



**Office of Management and Budget  
Division of Purchasing  
Non-Competitive Contract Request Form**

Department	Resilience & Community Services	Department Contact	Sam Clausi
Contact Email	samantha.clausi@louisvilleky.gov	Contact Phone	574-6311

Contract Type: check one	<input checked="" type="checkbox"/> <b>New</b>	<input type="checkbox"/> <b>Amendment</b>		
		Additional Funds	Time Extension	Scope
Professional Service				
Sole Source (goods/services)	<input checked="" type="checkbox"/>			
	<b>Start</b>	<b>End</b>		
Requested Contract Dates (MM/DD/YYYY)	07/01/2018	06/30/2019		

**VENDOR INFORMATION**

Vendor Legal Name	Community Action Kentucky, Inc.				
DBA					
Point of Contact	Roger McCann	Email	roger@capky.org		
Street	101 Burch Court				
Suite/Floor/Apt		Phone	502-875-5863		
City	Frankfort	State	KY	Zip Code	40601
Federal Tax ID#		SSN# (If sole proprietor)			
Louisville Revenue Commission Account #					
<u>Human Relations Commission Certified Vendors</u>	Certified Minority Owned Business	Certified Woman Owned business	Disabled Owned business		
Select if applicable					

**FINANCIAL INFORMATION**

Not to Exceed Contract Amount	<b>\$85,000</b>		(including reimbursement expenses, if applicable)		
Fund Source: General Fund					
Federal Grant	<input checked="" type="checkbox"/>	Federal Granting Agency	HHS (Federal Pass-Through/Block Grant)		
Other		Describe:			
Account Code String #	2010	615	3834	383940	522627
Payment Rate		per hour		per day	\$85,000
		per month		Other	per service
Payment Frequency		Monthly	<input checked="" type="checkbox"/>	Upon Completion / Delivery	
		Quarterly		Other	



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**CONTRACT SCOPE and PURPOSE** (Attach additional documentation if necessary)

**Amendments:** Describe the circumstances under which a time extension or scope change is needed.

**New:** Be specific about the work to be performed / product to be purchased including but not limited to: scope of work; description of service; work product created; why the service / product is necessary; and benefit to Louisville Metro Government.

This contract provides for the set up of CASTiNET 3.0 and for any support/maintenance for this product during the duration of the contract. CASTiNET is an automated processing and management system used for the case management of clients working with Louisville Metro RCS Financial Assistance programs. It is the primary client database of RCS is CASTiNET, and is provided by Community Action Kentucky for all community action agencies in the state. CASTiNET is designed to provide flexibility for local agencies to individualize the menu of services for which participation can be documented, while also facilitating easy data collection for National Performance Indicators and other functions of required Community Action reporting. It provides an easy and flexible way of handling our program's data needs, including LouieStat reporting.

**JUSTIFICATION FOR NON-COMPETITIVE GOOD/SERVICE** (Attach additional documentation if necessary)

Provide justification including but not limited to: a description of the unique features that prohibit competition; research conducted to verify the vendor as the only known source (sole source); why the service (PSC) is not feasible to be provided by LMG staff or expertise does not exist; known compatibility, proprietary and/or timing issues.

CASTiNET is provided by Community Action Kentucky for all community action agencies in the state. CASTiNET is designed to provide flexibility for local agencies to individualize the menu of services for which participation can be documented, while also facilitating easy data collection for National Performance Indicators and other functions of required Community Action reporting. Community Action Kentucky is the sole, exclusive owner of the CASTiNET software and was designed by Community Action Kentucky to meet our specific programmatic needs. I am unaware of any other vendors that offer this type of product with the specifications we are currently using.

**AUTHORIZATIONS:** Per KRS 45A.380, I have determined that competition is not feasible for the above described good / service and there is a single source within a reasonable geographical area of the good / service to be procured; or the resulting contract is for the services of a licensed professional, technician, artist, or other non-licensed professional service.

Department Director *Gena Redmon Harris* Date 7/16/2018  
Signature Gena Redmon Harris  
Printed Name

Purchasing Director *Jeel Neavell* Date 8/8/18  
Signature Jeel Neavell  
Printed Name

## **COMMUNITY ACTION KENTUCKY CASTINET™ SOFTWARE LICENSE AGREEMENT**

This Software License Agreement (the "**Agreement**"), effective as of October 1, 2018 (the "**Effective Date**"), is by and between **Community Action Kentucky, Inc.**, a Kentucky non-profit corporation with offices located at 101 Burch Court, Frankfort, KY 40601 ("**CAK**" or "**Licensor**") and **Louisville/Jefferson County Metro Government – Office of Resilience and Community Services**, a consolidated local government service with offices in Louisville, Jefferson County, Kentucky ("**Licensee**"). CAK (Licensor) and Licensee may be referred to herein collectively as the "**Parties**" or individually as a "**Party**."

WHEREAS, CAK has developed specialized Software for use in various aspects of case management and the provision of community social services, including but not limited to data tracking, data analysis, social services outcomes analysis and reporting, and submitting requests to funders for social services;

WHEREAS, CAK desires to license the Software to Licensee and Licensee desires to obtain a license to use the Software for its internal business purposes, including but not limited to the administration of community support programs, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. **Definitions.** Terms shall have such meanings as set forth in Exhibit A, attached hereto and incorporated herein, or as otherwise defined within the Agreement.

2. **License.**

2.1 **License Grant.** Subject to and conditioned on Licensee's payment of Fees and compliance with all other terms and conditions of this Agreement, CAK hereby grants to Licensee a non-exclusive and non-sublicensable license to use the Software and Documentation solely for the Permitted Use during the Term.

2.2 **Scope of Licensed Access and Use.** Licensee has a site license for access to the Software by Licensee's Authorized Users, which includes access to a training environment and a production environment for use of the Software. Any modifications to the Software implemented by CAK, whether a New Version, part of a Maintenance Update, or made upon request of Licensee: (a) will remain the exclusive property of CAK; (b) be subject to the terms and conditions of this Agreement; and (c) include all copyright or other Intellectual Property Rights notices contained in the original.

2.3 **Open Source Licenses.** The Software may now, or in the future, include licensed Open Source Components (each, an "**Open Source License**"). Any use of the Open Source Components by Licensee is governed by, and subject to, the terms and conditions of applicable Open Source Components license(s).

2.4 **Security Measures.** The Software may contain technological measures designed to prevent unauthorized or illegal use of the Software. Licensee acknowledges and agrees that: (a) CAK may use these and other lawful measures to verify Licensee's compliance with the terms of this Agreement and enforce CAK's rights, including all Intellectual Property Rights, in and to the Software; (b) CAK may deny any Person access to and/or use of the Software if CAK believes that a Person's use of the Software would violate any provision of this Agreement, regardless of whether Licensee designated that Person as an Authorized User; and (c) CAK and its Representatives may collect, maintain, process and use diagnostic, technical, usage and related information, including information about Licensee's computers, systems and software, that CAK may gather periodically to improve the performance of the Software or develop Maintenance Releases. This information will be treated in accordance with CAK's privacy policy, as amended from time to time.

