscriber Content shall be subject to the Privacy Statement incorporated in the Azure Agreement and the Confidentiality provisions of this ISA. Subscriber warrants that all Subscriber Content has been collected, processed and created or provided to Subscriber in accordance with applicable laws on the protection of data subjects with regard to the processing of personal data and on the free movement of such data, including in particular any applicable legislation implementing the EU Data Protection Directive 95/46/EC and the Privacy and Electronic Communications Directive 2002/58/ED (as amended by Directive 2009/136/EC) or subsequent General Data Protection Regulation or similar directive or regulation that takes the place of the Directive in the applicable EU member state ("Data Protection Laws"), and also including laws or regulations that will apply to Subscriber Content that is transferred to, stored or processed by, any affiliates, employees,

contractors and business partners located anywhere in the world. The terms “personal data” and “process” shall have the meanings given to them in the applicable Data Protection Laws. For purposes of this ISA, as between Infolinx and Subscriber, Subscriber is the data controller and Infolinx is the data processor.

**4.4. Responsibility for Subscriber Content.** Subject to the indemnification provisions set forth in the RFP, Infolinx shall not be responsible or otherwise liable for Subscriber’s or any Authorized User’s activities in connection with the Infolinx Cloud Services, including any responsibility or liability arising from Subscriber Content that Subscriber or any Authorized User stores or otherwise uses in connection with the Infolinx Cloud Services. Infolinx reserves the right, at any time and without notice to Subscriber, to review, monitor, flag, filter, modify, refuse or remove any or all Subscriber Content from the Infolinx Cloud Services if Infolinx determines in good faith, in its sole discretion, that the Subscriber Content violates any provisions of this ISA or any other ISA Documents, but Infolinx shall have no obligation to do so. Subscriber shall immediately remove or modify any Subscriber Content that violates any Data Protection Laws or other applicable laws, rules, or regulations. If Subscriber does not do so, Infolinx may promptly suspend access to Subscriber’s Account including all Subscriber Content and may also terminate this ISA for material breach.

**4.5. Subscriber’s Grant.** Subscriber hereby grants to Infolinx, Microsoft, and Infolinx’s other service providers engaged to render services in connection with the Infolinx Cloud Services, a royalty-free, non-exclusive license during the Term of this ISA to store, maintain, process, and display the Subscriber Content to Subscriber’s Authorized Users solely via the Infolinx Cloud Services.

## **5. OWNERSHIP OF INFOLINX CLOUD SERVICES AND RELATED PROPERTIES.**

**5.1. Infolinx Ownership.** Except for the Subscriber Content, as between Subscriber and Infolinx, Infolinx shall exclusively own or control, and retain all right, title and interest in and to all aspects of the Infolinx Cloud Services, including the Infolinx software and all other Infolinx Cloud Services content, data and information, the “Infolinx” mark and all other Infolinx trademarks and service marks, all inventions, discoveries, methods, and know-how developed, provided or acquired by Infolinx during the Term of this ISA, and all technology associated with the Infolinx Cloud Services (and customizations thereof) including the unique “look and feel” of the same, all Infolinx Confidential Information, and all IP Rights associated with each (collectively, the “*Infolinx Properties*”). Without limiting any of Infolinx’s rights under this Section, Infolinx shall be free to use and reuse the Infolinx Properties (or any portion thereof), and may exercise all IP Rights pertaining thereto, in its sole discretion and without restriction, provided that such use does not cause unauthorized disclosure of Subscriber Content or Subscriber’s Confidential Information.

**5.2. Restrictions; Reservation of Rights.** Subscriber shall not have any right to reproduce or otherwise exploit the Infolinx Cloud Services or any Infolinx Properties, through any outsourcing, timesharing, service bureau or other arrangement. Subscriber shall not disassemble, decompile, reverse engineer or make any attempt by any means to obtain the source code or any other code for the Infolinx Cloud Services or any other Infolinx Properties.

**5.3. Compliance with Laws; Interoperability Issues.** Each Party shall comply with all laws applicable to the performance of such Party’s obligations under this ISA. Should any law or regulation suggest that Subscriber has a right to disassemble, decompile, reverse engineer or to obtain or access the source code or any other code for the Infolinx Cloud Services or any other Infolinx Properties for interoperability or any other purposes, then Subscriber hereby waives any such rights or otherwise contractually agrees not to exercise any such rights. To the extent that any such applicable laws may not be waived, then Subscriber shall give Infolinx thirty (30) days written notice describing in reasonable detail the interoperability or other issues giving rise to Subscriber’s rights under such law prior to taking any such action and, upon receipt of Subscriber’s written notice, Infolinx shall have the right to either make the necessary changes to the Infolinx Cloud Services to address the issues or to promptly terminate

this ISA by delivering written notice of termination to Subscriber. If Infolinx decides to address the issues raised in Subscriber's written notice, Infolinx may treat Subscriber's written notice as a request for customization of the Infolinx Cloud Services under Section 11.5 of this ISA. Alternatively, if Infolinx terminates this ISA under this provision, then Infolinx shall refund to Subscriber any Fees attributable to the remaining balance of the Term.

**5.4. Use of Cookies.** Infolinx may place "cookies" on Subscriber's computers and the computers of each Authorized User who accesses the Infolinx Cloud Services using a personal computer. Cookies are used to track use of the Infolinx Cloud Services and perform user analysis to help Infolinx assess the effectiveness and usefulness of various Infolinx Cloud Services features and functions. Subscriber may make further inquiries about Infolinx's cookies via email to info@infolinx.com. Subscriber consents to Infolinx's use of cookies, and represents and warrants that it has given notice to its Authorized Users and obtained their informed consent to Infolinx's use of cookies in accordance with applicable Data Protection Laws.

## **6. PAYMENT TERMS AND TAXES.**

**6.1. Fees.** Other than the One-Time Investment, the Monthly fee specified by Infolinx in its RFP response (Exhibit A) and any additional work agreed to by both parties as described in section 11.5 "Customization", all Fees paid to Infolinx shall be based on actual work performed for Subscriber. Infolinx shall submit detailed periodic reports indicating work performed for LFUCG prior to payment. Unless otherwise agreed by the Parties in writing, all payments to Infolinx shall be made in U.S. Dollars in immediately available funds. The monthly service fee may increase once every 12 months, but in no event, by more than 4%.

**6.2. Collection.** Any Fees not paid when due shall accrue interest at the rate of 1.5% per month or the maximum rate permitted by applicable law, whichever is less. In the event that any unpaid Fees are referred to collection, Subscriber shall pay all costs and expenses of collection, including reasonable attorneys' fees. If Infolinx owes Subscriber any money for any reason, Infolinx may deduct from its obligation to Subscriber any Fees or other amounts owed by Subscriber to Infolinx.

**6.3. Taxes.** "Tax" or "Taxes" shall mean any federal, state or local excise, gross receipts, value added, sales, use or other similar tax, fee, tax-like fee or surcharge of whatever nature and however designated, imposed, or sought to be imposed, on or with respect to Subscriber's purchases from Infolinx under this Agreement which Infolinx is required or permitted by law or a tariff to collect from Subscriber; *provided, however*, that the term "Tax" will not include any tax on Infolinx's corporate existence, status, income, corporate property or payroll taxes. All Taxes shall be added to the Fee and be paid by Subscriber. If Subscriber claims an exemption for any Taxes, Subscriber must provide Infolinx with a proper tax exemption certificate as authorized by the appropriate taxing authority. Subscriber must pay the applicable Taxes to Infolinx until it provides Infolinx with a valid tax exemption certificate. If applicable law exempts a service under this Agreement from a Tax, but does not also provide an exemption procedure, then Infolinx will not collect such Tax if Subscriber provides Infolinx with a letter signed by one of its officers: (i) claiming a right to the exemption; (ii) identifying the applicable law that allows such exemption and does not require an exemption certificate; and (iii) agreeing to indemnify and hold Infolinx harmless from any tax, interest, penalties, loss, cost or expense asserted against Infolinx as a result of its not collecting the Taxes from Subscriber.

## **7. CONFIDENTIALITY.**

**7.1. Confidential Information.** Subject to Section 7.2, as used herein, "**Confidential Information**" means any non-public information of a Party that it reasonably considers to be of a confidential, proprietary or trade secret nature, including marketing, engineering and other plans, software, financial statements and projections, customer and supplier information, research, designs, plans, compilations, methods, techniques, processes, procedures and know-how, whether in tangible or

intangible form, and whether or not stored, compiled or memorialized physically, electronically, graphically, photographically or in writing. In the course of performing under this ISA each Party may be given access to, or come into possession of, Confidential Information of the other Party. The Party receiving the Confidential Information (the "**Receiving Party**"): (a) shall hold the Confidential Information of the other Party (the "**Disclosing Party**") in confidence; (b) shall use such Confidential Information only for the purpose of fulfilling its obligations and exercising its rights under this ISA (the "**Permitted Use**"); (c) shall reproduce such Confidential Information only to the extent necessary for the Permitted Use; (d) shall restrict disclosure of such Confidential Information to its representatives who (i) require the Confidential Information for the Permitted Use, (ii) are informed by the Receiving Party of the confidential nature of the Confidential Information and the obligations relating to confidentiality set forth in this ISA and (iii) agree to the obligations relating to confidentiality set forth in this ISA; and (e) shall not disclose the Confidential Information to any third-party without the Disclosing Party's prior written approval.

**7.2. Limitations.** The term "Confidential Information" shall not apply to any information: (a) that at the time of disclosure was previously known to the Receiving Party free of restriction and evidenced by documentation in the Receiving Party's possession; (b) that has become generally available to the public without breach of this ISA or other wrongful act by the Receiving Party; (c) that has been rightly received from a third-party who is not under any obligation of confidentiality with regard to such information; or (d) for the purpose of permitting a disclosure, and to the extent disclosed, pursuant to law, judicial order or governmental regulation, so long as the Receiving Party promptly notifies the Disclosing Party prior to such disclosure and provides the Disclosing Party with an opportunity, to the extent practicable, to seek an appropriate protective order.

**7.3. Return of Confidential Information.** Each Party's Confidential Information shall be returned upon written request by the Disclosing Party or upon the Receiving Party's determination that it no longer has a need for such Confidential Information in connection with the Permitted Use.

**7.4. Survival.** The provisions of this Confidentiality Section shall survive for five (5) years after the expiration or termination of this ISA; provided, however, that with respect to any trade secret, the confidentiality obligations contained herein shall continue for so long as such information remains a trade secret, but in no event less than seven years after the expiration or termination of this ISA.

**7.5. Injunctive Relief.** The Receiving Party agrees that any unauthorized disclosure of the Confidential Information or other violation, or threatened violation, of this Confidentiality Section will cause irreparable damage to the Disclosing Party, and that, therefore, in addition to any other remedies at law or at equity to which the Disclosing Party may be entitled, the Disclosing Party shall be entitled to an immediate injunction prohibiting the Receiving Party from improperly using for its benefit or from any disclosure, attempted disclosure, violation or threatened violation of this Confidentiality Section, and hereby waives its right to require the Disclosing Party to post any bond or other security in connection with the Disclosing Party's exercise of such remedy.

