

AGREEMENT

THIS AGREEMENT, made and entered into on the 31st day of December 2021, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A ("Lexington"), 200 East Main Street, Lexington, Kentucky 40507, and **COMMERCE LEXINGTON, INC.**, a Kentucky corporation, ("Commerce") with offices located at 330 East Main Street, Lexington, Kentucky.

WITNESSETH:

WHEREAS, the Lexington-Fayette Urban County Government desires to assist in the collaboration of the Regional Economic Development Collective (or hereinafter the "Initiative") with various counties within the Bluegrass by investing \$50,000 in the Initiative; and

WHEREAS, the Urban County Government wishes to partner with Commerce Lexington to administer this regional economic development planning and collaboration initiative;

WHEREAS, the Lexington-Fayette Urban County Government has determined that this effort fulfills a public purpose by providing for economic development assistance; and

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. Commerce, will administer the Regional Economic Development Collaborative (“the Initiative”), as further described in Section 3 and the attached Exhibit A (Scope of Work), on behalf of Lexington.

2. Upon Commerce raising Fifty Thousand Dollars (\$50,000) from other governmental and economic development partners across the Bluegrass for the Initiative, Lexington agrees to provide Fifty Thousand Dollars (\$50,000) to Commerce to aid in the Initiative’s work, as described in Section 3 of this Agreement. No funds shall be retained by Commerce as an administrative fee.

3. The Initiative is a collaboration between governmental and economic development partners across the Bluegrass on the following non-exclusive list of priorities:

- a) Emphasizing strategies to increase workforce participation in the region;
- b) Improving availability and affordability of housing for the region;
- c) Developing new leaders and engage more people in regional collaboration efforts;
- d) Working within the region to have a supply of shovel-ready sites for economic development projects;
- e) Investing more regionally in workforce/job training efforts;
- f) Emphasizing on infrastructure improvements; and
- g) Providing more work experience for students in the region.

4. Commerce agrees that the businesses and/or partnership entities are not required to obtain membership in Commerce Lexington.

5. Commerce will provide Lexington with regular progress updates on the program pursuant to this Agreement on at least a semi-annual basis to the Lexington

Economic Development Investment Board and will appear before the Urban County Council or any of its committees to provide progress updates upon Lexington's reasonable request.

6. Commerce will keep and make available to Lexington any records related to this Agreement such as are necessary to support its performance thereof. Books of accounts shall be kept by Commerce and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of Commerce related to this Agreement be made available to Lexington upon request. This provision shall survive the termination or expiration of this Agreement.

7. Either party may terminate this Agreement for a material breach in performance after placing the breaching party with written notice of the breach and the opportunity to cure. The period of time to cure the breach shall be reasonable, but in all instances must be at least thirty (30) days. Any unencumbered funds held by Commerce at the time of termination of this Agreement shall be returned to Lexington within (30) days of receiving notice.

8. Commerce 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 Lexington, its officers, agents and employees against any claim or liability arising from and based on Commerce's violation of any such laws, ordinances or regulations. This indemnification provision shall survive the termination or expiration of this Agreement.

9. Unless otherwise provided herein, each party shall be solely responsible for its actions and those of its officials, employees and agents in the performance of this contract and any matters related thereto. This provision shall survive the termination or expiration of this Agreement.

10. 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.

11. Commerce 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 any 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.

12. Commerce represents that it has 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.

13. Lexington may designate such persons as may be necessary to monitor and evaluate the services rendered hereunder by Commerce. Lexington, 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 Commerce.

14. Commerce 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 Government within ten (10) days of completion.

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

For Organization: Commerce Lexington
330 East Main Street
Lexington, Kentucky 40507
Att: Bob Quick, President & Chief Executive Officer (or as otherwise designated in writing)

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

16. Neither party may assign any of its rights and duties under this Agreement without the prior written consent of the other party.

17. This Agreement does not create a contractual relationship with or right of action in favor of a third party against either Commerce or Lexington.

18. If any term or provision of this Agreement shall be found to be illegal or unenforceable, this Agreement shall remain in full force and such term or provision shall be deemed stricken.

19. This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in Fayette County, Kentucky.

20. By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. Commerce acknowledges that Lexington may make a material change only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of its Mayor.

21. 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.

22. 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 of this Agreement.

IN WITNESS WHEREOF, the parties certify that they have been duly authorized to execute, deliver and perform this Agreement, and have executed it as of the date first herein written.

**LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT**

BY: _____
LINDA GORTON

ATTEST:

Abigail Allan
URBAN COUNTY COUNCIL CLERK

EXHIBIT A

Lexington/Fayette Urban County Government
Addendum for Services
Commerce Lexington

Scope of Work

As part of the administration of the Initiative, Commerce Lexington will:

- Work with regional governmental and economic development partners across the Bluegrass on the following non-exclusive list of priorities:
 1. Emphasizing strategies to increase workforce participation in the region;
 2. Improving availability and affordability of housing for the region;
 3. Developing new leaders and engage more people in regional collaboration efforts;
 4. Working within the region to have a supply of shovel-ready sites for economic development projects;
 5. Investing more regionally in workforce/job training efforts;
 6. Emphasizing on infrastructure improvements; and
 7. Providing more work experience for students in the region.
- Provide a semi-annual program status report to the Lexington Economic Development Investment Board on the Program
- Provide an update as requested by the Chair of the Lexington-Fayette Urban County Council Budget, Finance & Economic Development Committee
- Provide a final comprehensive report to the Lexington-Fayette Urban County Council Budget, Finance & Economic Development Committee and the Chief Development Officer within forty-five (45) days after the final report/completion of Initiative's work.