3. **License Restrictions.** Except as this Agreement expressly permits, Licensee shall not, and shall not permit any other Person to copy the Software, in whole or in part;

(a) modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of any Software;

(b) rent, lease, lend, sell, sublicense, assign, distribute, publish, or otherwise make available the Software to any third party;

(c) reverse engineer, disassemble, decompile, decode, or adapt the Software, or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part;

(d) bypass or breach any security device or protection used for or contained in the Software or Documentation;

(e) remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any trademarks, terms of the Documentation, warranties, disclaimers, or Intellectual Property Rights,

proprietary rights or other symbols, notices, marks, or serial numbers on or relating to any copy of the Software or Documentation;

(f) use the Software in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any Person, or that violates any applicable Law;

(g) use the Software for purposes of: (i) benchmarking or competitive analysis of the Software; (ii) developing, using or providing a competing software product or service; or (iii) any other purpose that is to CAK's detriment or commercial disadvantage;

(h) use the Software in or in connection with the design, construction, maintenance, operation, or use of any hazardous environments, systems, or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Software could lead to personal injury or severe physical or property damage; or

(i) use the Software or Documentation other than for the Permitted Use or in any manner or for any purpose or application not expressly permitted by this Agreement.

4. Delivery. CAK shall provide access by Licensee to the Software via the CASTiNET website upon the execution of the Agreement, if access has not already been provided.

5. Maintenance Releases. During the Term, CAK will provide Licensee with all Maintenance Releases (including updated Documentation) that CAK, in its sole discretion, may make generally available to its licensees at no additional charge. All Maintenance Releases are deemed Software. Licensee does not have any right hereunder to receive any New Versions of the Software that CAK may, in its sole discretion, release from time to time.

6. Fees and Payment.

6.1 License Fees. Licensee shall pay CAK the "CASTiNET 3 Set Up Fee" and "Annual Maintenance Fee" in accordance with the Invoices attached hereto at **Exhibit B** and the terms of this Section 6. If the Term is renewed ("Renewal Term"), Licensee shall pay the then-current standard fees invoiced for the use of the Software that Licensee charges for the Software during the applicable Renewal Term.

6.2 Taxes. All Fees and other amounts payable by Licensee under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, Licensee is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Licensee hereunder, other than any taxes imposed on CAK's income. Licensee shall provide Licensor a copy of its applicable tax exemption certificates.

6.3 Payment. Licensee shall pay all amounts due and owing under this Agreement within thirty (30) days of approval by the Louisville Metro Government Council.

6.4 Late Payment. If Licensee fails to make any payment when due then, in addition to all other remedies that may be available to CAK:

(a) Licensee shall reimburse CAK for all reasonable costs incurred by CAK in collecting any late payment of amounts due or related interest, including attorneys' fees, court costs, and collection agency fees; and

(b) if such failure continues for fifteen (15) days following written notice thereof, CAK may: (i) limit or disable Licensee's use of the Software (including by means of a disabling code, technology or device); (ii) withhold, suspend or revoke its grant of a license hereunder; and/or (iii) terminate this Agreement under Section 14.3(a) or Section 14.3, as applicable.

6.5 No Deductions or Setoffs. All amounts payable to CAK under this Agreement shall be paid by Licensee to CAK in full without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law).

7. Audits.

7.1 Audits Procedure. CAK may inspect and audit Licensee's use of the Software under this Agreement at any time during the Term in a manner that does not unreasonably interfere with Licensee's business operations. Licensee shall make available all such books, records, equipment, information, and personnel, and provide all such cooperation and assistance, as may be requested by or on behalf of CAK with respect to such audit. CAK

shall only examine information directly related to Licensee's use of the Software.

7.2 Cost and Results of Audit. If the audit determines that Licensee's use of the Software exceeded the usage permitted by this Agreement, Licensee shall pay to CAK all amounts due for such excess use of the Software.

## 8. Confidentiality.

8.1 Confidential Information. In connection with this Agreement, CAK may disclose or make available Confidential Information to Licensee during the set-up, training and maintenance of the Software. Subject to Section 8.2, "**Confidential Information**" means the Software and Documentation and any information in any form or medium (whether oral, written, electronic, or other) that CAK considers confidential or proprietary with regard to the Software, including the terms of this Agreement and any information consisting of or relating to business operations, plans, strategies, customers, and pricing, and information with respect to which CAK has contractual or other confidentiality obligations, whether or not marked, designated, or otherwise identified as "confidential."

8.2 Exclusions. Confidential Information does not include information that: (a) was rightfully known to Licensee without a restriction on its use or disclosure prior to such information being disclosed or made available to Licensee in connection with this Agreement; (b) was or becomes generally known by the public other than by the Licensee's or any of its Representatives' noncompliance with this Agreement; (c) was or is received by the Licensee on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) was or is independently developed by the Licensee without reference to or use of any Confidential Information.

8.3 Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Licensee shall:

(a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;

(b) except as may be permitted under the terms and conditions of Section 8.4, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Licensee's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Licensee's obligations under this Section 8; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 8;

(c) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its most sensitive information and in no event less than a reasonable degree of care; and

(d) promptly notify the Disclosing Party of any unauthorized use or disclosure of Confidential Information and take all reasonable steps/use its best efforts/cooperate with Disclosing Party to prevent further unauthorized use or disclosure; and

(e) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section 8.

Notwithstanding any other provisions of this Agreement, the Licensee's obligations under this Section 8 with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable Laws other than as a result of any act or omission of the Licensee or any of its Representatives.

8.4 Compelled Disclosures. If the Licensee or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Licensee will: (a) promptly, and prior to such disclosure, notify the CAK in writing of such requirement so that CAK can seek a protective order or other remedy or waive its rights under Section 8.3; and (b) provide reasonable assistance to CAK in opposing such disclosure or seeking a protective order or other limitations on disclosure. If CAK waives compliance or, after providing the notice and assistance required under this Section 8.4, the Licensee

remains required by Law to disclose any Confidential Information, the Licensee will disclose only that portion of the Confidential Information that the Licensee is legally required to disclose and, on CAK's request, will use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

## 9. Intellectual Property Rights.

### 9.1 Intellectual Property Ownership. Licensee acknowledges and agrees that:

(a) the Software and Documentation are licensed, not sold, to Licensee by CAK and Licensee does not have under or in connection with this Agreement any ownership interest in the Software or Documentation, or in any related Intellectual Property Rights;

(b) CAK is the sole and exclusive owner of all right, title and interest in and to the Software and Documentation, including all Intellectual Property Rights relating thereto, subject only to the limited license granted to Licensee under this Agreement; and

(c) Licensee hereby unconditionally and irrevocably assigns to CAK, its entire right, title and interest in and to any Intellectual Property Rights that Licensee may now or hereafter have in or relating to the Software or Documentation (including any rights in derivative works or patent improvements relating to either of them), whether held or acquired by operation of law, contract, assignment or otherwise.

