# PURCHASE OF SERVICE AGREEMENT

THIS PURCHASE OF SERVICE AGREEMENT, made and entered into on the _____ day of _____ 2026, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A ("LFUCG"), 200 East Main Street, Lexington, Kentucky 40507, on behalf of its Department of Social Services (hereinafter "Sponsor"), and FoodChain, Incorporated of Lexington with offices at 501 W. Sixth St., Suite 105, Lexington, Kentucky 40508 ("Organization").

W I T N E S S E T H

**NOW, THEREFORE,** in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

**1. EFFECTIVE DATE; TERM.** LFUCG hereby retains Organization for the period beginning on July 1, 2026, and continuing for a period of two (2) years from that date unless terminated by LFUCG at an earlier time.

**2. RELATED DOCUMENTS.** This Agreement shall consist of the terms herein as well as the following additional documents, which are attached hereto as exhibits and incorporated herein by reference as if fully stated:

a. Exhibit "A" - RFP #16-2026
b. Exhibit "B" - Organization's Response to RFP #16-2026
c. Exhibit "C" - RFP #17-2026
d. Exhibit "D" - Organization's Response to RFP #17-2026

To the extent that there is any conflict between or among any of these documents, the terms and provisions of this Agreement shall prevail, followed by terms and provisions of Exhibit "A", "C", "B", and "D" in that order.

**3. SCOPE OF SERVICES.** Organization shall perform the services outlined in the attached Exhibits for LFUCG in a timely, workmanlike and professional manner (the "Services"). Organization shall perform the Services faithfully and satisfactorily at the time, place, and for the duration prescribed herein. Any alteration in the nature of such Services constitutes an amendment to this Agreement and must be in writing signed by both parties.

**4. PAYMENT.** LFUCG shall pay Organization a total amount not to One Hundred and Fifty-Two Thousand Dollars ($152,000) for Fiscal Year 2027 and not to exceed One Hundred and Fifty-Two Thousand Dollars ($152,000) for Fiscal Year 2028 for the performance of the Services, one-fourth (1/4$^{th}$) of which shall be payable upon receipt of

the first invoice (for July through December 2026), with one-eighth (1/8th) payable each quarter thereafter upon submission of a quarterly invoice and a detailed program report as required pursuant to Section 6(a) of this Agreement. The funds are limited to the services provided herein and may not be spent by the Organization for any other purpose without the prior written consent of LFUCG.

a. The first invoice shall be received by LFUCG on or before August 31, 2026. Thereafter, quarterly invoices shall be submitted by January 22, 2027, April 23, 2027, July 23, 2027, October 22, 2027, January 21, 2028, and April 28, 2028.

b. LFUCG shall make payment under this Agreement upon timely submission of an invoice(s) from Organization, accompanied by data satisfactory to LFUCG to document the Services performed to date, per section 6(a) of this Agreement. LFUCG shall have thirty (30) days from the date of receipt of the invoice to pay the invoice amount. LFUCG reserves the right to refuse payment if it is determined by LFUCG that the Services performed or materials provided for the Services are inadequate or defective.

c. LFUCG also reserves the right to reject any invoice submitted for services more than sixty (60) days after the services were rendered.

**5. <u>TERMINATION.</u>** LFUCG, through the Mayor or the Mayor's designee, may terminate this Agreement for any reason whatsoever by providing Organization with at least thirty (30) days advance written notice. Organization shall be entitled for payment of all work performed up to that period of time, calculated on a reasonable basis.

a. In the event of a termination based upon a material condition of non-performance or default by Organization, LFUCG shall provide Organization advance written notice and a reasonable period of time to cure the breach.

b. Organization may only terminate this Agreement based upon LFUCG's failure to timely pay for properly invoiced and accepted work. Organization shall provide LFUCG with at least thirty (30) days advance written notice and an opportunity to cure prior to termination.

c. Organization acknowledges that LFUCG is a governmental entity, and that the validity of this Agreement is based upon the availability of appropriated funding. In the event that such funding is not appropriated in a future fiscal year, LFUCG's obligations under this Agreement shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Organization. LFUCG shall exercise any application of this provision in good faith.

**6. <u>REPORTING.</u>** Organization shall provide LFUCG with timely reports and updates related to the provisions of the Services in the form and manner reasonably specified by LFUCG.

a. A detailed program report for July 2026 through December 2026 shall be submitted by January 22, 2027. Thereafter, quarterly detailed program reports shall be submitted by April 23, 2027, July 23, 2027, October 22, 2027, January 21, 2028, and April 28, 2028.

b. A two-year-end program report shall be submitted by July 28, 2028.

c. Reports shall reflect the services and programs directly related to the funding provided by LFUCG with emphasis on measurable outcomes, and specifically outlined in the funding application.

**7. REGISTRATION; COMPLIANCE; AUTHORITY TO SIGN.** Organization shall be lawfully registered or authorized to do business in the Commonwealth of Kentucky and Lexington-Fayette County and shall at all times comply with any and all applicable federal, state, and local laws, ordinances, and regulations. LFUCG may request proof that Organization has timely filed federal, state, or local tax forms which shall be provided by Organization on a timely basis. The person signing this Agreement on behalf of Organization is fully authorized to do so.

