

AGREEMENT

THIS AGREEMENT, made and entered into on this ____ day of October, 2020, by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government pursuant to KRS Chapter 67A, and located at 200 East Main Street, Lexington, Fayette County, Kentucky 40507 (hereinafter referred to as "GOVERNMENT"), and **LEXINGTON-FAYETTE COUNTY HEALTH DEPARTMENT** whose address is 650 Newtown Pike, Lexington, Kentucky 40508, (hereinafter referred to as "SUBRECIPIENT").

WHEREAS, GOVERNMENT has been awarded federal funds (CFDA #92.243) from the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention Office for implementation of the First Responders and Community Partners Overdose Prevention Project (Grant # 1H79SP080309-01);

WHEREAS, the approved grant application provides for the SUBRECIPIENT to provide services as described in the grant application;

WHEREAS, the GOVERNMENT'S responsibility for ensuring compliance with all grant requirements necessitates a written agreement with the SUBRECIPIENT;

NOW, THEREFORE, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, pursuant to grant requirements, the parties hereto agree as follows:

I. SCOPE OF SERVICES

A. Activities

The SUBRECIPIENT agrees to serve on the multi-disciplinary First Responders and Community Partners Overdose Prevention Project Advisory Council established by the Lexington-Fayette Urban County Government Department of Social Services, to coordinate with the GOVERNMENT to provide training on the administration of naloxone and the signs and symptoms of overdose and to distribute naloxone to first responders, community members and to individuals who utilize the needle exchange program and to participate in all aspects of the program as provided by the approved grant program narrative (Exhibit "A"). The SUBRECIPIENT agrees to complete the scope of work in the approved program narrative (Exhibit "A"). The services shall be operated in a manner satisfactory to the GOVERNMENT and in compliance with all local, state, and federal laws and regulations.

The SUBRECIPIENT'S specific responsibilities include providing naloxone to first responders, participants of the needle exchange program and

community groups, providing data on naloxone distribution to GOVERNMENT and to the evaluator of the grant. SUBRECIPIENT also agrees to participate in monthly program implementation meetings.

B. Reporting

The SUBRECIPIENT shall be responsible for submission of progress reports to GOVERNMENT. Reports shall provide information on project activities, including the number of naloxone kits distributed during the needle exchange program, the number of community classes held during the quarter, and the number of naloxone kits distributed during community classes. The information must be valid and auditable. The progress reports shall be submitted to the Department of Social Services, Lexington-Fayette Urban County Government in accordance with the following schedule:

Period	Due
October 2020-January 2021	February 15, 2021
February 2021-April 2021	May 15, 2021
May 2021-July 2021	August 15, 2021
August 2021-September 2021	October 15, 2021

In addition, the SUBRECIPIENT agrees to cooperate with evaluation and data collection activities by SAMHSA and local grant evaluator. The SUBRECIPIENT shall submit all information requested by SAMHSA and local grant evaluator to the Department of Social Services, Lexington-Fayette Urban County Government.

The SUBRECIPIENT agrees to submit a final programmatic report providing a summary of progress toward achieving the goals and objectives of the award, significant results, and total number of naloxone recipients. Final report in a form to be determined shall be submitted to the Department of Social Services, Lexington-Fayette Urban County Government no later than November 15, 2021.

C. Performance Monitoring

The GOVERNMENT may monitor the performance of the SUBRECIPIENT under the terms of the Agreement. Substandard performance as determined by the GOVERNMENT shall constitute noncompliance with the Agreement. If action to correct such substandard performance is not taken by the SUBRECIPIENT within a reasonable period of time after being notified by the GOVERNMENT, Agreement suspension or termination procedures will be initiated.

D. Evaluation

The SUBRECIPIENT agrees to participate in Evaluation Component of the project as described in the approved grant application.

II. TIME OF PERFORMANCE

The term of this Agreement shall be November 1, 2020 through September 30, 2021.

III. USE OF FEDERAL FUNDS

Federal funds from the federally funded First Responders and Community Partners Overdose Prevention Project in the amount of \$261,000 is available to support the herein described activities in accordance with the approved budget over the grant period.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the GOVERNMENT under this Agreement shall not exceed \$261,000 throughout the duration of year three of the grant. The SUBRECIPIENT shall invoice the GOVERNMENT quarterly for reimbursement of expenditures incurred through the purchase of naloxone. Reimbursement will be limited to costs incurred for the purchase of naloxone only. SUBRECIPIENT'S invoice must be for the expenses in the approved budget. SUBRECIPIENT'S invoice must include copies of receipts for naloxone purchases.

