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Commonwealth of Kentucky CONTRACT

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Document Description:	Creation of a Gravel Bed Tree Nursery
Cited Authority:	FAP111-44-00 Memorandum of Agreement
Reason for Modification:	

Issuer Contact:	
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Vendor Name:	Vendor No.:	KY0032969
LEXINGTON FAYETTE URBAN CO GOVERNMENT	Vendor Contact	
200 EAST MAIN STREET	Name:	NO CONTACT
LEXINGTON	Phone:	999-999-9999
KY 40507	Email:	

Effective From: 2018-07-15 **Effective To:** 2019-06-30

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
1		0.00000		MOA with Lexington Fayette Urban County Government	\$0.000000	\$6,345.00	\$6,345.00

Extended Description:

Period of Service: 07/15/2018 - 6/30/2019

The Lexington Fayette Urban County Government will create a Gravel Bed Tree Nursery to serve as a demonstration project statewide, as well as to produce high quality bare-root seedling stock for use on public and/or private property.

Shipping Information:	Billing Information:
Division of Forestry 300 Sower Blvd, 4th Floor	Division of Forestry 300 Sower Blvd, 4th Floor
Frankfort KY 40601	Frankfort KY 40601

TOTAL CONTRACT AMOUNT:	\$6,345.00
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Memorandum of Agreement Terms and Conditions

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Energy and Environment Cabinet, Kentucky Division of Forestry ("the Commonwealth") and Lexington-Fayette Urban County Government (LFUCG) ("the Contractor") to establish an agreement for the Creation of a Gravel Bed Tree Nursery to serve as a demonstration project statewide, as well as to produce high quality bare-root seedling stock for use on public and/or private property. The initial MOA is effective from July 15, 2018 through June 30, 2019.

I. Scope of Services:

The Contractor shall undertake activities to establish a gravel bed tree nursery to serve as a demonstration project statewide, as well as to produce high quality bare-root seedling stock for use on public and/or private property, as outlined below.

Activities/Timelines

The Contractor shall implement the following:

Task 1 – Construct a gravel bed tree nursery according to the framework in the University of Minnesota's *All You Need to Know About Community Gravel Beds* document.

Task 2 – Plant at least 100 ¾ inch caliper "liner stock" trees in the gravel bed nursery according to the framework in the University of Minnesota's *All You Need to Know About Community Gravel Beds* document.

Task 3 – Grow trees, monitor, track and evaluate for progress and issues, ensure nursery equipment is functional, maintain trees.

Task 4 – Educate the public about the Project through print, online or social media, site visits, or other avenues.

Task 5 – Submit mid-grant and end-of-grant reports (January 31, 2019 and July 31, 2019). Invoice will not be paid until final Project Status Report is received).

Reports

The Contractor shall:

Provide mid-grant programmatic report. The report shall cover progress to date, any problems encountered and actions taken and any anticipated activity and work products expected during the next reporting period as outlined in the Project Status Report Template below.

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Provide a final report detailing activities and deliverables completed during the agreement period. The final report is due 30 days after the end of the project.

All reports shall be submitted electronically to the Commonwealth within specified timeframes listed above and in the format included in the Project Status Report Template.

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Table 2: Gravel Bed Nursery- TREE TABLE

Tree Species	Caliper	# Trees	Location	Source

Problems, Issues, Variances from Plan:

Provide updates on any problems with project activities, timelines, and variances from the original work plan:

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Notifications

All notices, requests, demands, waivers, and other communications given as provided in this Agreement shall be in writing and sent to the following:

LFUCG - Division of Environmental Services
 John Saylor
 200 East Main Street
 Lexington, KY 40507
 859-258-3405
 jsaylor@lexingtonky.gov
 Vendor DUNS Number: 020428777

EEC - Kentucky Division of Forestry
 Bridget Abernathy
 300 Sower Boulevard, 4SE
 Frankfort, KY 40601
 502-564-4496 or 502-782-7176
 bridget.abernathy@ky.gov

II. Pricing:

The Commonwealth shall reimburse the Contractor up to \$6,345.00 for services and activities as outlined in the Program Budget table below.

Program Budget

Categories	The Commonwealth	Cost Share/ In-kind Match	Total
Personnel	\$0.00	\$1,444.38	\$1,444.38
Fringe Benefits	\$0.00	\$0.00	\$0.00
Travel	\$0.00	\$0.00	\$0.00
Equipment	\$0.00	\$0.00	\$0.00
Supplies	\$6,345.00	\$4,900.62	\$11,245.62
Construction	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$0.00	\$0.00
Total Direct Charges	\$6,345.00	\$6,345.00	\$12,690.00
Indirect Charges (up to 10% of the Commonwealth's Total Direct Charges) **	\$0.00	\$0.00	\$0.00
Contractual	\$0.00	\$0.00	\$0.00
Total	\$6,345.00	\$6,345.00	\$12,690.00
Program Income	\$0.00	\$0.00	\$0.00

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A detailed budget template provided by the Commonwealth shall be completed and submitted to the Division of Forestry prior to the start of the project and before the start of each fiscal year.

**** RECIPIENT INDIRECT:**

If the recipient is receiving state funds the recipient may not charge indirect costs in excess of ten (10) percent of total direct costs. An indirect rate **shall not** be charged on contractual expenditures. Indirect charges exceeding the ten (10) percent shall be considered as cost share provided by the recipient.

If the recipient is receiving federal funds the recipient shall use the indirect rate corresponding with the agreement the recipient has with the federal entity or ten (10) percent. The recipient shall provide a copy of the indirect agreement prior to the federal funds being awarded.

