

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (“Agreement”), made and entered into on the 23rd day of April 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 **GOODWILL INDUSTRIES OF KENTUCKY, INC.** (“Organization”), whose post office address is 2820 West Broadway, Louisville, Kentucky 40211.

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 Organization, in partnership with Fayette County Public Schools, proposes to pay benefits to all eligible families, who are referred to them by the McKinney Vento Homeless Office of Fayette County Public Schools, to help secure stable housing;

WHEREAS, LFUCG believes that payment of funds to the Organization for this proposal fulfills a public purpose in helping the most vulnerable residents of Lexington, homeless families with children, find long-term housing stability.

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 April 1, 2024, and shall last until June 30, 2025, unless terminated by LFUCG at an earlier time.
2. **ELIGIBILITY CRITERIA.** Eligible families shall be all those: 1) who are referred to the Organization by the McKinney Vento Homeless Office of Fayette County Public Schools; and, 2) who have provided documentation that is reasonably sufficient to determine that the family has been approved for a piece of rental property and that payment of benefits, as specified herein, will allow the family to move in to that rental property (“Eligible Family”).
3. **SCOPE OF SERVICES.** Organization shall perform the following services in a timely, workmanlike, and professional manner (the “Services”):
 - a. Determine eligibility of all families by reviewing and retaining copies of:
 - 1) leases (signed or unsigned),
 - 2) approved rental applications,
 - 3) letters from prospective landlords, or

- 4) similar documentation demonstrating the family's eligibility as defined in numbered paragraph two (2).
- b. Pay to each Eligible Family's landlord an amount equal to:
 - 1) the first month's rent, the total amount of which shall include all recurring fees and charges due under the lease but which may not exceed fifty (50) percent of the Eligible Family's gross monthly income, plus
 - 2) the security deposit, the total amount of which shall not exceed the monthly rent due under the lease.
 - c. Provide ongoing housing stability services to all Eligible Families, which may include any combination of the following and other similar services typically provided by the Organization that enable households to obtain or maintain stable housing:
 - 1) housing counseling,
 - 2) fair housing counseling,
 - 3) housing navigators that help households access other assistance programs or find housing,
 - 4) case management related to housing stability,
 - 5) housing-related services for survivors of domestic abuse or human trafficking, and/or
 - 6) specialized services for individuals with disabilities or seniors that support their ability to access or maintain housing.
4. **PAYMENT.** LFUCG shall pay Organization a total amount not to exceed Four Hundred Thousand dollars (\$400,000.00) ("Total Funds") during the term of the Agreement for the performance of the Services. Further, an amount not to exceed One Hundred Fifty Thousand dollars (\$150,000.00) ("FY 24 Award"), which shall be deducted from the Total Funds, shall be available as payment for the Services starting April 1, 2024. No amounts which exceed the FY 24 Award (i.e., \$150,000.00) 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. 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.
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.** Either party may terminate this Agreement for any reason whatsoever by providing at least thirty (30) days advance written notice to the other party. Organization shall be entitled for payment of all expenses actually incurred prior to termination, in an amount which shall be calculated on a reasonable basis. The balance of any funds already paid to Organization shall be returned to LFUCG within thirty (30) days of the termination.
 - 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 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, a reconciliation of costs paid and the remaining balance of the Total Funds, 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.

- 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); (if applicable) 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.
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 included in an annual audit of the Organization's financial statements. This audit shall be performed 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:

Goodwill Industries of Kentucky
Lexington Opportunity Center
130 W. New Circle Rd, Suite 110
Lexington, KY 40509
Attn: Jennifer Bergman

For Government:

Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507
Attn: Jonathan Wright
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. **LOGO.** LFUCG and Organization both agree that each party's name, likeness, and logo shall be discussed and reviewed together, prior to use. Permission to use the party's logo, name, and likeness must be clearly defined and approved by authorized representatives of each party.
25. **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.