**7.6. Confidentiality of ISA.** Each Party may disclose the terms and conditions of this ISA: (a) to the extent it is released of its obligations pursuant to Section 7.2(d); (b) as may be required by applicable securities laws and regulations; (c) in confidence to banks, investors and other financing sources and their advisors; (d) in confidence in connection with an actual or prospective merger or acquisition or similar transaction; and (e) in connection with the enforcement of this ISA or rights under this ISA.

## **8. WARRANTIES.**

**8.1. By Subscriber.** Subscriber represents and warrants to Infolinx that: (a) Subscriber has the authority to enter into this ISA and to perform its obligations under this ISA; (b) Subscriber's performance of its obligations hereunder will not violate any other Subscriber agreement or any

applicable laws; (c) Subscriber owns or has licensed all required rights to all Subscriber Content necessary to perform its obligations and grant the rights granted to Infolinx under this ISA; (d) the Subscriber Content does not and shall not contain (i) any material or information that violates any applicable law, including Data Protection Laws, or IP Right of any third-party, or (ii) any software virus, surreptitious code, or other forms of malware; and (e) Subscriber will perform its obligations under this ISA in a professional and workmanlike manner.

**8.2. By Infolinx.** Infolinx represents and warrants to Subscriber that: (a) Infolinx has the authority to enter into and to perform its obligations under this ISA; (b) Infolinx's performance of its obligations hereunder will not violate any other Infolinx agreement or any applicable laws; (c) Infolinx owns or has licensed all required rights to all Infolinx Properties necessary to perform its obligations under this ISA; and (d) Infolinx will perform its obligations under this ISA in a professional and workmanlike manner in accordance with the Subscription Agreement. Infolinx's warranty obligations are solely for the benefit of Subscriber. Subscriber shall have no authority to extend or transfer any of these warranties to any third-party.

**8.3. Disclaimer of Warranties.** SUBJECT TO THE INDEMNIFICATION PROVISION OF THE RFP, THE WARRANTIES SET FORTH IN THIS SECTION 8 ARE THE ONLY WARRANTIES OF THE PARTIES, AND NO OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, SHALL APPLY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH PARTY SPECIFICALLY DISCLAIMS ANY WARRANTIES OF DESIGN, SATISFACTION, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. INFOLINX DOES NOT GUARANTEE THAT THE OPERATION OF THE INFOLINX CLOUD SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

## **9. LIMITATIONS OF LIABILITY.**

**9.1. Cap on Damages.** EXCEPT AS OTHERWISE PROVIDED IN SECTION 9.3 AND THE INDEMNIFICATION PROVISION OF THE RFP, EACH PARTY'S LIABILITY TO THE OTHER PARTY FOR ANY AND ALL CLAIMS OR DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL IN NO EVENT EXCEED, IN THE AGGREGATE, THE AMOUNT OF THE FEES PAID BY SUBSCRIBER TO INFOLINX UNDER THIS ISA.

**9.2. Limitation on Types of Recoverable Damages.** EXCEPT AS OTHERWISE PROVIDED IN SECTION 9.3 AND THE INDEMNIFICATION PROVISION OF THE RFP, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR OTHER NON-DIRECT DAMAGES OF ANY KIND ARISING OUT OF OR RELATED TO THE FUNCTIONALITY, OPERABILITY, OR QUALITY OR PRODUCTS AND SERVICES PURSUANT TO THE RFP (INCLUDING CLAIMS FOR LOSS OF PROFITS, DATA, GOODWILL, USE OF MONEY OR USE OF ANY PRODUCT OR SERVICE), WHETHER FORESEEABLE OR UNFORESEEABLE, AND WHETHER BASED IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**9.3. Exclusions from Limitations of Liability.** Notwithstanding anything to the contrary expressed or implied in this ISA, the Limitations of Liability set forth in Sections 9.1 and 9.2 shall not apply to: (a) damages arising out of or relating to a Party's failure to comply with its confidentiality obligations under this ISA; (b) damages arising out of or relating to a Party's obligation to comply with the indemnification provision of the RFP; (c) Subscriber's payment obligations under this ISA; (d) Subscriber's unauthorized use of any Infolinx Properties or infringement of any Infolinx IP Rights; or any third party claims arising from or related to any Subscriber Content.

## **10. DEFAULT.**

**10.1. Events of Default.** Each of the following shall constitute an event of default (each, an “*Event of Default*”), and the occurrence of one or more of which shall constitute a material breach of this ISA that shall allow a Party, as applicable, to seek the rights and remedies set forth in this ISA.

10.1.1. Either Party’s material breach of any of its representations or warranties or other obligations under this ISA that is not cured within 30 days following receipt of written notice of such material breach, provided that (i) a material breach of the confidentiality provisions of this ISA and either Party’s infringement of the other Party’s IP Rights, and (ii) Subscriber’s breach of warranty against viruses, surreptitious code or other malware in Subscriber Content, shall not be subject to a 30 day cure period.

10.1.2. Any Authorized User’s abuse or misuse of the Infolinx Cloud Services including reselling or attempting to resell the Infolinx Cloud Services to third parties or allowing unauthorized users access to the Infolinx Cloud Services, whether via the Subscriber Account or otherwise, hacking or attempting to hack into any area of the Infolinx Cloud Services whether inside or outside of the Subscriber Account, uploading any code to disrupt or otherwise contaminate the Infolinx Cloud Services with a virus or other malware, whether done via the Subscriber Account or otherwise. Notwithstanding anything expressed or implied to the contrary, the Subscriber shall not be entitled to a 30-day cure period for any Event of Default under this provision.

10.1.3. The institution of bankruptcy, receivership, insolvency, reorganization or other similar proceedings by or against a Party under any provision of the United States Bankruptcy Code or under any similar laws, if not dismissed within 30 days after instituted; an assignment for the benefit of creditors; or the appointment of a receiver for all or substantially all of a Party’s assets.

**10.2. Rights and Remedies Upon Event of Default.** Upon an Event of Default, the non-defaulting Party shall be entitled to: (a) terminate this ISA by written notice to the other Party; and/or (b) subject to the terms of Section 9, exercise any remedy at law or in equity available to such Party. Immediately upon termination or expiration of this ISA for any reason Subscriber shall have no right to access or use the Infolinx Cloud Services or any other Infolinx Properties.

**10.3. Survival.** The ISA Provisions such as those concerning ownership rights, confidentiality obligations, representations, warranties, indemnities, limitations on liabilities, remedies, and others clearly intended to survive, including those in Azure Agreement, will survive the termination or expiration of this ISA.

**11. SUPPORT SERVICES.** Subject to this ISA, Infolinx will provide the following support services to Subscriber during the Term of this ISA.

**11.1. Telephone.** Infolinx shall make available qualified personnel to provide telephone support to Subscriber from 8:30 a.m. through 5:00 p.m., Monday through Friday, Eastern Standard Time, excepting legal holidays. The aforementioned telephone support will include assistance with the Infolinx Cloud Services functionality.

**11.2. Response Time.** Infolinx will make all reasonable efforts to respond to Licensee’s Software-related support calls Monday through Friday, Eastern Standard Time, as follows:

Calls received before 12:00 noon: no later than 5:00pm the same day.

Calls received after 12:00 noon: no later than 10:00am the next business day.

**11.3. Third-Party Support.** Subscriber acknowledges that Infolinx shall be relying on Microsoft to provide certain support services via the Azure Agreement. Infolinx shall promptly notify Microsoft of all issues that Microsoft is responsible for under the Azure Agreement.

**11.4. Maintenance.** Infolinx and Microsoft may from time to time during the Term deem it necessary to perform maintenance services on their respective systems which may require shutting down access to the Infolinx Cloud Services. Infolinx shall use reasonable efforts to give Subscriber advance notice before shutting down Subscriber's access to the Infolinx Cloud Services. Whenever possible, Infolinx shall schedule such required shutdowns during off-peak hours.

**11.5. Customization.** Subscriber understands that special requests or material changes to the Subscription Agreement for customized Infolinx Cloud Services features or functions do not fall within the scope of routine support services. Infolinx shall not be obligated to customize the Infolinx Cloud Services to meet unique Subscriber requirements, but shall consider such requests on a case-by-case basis and reserves the right to refuse to customize the Infolinx Cloud Services or to charge its usual, customary and then-current service fees above and beyond the Fee otherwise payable based on Subscriber's selected Subscription Plan. Any agreement for customized Infolinx Cloud Services shall be agreed upon by the Parties in writing and shall include service fees.

**11.6. Subscriber Responsibility.** Services required due to (a) any unauthorized modifications to the Infolinx Cloud Services made by any Authorized User or Subscriber or its other employees, contractors or agents; (b) use of the Infolinx Cloud Services for any purpose other than authorized in this ISA; (c) Subscriber's failure to install any software or hardware updates or any operating system release recommended by Infolinx in a timely manner; (d) any willful or negligent action or omission of an Authorized User or Subscriber or its other employees, contractors or agents; or (e) any failure or interruption of any electrical power, or any accident or other cause external to the Infolinx Cloud Services including, but not limited to, unforeseen problems or malfunctions related to Subscriber's network or other network, database, third party software products, and/or workstation configurations, or Subscriber's hardware, shall be excluded from the support services offered under Section 11 of this ISA. Subscriber shall be responsible for all excluded services and for investigating its computer systems, including its own network, for any problems.

**11.7. Limitations.** Except for the support and maintenance services expressly provided in this ISA, Infolinx shall have no obligation to provide other forms of support, unless otherwise mutually agreed by the Parties in writing and paid for by Subscriber at Infolinx's then-current service rates.

## **12. MISCELLANEOUS.**

**12.1. Public Announcements.** Subscriber grants to Infolinx the right to use Subscriber's name on its website and in press releases, product brochures and marketing materials indicating the Subscriber and Infolinx relationship memorialized in this ISA. Any request by Infolinx for public disclosure or announcement shall be deemed approved by Subscriber if Subscriber does not deliver to Infolinx an objection thereto, in writing, within ten (10) business days of Infolinx's request.

**12.2. Construction.** Any principle of construction or rule of law that provides that an agreement shall be construed against the drafter of the agreement shall not apply to this ISA. The headings of the Sections of this ISA are for convenience only and shall not affect the meaning of any provision. Except as otherwise specified, references herein to "days" means calendar days. Any use of the term "including" and "include" in this ISA shall be construed as if followed by the phrase "without limitation."

**12.3. Conflicts in Interpretation.** Any conflicts in the provisions of any of the ISA Documents shall be resolved giving preference in the following order: (i) the RFP; (ii) the ISA signature page; (iii) the ISA Provisions; (iv) Infolinx Service Level Agreement; and (v) the Azure Agreement.



**12.4. Severability.** Each provision of this ISA shall be treated as a separate and independent clause, and the unenforceability of any one clause shall in no way impair the enforceability of any of the other clauses herein. Moreover, if any provision contained in this ISA shall for any reason be held to be unenforceable at law, such provision shall be construed by the appropriate judicial body by limiting or reducing such provision, so as to be enforceable to the maximum extent allowed by law as such law shall then be in effect.