### 9.2 Licensee Cooperation and Notice of Infringement. Licensee shall, during the Term:

(a) take all commercially reasonable measures to safeguard the Software and Documentation (including all copies thereof) from infringement, misappropriation, theft, misuse or unauthorized access;

(b) at CAK's expense, take all such steps as CAK may reasonably require to assist CAK in maintaining the validity, enforceability and CAK's ownership of the Intellectual Property Rights in the Software and Documentation;

(c) promptly notify CAK in writing if Licensee becomes aware of: (i) any actual or suspected infringement, misappropriation or other violation of CAK's Intellectual Property Rights in or relating to the Software or Documentation; or (ii) any claim that the Software or Documentation, including any production, use, marketing, sale or other disposition of the Software or Documentation, in whole or in part, infringes, misappropriates or otherwise violates the Intellectual Property Rights or other rights of any Person; and

(d) fully cooperate with and assist CAK in all reasonable ways in the conduct of any Action by CAK to prevent or abate any actual or threatened infringement, misappropriation or violation of CAK's rights in, and to attempt to resolve any Actions relating to, the Software or Documentation, including having Licensee's employees testify when requested and making available for discovery or trial relevant records, papers, information, samples, specimens and the like.

### 9.3 No Implied Rights. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel or otherwise, to Licensee or any third party any Intellectual Property Rights or other right, title, or interest in or to any of the Software or Documentation.

## 10. Representations and Warranties.

### 10.1 Mutual Representations and Warranties. Each Party represents, warrants and covenants to the other Party that:

(a) it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;

(b) it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses and authorizations it grants and is required to grant under this Agreement;

(c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and

(d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid and

binding obligation of such Party, enforceable against such Party in accordance with its terms.

10.2 Limited Performance Warranty. Should there be an outage of the Software that prevents Licensee from accessing and using the Software as represented in the Documentation ("**Impaired Use**"), Licensee shall immediately notify CAK of such Impaired Use and CAK shall make a good faith effort to address or remedy the Impaired Use. The remedies set forth in this Section 10 are Licensee's sole remedies and CAK's sole liability under Section 10.2.

10.3 DISCLAIMER OF WARRANTIES. EXCEPT FOR THE LIMITED PERFORMANCE WARRANTIES SET FORTH HEREIN, ALL LICENSED SOFTWARE, DOCUMENTATION AND OTHER PRODUCTS, INFORMATION, MATERIALS AND SERVICES PROVIDED BY CAK ARE PROVIDED "AS IS." CAK SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, CAK MAKES NO WARRANTY OF ANY KIND THAT THE LICENSED SOFTWARE OR DOCUMENTATION, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET LICENSEE'S OR OTHER PERSONS' REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEMS, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE.

## 11. Indemnification.

11.1 CAK Hold Harmless and Indemnification. CAK shall indemnify, defend, and hold harmless Licensee and Licensee's officers, directors, employees, agents, successors and permitted assigns (each, a "**Licensee Indemnitee**") from and against any and all Losses incurred by the Licensee Indemnitee resulting from any Action by a third party that the Software or Documentation, or any use of the Software or Documentation in accordance with this Agreement infringes or misappropriates such third party's US Intellectual Property or is attributable to personal injury, bodily injury, sickness, death, or to injury to or destruction of property, including the loss of use resulting therefrom, or breach of contract. This Section 11.1 does not apply to the extent that the alleged infringement arises from:

- (a) negligent act or omission or willful misconduct of the Louisville/Jefferson County Metro Government or its elected and appointed officials and employees acting within the scope of their employment;
- (b) Third-Party Materials;
- (c) combination, operation, or use of the Software in or with, any technology (including any software, hardware, firmware, system or network) or service not provided by CAK or specified for Licensee's use in the Documentation;
- (d) modification of the Software other than: (i) by CAK in connection with this Agreement; or (ii) with CAK's express written authorization and in strict accordance with CAK's written directions and specifications;
- (e) use of any version of the Software other than the most current version or failure to timely implement any Maintenance Release, modification, update or replacement of the Software made available to Licensee by CAK;
- (f) use of the Software after CAK's notice to Licensee of such activity's alleged or actual infringement, misappropriation or other violation of a third party's rights;
- (g) negligence, abuse, misapplication, or misuse of the Software or Documentation by or on behalf of Licensee, Licensee's Representatives, or a third party;
- (h) use of the Software or Documentation by or on behalf of Licensee that is outside the purpose, scope, or manner of use authorized by this Agreement or in any manner contrary to CAK's instructions;
- (i) events or circumstances outside of CAK's commercially reasonable control (including any third-party hardware, software, or system bugs, defects, or malfunctions); or
- (j) Third-Party Claims or Losses for which Licensee is obligated to indemnify CAK.

11.2 Licensee Hold Harmless and Indemnification. To the extent permitted by Kentucky law, Licensee shall indemnify, defend, and hold harmless CAK and its Affiliates, and each of its and their respective officers,

directors, employees, agents, subcontractors, successors and permitted assigns (each, a "CAK Indemnitee") from and against any and all Losses incurred by the CAK Indemnitee resulting from any Action by a third party:

(a) alleging that any Intellectual Property Rights or other right of any Person, or any Law, is or will be infringed, misappropriated, or otherwise violated by any:

(i) use or combination of the Software by or on behalf of Licensee or any of its Representatives with any hardware, software, system, network, service, or other matter whatsoever that is neither provided by CAK nor authorized by CAK in this Agreement and the Documentation; and

(ii) information, materials, or technology directly or indirectly provided by Licensee or directed by Licensee to be installed, combined, integrated, or used with, as part of, or in connection with the Software or Documentation;

(b) relating to facts that, if true, would constitute a breach by Licensee of any representation, warranty, covenant, or obligation under this Agreement;

(c) relating to negligence, abuse, misapplication, misuse or more culpable act or omission (including recklessness or willful misconduct) by or on behalf of Licensee or any of its Representatives with respect to the Software or Documentation or otherwise in connection with this Agreement; or

(d) relating to use of the Software or Documentation by or on behalf of Licensee or any of its Representatives that is outside the purpose, scope or manner of use authorized by this Agreement or the Documentation, or in any manner contrary to CAK's instructions.