V. NOTICES

All notices hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified mail, postage prepaid, return receipt requested, to the following individuals:

For GOVERNMENT:

Department for Social Services
c/o Amy Baker
200 E. Main Street
Lexington, KY 40507

FOR SUBRECIPIENT:

Dr. Kraig Humbaugh
Lexington-Fayette County
Health Department
650 Newtown Pike
Lexington, KY 40507

VI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The SUBRECIPIENT shall expend and account for all federal funds received under this agreement in accordance with 2 CFR part 200, including 2 CFR part

200, subpart D, which covers Standards for Financial and Program Management and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Documentation and Record-Keeping

1. Records to be Maintained

The SUBRECIPIENT shall maintain all records required by the federal regulations specified in 2 CFR part 200, and the Terms and Conditions of the Grant Award. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records required to determine the eligibility of activities and the clients being served;
- c. Financial records.

2. Retention

In accordance with regulations, the SUBRECIPIENT shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records of non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

3. Data

The SUBRECIPIENT shall maintain data regarding the number of units of naloxone distributed to the Fayette County first responders, the community at-large and to individuals who receive naloxone at the needle exchange program. All identifying information shall be considered protected health information and fall under the purview of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Non-identifying information shall be made available to government monitors or their designees for review upon request.

4. Disclosure

The SUBRECIPIENT understands that client information collected under this Agreement is private and the use or disclosure of such information,

when not directly connected with the administration of the GOVERNMENT'S responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The SUBRECIPIENT'S obligation to the GOVERNMENT shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the GOVERNMENT and determining the custodianship of records).

6. Audits and Inspections

The SUBRECIPIENT must be audited as required by 2 CFR part 200, subpart F when it is expected that the SUBRECIPIENT's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

SUBRECIPIENT shall submit a copy of the audit report to the Federal Audit Clearinghouse within 30 days after receipt of the audit report, but not later than nine months after the end of the audit period. Concurrently with the submission of the audit report to the Federal Audit Clearinghouse, SUBRECIPIENT shall submit a copy of the audit report to the GOVERNMENT'S Division of Grants and Special Programs. Any deficiencies noted in audit reports must be fully cleared by the SUBRECIPIENT within 30 days after receipt by the SUBRECIPIENT. Failure of the SUBRECIPIENT to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of the future payments.

All SUBRECIPIENT records with respect to any matters covered by this Agreement shall be made available to the GOVERNMENT, grantor agency, their designees or the federal government, at any time during normal business hours, as often as the grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data to meet the requirements of 2 CFR part 200.

The SUBRECIPIENT must submit to monitoring of its activities by the GOVERNMENT as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this agreement.

C. Procurement

The SUBRECIPIENT shall procure all materials, property, or services in accordance with the requirements of 2 CFR §200.318 - §200.326.

VII. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The SUBRECIPIENT agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968, as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR chapter 60).

The SUBRECIPIENT agrees that no person shall on the ground of race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, or any other basis prohibited by applicable law be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded under this agreement.

2. Nondiscrimination

The SUBRECIPIENT agrees to comply with Title VII of the Civil Rights Act of 1964 as amended. The SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The SUBRECIPIENT will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship. The SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Section 504

The SUBRECIPIENT agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any federally assisted program. The Grantee shall provide the SUBRECIPIENT with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Affirmative Action

1. Approved Plan

The SUBRECIPIENT agrees that it shall be committed to carry out pursuant to the GOVERNMENT'S specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The GOVERNMENT shall provide Affirmative Action guidelines to the SUBRECIPIENT to assist in the formulation of such program.

2. W/MBE

The SUBRECIPIENT will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The SUBRECIPIENT may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. EEO/AA Statement

The SUBRECIPIENT will, in all solicitations or advertisements for employees placed or on behalf of the SUBRECIPIENT, state that it is an Equal Opportunity or Affirmative Action employer.

4. Subcontract Provisions

The SUBRECIPIENT will include the provisions of Paragraphs VII A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subcontractors. SUBRECIPIENT shall also obtain written certification from all its subcontractors that they are in compliance with Executive Order 12549 on Debarment and Suspension.