**12.5. Assignment.** This ISA shall bind and inure to the benefit of the successors and permitted assigns of each Party. Except as otherwise provided herein, neither Party shall have the right to assign or otherwise transfer its rights under this ISA without receiving the express prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Infolinx may assign or transfer this ISA, with Subscriber's prior written consent, to any affiliate or in the event of a merger or a sale of all or substantially all of Infolinx's assets or stock, provided that the assignee assumes all of Infolinx's obligations under this ISA. Any attempted assignment or delegation in violation of this ISA shall be void.

**12.6. Waiver of Default.** No waiver of any default by either Party shall be deemed to constitute a waiver of any subsequent default with respect to the same or any other provision hereof. No waiver shall be effective unless made in writing with specific reference to the relevant provision(s) of this ISA and signed by a duly authorized representative of the Party granting the waiver.

**12.7. Non-Exclusivity.** Infolinx is in the business of selling similar services and other web-based services. Infolinx shall have the right, without obligation of any kind to Subscriber, to provide to third-parties deliverables and services that are the same or similar to the deliverables and services provided hereunder, and to use or otherwise exploit any Infolinx Properties in providing such deliverables or services.

**12.8. Further Assurances.** Upon the reasonable request of either Party, the other Party shall execute all such documents and perform all such acts and things as may reasonably be required to deliver to the requesting Party the full benefit of the terms of this ISA.

**12.9. Notices.** All notices or other formal communications hereunder (other than routine business communications) shall be given in writing and sent via facsimile or email with confirmation or sent using first class certified mail, return receipt requested, postage prepaid, or nationally recognized overnight carrier, to the addresses set forth below:

If to Infolinx:                    Infolinx  
    10800 Connecticut Avenue  
    Kensington, Maryland 20895-2102  
    Attn: Ms. Amy Hamilton, President

If to Subscriber:                Subscriber's address set forth on the ISA signature page.

Notice shall be effective five (5) days after deposit if sent by mail, the next business day if sent by reputable overnight carrier, and if sent by facsimile or email upon receipt of electronic confirmation of delivery.

**12.10. Excused Delay.** The untimely performance of any obligation under this ISA by any Party shall be excused, and such delay of performance shall not constitute breach, or grounds for termination or prejudice of any rights hereunder, if the delay of performance is a result of circumstances or occurrences of force majeure beyond the reasonable control of the Party whose performance is excused hereunder, provided that such Party: (a) shall immediately resume performance after the cause of the delay is removed; and (b) shall during such delay be reasonably diligent in avoiding further delay. Without limiting the generality of circumstances or occurrences of force majeure beyond the reasonable

control of a Party, examples of such circumstances or occurrences are natural disasters; unavoidable shortages of power, materials or transportation; and acts of government or of God, sabotage, war, terrorism or insurrection. A Party whose performance may be affected by such an occurrence or circumstance of force majeure shall promptly give notice to the other Party of the occurrence or circumstance upon which it intends to rely to excuse its performance. Microsoft's decision to terminate the Azure Agreement without cause shall be deemed a force majeure occurrence relieving Infolinx from all obligation to continue providing Infolinx Cloud Services under this ISA.

**12.11. Relationship of Parties.** The Parties hereto expressly understand and agree that their relationship shall be that of independent contractors in the performance of each and every part of this ISA. Nothing in this ISA shall constitute one Party as an employee, agent, joint venture or other partner or servant of another. Each Party is solely responsible for all of its employees and agents and its labor costs and expenses arising in connection with anything relating to this ISA or otherwise.

**12.12. Entire ISA.** All prior agreements, Subscriber purchase orders or arrangements, written or oral, between the Parties relating to the Infolinx Cloud Services or other subject matter hereof are hereby superseded by this ISA and the incorporated documents set forth herein.

Infolinx

By: Mitch Seal

Title: Sec/Treasurer

Date: 5/9/2016

Subscriber

By: Jim Gray

Title: Mayor

Date: June 16-2016

**EXHIBIT A – RFP #9-2016 RECORDS INVENTORY MANAGEMENT SYSTEM (37 PAGES)  
AND INFOLINX’S RESPONSE (43 PAGES)**

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# Lexington-Fayette Urban County Government

## Request for Proposal

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The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #9-2016 Records Inventory Management System** to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received in the Division of Central Purchasing, Room 338, Government Center, 200 East Main Street, Lexington, KY, 40507, until **2:00 PM**, prevailing local time, on **March 11, 2016**.

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

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

**RFP #9-2016 Records Inventory Management System**

If mailed, the envelope must be addressed to:

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

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

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

**The Proposer must submit one (1) master (hardcopy), (1) electronic version in PDF format on a flashdrive or CD and five (5) duplicates (hardcopies) of their proposal for evaluation purposes.**

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

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

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

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

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

#### **Laws and Regulations**

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

#### **Equal Employment Opportunity**

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

## **Kentucky Equal Employment Opportunity Act**

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

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

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

The Act further provides:

"KRS 45.610. Hiring minorities -- Information required

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

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

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

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

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

KRS 45.630 Termination of existing employee not required, when

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

KRS 45.640 Minimum skills

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

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

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

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

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

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

### **Contention Process**

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

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

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



**SELECTION CRITERIA:**

1. See complete criteria below

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 shall be addressed to:**

Todd Slatin, Director  
Division of Central Purchasing  
[tslatin@lexingtonky.gov](mailto:tslatin@lexingtonky.gov)

## Affirmative Action Plan

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

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

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

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

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

**AFFIDAVIT**

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

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

**Continued on next page**

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

Further, Affiant sayeth naught.

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

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

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

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

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

## EQUAL OPPORTUNITY AGREEMENT

### The Law

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

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

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

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

\*\*\*\*\*

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

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

### Bidders

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

\_\_\_\_\_  
Signature

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

**WORKFORCE ANALYSIS FORM**

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

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

Prepared by: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 (Name and Title) Revised 2015-Dec-15

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

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

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

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

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

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

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

A. GENERAL

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

B. PROCEDURES

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



### C. DEFINITIONS

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

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

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

### E. DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS

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

j. Provided the interested MWDBE firm with adequate and timely information about the plans, specifications, and requirements of the contract.

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

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

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

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

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

p. Made efforts to expand the search for MWBE firms beyond the usual geographic boundaries.

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

Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. Documentation of Good Faith Efforts are to be submitted with the Bid, if the participation Goal is not met.



## MINORITY BUSINESS ENTERPRISE PROGRAM

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

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

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

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

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

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

We have compiled the list below to help you locate certified MBE, WBE and DBE certified businesses. Below is a listing of contacts for LFUCG Certified MWDBEs in Economic Engine (<https://lfucg.economicengine.com>)

<b>Business</b>	<b>Contact</b>	<b>Email Address</b>	<b>Phone</b>
<b>LFUCG</b>	Sherita Miller	<a href="mailto:smiller@lexingtonky.gov">smiller@lexingtonky.gov</a>	859-258-3323
<b>Commerce Lexington – Minority Business Development</b>	Tyrone Tyra	<a href="mailto:TTYRA@commercelexington.com">TTYRA@commercelexington.com</a>	859-226-1625
<b>Tri-State Minority Supplier Diversity Council</b>	Sonya Brown	<a href="mailto:sbrown@tsmsdc.com">sbrown@tsmsdc.com</a>	502-625-0137
<b>Small Business Development Council</b>	Dee Dee Harbut UK SBDC	<a href="mailto:dharbut@uky.edu">dharbut@uky.edu</a>	859-257-7668
	Shirie Mack	<a href="mailto:smack3@email.uky.edu">smack3@email.uky.edu</a>	859-257-7666
<b>Community Ventures Corporation</b>	James Coles	<a href="mailto:jcoles@cvcky.org">jcoles@cvcky.org</a>	859-231-0054
<b>KY Department of Transportation</b>	Melvin Bynes	<a href="mailto:Melvin.bynes2@ky.gov">Melvin.bynes2@ky.gov</a>	502-564-3601
	Shella Eagle	<a href="mailto:Shella.Eagle@ky.gov">Shella.Eagle@ky.gov</a>	502-564-3601
<b>Ohio River Valley Women’s Business Council (WBENC)</b>	Rea Waldon	<a href="mailto:rwaldon@gcul.org">rwaldon@gcul.org</a>	513-487-6534
<b>Kentucky MWBE Certification Program</b>	Yvette Smith, Kentucky Finance Cabinet	<a href="mailto:Yvette.Smith@ky.gov">Yvette.Smith@ky.gov</a>	502-564-8099
<b>National Women Business Owner’s Council (NWBOC)</b>	Janet Harris-Lange	<a href="mailto:janet@nwbooc.org">janet@nwbooc.org</a>	800-675-5066
<b>Small Business Administration</b>	Robert Coffey	<a href="mailto:robertcoffey@sba.gov">robertcoffey@sba.gov</a>	502-582-5971
<b>LaVoz de Kentucky</b>	Andres Cruz	<a href="mailto:lavozecky@yahoo.com">lavozecky@yahoo.com</a>	859-621-2106
<b>The Key News Journal</b>	Patrice Muhammad	<a href="mailto:paatricem@keynewsjournal.com">paatricem@keynewsjournal.com</a>	859-373-9428



**LFUCG MWDBE PARTICIPATION FORM**

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

The MWDBE subcontractors listed have agreed to participate on this Bid/RFP/Quote. If any substitution is made or the total value of the work is changed prior to or after the job is in progress, it is understood that those substitutions must be submitted to Central Purchasing for approval immediately.

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

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

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

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

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

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



**LFUCG MWDBE SUBSTITUTION FORM**

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

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

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

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

\_\_\_\_\_  
Company

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title



**MWDBE QUOTE SUMMARY FORM**

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

The undersigned acknowledges that the minority subcontractors listed on this form did submit a quote to participate on this project.

Company Name	Contact Person
Address/Phone/Email	Bid Package / Bid Date

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

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

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

\_\_\_\_\_  
Company

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title





## LFUCG SUBCONTRACTOR MONTHLY PAYMENT REPORT

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

**Bid/RFP/Quote #** \_\_\_\_\_  
**Total Contract Amount Awarded to Prime Contractor for this Project** \_\_\_\_\_

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

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

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

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

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

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

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

**LFUCG STATEMENT OF GOOD FAITH EFFORTS**

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

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

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

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

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

\_\_\_\_\_ Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs of subcontracting opportunities

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

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

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

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

- \_\_\_\_\_ Followed up initial solicitations by contacting MWDBEs to determine their level of interest.
  
- \_\_\_\_\_ Provided the interested MWBDE firm with adequate and timely information about the plans, specifications, and requirements of the contract.
  
- \_\_\_\_\_ Selected portions of the work to be performed by MWDBE firms in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE participation, even when the prime contractor may otherwise perform these work items with its own workforce
  
- \_\_\_\_\_ Negotiated in good faith with interested MWDBE firms not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
  
- \_\_\_\_\_ Included documentation of quotations received from interested MWDBE firms which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
  
- \_\_\_\_\_ Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE goals.
  
- \_\_\_\_\_ Made an effort to offer assistance to or refer interested MWDBE firms to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal
  
- \_\_\_\_\_ Made efforts to expand the search for MWDBE firms beyond the usual geographic boundaries.

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

Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. Documentation of Good Faith Efforts are to be submitted with the Bid, if the participation Goal is not met.