**11.3 Indemnification Procedure.** Each Party shall promptly notify the other Party in writing of any Action for which such Party believes it is entitled to be indemnified pursuant to Section 11.1 or Section 11.2. The Party seeking indemnification (the "Indemnitee") shall cooperate with the other Party (the "Indemnitor") at the Indemnitor's sole cost and expense. The Indemnitor shall promptly assume control of the defense and investigation of such Action and shall employ counsel reasonably acceptable to the Indemnitee to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. The Indemnitor shall not settle any Action on any terms or in any manner that adversely affects the rights of any Indemnitee without the Indemnitee's prior written consent. If the Indemnitor fails or refuses to assume control of the defense of such Action, the Indemnitee shall have the right, but no obligation, to defend against such Action, including settling such Action after giving notice to the Indemnitor, in each case in such manner and on such terms as the Indemnitee may deem appropriate. The Indemnitor's failure to perform any obligations under this Section 11.3 will relieve the Indemnitor of its obligations under this Section 12, except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure.

**11.4 Mitigation.** If the Software, or any part of the Software, is, or in CAK's opinion is likely to be, claimed to infringe, misappropriate or otherwise violate any third-party Intellectual Property Right, or if Licensee's use of the Software is enjoined or threatened to be enjoined, CAK may, at its option and sole cost and expense:

(a) obtain the right for Licensee to continue to use the Software materially as contemplated by this Agreement;

(b) modify or replace the Software, in whole or in part, to seek to make the Software non-infringing, while providing materially equivalent features and functionality, and such modified or replacement software will constitute Software under this Agreement; or

(c) if none of the remedies set forth in the above sections is reasonably available to CAK, terminate this Agreement, in its entirety or with respect to the affected part or feature of the Software, effective immediately on written notice to Licensee, in which event Licensee shall cease all use of the Software and Documentation immediately on receipt of Licensee's notice; and provided that Licensee fully complies with its post-termination obligations set forth in Section 11.4, CAK shall promptly refund to Licensee, on a pro rata basis, the share of any license fees prepaid by Licensee for the future portion of the Term that would have remained but for such termination.

**11.5 Sole Remedy.** THIS SECTION 11 SETS FORTH LICENSEE'S SOLE REMEDIES AND CAK'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE OR

DOCUMENTATION OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

12. Limitations of Liability.

12.1 EXCLUSION OF DAMAGES. IN NO EVENT WILL CAK, OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY (A) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, (B) LOSS OF GOODWILL OR REPUTATION, (C) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY LICENSED SOFTWARE, (D) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY, (E) COST OF REPLACEMENT GOODS OR SERVICES, OR (F) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

CAP ON MONETARY LIABILITY. IN NO EVENT WILL THE AGGREGATE LIABILITY OF CAK ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID TO CAK UNDER THIS AGREEMENT IN THE SIX (6) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM, EXCEPT AS MAY BE COVERED BY INSURANCE. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

13. Term and Termination.

13.1 Initial Term. The initial term of this Agreement commences as of the Effective Date and continues in effect for one (1) year from such date unless terminated earlier pursuant to any of the Agreement's express provisions (the "**Initial Term**").

13.2 Termination. This Agreement may be terminated at any time:

(a) by CAK, effective on written notice to Licensee, if Licensee fails to pay any amount when due under this Agreement, where such failure continues more than fifteen (15) days after CAK's delivery of written notice thereof ("**Payment Failure**");

(b) by either Party, effective on written notice to the other Party, if the other Party materially breaches this Agreement and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured ten (10) days after the non-breaching Party provides the breaching Party with written notice of such breach;

(c) by CAK, effective immediately, if the Licensee: (i) is dissolved or liquidated or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency Law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property.

13.3 Effect of Termination or Expiration. On the expiration or earlier termination of this Agreement:

(a) all rights, licenses and authorizations granted to licensee hereunder will immediately terminate and Licensee will (A) immediately cease all use of and other activities with respect to the Software and Documentation; (B) within five (5) days deliver to CAK, or at CAK's written request destroy, and permanently erase from all devices and systems Licensee directly or indirectly controls, the Software, the Documentation and the CAK's Confidential Information, including all documents, files, and tangible materials (and any partial and complete copies) containing, reflecting, incorporating, or based on any of the foregoing, whether or not modified or merged into other materials; and (C) certify to CAK in a signed written instrument that it has complied with the requirements of this Section 14.4; and

(b) all amounts payable by Licensee to CAK of any kind under this Agreement are immediately payable and due no later than thirty (30) days after the effective date of the expiration or termination of this

## Agreement.

13.4 Surviving Terms. The provisions set forth in the following sections, and any other right, obligation or provision under this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: this Section 13.4, Section 1, Section 7, Section 8, Section 9, Section 12 and Section 13.

## 14. Miscellaneous.

14.1 Further Assurances. Licensee's required Affidavit for Bidders, Offerors and Subcontractors and non-bid, sole-source contracts is attached hereto at **Exhibit C** and incorporated herein. Provisions in compliance with Licensee's requirements applicable to vendor contracts and contracts involving utilization of federal funds is attached hereto at **Exhibit D** and incorporated herein. On a Party's reasonable request, the other Party shall, at the requesting Party's sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, as may be necessary to give full effect to this Agreement.

14.2 Relationship of the Parties. The relationship of the Parties is that CAK is the representative association of Licensee and was formed by the 23 independent community action agencies ("CAAs") in Kentucky to provide representation and administrative assistance as set forth in CAK's Articles of Incorporation ("Articles"). Except as set forth in the Articles, the relationship between the Parties is that of independent contractors and nothing contained in this Agreement shall be construed as giving either Party the authority to contract for or bind the other Party in any manner whatsoever.

14.3 Notices. Any notice, request, consent, claim, demand, waiver, or other communication under this Agreement will have legal effect only if in writing and addressed to such address that each Party may designate from time to time. Notices sent in accordance with this Section will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; (c) when sent, if by facsimile or email with confirmation of transmission, if sent during the addressee's normal business hours, and on the next Business Day, if sent after the addressee's normal business hours; and (d) on the 4th day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.

14.4 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

14.5 Entire Agreement. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, specifically, the Software and Documentation, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

14.6 Assignment. Licensor may freely assign this Agreement. Licensee may only assign or otherwise transfer any of its obligations or performance under this Agreement with CAK's prior written consent. No assignment, delegation, or transfer will relieve Licensee of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section is void. This Agreement is binding on and inures to the benefit of the Parties hereto and their respective successors and permitted assigns.

14.7 Export Regulation. The Software may be subject to US export control laws, including the US Export Administration Act and its associated regulations. If applicable, Licensee will not directly or indirectly, export, re-export, or release the Software to, or make the Software accessible from, any country, jurisdiction or Person to which export, re-export, or release is prohibited by applicable Law. Licensee will comply with all applicable Laws and complete all required undertakings (including obtaining any necessary export license or other governmental approval) prior to exporting, re-exporting, releasing, or otherwise making the Software available outside the US.

14.8 US Government Rights. Each of the Documentation and the software components that constitute the Software is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Accordingly, if Licensee is an agency of the US Government or any contractor therefor, Licensee only receives those rights with respect to the Software and Documentation as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government

licensees and their contractors.

