

PURCHASE OF SERVICE AGREEMENT

THIS PURCHASE OF SERVICE AGREEMENT (the "Agreement"), made and entered into on the _____ day of _____ 2022, 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, on behalf of LFUCG's ONE Lexington initiative ("Sponsor"), and **COMMUNITY ACTION COUNCIL FOR LEXINGTON-FAYETTE, BOURBON, HARRISON AND NICHOLAS COUNTIES, INC.**, a Kentucky 501(c)(3) organization, ("Organization") with offices located at 710 West High Street, Lexington, Kentucky 40508.

RECITALS

WHEREAS, Sponsor is a program established by LFUCG to coordinate, leverage, and mobilize LFUCG and community resources to enhance safety and quality of life in neighborhoods experiencing violent crime; and

WHEREAS, Sponsor wishes to engage the services of Organization to serve as the Grants Administrator, in coordination with the Sponsor, to deliver the "Services" herein described, which shall include the selection of recipients and the distribution of grant funding within the Lexington-Fayette County community related to "ONE Lexington"; and

WHEREAS, For FY2023, a total of \$100,000.00, inclusive of the administrative fee for the fiscal agent, has been allocated in grant funding related to the following programming components: 1) Violence Prevention/Intervention Community Partner Grants (\$50,000.00) ("Violence Prevent Grants"); 2) and 3) Community Sponsorship Awards (\$39,000.00) (together with the Violence Prevention Grants, the "Grant Awards"); and

WHEREAS, Organization desires to perform the "Services" for an administrative fee as set forth in this Agreement; and

WHEREAS, the parties entered into this Agreement to set forth the terms and conditions pursuant to which Organization shall serve as fiscal agent for "ONE Lexington".

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.** The term of this Agreement shall commence upon its execution and shall continue in effect until June 30, 2023 (the "Initial Term") unless terminated by LFUCG at an earlier time. Thereafter, this Agreement may be renewed for successive one (1) year terms beginning July 1 through June 30 of each fiscal year (each,

a “Renewal Term”) by mutual written agreement of the parties hereto and subject to the allocation of additional funding in future fiscal years.

2. RELATED DOCUMENTS. This Agreement shall consist of the terms herein as well as Exhibit “A” – Scope of Work, which is attached hereto as an exhibit and incorporated herein by reference as if fully stated. 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. SCOPE OF SERVICES. Organization shall perform the services outlined in the attached Exhibit “A” – Scope of Work for LFUCG in a timely, workmanlike and professional manner (the “Services”).

4. PAYMENT.

(a) LFUCG shall pay Organization a monthly administrative fee of \$1,375.00 (“Monthly Fee”) during each month of the respective term. The total amount of the Monthly Fee paid to Organization shall not exceed Eleven Thousand Dollars and 00/100 Cents (\$11,000.00) (“Funds”) during the term. The uses of the Funds are limited to the performance of the Services described in Exhibit A 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 excluded in the above payment.

(b) On the effective date, LFUCG shall pay Organization the combined total of Eight-Nine Thousand Dollars (\$89,000.00) (“Grant Awards”). Organization shall disburse the Grant Awards to recipients in a manner that complies with Exhibit A and with any terms and conditions attached to the Grant Awards. Each month, Organization shall produce a reconciliation reflecting all disbursements it has made of the Grant Awards. At the end of this Agreement’s respective term, Organization shall repay the outstanding balance, if any, of the Grant Awards to LFUCG. Organization shall repay that outstanding balance to LFUCG within thirty (30) days after the end of that respective term. Organization understands and agrees that LFUCG has the right to pursue legal action against Organization to collect any amounts LFUCG paid to Organization that Organization did not disburse in conformity with this Agreement. LFUCG reserve all rights it has at law, in equity, or in bankruptcy against the Organization to collect any amounts it paid to Organization.

(c) LFUCG shall make all payments required under this Agreement upon timely submission of monthly invoices 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 or materials provided for the Services are inadequate or defective. 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 whomever the Mayor designated within the Sponsor, 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.