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

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

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

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

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

## GENERAL PROVISIONS

1. Each Respondent shall comply with all Federal, State & Local regulations concerning this type of service or good.

The Respondent agrees to comply with all statutes, rules, and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, *29 U.S.C. 650 et. seq.*, as amended, and KRS Chapter 338. The Respondent also agrees to notify the LFUCG in writing immediately upon detection of any unsafe and/or unhealthful working conditions at the job site. The Respondent agrees to indemnify, defend and hold the LFUCG harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

2. Failure to submit ALL forms and information required in this RFP may be grounds for disqualification.
3. Addenda: All addenda, if any, shall be considered in making the proposal, and such addenda shall be made a part of this RFP. Before submitting a proposal, it is incumbent upon each proposer to be informed as to whether any addenda have been issued, and the failure to cover in the bid any such addenda may result in disqualification of that proposal.
4. Proposal Reservations: LFUCG reserves the right to reject any or all proposals, to award in whole or part, and to waive minor immaterial defects in proposals. LFUCG may consider any alternative proposal that meets its basic needs.
5. Liability: LFUCG is not responsible for any cost incurred by a Respondent in the preparation of proposals.
6. Changes/Alterations: Respondent may change or withdraw a proposal at any time prior to the opening; however, no oral modifications will be allowed. Only letters, or other formal written requests for modifications or corrections of a previously submitted proposal which is addressed in the same manner as the proposal, and received by LFUCG prior to the scheduled closing time for receipt of proposals, will be accepted. The proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope which is plainly marked "modifications of proposal".
7. Clarification of Submittal: LFUCG reserves the right to obtain clarification of any point in a bid or to obtain additional information from a Respondent.
8. Bribery Clause: By his/her signature on the bid, Respondent certifies that no employee of his/hers, any affiliate or Subcontractor, has bribed or

attempted to bribe an officer or employee of the LFUCG.

9. Additional Information: While not necessary, the Respondent may include any product brochures, software documentation, sample reports, or other documentation that may assist LFUCG in better understanding and evaluating the Respondent's response. Additional documentation shall not serve as a substitute for other documentation which is required by this RFP to be submitted with the proposal,
10. Ambiguity, Conflict or other Errors in RFP: If a Respondent discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify LFUCG of such error in writing and request modification or clarification of the document if allowable by the LFUCG.
11. Agreement to Bid Terms: In submitting this proposal, the Respondent agrees that it has carefully examined the specifications and all provisions relating to the work to be done attached hereto and made part of this proposal. By acceptance of a Contract under this RFP, proposer states that it understands the meaning, intent and requirements of the RFP and agrees to the same. The successful Respondent shall warrant that it is familiar with and understands all provisions herein and shall warrant that it can comply with them. No additional compensation to Respondent shall be authorized for services or expenses reasonably covered under these provisions that the proposer omits from its Proposal.
12. Cancellation: If the services to be performed hereunder by the Respondent are not performed in an acceptable manner to the LFUCG, the LFUCG may cancel this contract for cause by providing written notice to the proposer, giving at least thirty (30) days notice of the proposed cancellation and the reasons for same. During that time period, the proposer may seek to bring the performance of services hereunder to a level that is acceptable to the LFUCG, and the LFUCG may rescind the cancellation if such action is in its best interest.

#### A. Termination for Cause

- (1) LFUCG may terminate a contract because of the contractor's failure to perform its contractual duties
- (2) If a contractor is determined to be in default, LFUCG shall notify the contractor of the determination in writing, and may include a specified date by which the contractor shall cure the identified deficiencies. LFUCG may proceed with termination if the contractor fails to cure the deficiencies within the specified time.

- (3) A default in performance by a contractor for which a contract may be terminated shall include, but shall not necessarily be limited to:
- (a) Failure to perform the contract according to its terms, conditions and specifications;
  - (b) Failure to make delivery within the time specified or according to a delivery schedule fixed by the contract;
  - (c) Late payment or nonpayment of bills for labor, materials, supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency;
  - (d) Failure to diligently advance the work under a contract for construction services;
  - (e) The filing of a bankruptcy petition by or against the contractor; or
  - (f) Actions that endanger the health, safety or welfare of the LFUCG or its citizens.

#### B. At Will Termination

Notwithstanding the above provisions, the LFUCG may terminate this contract at will in accordance with the law upon providing thirty (30) days written notice of that intent, Payment for services or goods received prior to termination shall be made by the LFUCG provided these goods or services were provided in a manner acceptable to the LFUCG. Payment for those goods and services shall not be unreasonably withheld.

13. Assignment of Contract: The contractor shall not assign or subcontract any portion of the Contract without the express written consent of LFUCG. Any purported assignment or subcontract in violation hereof shall be void. It is expressly acknowledged that LFUCG shall never be required or obligated to consent to any request for assignment or subcontract; and further that such refusal to consent can be for any or no reason, fully within the sole discretion of LFUCG.
14. No Waiver: No failure or delay by LFUCG in exercising any right, remedy, power or privilege hereunder, nor any single or partial exercise thereof, nor the exercise of any other right, remedy, power or privilege shall operate as a waiver hereof or thereof. No failure or delay by LFUCG in exercising any right, remedy, power or privilege under or in respect of this Contract shall affect the rights, remedies, powers or privileges of LFUCG hereunder or shall operate as a waiver thereof.

15. Authority to do Business: The Respondent must be a duly organized and authorized to do business under the laws of Kentucky. Respondent must be in good standing and have full legal capacity to provide the services specified under this Contract. The Respondent must have all necessary right and lawful authority to enter into this Contract for the full term hereof and that proper corporate or other action has been duly taken authorizing the Respondent to enter into this Contract. The Respondent will provide LFUCG with a copy of a corporate resolution authorizing this action and a letter from an attorney confirming that the proposer is authorized to do business in the State of Kentucky if requested. All proposals must be signed by a duly authorized officer, agent or employee of the Respondent.
16. Governing Law: This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this Contract, the Parties agree that the venue shall be the Fayette County Circuit Court or the U.S. District Court for the Eastern District of Kentucky, Lexington Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Contract or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.
17. Ability to Meet Obligations: Respondent affirmatively states that there are no actions, suits or proceedings of any kind pending against Respondent or, to the knowledge of the Respondent, threatened against the Respondent before or by any court, governmental body or agency or other tribunal or authority which would, if adversely determined, have a materially adverse effect on the authority or ability of Respondent to perform its obligations under this Contract, or which question the legality, validity or enforceability hereof or thereof.
18. Contractor understands and agrees that its employees, agents, or subcontractors are not employees of LFUCG for any purpose whatsoever. Contractor is an independent contractor at all times during the performance of the services specified.
19. If any term or provision of this Contract shall be found to be illegal or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken.

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Signature

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Date



## **RISK MANAGEMENT PROVISIONS INSURANCE AND INDEMNIFICATION**

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### **INDEMNIFICATION AND HOLD HARMLESS PROVISION**

- (1) It is understood and agreed by the parties that Consultant hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Consultant or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "Consultant") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- (2) Consultant shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "LFUCG") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by Consultant's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of the Consultant; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) Notwithstanding, the foregoing, with respect to any professional services performed by Consultant hereunder (and to the fullest extent permitted by law), Consultant shall indemnify, save, hold harmless and defend LFUCG from and against any and all liability, damages and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of Consultant in the performance of this agreement.
- (4) In the event LFUCG is alleged to be liable based upon the above, Consultant shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by LFUCG, which approval shall not be unreasonably withheld.

- (5) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (6) LFUCG is a political subdivision of the Commonwealth of Kentucky. Consultant acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the Consultant in any manner.

**FINANCIAL RESPONSIBILITY**

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

**INSURANCE REQUIREMENTS**

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

**Required Insurance Coverage**

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

<b><u>Coverage</u></b>	<b><u>Limits</u></b>
General Liability (Insurance Services Office Form CG 00 01)	\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit
Commercial Automobile Liability (Insurance Services Office Form CA 0001)	combined single, \$1 million per occurrence
Professional Liability	\$1 million per occurrence, \$2 million aggregate
Worker's Compensation	Statutory
Employer's Liability	\$500,000

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky. LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. The General Liability Policy shall include Products and Completed Operations coverage and Premises and Operations Liability coverage, unless it is deemed not to apply by LFUCG.
- d. The General Liability Policy shall have a Professional Liability endorsement (including Errors and Omissions, and Cyber Liability for third party risks, such as data breach and virus transmission) for any services performed pursuant to the contract, and/or a separate Professional Liability Policy and/or Cyber Liability Policy, shall be obtained unless it is deemed not to apply by LFUCG.
- e. The Professional Liability policy shall be maintained for a minimum of three years beyond the completion date of the project, to the extent commercially available. If not commercially available, Consultant shall notify LFUCG and obtain similar insurance that is commercially available and acceptable to LFUCG.
- f. LFUCG shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- g. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

#### Renewals

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

#### Deductibles and Self-Insured Programs

**IF YOU INTEND TO SUBMIT A SELF-INSURANCE PLAN IT MUST BE FORWARDED TO LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, DIVISION OF RISK MANAGEMENT, 200 EAST MAIN STREET, LEXINGTON, KENTUCKY 40507 NO LATER THAN A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO THE RESPONSE DATE.** Self-insurance programs, deductibles, and self-insured retentions in insurance policies are subject to separate approval by

Lexington-Fayette Urban County Government's Division of Risk Management, upon review of evidence of Consultant's financial capacity to respond to claims. Any such programs or retentions must provide LFUCG with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverage. If Consultant satisfies any portion of the insurance requirements through deductibles, self-insurance programs, or self-insured retentions, Consultant agrees to provide Lexington-Fayette Urban County Government, Division of Risk Management, the following data prior to the final acceptance of bid and the commencement of any work:

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

#### Safety and Loss Control

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

#### Verification of Coverage

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

#### Right to Review, Audit and Inspect

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

#### Safety and Loss Control

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

## **DEFAULT**

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

## RECORDS INVENTORY MANAGEMENT SYSTEM

The Lexington-Fayette Urban County Government (LFUCG) is accepting proposals for a physical records inventory management system to be used primarily by the Council Clerk's Office for the management of contracts, resolutions, ordinances and other related documents.

### System Scope

The Records Management Software will be used to capture, edit and maintain the LFUCG's records throughout the records lifecycle. The software will bridge the gap among records kept in several locations as well as within several different formats. This system will be used daily to keep records of items released to departments as well as preparation of records moving into the final stages of the retention schedule. Reports will be used to maintain accuracy of the amount of boxes and records kept at the Records Center, facilities cost (shelving, boxes) and space. System must meet Federal, State and Local laws that govern records preservation. (KDLA, KRS, and LFUCG)

### System Requirements

The records management software needs to be a customizable, flexible, user-friendly system that can manage physical records inventory and also provide reporting of records being transported in and out of the Records Center. Also, it must ensure that physical records are meeting their retention schedules effectively.