14.9 Force Majeure. In no event will either Party be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, except for any obligations to make payments, when and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control (a "**Force Majeure Event**"), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the Effective Date, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of Law or any action taken by a governmental or public authority, including imposing an export or import restriction, quota, or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation. Either Party may terminate this Agreement if a Force Majeure Event affecting the other Party continues substantially uninterrupted for a period of 120 days or more.

14.10 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

14.11 Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in a signed writing. No waiver by any Party of any of the provisions hereof is effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure or delay to exercise any rights, remedy, power, or privilege arising from this Agreement will be construed as a waiver; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

14.12 Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. On such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.13 Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the Commonwealth of Kentucky without giving effect to any choice or conflict of law provisions. Any legal suit, action, or proceeding arising out of this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the Commonwealth of Kentucky in each case located in the city of Louisville and County of Jefferson, and each Party irrevocably submits to the jurisdiction of such courts in any such suit, action, or proceeding. Service of process, summons, notice, or other document by mail to such Party's address set forth herein will be effective service of process.

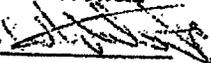
14.14 Equitable Relief. Licensee acknowledges and agrees that a breach or threatened breach of any of its obligations under Section 2.4, Section 8, or Section 9 of this Agreement would cause CAK irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, CAK will be entitled to equitable relief, including in a restraining order, an injunction, specific performance, and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

14.15 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

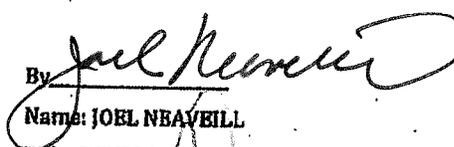
[THIS SPACE LEFT BLANK INTENTIONALLY; THE SIGNATURE BLOCK APPEARS ON THE NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

APPROVED AS TO FORM AND LEGALITY  
CONTINGENT UPON APPROVAL OF THE  
APPROPRIATION FOR THIS CONTRACT BY THE  
METRO COUNCIL

By   
Name: MICHAEL J. O'CONNELL  
Title: JEFFERSON COUNTY ATTORNEY

LOUISVILLE/JEFFERSON COUNTY METRO  
GOVERNMENT

By   
Name: JOEL NAVEILL  
Title: DIRECTOR, PURCHASING DEPARTMENT

OFFICE OF RESILIENCE AND COMMUNITY  
SERVICES

By   
Name: ERIC C. FRIEDLANDER  
Title: EXECUTIVE DIRECTOR

COMMUNITY ACTION KENTUCKY, INC.

By   
Name: ROGER MCCANN  
Title: EXECUTIVE DIRECTOR

Taxpayer Identification No. (TIN): \_\_\_\_\_

Louisville/Jefferson County Revenue Commission  
Account No.:

**EXHIBIT A**  
**DEFINITIONS**

- **"Action"** means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise.
- **"Affiliate"** of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.
- **"Authorized User"** means those Persons employed by Licensee whom Licensee authorizes to use the Software.
- **"Business Day"** means a day other than a Saturday, Sunday, or other day on which commercial banks in are authorized or required by Law to be closed for business.
- **"Documentation"** means CAK's user manuals, handbooks, and installation guides relating to the Software/end user documentation relating to the Software that CAK provides or makes available to Licensee in any form or medium which describe the functionality, components, features, or requirements of the Software, including any aspect of the installation, configuration, integration, operation, or use of the Software.
- **"Intellectual Property Rights"** means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights Laws, and all similar or equivalent rights or forms of protection, in any part of the world.
- **"Law"** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any federal, state, local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.
- **"Loss" or "Losses"** means all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.
- **"Maintenance Release"** means any update, upgrade, release, or other adaptation or modification of the Software, including any updated Documentation, that CAK, in its sole discretion, may provide to Licensee from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements, or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency, or quality of the Software, but does not include any New Version.
- **"New Version"** means any new version of the Software that CAK may from time to time introduce and market generally as a distinct licensed product (as may be indicated by CAK's designation of a new version number), and which CAK may make available to Licensee at an additional cost under a separate written agreement.
- **"Open Source Components"** means any software component that is subject to any open source license agreement, including any software available under the GNU Affero General Public License (AGPL), GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), Apache License, BSD licenses, or any other license that is approved by the Open Source Initiative.
- **"Permitted Use"** means use of the Software by an Authorized User for the benefit of Licensee in the ordinary course of its internal business operations.
- **"Person"** means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.
- **"Representative"** means a Person who is authorized to act on behalf of Licensee.
- **"Software"** means the executable, object code version of CASTiNET, a Software-as-a-Solution ("SaaS") product, and any Maintenance Releases provided to Licensee pursuant to this Agreement.
- **"Third-Party Materials"** means materials and information, in any form or medium, that are not proprietary to CAK, including any third-party: (a) documents, data, content or specifications; (b) Open Source Components or other software, hardware or other products, facilities, equipment or devices; and (c) accessories, components, parts or features of any of the foregoing.

**EXHIBIT B**

**FEEES**

**[CAK INVOICES FOR SET-UP FEE AND ANNUAL MAINTENANCE FEE FOLLOW THIS PAGE]**



2010 - 615 - 3834 - 383940 - 522627

March 19, 2018

**INVOICE**

Louisville/Jefferson County Metro Government  
Attn: Fiscal Director  
611 W. Jefferson St.  
Louisville, KY 40202

CASTINET 3 Set Up Fee \$46,895.00

Total Due \$46,895.00

Please make your check payable to Community Action Kentucky, Inc. Mail payment to:  
101 Burch Court  
Frankfort, KY 40601

101 Burch Court, Frankfort, KY 40601  
Phone: 502-875-5863 Fax: 502-875-5865  
[www.communityactionky.org](http://www.communityactionky.org)



July 2, 2018

## INVOICE

Louisville/Jefferson County Metro Government  
Office of Resilience & Community Services  
Attn: Darrell Aniton  
701 W. Ormsby Ave, Suite 201  
Louisville, KY 40203

CASTINET 3 Annual Maintenance Fee	\$26,797.00
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Total Due 12/31/18	\$26,797.00
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Please make your check payable to Community Action Kentucky, Inc. Mail payment to:  
101 Burch Court  
Frankfort, KY 40601

101 Burch Court, Frankfort, KY 40601  
Phone: 502-875-5863 Fax: 502-875-5865  
[www.communityactionky.org](http://www.communityactionky.org)

## Set Up Fee

- 75% Architecture, setup, and implementation of back end infrastructure and network connectivity
- 15% Initial training
- 5% Seeding of global emplates, variables, and program data
- 5% Creation and implementation of tenant

## Annual Maintenance Fee

55% Ongoing licensing

40% Ongoing usage and data storage

5% Ongoing access to training environment, training and technical assistance

**EXHIBIT C**

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND SUBCONTRACTORS (PAGE 1 OF 2)**

**FOR BIDS AND CONTRACTS IN GENERAL:**

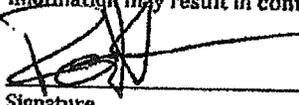
- I. Each bidder or offeror swears and affirms under penalty of perjury, that:
  - a. In accordance with KRS 45A.110 and KRS 45A.115, neither the bidder or offeror as defined in KRS 45A.070(6), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky; and the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.
  - b. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all Subcontractors therein, are aware of the requirements and penalties outlined in KRS 45A.485; have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.
  - c. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139, and will remain registered for the duration of any contract awarded.
  - d. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.

