

**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 pursuant to KRS Chapter 67A (hereinafter "Government") on behalf of its Division of Grants and Special Programs (hereinafter "Sponsor"), and **LEXINGTON-FAYETTE URBAN COUNTY HUMAN RIGHTS COMMISSION** (hereinafter "Organization"), an agency created pursuant to Section 2-26 of Article II of Chapter 2 of the Code of Ordinances, Lexington-Fayette Urban County Government, with offices located at 342 Waller Avenue, Lexington, Kentucky 40504;

**WITNESSETH:**

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein expressed, the receipt and sufficiency of which are acknowledged, the Government and the Organization agree as follows:

**1. EFFECTIVE DATE; TERM.** Government hereby employs Organization for the period beginning on July 1, 2023, 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. 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" – Addendum for Services
- b. Exhibit "B" – LFUCG Reporting Form

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".

**3. PAYMENT.** Government shall pay Organization Three Hundred and Seventy-Three thousand, Eight Hundred and Five Dollars (\$373,805.00), with additional funding of Fifty-Six Thousand and Sixty-Five Dollars (\$56,065.00) for a total amount not to exceed Four Hundred Twenty Nine Thousand, Eight Hundred and Seventy Dollars (\$429,870.00) for the services required by this Agreement, said services being more particularly described in Exhibit "A", one-twelfth (1/12th) of which shall be payable each month, July to June, inclusive. Additional funding of \$56,065.00 is contingent upon Organization providing an itemized list of costs. 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 Government.

**4. 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 the Organization, Government 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 Government's failure to timely pay for properly reported and accepted work. Organization shall provide Government with at least thirty (30) days advance written notice and an opportunity to cure prior to termination.

c. Organization acknowledges that Government 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, Government's obligations under this Agreement shall automatically expire without penalty to the Government thirty (30) days after written notice to the Organization. Government shall exercise any application of this provision in good faith.

**5. REGISTRATION; COMPLIANCE; AUTHORITY TO SIGN.** 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 the Organization's violation of any such laws, ordinances or regulations. Government 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 authorized to do so.

**6. REPORTING.** Organization shall perform all duties and services included in Exhibit "A" faithfully and satisfactorily at the time, place and for the duration prescribed herein. The Organization shall, **at the beginning of each month**, on such forms provided in Exhibit "B", submit to Sponsor: a report containing, for each of the services enumerated in the Addendum attached hereto which will be provided in the coming month, (a) a description of the services to be provided, including the quantity and quality of the services to be provided, and (b) the personnel costs, administrative costs, fixed costs, and any other direct or indirect costs to be incurred in providing the services; and an invoice requesting compensation for the ser-

vices to be provided during the coming month. Any and all provisions of this Agreement to the contrary notwithstanding, **the compensation of Organization for each month of the Agreement shall not be paid unless and until Organization submits the monthly report and invoice required hereunder.**

**7. INSURANCE; INDEMNITY.** 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 Government upon request. The following minimum insurance amounts are required:

<u>Coverage</u>	<u>Limits</u>
Commercial General Liability	\$1 million per occurrence, \$2 million aggregate
Professional (E&O) Liability	\$1 million per claim
Worker's Compensation	Statutory Limits
Employer's Liability	\$100,000.00

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.

**8. RECORDS.** 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 at all reasonable times. Organization understands and agrees that this Agree-

ment and any related documents may be subject to disclosure under the Kentucky Open Records Act and will comply with any reasonable request by Government to provide assistance with such a request.

**9. ACCESS.** Government may designate such persons as may be necessary to monitor and evaluate the services rendered 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. The right of access guaranteed Government and/or persons designated by the Government in clauses 8 and 9 of this Agreement shall not provide Government or persons designated by the Government access to any material within the possession of the Organization that is confidential or privileged pursuant to any applicable statute, ordinance, rule or regulation.

**10. EQUAL OPPORTUNITY; FAIRNESS ORDINANCE.** 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 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. 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.

**11. SEXUAL HARRASSMENT.** Organization shall adopt a written sexual harass-

ment 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 Division of Grants & Special Programs for review within thirty (30) days of the execution of this Agreement.

**12. 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 Government each year of the Agreement.

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

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

**15. 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 Government.

**16. 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.

**17. AMENDMENTS.** By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. Organization acknowledges

that Government may make changes only upon approval of its legislative authority, the Lexington-Fayette County Council, and the signature of its Mayor.

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

For Organization:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For Government:

Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, Kentucky 40507  
Attn: \_\_\_\_\_

**19. 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.

**20. ENTIRE AGREEMENT.** This instrument and the Addendum incorporated herein contain 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.

[Signature Page Follows]

**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 URBAN COUNTY COUNCIL

LEXINGTON-FAYETTE URBAN COUNTY  
HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

**EXHIBIT "A"**

Lexington/Fayette Urban County Government  
Addendum for Services

## **ADDENDUM FOR SERVICES**

1. Receive, initiate, investigate, seek to conciliate, hear and determine charges of violations of ordinances, orders, or resolutions forbidding discrimination adopted by the Lexington-Fayette Urban County Government.
2. Compel the attendance of witnesses and the production of evidence before it by subpoena issued by the Fayette Circuit Court.
3. Issue remedial orders, after notice and hearing, requiring cessation of violations.
4. Issue such affirmative orders, authorized by law, as in the judgment of the local Commission will carry out the purposes of Sections 2-26 through 2-33 of Article II of Chapter 2 of the Code of Ordinances.
5. Employ an executive director, attorneys, clerks, and agents, and expend its funds and contract for services or property.
6. Meet not less than once a month.
7. Make, amend and rescind rules and regulations as provided in Sections 2-26 through 2-33 of Article II of Chapter 2 of the Code of Ordinances, Lexington-Fayette Urban County Government; and the rules and regulations of the Commission.
8. Submit an annual report on July 1 of each year to the Mayor and the Urban County Council, which report shall contain a summary of its activities for the preceding year, a physical inventory of all property, and audit of all receipts, expenditures and funds on hand.
9. Following submission of the annual report, Organization may, upon request, appear before the Mayor and Urban County Council at a Work Session, to be scheduled by the Council Administrator, to address any questions or concerns.

**EXHIBIT "B"**

Lexington/Fayette Urban County Government  
LFUCG Reporting Form