VIII. GENERAL CONDITIONS

- A. The SUBRECIPIENT agrees to comply with the requirements of all applicable federal, state, and local laws, regulations, and policies governing the operation of herein described grant-supported services. The SUBRECIPIENT further agrees to use funds available under this Agreement to supplement rather than supplant funds otherwise available.
- B. The SUBRECIPIENT agrees to defend, indemnify, and hold harmless GOVERNMENT from any and all losses or claims of whatever kind, that are in any way incidental to, or connected with, or that arise or alleged to have arisen, directly or indirectly, in whole or in part, from the execution, performance, or breach of this agreement by SUBRECIPIENT, including any environmental problems, including, without limitation, soil and/or water contamination, and remedial investigations and feasibility studies thereof, which exist at or prior to the agreement commencement date, regardless of when such losses or claims are made or incurred. This indemnity agreement shall in no way be limited by any financial responsibility, or loss control requirements below, and shall survive the termination of this agreement;

For the purposes of this Indemnity Provision:

- 1. The word “defend” includes, but is not limited to, investigating, handling, responding to, resisting, providing a defense for, and defending claims, at SUBRECIPIENT’S expense, using attorneys approved in writing by GOVERNMENT, which approval shall not be unreasonably withheld.
 - 2. The word “claims” includes, but is not limited to, claims, demands, liens, suits, notices of violation from Governmental agencies, and other causes of action of whatever kind.
 - 3. The word “losses” includes, but is not limited to: attorney fees and expenses; costs of litigation; court or administrative costs; 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 SUBRECIPIENT and GOVERNMENT, and damage to, or destruction of, any property, including the property of GOVERNMENT.
- C. The SUBRECIPIENT shall provide Workers' Compensation insurance coverage for all its employees involved in the performance of this Agreement.

- D. This Agreement, or any part hereof, may be amended from time to time hereafter only in writing executed by the GOVERNMENT and the SUBRECIPIENT.
- E. This Agreement, in accordance with 28 CFR 66.43 can be terminated if SUBRECIPIENT fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 28 CFR 66.44 upon written notice by the GOVERNMENT.
- F. GOVERNMENT and the SUBRECIPIENT each binds himself and his partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations of the Agreement.

G. Prohibited Activity

The SUBRECIPIENT is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

H. Drug Free Workplace

The SUBRECIPIENT shall administer a policy designed to ensure that the SUBRECIPIENT is free from the illegal use, possession, or distribution of drugs or alcohol by its employees and beneficiaries.

I. Assignability

The SUBRECIPIENT shall not assign or transfer any interest in this Agreement without the prior written consent of the GOVERNMENT thereto; provided, however, that claims for money due or to become due to the GOVERNMENT under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the GOVERNMENT.

J. Subcontracts

a. Approvals

The SUBRECIPIENT shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the GOVERNMENT prior to the execution of such agreement.

b. Monitoring

The SUBRECIPIENT will monitor all subcontracted services on a regular basis to assure compliance with this Agreement. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The SUBRECIPIENT shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The SUBRECIPIENT shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

K. SUBRECIPIENT agrees that contractors engaged under contracts for renovation work financed in whole or in part with assistance provided under this contract, shall comply with the regulation of the Department of Labor in accordance with the Davis-Bacon Act, as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act and all other applicable federal, state, and local laws and regulations pertaining to labor standards insofar as these acts apply to the performance of this contract.

L. Hatch Act

The SUBRECIPIENT agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

M. Conflict of Interest

The SUBRECIPIENT agrees to abide by the provisions of 45 CFR 74.42 with respect to conflicts of interest, and covenants that it will maintain written standards of conduct governing the performance of its employees engaged in the administration of this Agreement.

N. Lobbying

The SUBRECIPIENT hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors shall certify and disclose accordingly; and
- d. Lobbying Certification - Paragraph d

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

O. Copyright

If this Agreement results in any copyrightable material or inventions, the GOVERNMENT and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

P. Religious Organization

The SUBRECIPIENT agrees that funds provided under this Agreement will not be used for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with federal regulations.

Q. Suspension and Debarment

The SUBRECIPIENT certifies, in accordance with Executive Order 12549 (Debarment and Suspension February 18, 1986) that to the best of its knowledge and belief, that it, its principals, and its subcontractors:

Are not presently debarred, suspended, proposed for debarment, declared negligible, or voluntarily excluded from covered transactions or contract by and Federal department or agency for noncompliance with the Federal Labor Standards, Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended or any other federal law;

- a. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- b. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (a) of this certification; and
- c. Have not within a three-year period preceding this proposal had one or more public (Federal, State, or local) transactions or contracts terminated for cause or default.

[INTENTIONALLY LEFT BLANK. SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties executed this Agreement the day, month, and year above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

Linda Gorton, Mayor

ATTEST:

Clerk of Urban County Council

LEXINGTON-FAYETTE COUNTY HEALTH DEPARTMENT

Authorized Official

Printed Name