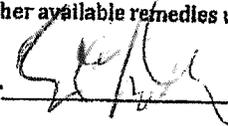
**FOR "NON-BID" CONTRACTS (I.E. SOLE-SOURCE; NOT-PRACTICAL OR FEASIBLE TO BID; OR EMERGENCY CONTRACTS, ETC.):**

- II. Each Subcontractor further swears and affirms under penalty of perjury, that:
  - a. In accordance with KRS 121.056, and if this is a non-bid contract, neither the Subcontractor, nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of any contract awarded, have contributed more than the amount specified in KRS 121.150 to the campaign of the gubernatorial slate elected in the election last preceding the date of contract award.
  - b. In accordance with KRS 121.330(1) and (2), and if this is a non-bid contract, neither the Subcontractor, nor officers or employees of the Subcontractor or any entity affiliated with the Subcontractor, nor the spouses of officers or employees of the Subcontractor or any entity affiliated with the Subcontractor, have knowingly contributed more than \$5,000 in aggregate to the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract award.
  - c. In accordance with KRS 121.330(3) and (4), and if this is a non-bid contract, to the best of his/her knowledge, neither the Subcontractor, nor any member of his/her immediate family, his/her employer, or his/her employees, or any entity affiliated with any of these entities or individuals, have directly solicited contributions in excess of \$30,000 in the aggregate for the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract.

(EXHIBIT C, REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND SUBCONTRACTORS, CONTINUED, PAGE 2 OF 2)

As a duly authorized representative for the bidder, offeror, or Subcontractor, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge that the Commonwealth is reasonably relying upon these statements, in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds and other available remedies under law.

  
\_\_\_\_\_  
Signature

Eric C. Friedlander  
Printed Name 

Director  
Title \_\_\_\_\_

3/26/19  
Date \_\_\_\_\_

Company Name Community Action Kentucky, Inc.

Address 101 Burch Court  
Frankfort, KY 40601  
Phone: 502-875-5863

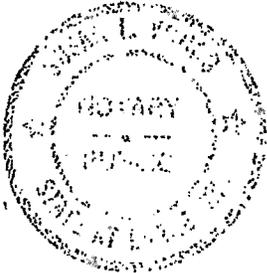
Subscribed and sworn to before me by Roger McCann Executive Director  
(Affiant) (Title)

of Community Action Kentucky this 26<sup>th</sup> day of March, 2019.

Susan L Young  
Notary Public

[seal of notary]

My commission expires: 5/12/22



## EXHIBIT D

### Further Assurances Pursuant to Section 14.1 of the Agreement.

*For context, references to the "Contract" or "Agreement" means the Software Licensing Agreement to which this Exhibit D is attached, references to "Licensor" or "Contractor" mean Community Action Kentucky, Inc. ("CAK"), and references to "Licensee" or "Purchaser" means Louisville/Jefferson County Metro Government – Office of Resilience and Community Services (LMORCS).*

#### A. INSURANCE REQUIREMENTS.

1. Licensor shall obtain at its own cost and expense, the insurance set forth in Subsection 3 below through insurance companies licensed in the Commonwealth of Kentucky. Insurance written by non-admitted carriers will also be considered acceptable, in accordance with Kentucky Insurance Law (KRS 304.10-040). Workers' Compensation written through qualified group self-insurance programs in accordance with Kentucky Revised Statutes (KRS 342.350) will also be acceptable.

It is agreed that Licensor shall maintain in force at all times during the performance of this agreement the policy or policies of insurance covering its operations as set forth in Subsection 3 below, and require subcontractors, if applicable, to procure and maintain these same policies. Metro Government may require Licensor to supply proof of subcontractor's insurance via Certificates of insurance, or at Metro Government's option, actual copies of policies.

2. LICENSEE AS ADDITIONAL INSURED. The following clause shall be added to the Licensor's (and approved subcontractors, is applicable) Commercial General Liability Policies:

"The Louisville/Jefferson County Metro Government, its elected and appointed officials, employees, agents and successors are added as an "Additional Insured" as respects operations of the Named Insured performed relative to the contract."

3. TYPE OF INSURANCE TO BE MAINTAINED. Licensor shall procure, and maintain for the term of this Agreement, Commercial General Liability, Network Security/Cyber Liability (for hosted system) and Professional Liability (technology errors and omissions liability) in the minimum Limits of Liability as set forth on Licensor's Kentucky Association of Counties All Lines Fund Declaration Page, KACo Workers Compensation Fund Certificate of Coverage and Travelers Crime Declarations, all attached to this Exhibit D.
4. ACCEPTABILITY OF INSURERS. Insurance is to be placed with Insurance Companies with an A. M. Best Rating of no less than "A-VI", unless proper financial information relating to the Company is submitted to and approved by Metro Government's Risk Management Division. Notwithstanding the foregoing, Licensee (Louisville Metro) agrees that the insurers reflected on the Certificates attached to this Exhibit D meet its insurer acceptability requirements.
5. CERTIFICATES OF INSURANCE. Licensor shall procure and maintain insurance policies and shall furnish Certificates of Insurance upon the execution of the Agreement. The Certificates shall include the name and address of the person executing the Certificate of Insurance as well as the person's signature. Licensee agrees that the Certificates attached to this Exhibit D meet this requirement. If policies expire before the completion of the Agreement, renewal Certificates of Insurance shall be furnished to Louisville/Jefferson County Metro Government at least fifteen (15) days prior to the expiration of any policy(s). Upon Renewal of insurance coverage(s), Certificates of Insurance evidencing renewal shall be furnished via mail or e-mail to: Louisville/Jefferson County Metro Government Office of Management and Budget Risk Management Division ("Risk Management Division"), 611 West Jefferson Street Louisville, Kentucky 40202. Email: riskreview@louisvilleky.gov.
6. CANCELLATION OR MATERIAL CHANGE OF COVERAGE. Licensor shall notify Licensee's Risk Management Division of any policy cancellation within two business days of its receipt of same. Upon any material change (changes that reduce/restrict limit or terms and conditions to your insurance coverage) in coverage as required above, Licensor shall notify Licensee's Risk Management Division within two business days. Licensee reserves the right to require the insurance policy(s) required above to be specifically endorsed to provide notice of cancellation and/or material change of coverage in accordance with policy provisions. When requested by Licensee, a copy of the policy endorsement shall be provided to Licensee's Risk

Management Division.

