

## **PURCHASE OF SERVICE AGREEMENT**

THIS PURCHASE OF SERVICE AGREEMENT ("Agreement"), made and entered into on the \_\_\_\_\_ day of \_\_\_\_\_ 2024, 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, and **NORTHERN KENTUCKY LEGAL AID SOCIETY, INC. DBA LEGAL AID OF THE BLUEGRASS**, a Kentucky non-profit corporation pursuant to KRS Chapter 273 and located at 300 East Main Street, Suite 110, Lexington, Kentucky ("Organization").

### **WITNESSETH**

**WHEREAS**, LFUCG seeks to invest in sustainable Housing Stability Services to help the most vulnerable residents of Lexington, who are homeless or at risk of homelessness, find long-term housing stability;

**WHEREAS**, the parties previously entered a Subrecipient Agreement on April 27, 2023, in which LFUCG awarded Organization an amount of federal funds, not to exceed \$919,473.00, awarded to LFUCG pursuant to the American Rescue Plan Act (ARPA), in exchange for the Organization providing Housing Stability Services specified in its response to RFP # 12-2023;

**WHEREAS**, LFUCG desires to provide additional non-federal funds to the Organization for the provision of certain mediation services, previously specified in the Organization's response to RFP #12-2023 and further detailed herein.

**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.** This Agreement shall commence on March 1, 2024, and shall last until June 30, 2025, unless terminated by LFUCG at an earlier time.

**2. RELATED DOCUMENTS.** This Agreement shall consist of the terms herein as well as the following additional documents, which are attached hereto as exhibits and incorporated herein by reference as if fully stated:

a. Exhibit "A" – RFP No. 12-2023

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", in that order.

**3. SCOPE OF SERVICES.** Organization will make payments to the Lexington-Fayette Urban County Housing Authority ("Landlord"), as needed, to satisfy settlement agreements reached with the Landlord during mediation with tenants who are in arrears in their rent ("Services").

**4. PAYMENT.** LFUCG shall pay Organization a total amount not to exceed Two Hundred Thousand dollars (\$200,000.00) ("Total Funds") during the term of the Agreement for the performance of the Services. Further, an amount not to exceed Fifty Thousand dollars (\$50,000.00) ("FY 24 Award"), which shall be deducted from the Total Funds, shall be available as payment for the Services starting March 1, 2024. No amounts, for which the total cost incurred exceed the FY 24 Award (i.e., \$50,000.00), shall be paid to the Organization prior to July 1, 2024. Further, the parties agree that payment of any amounts that exceed the FY 24 Award is contingent upon appropriation by the Lexington-Fayette Urban County Council in Fiscal Year 2025. In the event that the Fiscal Year 2025 funding is reduced or eliminated in LFUCG's final adopted budget, LFUCG shall notify Organization as soon as feasible and will take steps to modify or terminate the remainder of this Agreement.

- a. If Organization fails to expend at least fifty (50) percent of the FY 24 Award before June 30, 2024, Organization understands and agrees that LFUCG may: (1) require a performance improvement plan before payment of the balance of the Total Funds; and/or (2) reduce the amount of the Total Funds under this Agreement, in proportion to the amount of the FY 24 Award that Organization failed to expend.
- b. Payments shall be made quarterly for expenditures the Organization actually incurred, only after receipt of quarterly invoices. Uses of the Total Funds are limited to the services provided herein 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 included in the above payment.
- c. LFUCG shall make payment under this Agreement upon timely submission of approved invoice(s) from Organization specifying the documentation and information required by this Agreement, 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 an approved 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.
- d. LFUCG also reserves the right to reject any invoice submitted for services rendered in previous quarters. Termination of the Agreement and reallocation of unspent funds may occur for failure to submit an invoice, at the discretion of the LFUCG.

**5. UNABLE TO COMPLETE; RETURN OF FUNDS.** If it becomes apparent to Organization that it will be unable to complete the Services either in the manner or for

the amount described in this Agreement, then the Organization shall immediately provide written notice to LFUCG with a complete and detailed written explanation of its inability to comply with the terms of the Agreement, any proposed changes, and the reasons for those changes. If the Organization fails to use any amount of funds provided under this Agreement within the term provided above, then the Organization agrees to return the balance of the funds to the LFUCG within thirty (30) days of the termination of this Agreement. The Organization also understands and agrees that this provision shall survive termination of this Agreement.

**6. TERMINATION.** LFUCG, through the Mayor or the Mayor's designee, 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.

**7. REPORTING.** By the Tenth of each month, Organization shall provide LFUCG with an activity report summarizing all Services performed during the previous month. Specifically, monthly reports shall provide information on the number of individuals served by the Organization and other such information as required by LFUCG. Reports and updates related to the provisions of the Services shall be in the form and manner reasonably specified by LFUCG.

**8. PRIVACY.** The Organization agrees to establish data privacy and security requirements, to the extent applicable. The Organization must develop and implement written procedures to ensure:

- a. All records containing personally identifying information (as defined in the U.S. Department of Housing and Urban Development's standards for participation, data

collection, and reporting) of any individual or family who applies for and/or receives rental assistance will be kept secure and confidential;

- b. The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under this Agreement will not be made public, except with written authorization of the person responsible for the operation of the shelter; and
- c. The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of LFUCG and/or the Organization, and consistent with state and local laws regarding privacy and obligations of confidentiality.

The confidentiality procedures of Organization must be in writing and must be maintained in accordance with this section. The Organization 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 LFUCG'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.

**9. 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.

**10. INSURANCE; INDEMNITY.** Organization shall comply with the Risk Management Provisions of RFP # 12-2023, which are incorporated herein by reference.

**11. 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.

**12. ACCESS.** Organization shall allow LFUCG any necessary reasonable access to monitor its performance under this Agreement.

**13. 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.

**14. 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.

**15. 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.

**16. 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.

**17. INVESTMENT.** Any investment of the funds received pursuant to this Agreement must fully comply with any restrictions imposed by law.

**18. NO ASSIGNMENT.** Organization may not assign any of its rights and duties under this Agreement without the prior written consent of LFUCG.

**19. 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.

**20. 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.

**21. 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.

**22. NOTICE.** Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:

For Organization:

Robert Johns  
Executive Director  
Legal Aid of the Bluegrass  
300 E Main Street, Suite 110  
Lexington, KY 40507

For Government:

Jonathan Wright  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, Kentucky 40507

**23. 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.

**24. 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. Notwithstanding the above, this Agreement shall not replace those parts of previous agreements pertaining to the same subject matter which cover previous terms.

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

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

\_\_\_\_\_  
Linda Gorton, Mayor

ATTEST:

\_\_\_\_\_  
Clerk of the Urban County Council

LEGAL AID OF THE BLUEGRASS  
\_\_\_\_\_  
EXECUTIVE DIRECTOR

COMMONWEALTH OF KENTUCKY    )  
   )  
COUNTY OF FAYETTE                )

The foregoing instrument was acknowledged before me this the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, Executive Director of Legal Aid of the Bluegrass, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State At Large, Kentucky  
My Commission Expires: \_\_\_\_\_  
Commission Number: \_\_\_\_\_

**EXHIBIT "A"**

4881-6204-3299, v. 2

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