

PURCHASE OF SERVICE AGREEMENT

THIS PURCHASE OF SERVICE AGREEMENT, made and entered into on the ____ day of _____, 2014, 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"), and the **UNIVERSITY OF KENTUCKY** and the **UK ARBORETUM** (hereinafter jointly referred to as "Organization").

W I T N E S S E T H:

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

1. Government hereby employs Organization for the period beginning on September 1, 2014 and continuing until June 30, 2015 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 Organization the sum of Thirty-two Thousand Dollars (\$32,000) for the services required by this Agreement, said services being more particularly described in the Addendum to this Agreement, attached hereto and incorporated herein by reference as if fully set forth herein, in one lump sum upon execution of the Agreement by all parties.

3. In the event of termination of this Agreement by Government as provided for in paragraph 1 above, Organization shall be entitled to compensation for services

rendered prior to notice of termination in an amount proportional to the services rendered and the total services otherwise required hereunder. In the event of such termination, Organization shall refund the appropriate portion of said compensation to Government within sixty (60) days.

4. Organization shall perform all duties and services included in the Addendum attached hereto faithfully and satisfactorily at the time, place and for the duration prescribed herein. 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 to the extent permitted by law 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.

5. 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 and of all records and documents related to such services. Inspection and monitoring of the work or documents 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.

6. 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.

7. 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.

8. Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party.

9. Organization shall not assign its rights hereunder, excepting its right to payment, nor delegate any of its duties hereunder without the prior written consent of Government. Subject to the provision of the immediately preceding sentence, each party hereto binds itself, its successors, assigns and legal representatives to the other and to the successors, assigns and legal representatives of such other party.

10. The terms of this Agreement shall be governed by the laws of the Commonwealth of Kentucky, both as to interpretation and performance.

11. Organization understands and agrees that its employees, agents, subcontractors, or volunteers are not employees of the Government for any purpose whatsoever. Organization is an independent contractor at all times during the performance of the services specified.

12. If any term or provision of this Agreement shall be found to be illegal or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken. The failure of either party to enforce any right reserved to it in this Agreement shall not be a waiver of any such right to which the party is entitled.

13. Organization or any of its employees, agents, or subcontractors, to the extent permitted by law, agrees to defend, indemnify and save harmless Government, its employees, agents, boards, volunteers and elected and appointed officials, from and against all liabilities, claims, actions, expenses, obligations, losses, fines, and assessments resulting from or arising out of any error or omission, negligence or intentional misconduct or any other action relating to the provision of the services specified herein. Indemnification will include, in addition to the above, attorney's fees, costs related to investigation and defense and any other expenses related to any such claim, action or proceeding. Organization will not be liable for such claims, actions, obligations, losses, fines, penalties and assessments resulting from or arising out of any error or omission, negligence or intentional misconduct of Government, its agents, and employees.

14. This instrument, with the Addendum incorporated herein, 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.

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:

CLERK OF URBAN COUNTY COUNCIL

UNIVERSITY OF KENTUCKY

By: _____

Its: _____

UK ARBORETUM

By: _____

Its: _____

ADDENDUM

This project consists of the development and presentation of workshops covering the topics outlined below. All workshops shall be free and open to the public on a first come basis and shall be offered commencing on the effective date of this agreement. Upon completion of the project, The Arboretum will provide LFUCG with semi-annual written reports of activities; six months from the effective date of this agreement and a final report by June 30, 2015. The reports shall include a description of workshop content and focus, registration of participants, number and date of each event, copies of workshop materials distributed, and copies of promotional materials and photographs of each workshop.

Work Shop Topics & Frequency:

1. Building a Rain Garden
 - a. Design Elements
 - b. Function of Rain Gardens
 - c. Selection of Plant Material
 - d. Maintenance of Rain Gardens

Two sessions shall be presented with at least one in the summer months.

2. Restoring Riparian Areas Along Streams
 - a. Role of vegetation in preventing bank erosion and protecting water quality.
 - b. Proper techniques for clearing noxious/invasive plants from stream banks.
 - c. Selection of native plants.
 - d. Proper planting and maintenance techniques for riparian areas.

One session shall be presented during the period of this agreement.

3. Green Lawn Care Practices
 - a. Determining soil fertilization requirements via soil testing.

- b. Proper fertilizer handling and application.
- c. Proper herbicide handling/application.
- d. Use of mulching mowers to reduce yard waste.

Three sessions shall be presented, two in spring and one in the fall.

- 4. Use of Urban Forests to Improve Water Quality
 - a. Benefits derived from trees, role trees play in reducing sedimentation, stream bank erosion and improved water quality. (How many gallons of stormwater can be absorbed and prevented from entering the stressed sanitary sewer system?)
 - b. Use of the Urban Tree Canopy study and prioritized planting plan for Lexington.
 - c. Proper selection of tree species for Fayette County.
 - d. Proper tree planting and maintenance techniques for trees.
 - e. Responsibilities of property owners for planting and maintaining street trees.

Three sessions shall be presented, two in the fall and one in the spring.

- 5. Going Green Landscaping: Participants will receive ideas on how to build new landscapes or redesign an existing landscape with minimal input while retaining stormwater.
 - a. Grading: how to retain stormwater by using creative grading around the home, use of cisterns and other water-holding techniques.
 - b. Soils: building good soils for plants and drainage; use of composting techniques.
 - c. Plant Selection: the right plant for the right place; use of native plants, use of water zones in designs; using plants to work for the homeowner, including gaining energy efficiency, retaining water.
 - d. Best Management Practices (BMPs): growing a lawn, trees, shrubs and perennials, the best way to reduce inputs and waste

One session shall be presented during the period of this agreement.