7. MISCELLANEOUS. Approval of the insurance by Metro Government shall not in any way relieve or decrease the responsibilities of Licensor, nor represent that the coverage or policy forms are sufficient or adequate to protect the interest or liability of the parties, under the Software Licensing Agreement.

B. CONFLICTS OF INTEREST

Pursuant to KRS 45A.455:

1. It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:
    - i) He, or any member of his immediate family has a financial interest therein; or
    - ii) A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or
    - iii) Any other person, business, or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
  2. It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.
  3. It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
  4. The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every local public agency written contract and solicitation therefor.
  5. It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.
  6. **The parties acknowledge that Licensor is a non-profit 501(c)(3) statewide association formed by, and representing and assisting, Licensee, a community action agency ("CAA"), and twenty-two (22) other CAAs in the Commonwealth of Kentucky and is the sole source of the Software being used by its member CAAs.**
- C. RECORDS-AUDITS OF LICENSOR. Without limiting the rights and obligations of the parties under the Agreement already set forth in regard to audits, the parties further agree that Licensor shall maintain during the term of the Agreement, and retain not less than five years from the date of final payment hereunder, complete and accurate records of the license fees chargeable to Licensee under this Agreement; and the Licensee shall have the right, at any reasonable time and with at least five (5) days' notice, to inspect and audit those records by authorized representatives of its own or of any public accounting firm selected by it. The records to be thus maintained and retained by Licensor shall include (without limitation): (a) payroll records accounting for total time of Licensor's employees working full or part time to provide access to and support services to Licensee for the Software (to permit tracing to payrolls and related tax returns), as well as canceled payroll checks, or signed receipts for payroll payments in cash; (b) invoices for purchases receiving and issuing documents, and all the other unit inventory records for Licensor's stores stock or capital items related to the Software, if applicable;

and (c) paid invoices and canceled checks for materials purchased and for subcontractors' and any other third parties' charges related to the Software. **Licensee acknowledges that it has access to the publicly available IRS Form 990s for Licensor, a 501(c)(3) organization.**

D. VIOLATIONS OF AND COMPLIANCE WITH KENTUCKY LAWS. Licensor shall reveal any final determination of a violation by Licensor or subcontractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Licensor or subcontractor. Licensor shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141,337, 338, 341 and 342 that apply to the Licensor or subcontractor for the duration of the contract.

E. REQUIRED FEDERAL TERMS

Per 2 CFR Part 200, Appendix II to Part 200 and other federal contract requirements:

1. Contractor agrees to provide the Purchaser, the United States Department of Health and Human Services Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
2. Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 C.F.R. Chapter 60).
3. The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the U.S. Department of Health and Human Services, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
4. Energy Conservation – The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. See KRS 45A.351.
5. Clean Water –
  - a. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Contractor agrees to report each violation to the Metro Government and understands and agrees that the Metro Government shall, in turn, report each violation as required to assure notification to the Department of Health and Human Services, and the appropriate EPA Regional Office.
  - b. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by the United States Department of Health and Human Services.
6. Clean Air –
  - a. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401. The Contractor agrees to report each violation to the Metro Government and understands and agrees that the Metro Government shall, in turn, report each violation as required to assure notification to the U.S. Department of Health and Human Services, and the appropriate EPA Regional Office.
  - b. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by the U.S. Department of Health and Human Services.
7. The Contractor agrees to comply with Executive Order 11738 and EPA regulations, including but not limited to 40 C.F.R. 15.
8. Patent Rights – This following requirements apply to each contract involving experimental, developmental, or research work:

- a. General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Metro Government and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until the United States Department of Health and Human Services is ultimately notified.
  - b. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Metro Government and the Contractor agree to take the necessary actions to provide, through the United States Department of Health and Human Services, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
  - c. The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by the United States Department of Health and Human Services.
9. Contractor agrees to comply with the reporting requirements contained in 2 C.F.R. 200.327 (Financial Reporting) and 2 C.F.R. 200.328 (Monitoring and reporting program performance). This Contract is a covered transaction for purposes of 2 C.F.R. 200.213 (non-federal entities subject to suspension and debarment). As such, Contractor is required to verify that none of the Contractor, its principals, as defined at 2 C.F.R. 180.995, or affiliates, as defined at 2 C.F.R. 180.905, are excluded or disqualified as defined at 2 C.F.R. 180.940 and 2 C.F.R. 180.935.

The contractor is required to comply with 2 C.F.R. 180, Subpart C and must include the requirement to comply with 2 C.F.R. 180, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by **{insert agency name}**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **{insert agency name}**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. 180, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 C.F.R. Part 3).
11. Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).
12. Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).
13. TITLE VI: The Metro Government and Bidder shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et. seq.) and all implementing regulations and executive orders, and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701) and the Kentucky Equal Employment Act 1978 (K.R.S. § 45.550 to 45.640) and the Americans with Disabilities Act (42 U.S.C. § 12101 et. seq.). No person shall be excluded from participation in, be denied the benefits of, or be subject to discrimination in relation to activities carried out under this bid or any contracting resulting from it on the basis of race, color, age, religion, sex, disability, or national origin. This includes provision of language assistance services to individuals of limited English proficiency seeking and/or eligible for services under this bid or resulting contract.
14. Bidder shall comply with the uniform administrative requirements contained in 2 C.F.R. 200.

15. ALL FEDERAL: Bidder's DUNS Number \_\_\_\_\_.

If you do not have a DUNS number, contact Dun & Bradstreet at (866) 705-5711 or go to <http://fedgov.dnb.com/webform/displayHomePage.do>

16. Energy Conservation – The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. See K.RS 45A.351.

17. Per 45 C.F.R. 92.35:

The contractor certifies as follows:

The contractor certifies that it nor its affiliates are debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." The certification in this clause is a material representation of fact relied upon by The United States Department of Health and Human Services. If it is later determined that the contractor knowingly rendered an erroneous certification, in addition to remedies available to the United State Department of Health and Human Services, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

**[CERTIFICATES OF INSURANCE FOLLOW THIS PAGE]**

61815556.12  
3/20/2019

# Kentucky Association of Counties

## All Lines Fund

400 Englewood Drive  
Frankfort, KY 40601  
**Declarations Page**

**Policy Number** P&C3392

**Policy Period:** 7/1/2018 to 7/1/2019

**Insured Name and Address**

For customer service please call

Community Action Kentucky, Inc.  
101 Burch Court  
Frankfort, KY 40601

(800)264-5226

**Issued:** 05/30/2018

**Business Description** Community Action

In return for the payment of the premium, and subject to all the terms of the policy, we agree to provide the insurance stated in the binder.