**8. INSURANCE; INDEMNITY.**

a. At all times relevant to the performance of this Agreement, Organization shall maintain insurance coverages in at least the following amounts, which shall be properly filed and approved by the Kentucky Department of Insurance. Evidence of such coverage shall be made available to LFUCG upon request. General Liability ($1 million per occurrence, $2 million aggregate or $2 million combined single limit); Commercial Automobile Liability (combined single, $1 million per occurrence) only if Organization utilizes automobiles in the performance of this Agreement; (if applicable) Professional Liability ($1 million per occurrence, $2 million aggregate); Worker's Compensation (Statutory); and Employer's Liability ($1 million).

b. Organization shall indemnify, defend and hold harmless LFUCG and its elected and appointed officials, employees, agents, volunteers, and successors in interest, from and against any and all liability, damages, and losses, including but not limited to: demands, claims, liens, suits, notices of violation from governmental agencies, 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 Organization's performance of, or breach of this 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 Organization or its officials, employees, or agents; and (b) not caused solely by willful misconduct of LFUCG.

c. Organization understands and agrees that its obligation to defend LFUCG includes the obligation to investigate, handle, respond to, resist, provide a defense for, and defend claims, at Organization's expense, using attorneys approved in writing by the LFUCG, which approval shall not be unreasonably withheld.

d. Organization further understands and agrees that its obligation to indemnify includes, but is not limited to: attorney fees and expenses, costs of litigation, court and administrative costs, expert witness fees and expenses, judgments, fines, penalties, interest, all environmental cleanups and remediation costs of whatever kind, and any liability arising from death, injury, or damage of any kind, to any person, including employees and agents of Organization and LFUCG, and damage to, or destruction of, any property, including the property of LFUCG.

e. This provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.

f. Organization understands that LFUCG is a political subdivision of the Commonwealth of Kentucky and acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the Organization in any manner.

**9. RECORDS.** Organization shall keep and make available to LFUCG any records related to this Agreement as are necessary to support its performance of the services for a period of at least five (5) years following the expiration or termination of this Agreement, or as otherwise required depending upon the source of funds. Books of accounts shall be kept by Organization and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of Organization related to this Agreement and shall be made available to LFUCG upon request.

a. LFUCG shall be the owner of all final documents, data, studies, plans, reports, and information prepared by Organization under this Agreement.

b. Organization understands and agrees that this Agreement and any related documents may be subject to disclosure under the Kentucky Open Records Act and will comply with any reasonable request by LFUCG to provide assistance with such a request.

**10. ACCESS.** Organization shall allow LFUCG any necessary reasonable access to monitor its performance under this Agreement.

**11. CONTRACTUAL RELATIONSHIP ONLY.** In no event shall the parties be construed, held or become in any way for any purpose the employee of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise.

**12. EQUAL OPPORTUNITY; FAIRNESS ORDINANCE.** Organization shall provide equal opportunity in employment for all qualified persons, and shall (a) prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation, gender identity, or handicap and (b) cause any subcontractor or agency receiving funds provided pursuant to this Agreement to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices. Organization agrees to comply with LFUCG's Fairness Ordinance (Ordinance No. 201-99) and all sources of applicable law, including those specified in any Exhibit attached to this Agreement and incorporated herein by reference.

**13. SEXUAL HARASSMENT.** Organization must adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where Organization conducts business. The policy shall be made available to LFUCG upon request.

**14. ANNUAL AUDIT.** Organization shall comply with the audit requirements of 2 CFR Part 200, Subpart F, if applicable. LFUCG shall also have the option to request an audit of all revenue and expenditures related to this Agreement. If such an audit is requested by LFUCG, the audit shall be conducted by independent certified public accountants at Organization's expense, who shall express an opinion as to whether or not revenue and expenditures during the year audited have conformed to state and local law and regulation. For any audit performed, including a 2 CFR Part 200 audit, a copy of the audit, or clean audit opinion letter from an independent certified public accountant, shall be submitted to LFUCG upon request.

**15. INVESTMENT**. Any investment of the funds received pursuant to this Agreement must fully comply with any restrictions imposed by law.

**16. NO ASSIGNMENT**. Organization may not assign any of its rights and duties under this Agreement without the prior written consent of LFUCG.

**17. NO THIRD PARTY RIGHTS.** This Agreement does not create a contractual relationship with or right of action in favor of a third party against either Organization or LFUCG.

**18. KENTUCKY LAW AND VENUE.** This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in the Circuit Court of Fayette County, Kentucky.

**19. AMENDMENTS.** By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. Organization acknowledges that LFUCG may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of its Mayor.

**20.** **NOTICE.** Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:

For Organization:

FoodChain, Inc.
501 W. Sixth St, Suite 105
Lexington, Kentucky 40508
Attn: Kristin Hughes, Co-Executive Director

For Government:

Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507
Attn: Kacy Allen-Bryant, Commissioner,
Department of Social Services

**21.** **WAIVER.** The waiver by either party of any breach of any provision of this Agreement shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision.

**22.** **ENTIRE AGREEMENT.** This Agreement shall constitute the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, which are not embodied herein shall be effective for any purpose. This Agreement shall replace any previous agreement between the parties on the same subject matter.

IN WITNESS WHEREOF, the parties have executed this Agreement at Lexington, Kentucky, the day and year first above written.

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

BY: _____
LINDA GORTON, MAYOR

ATTEST:

_____
Clerk of the Urban County Council

FOODCHAIN, INC.

BY:_____

TITLE: _____

_____
ATTEST:

_____
WITNESS:

DATE:_____

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