- Reliable system that can be upgraded as technology changes/improves
- Hosted or cloud based solution
- Can be customized to fit LFUCG business needs
- System able to track the physical locations and contents of folders and boxes of records that are maintained in various locations
- System that manages records retention electronically
- Software designed to manage all of our physical documents including their creation, storage and retrieval
- Software that can add, edit, search, retrieve and update records in a variety of electronic formats and able to consolidate records inventory that is populated in many different ways, at different times and from different sources (physical and electronic)
- Provide flexible location systems
- Easy to learn report generation for inventory control
- Control inventory and provide updates on open locations to store documents/boxes in warehouse
- Provide reports that specify timeline of destruction for records (based on our Retention schedule)
- System that can provide reconciliation
- Consolidate records inventory with our current records retention schedule

- Real-time downloading of inventory status
- Have the ability to place holds, redaction, etc. on records if needed for legal purposes.
- Ability to create electronic work-flow of request (records request-transmittal of records)
- Scanning capabilities to track location and transfer of records
- Input and output devices i.e. hardware, printers
- Web based and browser neutral for administrator and request of records
- Ability to do data migration on legacy system that is currently in place (See sample data file “**Sample Data.xlsx**” and table fields file “**CCTables\_Fields.pdf**”)

### Response Instructions

- Address the system requirements above and your solution’s ability to meet these requirements
- Alternative solutions will be considered but must be described in detail in your response
- Provide a business profile describing your company's history/background
- Provide at least three references (customer name, telephone, email and agency name) for work performed over the last three years for projects relevant to this one (i.e., comparable functionality for similar sized government agency)
- Describe your company’s approach to user training and vendor support
- Describe your major and minor software update cycle including a schedule of updates past and planned.
- Provide all-inclusive pricing (implementation, license, storage, maintenance, etc.) in the table below

Pricing Table

1 <sup>st</sup> Year All-Inclusive Cost	\$
2 <sup>nd</sup> Year All-Inclusive Cost	\$
3 <sup>rd</sup> Year All-Inclusive Cost	\$
4 <sup>th</sup> Year All-Inclusive Cost	\$
5 <sup>th</sup> Year All-Inclusive Cost	\$
6 <sup>th</sup> Year All-Inclusive Cost	\$

Selection Criteria

- Cost of Services 20 points
- Proposed solutions' fulfillment of the requirements 30 points
- Vendor Support 10 points
- Client References 10 points
- Business Profile 10 points
- Familiarity with the details of the project 10 points
- Training Approach 5 points
- Degree of local employment 5 points





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# Infolinx System Solutions RFP Response

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



# Lexington-Fayette Urban County Government

## Request for Proposal

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The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #9-2016 Records Inventory Management System** to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received in the Division of Central Purchasing, Room 338, Government Center, 200 East Main Street, Lexington, KY, 40507, until **2:00 PM**, prevailing local time, on **March 11, 2016**.

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

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

### **RFP #9-2016 Records Inventory Management System**

If mailed, the envelope must be addressed to:

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

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



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

**The Proposer must submit one (1) master (hardcopy), (1) electronic version in PDF format on a flashdrive or CD and five (5) duplicates (hardcopies) of their proposal for evaluation purposes.**

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

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

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

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

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

### **Laws and Regulations**

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

### **Equal Employment Opportunity**

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



## **Kentucky Equal Employment Opportunity Act**

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

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

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

The Act further provides:

"KRS 45.610. Hiring minorities -- Information required

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



department for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations and orders issued pursuant thereto.

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

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

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

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

KRS 45.630 Termination of existing employee not required, when

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

KRS 45.640 Minimum skills

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

It is recommended that all of the provisions above quoted be included as special conditions in each contract. In the case of a contract exceeding \$250,000, the contractor is required to furnish evidence



that his workforce in Kentucky is representative of the available workforce in the area from which he draws employees, or to supply an Affirmative Action plan which will achieve such representation during the life of the contract.

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

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

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

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

### **Contention Process**

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

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

Notice of appeal of a RFP recommendation must be filed within 3 business days of the RFP recommendation by (1) sending a written notice, including sufficient documentation



to support appeal, to the Director, Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his appeal. After reviewing the documentation and/or hearing the vendor and consulting with the Commissioner of Finance and the Chief Administrative Officer, the Director of Central Purchasing shall in writing, affirm or withdraw the recommendation.

**SELECTION CRITERIA:**

1. See complete criteria below

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 shall be addressed to:**

Todd Slatin, Director  
Division of Central Purchasing  
[tslatin@lexingtonky.gov](mailto:tslatin@lexingtonky.gov)



## Affirmative Action Plan

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

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

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

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

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





## AFFIDAVIT

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

1. His/her name is Tim Butler and he/she is the individual submitting the proposal or is the authorized representative of Spacesaver Systems, Inc. DBA Infolinx System Solutions, 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.

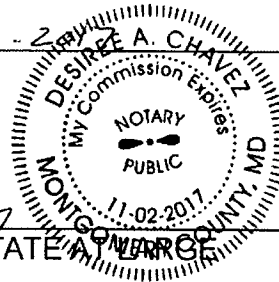
STATE OF Maryland

COUNTY OF Montgomery

The foregoing instrument was subscribed, sworn to and acknowledged before me by Tim Butler on this the 2 day of March, 2016.

My Commission expires: 11-02-2017

Desiree A. Chavez  
NOTARY PUBLIC, STATE OF MARYLAND



## EQUAL OPPORTUNITY AGREEMENT

### The Law

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

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

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

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

\*\*\*\*\*

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

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

### Bidders

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

  
Signature

Spacesaver Systems, Inc DBA Infolinx System  
Solution



www.infolinx.com  
1-800-251-8399

10800 Connecticut Ave.  
Kensington, MD 20895

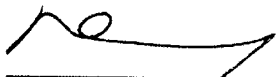
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**WORKFORCE ANALYSIS FORM**

Name of Organization: **Spacesaver Systems, Inc, DBA Infolinx System Solutions**

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
<b>Administrators</b>																	
<b>Professionals</b>		12	2							1						13	2
<b>Superintendents</b>																	
<b>Supervisors</b>																	
<b>Foremen</b>																	
<b>Technicians</b>																	
<b>Protective Service</b>																	
<b>Para-Professionals</b>																	
<b>Office/Clerical</b>		4	5			1	1									5	6
<b>Skilled Craft</b>		3		7		2										12	
<b>Service/Maintenance</b>		1				1										2	
<b>Total:</b>		20	7	7		4	1			1						32	8

Prepared by:



Mitchell Segal, Controller

Date: 3, 2, 2016



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

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

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

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

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

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

- o Spacesaver Systems, Inc DBA Infolinx System Solutions is not required by Executive Order 11246 to develop a written affirmative action plan because we have less than 50 employees.
- o Spacesaver Systems, Inc DBA Infolinx System Solutions is a Woman-Owned Business. WBENC National Certification Number: 2005125605.



## Lexington-Fayette Urban County Government MWDBE PARTICIPATION GOALS

### A. GENERAL

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

### B. PROCEDURES

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



location, the bid date, and all other pertinent information regarding the project.

#### C. DEFINITIONS

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

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

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



E. DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS

- 1) Bidders reaching the Goal are required to submit only the MWDBE Participation Form.” The form must be fully completed including names and telephone number of participating MWDBE firm(s); type of work to be performed; estimated value of the contract and value expressed as a percentage of the total Lump Sum Bid Price. The form must be signed and dated, and is to be submitted with the bid.
- 2) Bidders not reaching the Goal must submit the “MWDBE Participation Form”, the “Quote Summary Form” and a written statement documenting their Good Faith Effort to do so. If bid includes no MWDBE participation, bidder shall enter “None” on the subcontractor / supplier form). In addition, the bidder must submit written proof of their Good Faith Efforts to meet the Participation Goal:
  - a. Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms to participate.
  - b. Included documentation of advertising in the above publications with the bidders good faith efforts package
  - c. Attended LFUCG Central Purchasing Economic Inclusion Outreach event
  - d. Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs of subcontracting opportunities
  - e. Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms
  - f. Requested a list of MWDBE subcontractors or suppliers from LFUCG Economic Engine and showed evidence of contacting the companies on the list(s).
  - g. Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms to work on this project. Those contacted and their responses should be a part of the bidder’s good faith efforts documentation.
  - h. Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less





than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.

- i. Followed up initial solicitations by contacting MWDBEs to determine their level of interest.
- j. Provided the interested MWDBE firm with adequate and timely information about the plans, specifications, and requirements of the contract.
- k. Selected portions of the work to be performed by MWDBE firms in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE participation, even when the prime contractor may otherwise perform these work items with its own workforce
- l. Negotiated in good faith with interested MWDBE firms not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
- m. Included documentation of quotations received from interested MWDBE firms which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
- n. Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE goals.
- o. Made an effort to offer assistance to or refer interested MWDBE firms to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal
- p. Made efforts to expand the search for MWBE firms beyond the usual geographic boundaries.
- q. Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE participation.



Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. Documentation of Good Faith Efforts are to be submitted with the Bid, if the participation Goal is not met.



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## MINORITY BUSINESS ENTERPRISE PROGRAM

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

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

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

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

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

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



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We have compiled the list below to help you locate certified MBE, WBE and DBE certified businesses. Below is a listing of contacts for LFUCG Certified MWDBEs in Economic Engine (<https://lfucg.economicengine.com>)

Business	Contact	Email Address	Phone
LFUCG	Sherita Miller	<a href="mailto:smiller@lexingtonky.gov">smiller@lexingtonky.gov</a>	859-258-3323
Commerce Lexington – Minority Business Development	Tyrone Tyra	<a href="mailto:tyra@commercelexington.com">tyra@commercelexington.com</a>	859-226-1625
Tri-State Minority Supplier Diversity Council	Sonya Brown	<a href="mailto:sbrown@tsmsdc.com">sbrown@tsmsdc.com</a>	502-625-0137
Small Business Development Council	Dee Dee Harbut UK SBDC	<a href="mailto:dharbut@uky.edu">dharbut@uky.edu</a>	859-257-7668
	Shirie Mack	<a href="mailto:smack3@email.uky.edu">smack3@email.uky.edu</a>	859-257-7666
Community Ventures Corporation	James Coles	<a href="mailto:jcoles@cycky.org">jcoles@cycky.org</a>	859-231-0054
KY Department of Transportation	Melvin Bynes	<a href="mailto:Melvin.bynes2@ky.gov">Melvin.bynes2@ky.gov</a>	502-564-3601
	Shella Eagle	<a href="mailto:Shella.Eagle@ky.gov">Shella.Eagle@ky.gov</a>	502-564-3601
Ohio River Valley Women's Business Council (WBENC)	Rea Waldon	<a href="mailto:rwaldon@gcul.org">rwaldon@gcul.org</a>	513-487-6534
Kentucky MWBE Certification Program	Yvette Smith, Kentucky Finance Cabinet	<a href="mailto:Yvette.Smith@ky.gov">Yvette.Smith@ky.gov</a>	502-564-8099
National Women Business Owner's Council (NWBOC)	Janet Harris-Lange	<a href="mailto:janet@nwbo.org">janet@nwbo.org</a>	800-675-5066
Small Business Administration	Robert Coffey	<a href="mailto:robertcoffey@sba.gov">robertcoffey@sba.gov</a>	502-582-5971
LaVoz de Kentucky	Andres Cruz	<a href="mailto:lavozdeky@yahoo.com">lavozdeky@yahoo.com</a>	859-621-2106
The Key News Journal	Patrice Muhammad	<a href="mailto:paatricem@keynewsjournal.com">paatricem@keynewsjournal.com</a>	859-373-9428





**LFUCG MWDBE PARTICIPATION FORM**  
 Bid/RFP/Quote Reference # 9-2016

The MWDBE subcontractors listed have agreed to participate on this Bid/RFP/Quote. If any substitution is made or the total value of the work is changed prior to or after the job is in progress, it is understood that those substitutions must be submitted to Central Purchasing for approval immediately.

