

PURCHASE OF SERVICE AGREEMENT

THIS PURCHASE OF SERVICE AGREEMENT, made and entered into on the 27 day of April 2017, 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 Chief Development Officer ("CDO") and **FOODCHAIN, INC.**, a 501(c)(3) nonprofit organization, ("Organization") with offices located at 501 W. Sixth Street, Suite 105 Lexington, with a mailing address of 501 W. Sixth Street, Suite 105 Lexington, Kentucky 40508 with an effective date of July 1, 2017.

WITNESSETH

WHEREAS, it is the public policy of the Lexington-Fayette Urban County Government to encourage, promote, and support economic development, new job training, and job placement for the public purposes of providing employment opportunities for its residents and alleviating conditions of unemployment and poverty and it wishes to provide funding related to these purposes to certain qualified entities through the use of contingent funding agreements; and

WHEREAS, the Government utilized criteria related to these purposes and an application and screening process in selecting which entities, including the Organization, would be eligible to receive funding pursuant to an agreement; and

WHEREAS, through this process and additional negotiations with the Organization, the Organization has agreed to commit to assisting a minimum of at least sixteen (16) individuals in job training and placement and in finding, obtaining, and keeping gainful employment in the local food industry; and

WHEREAS, the requirements of the Organization's program, including the required number of participants served, is more particularly described herein; and

WHEREAS, it is in the public interest that the Government make a commitment of financial resources in order to encourage and support economic development endeavors, including job training and placement through the use of this type of funding agreement.

NOW THEREFORE, that for and in consideration of the mutual promises and covenants herein expressed, which is acknowledged and agreed to be sufficient consideration, the Government and the Organization agree as follows:

1. The above recitals are incorporated herein as part of this Agreement.
2. This Agreement is intended to commence on July 1, 2017 and end on August 1, 2018, 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 provided to the Organization.
3. In return for full performance of the terms of this Agreement by the Organization, which shall include providing the services more fully described in Exhibit A, which is attached hereto and incorporated herein by reference, to at least sixteen

(16) people, Government agrees to pay the Organization the total sum of Twenty Thousand Dollars (\$20,000). The total sum amount shall be payable by no later than July 30, 2017.

4. Organization represents that the services specified in Exhibit A would not have been delivered to these participants without the funds provided in this Agreement and understands that the Government is relying upon this representation as a condition of providing the funds.

5. The Organization understands and agrees that in order to retain all of the funds, that by no later than July 1, 2018 at least seventy-five percent (75%) of the total number of individuals required in Exhibit A of this Agreement must be fully trained as further described in Exhibit A and also placed into jobs located in Fayette County. In the event that the Organization fails to train and place at least this number of people into jobs by the above deadline it shall be required to repay the Government for each person not trained and placed in accordance with the following formula:

$$\begin{aligned} & \mathbf{75\% \text{ (Required percentage of people to be trained and placed -}} \\ & \mathbf{XX\% \text{ (Percentage actually trained and placed by July 1, 2018) x}} \\ & \mathbf{\$20,000 \text{ (Funds provided in this Agreement)}} \end{aligned}$$

Any such repayment shall be due by no later than August 1, 2018.

6. In the event of termination of this Agreement by the Government as provided in Section 2, the Organization will be required to repay the Government under the following formula:

**75% (Required percentage to be trained and placed) – XX%
(Percentage actually trained and placed at the time of
Termination) x \$20,000 (Funds provided in this Agreement).**

Any such repayment shall be due by no later than thirty (30) days after notice of termination of this Agreement is received by the Organization.

7. Organization shall perform all duties and services specified in Exhibit A 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 that in any manner would affect 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 further agrees to indemnify, release and hold harmless Government, its officers, agents, and employees against any and all claims or liability arising from or based upon Organization's violation of any such laws, ordinances, or regulations. The Organization shall repay the full funds provided in this Agreement if it fails to observe and comply with such laws, ordinances, and regulations during the funding period.

8. The Organization represents that at all times relevant to this Agreement it shall remain in good standing with the Government as to any required registrations or certifications and shall timely pay any taxes, fees, fines, or penalties owed. Organization further represents that it has filed any federal, state or local income tax returns required by law in the legally prescribed time and manner and shall provide copies of the same to Organization upon request.

9. The Organization shall, by the tenth business day of the third (3rd) month (October 13, 2017), the sixth (6th) month (January 12, 2018), the ninth (9th) month (April 13, 2018), and the twelfth (12th) month (July 13, 2018) from the effective date of this Agreement, submit electronically to the CDO on the form attached hereto as Exhibit B and incorporated herein by reference (or a similar electronic Microsoft Excel form created and provided to Organization by the Government): a report containing documentation that the duties and services required in Exhibit A are being fulfilled for the previous quarter. Failure to electronically submit the quarterly report described herein by the required date shall result in the Organization repaying the full funds provided in this Agreement. In addition, Organization may be required to present a progress report as to its activities annually before the Urban County Council's Budget, Finance & Economic Development Committee, or as otherwise instructed by the Government.