Coverage			Deductible
General Liability (Per OCC/AGG)	3,000,000	5,000,000	0
Law Enforcement (Per OCC/AGG)	NCD	NCD	NCD
Errors/Omissions (Per OCC/AGG)	3,000,000	3,000,000	1,000
Employment Practices (Per claim / AGG) Retroactive Date: 07/01/2015	3,000,000	3,000,000	1,000
Cyber Liability (Per claim / AGG) Retroactive Date: 07/01/2015	1,000,000	1,000,000	2,500
Auto Liability (CSL)	3,000,000		0
Auto Comprehensive	Hired/Non-Owned		500
Auto Collision	Hired/Non-Owned		500
P.I.P. (No Fault)	10,000		0
Under Insured/Un-Insured	60,000		0
Non Owned Auto Coverage	Primary		
Property/Buildings	As Per Statement on File		500
Personal Property	As Per Statement on File		500
Boiler & Machinery	15,000,000		1,000
Inland Marine & EDP	As Per Statement on File		500
Business Income	500,000	500,000	0
Flood	NCD	NCD	NCD
Earthquake	See Earthquake Policy	See Earthquake Policy	See Earthquake Policy
Crime (Other than Employee Dishonesty)	150,000		500
Employee Dishonesty (Policy #: CIC1964)	150,000		250
Legal Defense Coverage	NCD		NCD

Policy Exceptions: Products-completed operations hazard limit = \$1,000,000

Authorized  
Representative



Date 5/30/2018

2402

# KACo WORKERS COMPENSATION FUND

400 Englewood Drive  
Frankfort, KY 40601  
1-800-264-5226

## CERTIFICATE OF WORKERS COMPENSATION COVERAGE

KACO W/C-4

ITEM 1 -	Name and Address of Insured: Community Action Kentucky, Inc. 101 Burch Court Frankfort, KY 40601	KY Association of Counties Voucher# 19130 Paid Amount 3,028.41 Check # 21597 Check Date 06/04/2018
ITEM 2 -	Certificate Number: WC2018-3266	
ITEM 3 -	Effective Date: Sunday, July 01, 2018 12:01 A.M., standard time at the address of the Insured as stated herein. Cancellation Notice: 60 Days - Pursuant to KRS 304.50	Expiration Date: Monday, July 01, 2019
ITEM 4 -	Coverage under this Certificate applies to the Kentucky Workers Compensation Law. (KRS 342)	
ITEM 5 -	Company's Limit of Indemnity Each Occurrence:	
	(a) For Workers Compensation:	Statutory
	(b) For Employers Liability:	\$2,500,000
ITEM 6 -	Workers Compensation Premium:	\$2,878.00
ITEM 7 -	Special Fund Tax:	\$181.00
ITEM 8 -	<b>TOTAL PREMIUM:*</b>	<b>\$3,059.00</b>

- ITEM 9 - Payment Options:
- (1) Full payment by 8/1/2018. 1% discount applied = \$3,028.41
  - (2) 50% payment by 8/1/2018 and 3 subsequent equal monthly pmts. on balance.  
50% = \$1,529.51 Plus 3 monthly payments of \$509.83

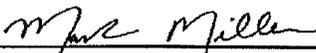
Please Note: Effective November 1, 2018 any outstanding balance due on this premium will accrue a compounding monthly interest charge of 0.5%. To make certain no interest is charged, be sure to make full payment postmarked no later than October 31, 2018

\* An invoice accompanies this declaration for the total amount due.

This Certificate of Coverage shall not be binding of the KACo Workers Compensation Fund unless countersigned by a duly authorized representative of the Fund.

**THIS COVERAGE HAS BEEN PLACED WITH A WORKERS COMPENSATION SELF-INSURED GROUP WHICH HAS RECEIVED A CERTIFICATE OF FILING FROM THE COMMONWEALTH OF KENTUCKY. CLAIMS AGAINST GROUP MEMBERS ARE NOT COVERED BY THE KENTUCKY INSURANCE GUARANTY ASSOCIATION.**

Dated at Frankfort, Kentucky this 30th day of May, 2018

  
Mark Miller, Director

**KACo**  
**Making Workers Comp Work in Kentucky**

140-9970



Wrap+®

**CRIME  
DECLARATIONS**

POLICY NO. 106456027

**Travelers Casualty and Surety Company of America**  
**Hartford, Connecticut**  
(A Stock Insurance Company, herein called the Company)

<b>ITEM 1</b>	<b>NAMED INSURED:</b>  <b>COMMUNITY ACTION KENTUCKY, INC.</b>  D/B/A:  Principal Address: <b>101 BURCH COURT</b> <b>FRANKFORT, KY 40601</b>
<b>ITEM 2</b>	<b>POLICY PERIOD:</b>  Inception Date: <b>March 1, 2019</b> Expiration Date: <b>March 1, 2020</b> 12:01 A.M. standard time both dates at the Principal Address stated in ITEM 1.
<b>ITEM 3</b>	<b>ALL NOTICES OF CLAIM OR LOSS MUST BE SENT TO THE COMPANY BY EMAIL, FACSIMILE, OR MAIL AS SET FORTH BELOW:</b>  Email: <b>BS1claims@travelers.com</b> Fax: <b>(888) 460-6622</b>  Mail: <b>Travelers Bond &amp; Specialty Insurance Claim</b> <b>385 Washington St. – Mail Code 9275-NB03F</b> <b>St Paul, MN 55102</b>
<b>ITEM 4</b>	<b>COVERAGE INCLUDED AS OF THE INCEPTION DATE IN ITEM 2:</b>  Crime

ITEM 5	CRIME		
	Insuring Agreement	Single Loss Limit of Insurance	Single Loss Retention
<b>A. Fidelity</b>			
1. Employee Theft	\$7,000,000	\$100,000	
2. ERISA Fidelity	\$500,000	\$0	
3. Employee Theft of Client Property	Not Covered		
<b>B. Forgery or Alteration</b>			
	\$7,000,000	\$100,000	
<b>C. On Premises</b>			
	\$7,000,000	\$100,000	
<b>D. In Transit</b>			
	\$7,000,000	\$100,000	
<b>E. Money Orders and Counterfeit Money</b>			
	\$7,000,000	\$100,000	
<b>F. Computer Crime</b>			
1. Computer Fraud	\$7,000,000	\$100,000	
2. Computer Program and Electronic Data Restoration Expense	\$100,000	\$10,000	
<b>G. Funds Transfer Fraud</b>			
	\$7,000,000	\$100,000	
<b>H. Personal Accounts Protection</b>			
1. Personal Accounts Forgery or Alteration	\$7,000,000	\$100,000	
2. Identity Fraud Expense Reimbursement	\$25,000	\$0	
<b>I. Claim Expense</b>			
	\$5,000	\$0	