

**PURCHASE OF SERVICE AGREEMENT**

THIS PURCHASE OF SERVICE AGREEMENT, made and entered into on the \_\_\_\_\_ day of \_\_\_\_\_ 2023, 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, and **W-T GROUP, LLC**, a limited liability corporation, ("Organization") with offices located at 2675 Pratum Avenue, Hoffman Estates, Illinois 60192.

**WITNESSETH**

**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.** This Agreement shall commence on October 1, 2023 and shall last until June 30, 2024, 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" – LFUCG'S Request for Proposal No. 19-2023
  - b. Exhibit "B" – Organization's Response to Request for Proposal
  - c. Exhibit "C" – LFUCG's Site List

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", then Exhibit "B" in that order.

3. **SCOPE OF SERVICES.** Organization shall perform all of the services outlined in the attached Exhibit A (the "Services"), except as modified herein, for LFUCG in a timely, workmanlike and professional manner.

a. To ensure timely completion of the Services before LFUCG's approaching fiscal year, Organization shall provide the following deliverables on or before the dates specified herein:

1. February 29, 2024: Identification of all physical barriers at forty (40) of LFUCG's facilities, which shall be identified and prioritized by LFUCG, by assessing these facilities through site visits at times mutually agreeable with agents and employees of LFUCG. A physical barrier is one that limits

the accessibility of LFUCG's programs, services, or activities to individuals with disabilities.

2. April 30, 2024: Methodology for self-evaluation of barriers and the removal of same in order to make LFUCG facilities accessible to individuals with disabilities.
3. April 30, 2024: Designation of the local official responsible for managing implementation of an ADA Transition Plan.
4. May 31, 2024: A five-year schedule, which shall include both immediate priorities and short-term projected actions for barrier mitigation and activation of accessibility improvements.
5. June 30, 2024: Estimation of financial costs for accessibility improvements and program sustainability, with prospectus of state and federal grant funding where available.

b. It is agreed and understood by the Organization that time is of the essence in completion of all Services required by this Agreement.

**4. PAYMENT.** LFUCG shall pay Organization a total amount not to exceed **Two Hundred Thousand dollars (\$200,000.00)** ("Funds") for the performance of the Services. Payments shall be made monthly for expenditures the Organization actually incurred, only after receipt of approved, monthly invoices. Use of the Funds is 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. Absent any additional written agreement stating otherwise, any travel or other expenses are included in the above payment.

a. LFUCG shall make payment under this Agreement upon timely submission of an invoice(s) from Organization specifying that the Services have been performed, accompanied by data satisfactory to LFUCG to document entitlement to payment for the Services performed to date. 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 are inadequate or defective.

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

**5. TERMINATION.** 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.

**6. REPORTING.** 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.

**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.** Organization shall comply with all Risk Management Provisions, Insurance, and Indemnification provisions stated in Request for Proposal No. 19-2023, attached as Exhibit A and incorporated herein by reference.

**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, (b) promote equal employment through a positive, continuing program of equal employment, and (c) 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 agrees that all revenue and expenditures related to this Agreement shall be audited at least annually by independent certified public accountants 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. A copy of this audit, or clean audit opinion letter from an independent certified public accountant, shall be submitted to LFUCG each year of the Agreement.

**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:  
W-T Group, LLC  
2675 Pratum Avenue  
Hoffman Estates, IL 60192  
Attn: John McGovern

For Government:  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, Kentucky 40507  
Attn: Commissioner Chris Ford, Office of General 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.

**23. ADA.** For the purpose of interpreting this Agreement, all terms used herein shall be defined so as to be consistent with that term's definition in the Americans with Disabilities Act (1990) and all applicable federal regulations.

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

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

**SIGNATURE PAGE IMMEDIATELY FOLLOWS.**



**EXHIBIT "A"**

**EXHIBIT "B"**



**EXHIBIT "C"**