MWDBE Company, Name, Address, Phone, Email	Work to be Performed	Total Dollar Value of the Work	% Value of Total Contract
1. Spacesaver Systems, Inc. DBA Infolinx System Solutions, 10800 Connecticut Avenue, Kensington, MD 20895 301-962-9925 mitschs@spacesaverinteriors.com	100%	See pricing table.	100%
2.			
3.			
4.			

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

Spacesaver Systems, INC  
 Company DBA Infolinx System Solutions  
3/2/2016  
 Date

[Signature]  
 Company Representative  
Managing Director  
 Title



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**LFUCG MWDBE SUBSTITUTION FORM**  
 Bid/RFP/Quote Reference #     9-2016

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

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

Spacesaver Systems, Inc  
 Company DBA Infolinx System Solutions  
3/2/2016  
 Date

[Signature]  
 Company Representative  
Managing Director  
 Title



www.infolinx.com  
 1-800-251-8399

10800 Connecticut Ave.  
 Kensington, MD 20895

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**MWDBE QUOTE SUMMARY FORM**

Bid/RFP/Quote Reference #   9-2016  

The undersigned acknowledges that the minority subcontractors listed on this form did submit a quote to participate on this project.

Company Name	Contact Person
Address/Phone/Email	Bid Package / Bid Date

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

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

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

Spacesaver Systems, Inc.  
Company DBA Infolinx System Solutions

3/21/2016  
Date

J.B. St  
Company Representative

Managing Director  
Title



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1-800-251-8399

10800 Connecticut Ave.  
Kensington, MD 20895

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## LFUCG SUBCONTRACTOR MONTHLY PAYMENT REPORT

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

Bid/RFP/Quote # 9-2016  
 Total Contract Amount Awarded to Prime Contractor for this Project \_\_\_\_\_

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

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

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

Spacesaver Systems, Inc  
 Company DBA Infolinx System Solutions  
3/2/2016  
 Date

[Signature]  
 Company Representative  
Managing Director  
 Title



www.infolinx.com  
 1-800-251-8399

10800 Connecticut Ave.  
 Kensington, MD 20895

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## LFUCG STATEMENT OF GOOD FAITH EFFORTS

Bid/RFP/Quote # \_\_\_\_\_ 9-2016 \_\_\_\_\_

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

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

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

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

\_\_\_\_\_ Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs of subcontracting opportunities

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

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

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

\_\_\_\_\_ Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less



than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.

- \_\_\_\_\_ Followed up initial solicitations by contacting MWDBE's to determine their level of interest.
  
- \_\_\_\_\_ Provided the interested MWDBE firm with adequate and timely information about the plans, specifications, and requirements of the contract.
  
- \_\_\_\_\_ Selected portions of the work to be performed by MWDBE firms in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE participation, even when the prime contractor may otherwise perform these work items with its own workforce
  
- \_\_\_\_\_ Negotiated in good faith with interested MWDBE firms not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
  
- \_\_\_\_\_ Included documentation of quotations received from interested MWDBE firms which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
  
- \_\_\_\_\_ Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE goals.
  
- \_\_\_\_\_ Made an effort to offer assistance to or refer interested MWDBE firms to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal



\_\_\_\_\_ Made efforts to expand the search for MWDBE firms beyond the usual geographic boundaries.

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

Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. Documentation of Good Faith Efforts are to be submitted with the Bid, if the participation Goal is not met.

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

Spacesaver Systems, Inc.  
DBA Infolinx System Solutions

\_\_\_\_\_  
Company

3/2/2016

\_\_\_\_\_  
Date



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

Managing Director

\_\_\_\_\_  
Title



## GENERAL PROVISIONS

1. Each Respondent shall comply with all Federal, State & Local regulations concerning this type of service or good.

The Respondent agrees to comply with all statutes, rules, and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, 29 U.S.C. 650 *et. seq.*, as amended, and KRS Chapter 338. The Respondent also agrees to notify the LFUCG in writing immediately upon detection of any unsafe and/or unhealthful working conditions at the job site. The Respondent agrees to indemnify, defend and hold the LFUCG harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

2. Failure to submit ALL forms and information required in this RFP may be grounds for disqualification.
3. Addenda: All addenda, if any, shall be considered in making the proposal, and such addenda shall be made a part of this RFP. Before submitting a proposal, it is incumbent upon each proposer to be informed as to whether any addenda have been issued, and the failure to cover in the bid any such addenda may result in disqualification of that proposal.
4. Proposal Reservations: LFUCG reserves the right to reject any or all proposals, to award in whole or part, and to waive minor immaterial defects in proposals. LFUCG may consider any alternative proposal that meets its basic needs.
5. Liability: LFUCG is not responsible for any cost incurred by a Respondent in the preparation of proposals.
6. Changes/Alterations: Respondent may change or withdraw a proposal at any time prior to the opening; however, no oral modifications will be allowed. Only letters, or other formal written requests for modifications or corrections of a previously submitted proposal which is addressed in the same manner as the proposal, and received by LFUCG prior to the scheduled closing time for receipt of proposals, will be accepted. The proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope which is plainly marked "modifications of proposal".
7. Clarification of Submittal: LFUCG reserves the right to obtain clarification of any point in a bid or to obtain additional information from a Respondent.
8. Bribery Clause: By his/her signature on the bid, Respondent certifies that no employee of his/hers, any affiliate or Subcontractor, has bribed or attempted



to bribe an officer or employee of the LFUCG.

9. Additional Information: While not necessary, the Respondent may include any product brochures, software documentation, sample reports, or other documentation that may assist LFUCG in better understanding and evaluating the Respondent's response. Additional documentation shall not serve as a substitute for other documentation which is required by this RFP to be submitted with the proposal,
10. Ambiguity, Conflict or other Errors in RFP: If a Respondent discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify LFUCG of such error in writing and request modification or clarification of the document if allowable by the LFUCG.
11. Agreement to Bid Terms: In submitting this proposal, the Respondent agrees that it has carefully examined the specifications and all provisions relating to the work to be done attached hereto and made part of this proposal. By acceptance of a Contract under this RFP, proposer states that it understands the meaning, intent and requirements of the RFP and agrees to the same. The successful Respondent shall warrant that it is familiar with and understands all provisions herein and shall warrant that it can comply with them. No additional compensation to Respondent shall be authorized for services or expenses reasonably covered under these provisions that the proposer omits from its Proposal.
12. Cancellation: If the services to be performed hereunder by the Respondent are not performed in an acceptable manner to the LFUCG, the LFUCG may cancel this contract for cause by providing written notice to the proposer, giving at least thirty (30) days notice of the proposed cancellation and the reasons for same. During that time period, the proposer may seek to bring the performance of services hereunder to a level that is acceptable to the LFUCG, and the LFUCG may rescind the cancellation if such action is in its best interest.

#### A. Termination for Cause

- (1) LFUCG may terminate a contract because of the contractor's failure to perform its contractual duties
- (2) If a contractor is determined to be in default, LFUCG shall notify the contractor of the determination in writing, and may include a specified date by which the contractor shall cure the identified deficiencies. LFUCG may proceed with termination if the contractor fails to cure the deficiencies within the specified time.



- (3) A default in performance by a contractor for which a contract may be terminated shall include, but shall not necessarily be limited to:
  - (a) Failure to perform the contract according to its terms, conditions and specifications;
  - (b) Failure to make delivery within the time specified or according to a delivery schedule fixed by the contract;
  - (c) Late payment or nonpayment of bills for labor, materials, supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency;
  - (d) Failure to diligently advance the work under a contract for construction services;
  - (e) The filing of a bankruptcy petition by or against the contractor; or
  - (f) Actions that endanger the health, safety or welfare of the LFUCG or its citizens.

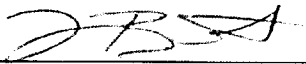
#### B. At Will Termination

Notwithstanding the above provisions, the LFUCG may terminate this contract at will in accordance with the law upon providing thirty (30) days written notice of that intent, Payment for services or goods received prior to termination shall be made by the LFUCG provided these goods or services were provided in a manner acceptable to the LFUCG. Payment for those goods and services shall not be unreasonably withheld.

13. **Assignment of Contract:** The contractor shall not assign or subcontract any portion of the Contract without the express written consent of LFUCG. Any purported assignment or subcontract in violation hereof shall be void. It is expressly acknowledged that LFUCG shall never be required or obligated to consent to any request for assignment or subcontract; and further that such refusal to consent can be for any or no reason, fully within the sole discretion of LFUCG.
14. **No Waiver:** No failure or delay by LFUCG in exercising any right, remedy, power or privilege hereunder, nor any single or partial exercise thereof, nor the exercise of any other right, remedy, power or privilege shall operate as a waiver hereof or thereof. No failure or delay by LFUCG in exercising any right, remedy, power or privilege under or in respect of this Contract shall affect the rights, remedies, powers or privileges of LFUCG hereunder or shall operate as a waiver thereof.



15. Authority to do Business: The Respondent must be a duly organized and authorized to do business under the laws of Kentucky. Respondent must be in good standing and have full legal capacity to provide the services specified under this Contract. The Respondent must have all necessary right and lawful authority to enter into this Contract for the full term hereof and that proper corporate or other action has been duly taken authorizing the Respondent to enter into this Contract. The Respondent will provide LFUCG with a copy of a corporate resolution authorizing this action and a letter from an attorney confirming that the proposer is authorized to do business in the State of Kentucky if requested. All proposals must be signed by a duly authorized officer, agent or employee of the Respondent.
  
16. Governing Law: This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this Contract, the Parties agree that the venue shall be the Fayette County Circuit Court or the U.S. District Court for the Eastern District of Kentucky, Lexington Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Contract or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.
  
17. Ability to Meet Obligations: Respondent affirmatively states that there are no actions, suits or proceedings of any kind pending against Respondent or, to the knowledge of the Respondent, threatened against the Respondent before or by any court, governmental body or agency or other tribunal or authority which would, if adversely determined, have a materially adverse effect on the authority or ability of Respondent to perform its obligations under this Contract, or which question the legality, validity or enforceability hereof or thereof.
  
18. Contractor understands and agrees that its employees, agents, or subcontractors are not employees of LFUCG for any purpose whatsoever. Contractor is an independent contractor at all times during the performance of the services specified.
  
19. If any term or provision of this Contract shall be found to be illegal or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken.