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

6. REPORTING. Organization shall provide LFUCG with quarterly reports and updates related to the provisions of the Services in the form and manner reasonably specified by LFUCG or by the Sponsor.

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.

a. 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 LFUCG upon request. General Liability (\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit); Commercial Automobile Liability (combined single, \$1 million per occurrence); Professional Liability

(\$1 million per occurrence, \$2 million aggregate); Worker's Compensation (Statutory); and Employer's Liability (\$1 million).

b. Organization shall indemnify, defend and hold harmless LFUCG and its elected and appointed officials, employees, agents, volunteers, and successors in interest, from and against any and all liability, damages, and losses, including but not limited to: demands, claims, liens, suits, notices of violation from governmental agencies, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by Organization's performance of, or breach of this Agreement and/or the provision of goods or services, provided that (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of Organization or its officials, employees, or agents; and (b) not caused solely by willful misconduct of LFUCG.

c. Organization understands and agrees that its obligation to defend LFUCG includes the obligation to investigate, handle, respond to, resist, provide a defense for, and defend claims, at Organization's expense, using attorneys approved in writing by the LFUCG, which approval shall not be unreasonably withheld.

d. Organization further understands and agrees that its obligation to indemnify includes, but is not limited to: attorney fees and expenses, costs of litigation, court and administrative costs, expert witness fees and expenses, 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 Organization and LFUCG, and damage to, or destruction of, any property, including the property of LFUCG.

e. This provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.

f. 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.

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:

Community Action Council for Lexington-Fayette,
Bourbon, Harrison and Nicholas Counties, Inc.
710 W High Street
Lexington, Kentucky 40508
Attn: Melissa Tibbs, Director, Office of Sustainability

For Government:

Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507
Attn: Devine Carama, Director, ONE Lexington, Mayor's Office

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.

[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 the Urban County Council

ORGANIZATION

BY: _____

ATTEST:

WITNESS: _____

DATE: _____

EXHIBIT "A"

Lexington/Fayette Urban County Government
Addendum for Services
SCOPE OF WORK

Grants Administrator for ONE Lexington

ONE Lexington, which is a program established by the Lexington-Fayette Urban County Government (LFUCG) to coordinate, leverage and mobilize LFUCG and community resources to enhance safety and quality of life in neighborhoods experiencing violent crime, is seeking one or more fiscal agent(s) to select recipients and distribute grant funding within the community related to the program.

A total of \$150,000 is allocated to The One Lexington Gun Violence Prevention Grant Programming for FY2023. Lexington Fayette Urban County Government will contract with Community Action Council to be the fiscal agent for the three separate funding streams totaling \$121,000: \$50,000 for Violence Prevention/Intervention Community Partner Grants; \$37,000 for Youth Mediation & Street Outreach Services; and \$34,000 for Community Sponsorship Awards. Depending upon the success of the programming and contingent upon the allocation of additional funding in future fiscal years, the relationship with selected this fiscal agent may span multiple fiscal years.

Community Action Council will be paid \$16,000 (13.2%) administrative fees FY2023. Each funding stream is unique and must be administered differently. Administrative responsibilities for each funding stream is outlined below.

Fiscal Agent must be able to process applications, verify program validity, and send periodic financial updates to One Lexington.

Scope of Work:

Fiscal agent must have the capacity to:

- Process applications, identify individuals/organizations for contracted professional services, and issue periodic payments for services.
- Violence Prevention/Intervention Community Partner Grants will be awarded to Lexington–servicing nonprofits will require an annual selection process. This process will include application and scoring; payment to grantees, and participate in an award announcement. Fiscal agent will send quarterly financial reports to One Lexington.
- Youth Mediation & Street Outreach Services are stipend to individuals providing professional services to ONE Lexington. Fiscal agent will process application, and issue bi-weekly payment for professional services.
- Community Sponsorship are allocations to programs to support Lexington youth directly impacted by gun violence and with incarcerated parents. Fiscal agent will process request, select programs to be awarded, issue payments, and report periodically to One Lexington.