10. The Organization shall also, on the quarterly report described in Section 9, track job retention of those individuals placed into jobs by the Organization for one (1) year after each individual is placed. In the event that this one (1) year tracking period per individual placed exceeds the one (1) year quarterly report requirement described in Section 9, the Organization shall continue to submit the report electronically to the CDO quarterly (on October 12, 2018, January 14, 2019, April 12, 2019, and July 12, 2019) until each individual placed in a job has been tracked for one (1) year from the time of placement.

11. While nothing in this Agreement shall be construed to require repayment of funds if the Organization fails to provide quarterly reports after July 13, 2018, if required

under this Agreement, the Organization understands that failure to provide these reports shall be taken into consideration by the Government in future funding cycles.

12. 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.

13. 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 reasonable 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.

14. 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.

15. 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 submitted to the CDO for review within thirty (30) days of the execution of this Agreement.

16. Organization agrees that all revenue and expenditures 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 shall be submitted to the CDO within 10 days of completion.

17. This Agreement is non-assignable and the Organization shall not assign its duties, obligations, or responsibilities under this Agreement to any other person or entity.

18. The parties agree that the Organization is an independent contractor and shall in no way will it or its employees or agents be viewed or treated as employees of the Government.

19. This Agreement and its enforcement shall be interpreted and subject to the laws of the Commonwealth of Kentucky and any related court action shall only be filed in Fayette County, Kentucky.

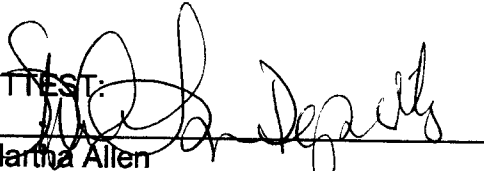
20. This instrument contains the entire agreement between the parties, and no statement, promises or inducements made by either party or agent of either party that is not contained in this written Agreement shall be valid and binding; and this Agreement may not be enlarged, modified or altered except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

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


For Organization: FoodChain, Inc.
501 W. Sixth Street, Suite 105
Lexington, Kentucky 40508
Att: Janelle Hagar, Board Chair (or as otherwise designated
in writing by Organization)

For Government: Lexington-Fayette Urban County Gov.
200 East Main Street
Lexington, Kentucky 40507
Att: Kevin Atkins, Chief Development Officer

IN WITNESS WHEREOF, the parties have executed this Agreement at Lexington, Kentucky, the day and year first above written.

ATTEST:

Martha Allen
Clerk of the Urban County Council

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

BY: 
JIM GRAY, MAYOR

FOODCHAIN, INC

BY: Janelle Hager
JANELLE HAGAR, BOARD CHAIR
HAGER

ATTEST: Rebecca Sief
WITNESS: Rebecca Sief
DATE: 3/10/17

EXHIBIT "A"

Lexington/Fayette Urban County Government
Addendum for Services
FoodChain, Inc.

Scope of Work

Between July 1, 2017 and July 1, 2018, FoodChain, Inc. ("FoodChain") will use these funds from Lexington-Fayette Urban County Government to:

- Provide on-the-job training with compensation no less than \$2.50 above the federal minimum wage as of the date of this Agreement to participants in FoodChain's processing kitchen in two sessions, including a six (6) week session in the fall of 2017 and a three (3) month session in 2018.
- Provide an in-depth working knowledge of professional kitchen skills to participants, including culinary methods, essential employability soft skills, health department certification, and sanitation requirements.
- Provide participants with bi-weekly guest talks and/or visits with professionals in the food sector.
- Provide externship experiences for participants with partner restaurants, caterers, institutions, and food entrepreneurs.
- Provide job placement assistance, along with access to a network of organizations in the food sector via FoodChain's partnerships.

Total Number: By the end date of this Agreement, FoodChain will train and place at least sixteen (16) unique individuals into jobs who would not have been served without these funds. These individuals must be Fayette County residents at enrollment.

Placement check-in (January 14, 2019)			Placement check-in (April 12, 2019)					Placement check-in (July 12, 2019)										
Employment Start Date (if applicable)	Name of Employer	Hourly wage	Employment County	Employment Exit Date (if applicable)	Reason for employment exit (if applicable)	Employment Start Date (if applicable)	Name of Employer	Hourly wage	Employment County	Employment Exit Date (if applicable)	Reason for employment exit (if applicable)	Employment Start Date (if applicable)	Name of Employer	Hourly wage	Employment County	Employment Exit Date (if applicable)	Reason for employment exit (if applicable)	