  
 \_\_\_\_\_  
 Signature

3/2/2016  
 \_\_\_\_\_  
 Date



## RISK MANAGEMENT PROVISIONS INSURANCE AND INDEMNIFICATION

### INDEMNIFICATION AND HOLD HARMLESS PROVISION

- (1) It is understood and agreed by the parties that Consultant hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Consultant or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "Consultant") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- (2) Consultant shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "LFUCG") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by Consultant's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of the Consultant; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) Notwithstanding, the foregoing, with respect to any professional services performed by Consultant hereunder (and to the fullest extent permitted by law), Consultant shall indemnify, save, hold harmless and defend LFUCG from and against any and all liability, damages and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of Consultant in the performance of this agreement.
- (4) In the event LFUCG is alleged to be liable based upon the above, Consultant shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by LFUCG, which approval shall not be unreasonably withheld.





- (5) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (6) LFUCG is a political subdivision of the Commonwealth of Kentucky. Consultant acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the Consultant in any manner.

**FINANCIAL RESPONSIBILITY**

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

**INSURANCE REQUIREMENTS**

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

**Required Insurance Coverage**

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

<u>Coverage</u>	<u>Limits</u>
General Liability (Insurance Services Office Form CG 00 01)	\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit
Commercial Automobile Liability (Insurance Services Office Form CA 0001)	combined single, \$1 million per occurrence
Professional Liability	\$1 million per occurrence, \$2 million aggregate
Worker's Compensation	Statutory
Employer's Liability	\$500,000



The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky. LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. The General Liability Policy shall include Products and Completed Operations coverage and Premises and Operations Liability coverage, unless it is deemed not to apply by LFUCG.
- d. The General Liability Policy shall have a Professional Liability endorsement (including Errors and Omissions, and Cyber Liability for third party risks, such as data breach and virus transmission) for any services performed pursuant to the contract, and/or a separate Professional Liability Policy and/or Cyber Liability Policy, shall be obtained unless it is deemed not to apply by LFUCG.
- e. The Professional Liability policy shall be maintained for a minimum of three years beyond the completion date of the project, to the extent commercially available. If not commercially available, Consultant shall notify LFUCG and obtain similar insurance that is commercially available and acceptable to LFUCG.
- f. LFUCG shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- g. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

#### Renewals

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

#### Deductibles and Self-Insured Programs

**IF YOU INTEND TO SUBMIT A SELF-INSURANCE PLAN IT MUST BE FORWARDED TO LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT,**



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

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

#### Safety and Loss Control

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

#### Verification of Coverage

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

#### Right to Review, Audit and Inspect

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



### Safety and Loss Control

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

### DEFAULT

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



## RECORDS INVENTORY MANAGEMENT SYSTEM

The Lexington-Fayette Urban County Government (LFUCG) is accepting proposals for a physical records inventory management system to be used primarily by the Council Clerk's Office for the management of contracts, resolutions, ordinances and other related documents.

### System Scope

The Records Management Software will be used to capture, edit and maintain the LFUCG's records throughout the records lifecycle. The software will bridge the gap among records kept in several locations as well as within several different formats. This system will be used daily to keep records of items released to departments as well as preparation of records moving into the final stages of the retention schedule. Reports will be used to maintain accuracy of the amount of boxes and records kept at the Records Center, facilities cost (shelving, boxes) and space. System must meet Federal, State and Local laws that govern records preservation. (KDLA, KRS, and LFUCG)

### System Requirements

The records management software needs to be a customizable, flexible, user-friendly system that can manage physical records inventory and also provide reporting of records being transported in and out of the Records Center. Also, it must ensure that physical records are meeting their retention schedules effectively.

- Reliable system that can be upgraded as technology changes/improves
  - Since 1987, Infolinx has been developing, implementing and supporting enterprise class physical records management solutions. Our solutions incorporate the latest technologies including enterprise content management, host systems integration, radio-frequency, and integrated color label printing.
- Hosted or cloud based solution
  - Infolinx is available as an on-premises or cloud-based solution.
- Can be customized to fit LFUCG business needs
  - The Infolinx application is very configurable and will match your specifications.
- System able to track the physical locations and contents of folders and boxes of records that are maintained in various locations
  - Our Infolinx enterprise solution is thin client, browser based and will manage the entire life cycle of your physical records from creation to disposition. This includes robust searching, online requesting, complete audit history, location reconciliation, retention schedule and legal holds management, extensive reporting capability, advanced security configuration and workflow email notifications.
- System that manages records retention electronically



- Our advanced retention module is very robust and supports both the three players (records management, record custodians and record owners) along with the three stages (approval, pick list and certificate of destruction).
  - Our standard retention module allows users to create and apply record retention series, place records on hold and produce record destruction reports.
- Software designed to manage all of our physical documents including their creation, storage and retrieval.
  - Our Infolinx enterprise solution is thin client, browser based and will manage the entire life cycle of your physical records from creation to disposition. This includes robust searching, online requesting, complete audit history, location reconciliation, retention schedule and legal holds management, extensive reporting capability, advanced security configuration and workflow email notifications.
- Software that can add, edit, search, retrieve and update records in a variety of electronic formats and able to consolidate records inventory that is populated in many different ways, at different times and from different sources (physical and electronic)
  - Infolinx supports this functionality.
- Provide flexible location systems
  - Infolinx supports this functionality.
- Easy to learn report generation for inventory control
  - Infolinx WEB utilizes Microsoft reports supporting Excel and pdf output formats. Approximately 30 standard reports are included. Additional reports may be designed either by client or Infolinx staff and embedded into the application or executed directly against the database. Ad-hoc reports may also be constructed, saved, and either printed or exported to a csv file.
- Control inventory and provide updates on open locations to store documents/boxes in warehouse.
  - Designed for records centers, the Space Management Module allows for the configuration of an unlimited number of storage units, identifying remaining space and suggesting allocations for incoming boxes. Optional storage and activity based chargeback capability may also be integrated.
- Provide reports that specify timeline of destruction for records (based on our Retention schedule)
  - Infolinx supports this functionality.
- System that can provide reconciliation.
  - Infolinx supports this functionality.
- Consolidate records inventory with our current records retention schedule.
  - Infolinx supports this functionality.
- Real-time downloading of inventory status
  - Infolinx supports this functionality.
- Have the ability to place holds, redaction, etc. on records if needed for legal purposes.
  - An unlimited number of retention schedule record series and legal holds, each defined by an unlimited number of meta-data fields may be



configured with the Advanced Retention/Legal Hold Modules. Time, event, and event/time based series are all supported. Advanced legal holds management, along with citation or authority support may be included.

- Ability to create electronic work-flow of request (records request-transmittal of records)
  - Broadcast messages, instant chat, and configurable email notifications based on user-defined actions and/or data changes are included.
- Scanning capabilities to track location and transfer of records
  - Barcode scanners can be utilized by the Infolinx application.
- Input and output devices i.e. hardware, printers
- Web based and browser neutral for administrator and request of records.
  - Based on Web 2.0 standards and available via Internet Explorer, Firefox, Chrome, or Safari, the user-friendly interface encourages rapid end-user buy in, improving accuracy and efficiency. Hover text, context-sensitive help, item cart, and personal dashboard provide rapid access to vital information.
- Ability to do data migration on legacy system that is currently in place (See sample data file "**Sample Data.xlsx**" and table fields file "**CCTables\_Fields.pdf**")
  - Existing client data (trackable items, locations, or item requests) may be imported (on-demand, scheduled, or via directory monitoring).
  - Infolinx System Solutions provides data conversion professional services for the initial migration to the Infolinx application.

#### Response Instructions

- Address the system requirements above and your solution's ability to meet these requirements
  - Infolinx responded within the system requirements above.
- Alternative solutions will be considered but must be described in detail in your response
  - Infolinx acknowledges but did not provide an alternative solution.
- Provide a business profile describing your company's history/background
  - Infolinx System Solutions was established in 1987. Our parent company, Spacesaver Systems Inc. was founded in 1973 as a distributor of high-density mobile storage equipment and related products and services. As a result of the need to track the materials (usually file folders) placed in this high-density shelving, the Infolinx division was created and began developing and providing records management solutions in 1987. Our clientele includes mortgage, accounting, legal and investment firms, pharmaceutical, healthcare, and property management companies to name a few in private industry, to federal, state, county, and municipal agencies in the public sector. We also have considerable experience working with archived records at the city, county, and state levels, as well as in conjunction with private commercial vendors.

Technically, Infolinx is constantly integrating the latest technology into our products as evidenced by our DoD5015.2 certification, our .Net based,



true thin-client product, integration of radio-frequency identification (RFID), and our integration of complete EDMS services.

- Provide at least three references (customer name, telephone, email and agency name) for work performed over the last three years for projects relevant to this one (i.e., comparable functionality for similar sized government agency)
  - With regard to client references, we ask our clients to be references and set up clear expectations with them up front. Our expectations include only requesting their time and energy when a client is ready to make a final decision. Time is of great value to employees today and we agree not to request their help too many times over a short period of time.

With this being said, I am happy to share the following information regarding Infolinx installations.

Bob Guz, CRM, ERM<sup>S</sup>  
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Ms. Jane Williamson  
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- Describe your company's approach to user training and vendor support
  - There is quite a bit of flexibility available concerning Infolinx training. In general, Infolinx prefers a "Train-the-Trainer" approach. We encourage each client to identify two "champions" who will become experts in the configuration and use of Infolinx. Benefits of this method include immediate, personal resolution of end user issues and questions, as well as more efficient training of future personnel.
    - In addition to basic training provided to project staff throughout the course of application design, as well as remote sessions provided to any client internal testers, Infolinx formal production training will





be conducted on site. Details concerning the method, scope, and length of training are provided below.

**Goal of Training** – For all end users to be proficient in the Infolinx feature set for which their security allows.

**Method of Training** – Depending upon the size of the end-user population as well as available facilities, Infolinx will conduct either classroom or one-on-one training. We strongly encourage a hands-on training whereby each student will have access to the application from a PC. Infolinx training is tailored for three distinct groups: Administrators, Key Records Staff and General Users.

**Length of Training** – Training of Administrators typically requires a full day; Key Records Staff two days; General users one half day.

**Scope of Training** – In addition to familiarizing personnel with the layout and pertinent features of the software, records management practices may also be addressed. Administrators are trained in the configuration and more advanced features of the system such as security and data import. Key Records Staff are trained on topics such as data records creation, modification, and transfer, retention, label printing, etc. General users are taught how to search for and request records.

It is also often highly desirable to realize a post-installation training day on the order of a month or more. This training should be on-site for Administrators and Key Records personnel, but can be done remotely via web conferencing for General users. We have found that scheduling a significant interval (approximately one month) between initial and follow-up training produces the best results in terms of application knowledge and efficiency.

**Training Materials** – These include the online Help Manual, Quick Start Guides, and a library of technical "How-To" documentation.

**Training Timeline** – Infolinx strongly encourages the scheduling the training to be concurrent with "go-live" for production. Typically this means the days immediately preceding "go-live".

- Access to a full Help Manual is embedded within the application including videos tutorials. Technical information is provided for Admin, File and General Users.
- After the implementation, our clients have access to our 800 support line from Monday – Friday, 8:30 am – 5:00 pm EST. Our goal is for our clients to receive a "real person" 100% of the time when contacting us during our business hours.



