

PURCHASE OF SERVICE AGREEMENT

THIS PURCHASE OF SERVICE AGREEMENT, made and entered into on the ___ day of October, 2015, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky created pursuant to KRS Chapter 67A (“Government”), 200 East Main Street, Lexington, Kentucky 40507, on behalf of the Department of Environmental Quality and Public Works, and **21C LEXINGTON LLC** (“Organization”) with offices located at 710 West Main Street, 3rd Floor, Louisville, Kentucky 40202.

WITNESSETH

That for and in consideration of the mutual promises and covenants herein expressed, the Government and the Organization agree as follows:

1. Government hereby retains Organization for the period beginning on October 1, 2015, and continuing for a period of twelve (12) months from that date unless within that period Government gives the Organization thirty (30) days written notice of termination of this Agreement in which case this Agreement shall terminate thirty (30) days from the date notice is given to the Organization.

2. Government shall pay the Organization the sum of **Two Hundred and Seven Thousand, Seven Hundred and Eighty-Six Dollars (\$207,786.00)** for the services required by this Agreement, within thirty (30) days following completion of the work required by this Agreement and acceptance of the work by the Government.

3. In the event of termination of this Agreement by Government as provided for in Paragraph 1 above, Organization shall be entitled to that portion of total

compensation due under this Agreement, as the service rendered bears to the total service required hereunder.

4. In connection with a Streetscape Improvement Project, Organization shall perform the following work in the 100 block of North Upper Street, Lexington, Kentucky. All work shall be performed in accordance with the contract documents and specifications for the 2014 Construction Unit Price Contract, LFUCG Bid #107-2014 and approved by Council Resolution 910-2014:

(a) replace approximately 250 feet of curb and gutter, Main Street to Short Street, East Side;

(b) replace approximately 250 feet of curb and gutter, Main Street to Short Street, West Side;

(c) replace approximately 250 feet of sidewalk, Main Street to Short Street, East Side;

(d) install approximately 250 feet x 4 feet of decorative pavers, Main Street to Short Street, East Side;

(e) install 3 Granville street light bases, poles, fixtures, and electrical wiring (poles and fixtures furnished by LFUCG);

(f) install 2 tree planting wells including trees and plantings (trees furnished by LFUCG);

(g) install electrical receptacle at each tree location including wiring;

(h) install electric power breaker panel and all required wiring;

(i) install a drip irrigation system at the 2 tree wells including all necessary water and electric controls;

(j) install necessary underground conduit across Upper Street to replace existing overhead drops for telephone and cable services (cable to be installed by the Utility Companies);

(k) install a vehicle unloading area on Main Street in front of the 21C property;
and

(l) install new sanitary manhole and service connection for the 21C property on Upper Street.

Organization shall use compensation paid to it under this Agreement to fulfill its obligations under this Agreement only, and for no other purposes other than for operations and shall provide supporting documentation upon request. Organization shall keep itself fully informed of all national and state laws and all municipal ordinances and regulations in any manner affecting the work or performance of this Agreement, and shall at all times observe and comply with such laws, ordinances and regulations, whether or not such laws, ordinances or regulations are mentioned herein and shall indemnify Government, its officers, agents and employees against any claim or liability arising from and based on Organization's violation of any such laws, ordinances or regulations.

5. Organization represents that it has filed any federal, state or local income tax returns required by law in the legally prescribed time and manner. This Agreement shall not become effective unless and until copies of all of the executed originals of the aforementioned tax returns filed for the Organizations most recent or current tax year are registered by the Organization in the MOED, and the Organization shall not be compensated unless and until such registration has taken place.

6. Books of accounts shall be kept by the Organization and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of the Organization. The books of accounts, together with all bonds, notes, bills, letters and other writings belonging to the Organization, shall be maintained at the principal place of business of the Organization as set forth in this Agreement. Government shall have free and complete access to the books, papers and affairs of the Organization relating to the LFUCG funds provided hereunder at all reasonable times, and if it desires, it may have said books and papers of the Organization audited and examined by auditors, accountants or attorneys. Any examination shall be at the expense of the Government.

7. Government may designate such persons as may be necessary to monitor and evaluate the services rendered hereunder by the Organization. The Government, its agents and employees, shall, at all times, have unrestricted access to all places where or in which the services required hereunder are being carried on and conducted. Inspection and monitoring of the work by these authorities shall in no manner be presumed to relieve in any degree the responsibility or obligations of Organization, or to constitute Organization an agent of the Government.

8. Organization shall provide equal opportunity in employment for all qualified persons, shall prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation or gender identity, or handicap, shall promote equal employment through a positive, continuing program of equal employment, and shall cause each of its subcontracting agencies to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

9. Organization shall adopt 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 submitted to the Department of Environmental Quality and Public Works for review within thirty (30) days of the execution of this Agreement.

10. This instrument contains the entire agreement between the parties, and no statement, promises or inducements made by either party or agent of either party that is not contained in this written Agreement shall be valid and binding; and this Agreement may not be enlarged, modified or altered except in writing signed by the parties and endorsed hereon.

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

For Organization:

21C Lexington LLC
710 West Main Street, 3rd Floor
Louisville, KY 40202

For the Government:

Lexington-Fayette Urban County Government
Department of Environmental Quality and Public Works
200 East Main Street
Lexington, KY 40507
Attention: David L. Holmes, Commissioner

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: _____
JIM GRAY, MAYOR

ATTEST:

Martha Allen
Clerk of the Urban County Council

21C LEXINGTON LLC

BY: _____

ITS: _____

ATTEST:

WITNESS/DATE: _____