III. Invoicing

The Contractor shall:

Invoice the Commonwealth upon completion of the project, for authorized expenditures by budget line item.

The invoice must indicate:

- The Document ID number, which can be found at the top of the MOA/PSC. The Document ID number can be recognized by the beginning letters "PON2" or "SC".
- Invoice number
- Invoice date
- Dates of service covered
- Current expenditures with each item listed separately
- Cumulative expenditures to date
- Current cost share or match, if identified in the Program Budget
- Cumulative cost share or match
- Include a copy of the transaction detail report if available and/or receipt

Backup documentation must be maintained for each invoice, as required by the record retention schedule in Kentucky's Administrative Regulation 725 KAR 1:0612 and/ or CFR 200.333 through 200.337. The backup documentation can either be submitted with the invoice or kept for inspection by the Commonwealth, if or when requested.

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Examples of backup documentation may include:

- Personnel – payroll spreadsheet showing time worked within the invoice period. Spreadsheet shall contain salary information, name of employee or some identifiable number, percent of time applied to grant, along with the number of hours and fringe benefits per person.
- Fringe – include in payroll spreadsheet.
- Travel – travel voucher or invoices showing airfare, hotel expenses, etc. Mileage will be paid based on rate established through a travel policy by the recipient. If no rate has been established, the recipient may use the state or federal mileage rate.
- Equipment – receipt marked paid (an invoice shall be submitted after equipment is paid for.)
- Supplies – receipt marked paid (an invoice shall be submitted after supplies are paid for).
- Contractual – invoice and documentation that item has been paid (recipient shall verify invoice)
- Construction – invoices, receipts marked paid and any other documents that properly verify expenses.
- Indirect costs – will be verified not to exceed the allowable rate established in the MOA.
- Other – invoice and documentation that item has been paid (recipient shall verify invoice).

Final Invoice: The final invoice should be clearly marked as "FINAL INVOICE" to indicate that all funds that will be expended, have been expended.

Where to submit invoices:

All invoices shall be submitted via email to:

Kentucky Division of Forestry
 Bridget Abernathy
 Urban Forestry Partnership Coordinator
 300 Sower Blvd., 4SE
 Frankfort, KY 40601
bridget.abernathy@ky.gov

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IV. Assurances:

Grant Award Number: 16-DG-11083121-001

The parties shall abide by all terms of the grant:

Office of Management and Budget 2 CFR Chapter 1, Chapter II, Part 200, et al. which is incorporated into this Agreement by reference.

The Anti-Drug Abuse Act (P.L. 100-690), which requires recipients of federal funds to certify that they have met requirements designed to promote a drug-free workplace.

All Federal statutes relating to nondiscrimination. These include, but are not limited to: (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin; (2) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; (3) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 794), which prohibits discrimination on the basis of handicaps; (4) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (5) the Drug Abuse Prevention, Treatment and Rehabilitation Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (6) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 92-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (7) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (8) Title VII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (9) any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and (10) the requirements of any other nondiscrimination statute(s) which apply to this Agreement.

The Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763).
Titles II and III of the Uniform Relocation Assistance and Real property Acquisition Policies Act of 1970 (P.L. 91-646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs.

The Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

The Davis-Bacon Act (40 U.S.C. § 267a to 276a-7); the Copeland Act (40 U.S.C. § 276(c) and 18 U.S.C. § 874); and the Contract Work Hours and Safety Standards Act

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(40 U.S.C. §§ 327-333), regarding labor standards for federally-assisted construction subagreements.

The flood insurance purchases requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234), which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

The National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order No. 11514 instituting environmental quality control measures; (2) Executive Order No. 1738 which requires notification to violating facilities; (3) Executive Order No. 11990 protecting wetlands; (4) Executive Order No. 11988 evaluating flood hazards in flood plains; (5) the Coastal Zone Management Act of 1972 (916 U.S.C. §§ 1451 et seq.) assuring project consistency with approved state management programs; (6) Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (7) the Safe Drinking Water Act of 1974, as amended (P.L. 93-523) protecting underground sources of drinking water; (8) the Endangered Species Act of 1973, as amended (P.L. 93-205).

The Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ et seq.)

Section 106 of the National Historic Preservation Act of 1966, as amended (916 U.S.C. § 470); Executive Order No. 11593, which relates to the identification and protection of historic properties; and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469(a)(1) et seq.).

P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities.

The Laboratory Animal Welfare Act of 1966, as amended (P.L. 89-544, 7 U.S.C. §§ 1231 et seq.) pertaining to the care, handling and treatment of animals.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.), which prohibits the use of lead-based paint in construction or rehabilitation of residential structures.

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Memorandum of Agreement Standard Terms and Conditions

1.00 Cancellation clause:

The state agency shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

2.00 Funding Out Provision:

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

3.00 Reduction in Contract Worker Hours:

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

4.00 Access to Records:

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

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deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

5.00 Effective Date:

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

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

6.00 Violation of tax and employment laws:

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

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

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

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

Contractor must check one:

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

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

7.00 Discrimination:

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

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

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration

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for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

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

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

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

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency,

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the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Approvals:

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

AGREED TO BY:

Lexington Fayette Urban County Government:



 Jim Gray, Mayor

7/5/18
 Date


Department for Natural Resources:



 John D. Small, Commissioner

7/6/2018
 Date


ENERGY AND ENVIRONMENT CABINET:



 Charles G. Snavely, Secretary

7/6/18
 Date

APPROVED AS TO FORM AND LEGALITY FOR ENERGY AND ENVIRONMENT CABINET:



 John G. Home II, Office of General Counsel
 (BY JEFFREY J. HARMAN
 DEPUTY GENERAL COUNSEL)

7/5/18
 Date