- Describe your major and minor software update cycle including a schedule of updates past and planned.
  - Infolinx System Solutions' goal is to release a new version every 24-36 months. On February 1, 2016, Infolinx released Version 3.5. The upgrades are an additional investment.
- Provide all-inclusive pricing (implementation, license, storage, maintenance, etc.) in the table below

Pricing Table

	Cloud Option
1 <sup>st</sup> Year All-Inclusive Cost	\$32,166
2 <sup>nd</sup> Year All-Inclusive Cost	\$11,376
3 <sup>rd</sup> Year All-Inclusive Cost	\$11,376
4 <sup>th</sup> Year All-Inclusive Cost	\$11,832
5 <sup>th</sup> Year All-Inclusive Cost	\$12,300
6 <sup>th</sup> Year All-Inclusive Cost	\$12,792

Cloud Option

Item	Quantity	Unit	Unit Price	Total One-time Investment	Total Monthly
Infolinx WEB License SQL, V3.5	1	Lot	\$1,800	\$1,800	\$375
Named User Licenses (Tier 1, 1 – 10)	2	Seat	\$23	\$0	\$46
Concurrent User Licenses (Tier 1, 1-10)	8	Seat	\$19	\$0	\$152
Advanced Retention/Disposition Module	1	Lot	\$1,800	\$1,800	\$250
Space Management Module	1	Lot	\$1,800	\$1,800	\$125
Professional Services (Data Conversion)	2	Day	\$1,800	\$3,600	\$0
Professional Services (Project Management)	2	Day	\$1,800	\$3,600	\$0
Professional Services (Training)	2	Day	\$2,400	\$4,800	\$0
Honeywell Dolphin Scanner	2	Kit	\$1,695	\$3,390	\$0
<b>Total Year One</b>	<b>1</b>	<b>Lot</b>	<b>\$32,166</b>	<b>\$20,790</b>	<b>\$11,376</b>
<b>Total Year Two</b>	<b>1</b>	<b>Lot</b>	<b>\$948</b>	<b>\$0</b>	<b>\$11,376</b>
<b>Total Year Three</b>	<b>1</b>	<b>Lot</b>	<b>\$948</b>	<b>\$0</b>	<b>\$11,376</b>
<b>Total Year Four</b>	<b>1</b>	<b>Lot</b>	<b>\$986</b>	<b>\$0</b>	<b>\$11,832</b>
<b>Total Year Five</b>	<b>1</b>	<b>Lot</b>	<b>\$1,025</b>	<b>\$0</b>	<b>\$12,300</b>
<b>Total Year Six</b>	<b>1</b>	<b>Lot</b>	<b>\$1,066</b>	<b>\$0</b>	<b>\$12,792</b>



Selection Criteria

- Cost of Services 20 points
- Proposed solutions' fulfillment of the requirements 30 points
- Vendor Support 10 points
- Client References 10 points
- Business Profile 10 points
- Familiarity with the details of the project 10 points
- Training Approach 5 points
- Degree of local employment 5 points



## EXHIBIT B

### Infolinx Service Level Agreement

This Infolinx Service Level Agreement ("SLA") is incorporated by reference into and made a material part of the Infolinx Subscription Agreement ("ISA") between Infolinx and Subscriber. All terms defined in the ISA shall have the same meaning in this SLA unless expressly modified herein.

**1. SERVICES LEVEL COMMITMENT.** Subject to the conditions and limitations set forth hereinafter and to the provisions of the ISA Documents:

**1.1. Service Level.** Subscriber's Downtime shall not exceed .1% each month during the Term of Subscriber's ISA.

**1.2. Downtime.** "Downtime" starts when the Infolinx Cloud Services ceases to be available to Subscriber for (i) a single period of more than ten consecutive minutes or (ii) more than fifteen minutes during any thirty consecutive minutes due to an Infolinx Cloud Services issue as determined by Infolinx.

**1.3. Limitations.** The term "Downtime" shall exclude unavailability of the Infolinx Cloud Services to Subscriber due to any one or more of the following ("Excluded Incidents"):

1.3.1. Factors outside of Infolinx's control including factors arising from or related to Microsoft's Azure services.

1.3.2. Scheduled network, hardware, or Infolinx Cloud Services maintenance or upgrades ("Scheduled Downtime"). Infolinx will notify Subscriber prior to any Scheduled Downtime.

1.3.3. Subscriber's hardware or software, or the hardware or software of Subscriber's vendors or other third party service providers including Subscriber firewalls, anti-virus and other security software and hardware, loss of power, and loss of Subscriber's connectivity to the web.

1.3.4. Subscriber's failure to setup or modify Subscriber's hardware of software per Infolinx's initial instructions and after any Infolinx maintenance or upgrade to the Infolinx Cloud Services.

1.3.5. Use of the Infolinx Cloud Services during a trial, pre-release, beta or other test period.

1.3.6. Any Subscriber or unauthorized user conduct occurring on or via Subscriber's hardware or software including improper use of the Infolinx Cloud Services by an Authorized User or an unauthorized users use of or attempts to use Subscriber's access credentials, or Subscriber's violation of the provisions of any ISA Documents.

1.3.7. Malware of any kind attributable to Subscriber or any source other than Infolinx's internal network, hardware or software.

1.3.8. Infolinx's suspension or termination of Subscriber's access to the Infolinx Cloud Services in accordance with any ISA Documents including Subscriber's failure or refusal to pay all applicable Fees.

**1.4. Site Licensed Software.** This SLA does not apply to any site licensed version of Infolinx's records management software.

**1.5. Modifications.** Infolinx may modify this SLA at any time upon ninety (90) days prior notice to Subscriber which may be given by posting the revised service level agreement terms at (<http://www.infolinx.com/cloud/SLAProvisions> or alternative URL Infolinx may identify) or by other notice given in accordance with this SLA or as otherwise contemplated in the ISA Documents.

**1.6. No Third Party Beneficiary Rights.** Nothing in this SLA shall entitle Subscriber to enforce any rights that Infolinx may have under the Azure Agreement. Subscriber acknowledges that Subscriber is not intended to be and has no rights as a third party beneficiary under this SLA, the Azure Agreement, or any other ISA Documents.

## **2. CREDITS.**

**2.1. Lost Minutes.** Downtime incidents shall be measured in "Lost-Minutes" which shall mean the total number of minutes Infolinx Cloud Services are not available, for reasons other than Excluded Incidents, rounded to the closest minute.

**2.2. Percentages.** For purposes of determining Subscriber's Downtime Percentage and thus the applicable Fee Credit Percentage attributable to a Downtime incident, Subscriber's Lost Minutes shall be divided by the total number of minutes in the month the Downtime incident occurred.

**2.3. Fee Credit Calculation.** Upon Infolinx's confirmation of a Downtime incident and determination of Subscriber's Lost Minutes and Downtime Percentage, Infolinx shall extend to Subscriber a Fee credit as follows:

Downtime Percentage	Fee Credit Percentage
>1.0%	1%
>10.0%	10%
>20.0%	100%

**2.4. Fee Credit.** Subscriber's actual Fee credit shall be determined by multiplying the applicable Fee Credit Percentage by Subscriber's monthly Fees attributable to the Infolinx Cloud Services excluding any applicable taxes.

## **3. SUBSCRIBER CLAIM.**

**3.1.** If Subscriber experiences a Downtime incident, then Subscriber may submit a claim for a Fee Credit. Infolinx will not automatically issue a Fee Credit absent a Subscriber claim. Subscriber's claim must include: (i) a detailed description of the Downtime incident; (ii) information regarding the duration of the Downtime; (iii) the number and location(s) of affected Authorized Users; and (iv) a description of Subscriber's attempts to resolve the incident at the time of occurrence. Infolinx must receive Subscriber's claim and all required information by the end of the calendar quarter following the quarter in which the Downtime incident occurred.

**3.2.** Infolinx will evaluate all information reasonably available to us and make a good faith judgment on whether a Fee Credit is owed. Infolinx will use commercially reasonable efforts to process claims during the subsequent quarter and within ninety (90) days of receipt. Subscriber must be in compliance with the Agreement in order to be eligible for a Fee Credit. If Infolinx determines that a Fee Credit is owed to Subscriber, Infolinx will apply the Fee Credit to future Subscriber's Fees, if any.

**4. OTHER ISA PROVISIONS.** Nothing in this SLA is intended to nor shall it waive, modify or otherwise affect any warranties, representations, disclaimers, or limitations on liability set for in the ISA or any other ISA Documents.

Infolinx

By: Mitch Seba Mitch Seba

Title: SEC/TREASURER

Date: 5/9/2016

Subscriber

By: \_\_\_\_\_

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

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

**Infolinx Cloud Services Subscription Agreement Specifications**

**Subscriber Information**

Subscriber Name:			
Subscriber Address:			
Contact Name:		Contact Tel:	
Contact Title:		Contact Fax:	
Contact Email:		Launch Date:	

This Infolinx Cloud Services Subscription Agreement ("ISA") is between Infolinx with offices at 10800 Connecticut Avenue, Kensington, MD 20895-2102 ("Infolinx") and the Lexington-Fayette Urban County Government, an urban county government pursuant to Chapter 67A of the Kentucky Revised Statutes, located at 200 East Main Street, Lexington, KY 40507 ("Subscriber") concerning a subscription to access and use the Infolinx Cloud Services.

**1. Services.** Subject to all ISA provisions and RFP #9-2016 Records Inventory Management System, both of which are incorporated herein by reference as if fully stated, Subscriber will have web access to the features, information, reports and other services included in the Infolinx Cloud Services provisioned with at least the minimum specifications described below.

Test/Training Environment	
Virtual Server Specifications	A0 - 1 CPU Core/768MB RAM
SQL Database	250 GB/10 DTUs

Production Environment	
Virtual Server Specifications	A1 - 1 CPU Core/1.75GB RAM
SQL Database	250 GB/20 DTUs

**2. Term.** This ISA will be effective when signed by Subscriber and Infolinx ("Effective Date"). The Infolinx Cloud Services will begin on the above Effective Date. Subject to this ISA, the Infolinx Cloud Services will continue until one Party gives the other ninety (90) days prior written notice of termination ("Term").

**3. Fee.** Subscriber shall pay Infolinx the applicable Monthly Service Fee, billed quarterly or annually upon mutual agreement, and all other fees and expenses chargeable to the Subscriber Account ("Fee"). The monthly service fee may increase once every 12 months, but in no event, by more than 4%.

**4. Payment Terms.** Infolinx shall invoice Subscriber for the Fee at the beginning of each calendar quarter commencing from Effective Date. All Fees are payable within thirty (30) days of Infolinx's invoice date.

**5. Additional Terms and Conditions.** This ISA hereby incorporates the additional provisions attached hereto ("ISA Provisions") which together comprise the entire agreement between Infolinx and Subscriber concerning the subject matter contained herein. Subscriber has read this entire ISA, including the Subscription Plan and ISA Provisions and documents incorporated therein by reference, and agrees to be legally bound by them as if they were set forth in their entirety on this signature page of this ISA.

**6. Governing Law.** This ISA will be governed by the laws of the Commonwealth Kentucky.

**ACCEPTED AND AGREED TO:**

Infolinx

Subscriber

By: Mitch Sebal

By: \_\_\_\_\_

Title: Secy/TREASURER

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

Date: 5/9/2016

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