

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of _____, 2016 by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (“Owner” or “LFUCG”)**, an urban county government of the Commonwealth of Kentucky pursuant to Chapter 67A of the Kentucky Revised Statutes, located at 200 East Main Street, Lexington, Kentucky 40507 and **CTC TECHNOLOGY & ENERGY aka COLUMBIA TELECOMMUNICATIONS CORPORATION (“Consultant” or “CTC”)**, with offices at 10613 Concord Street Kensington, MD 20895. Owner intends to engage the services of Consultant for a high-level design and construction cost estimate of a fiber-optic network in Lexington-Fayette County described in the attached proposal dated April 1, 2016 (“Proposal”).

OWNER AND CONSULTANT in consideration of their mutually agreed upon promises, conditions, and covenants, with respect to the services described in the Proposal and payment for those services by Owner as set forth below, agree as follows:

1. **SCOPE OF SERVICES.** Consultant shall use its best efforts to accomplish the following objectives for LFUCG, as defined in the Proposal, which is attached hereto as Exhibit A and incorporated herein by reference as if fully stated.
 - A. Deliverable 1 – Develop high-level design and cost estimate
 - B. Deliverable 2 – Develop a candidate public-private partnership strategy
 - C. Deliverable 3 – Facilitate stakeholder discussions (needs assessment)
 - D. Deliverable 4 – Develop a financial model
 - E. Deliverable 5 – Provide strategic recommendations
2. **COMPENSATION.** The professional services included herein shall be provided at a cost not to exceed \$58,000.00, payable in installments of \$11,600.00 upon satisfactory receipt of each deliverable by LFUCG. Consultant shall submit a detailed monthly report indicating work performed for LFUCG for the duration of this Agreement.
3. **TERM.** The term of engagement shall commence on _____, 2016 and shall terminate upon Consultant providing the final satisfactory deliverable to LFUCG and receipt of final payment from LFUCG.
4. **CANCELLATION.** LFUCG, through its Council, the Mayor or his designee, may cancel the engagement for services for any reason, and without any liability therefore, upon giving Consultant seven (7) days’ prior written notice sent to the last known address of the Consultant. Upon cancellation, LFUCG shall pay Consultant on the basis of the actual services satisfactorily performed and reasonable costs incurred up to the time of the cancellation as calculated by LFUCG.
5. **INDEMNIFICATION AND INSURANCE.** Consultant or any of its agents or subcontractors to the extent permitted by law, agrees to defend, indemnify and hold harmless LFUCG, its employees, 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. Consultant 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 LFUCG, its agents, employees, volunteers, or elected and appointed officials. Consultant will provide and maintain in force at all times during the term of the services contemplated herein Commercial General Liability Insurance and Errors and Omissions Coverage against claims which may arise from or in connection with the work performed in the principal amount of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate, per policy year, for any claim, act or omission in providing those services. Additionally, the Consultant will maintain during the term of the services Commercial Automobile Liability Insurance coverage with combined single limits of not less than \$1,000,000 per occurrence. Said policies shall name "The Lexington-Fayette Urban County Government, its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest," as "additional insureds." Consultant will also maintain Workers Compensation Insurance as required by the Kentucky Revised Statutes and Employer Liability Coverage equal to \$1,000,000. All policies of insurance shall be placed with an insurer authorized to do business in the Commonwealth of Kentucky with a rating classification of no less than VIII, as defined by the most current Best's Key Rating Guide. The policy will provide that such insurance will not be cancelled, modified or permitted to lapse without thirty (30) days' prior written notice to LFUCG.

6. **INDEPENDENT CONTRACTOR.** Consultant acknowledges and agrees that its employees or agents are not employees of LFUCG for any purpose whatsoever. CTC shall be considered an independent contractor at all times during the performance of the services specified.
7. **ASSIGNMENT.** Consultant will not assign the performance of its services under this agreement without the prior written approval of the Mayor or his designee.
8. **APPLICABLE LAW.** The terms of this engagement shall be governed by the laws of the Commonwealth of Kentucky, both as to interpretation and performance. Any ambiguity is to be construed in favor of LFUCG.
9. **AMENDMENTS.** This Agreement embodies the entire agreement between the parties and shall not be altered except in writing signed by both parties.
10. **NON-WAIVER.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

BY: _____
JIM GRAY, MAYOR

ATTEST:

Clerk of the Urban County Council

CTC TECHNOLOGY & ENERGY aka
COLUMBIA TELECOMMUNICATIONS
CORPORATION

Signed: Jeanne S. Horis

Title: President

CORPORATE ACKNOWLEDGMENT

STATE OF MARYLAND

COUNTY OF Montgomery

On this the 19th day of April, 2016, before me, the undersigned officer of CTC Technology & Energy aka Columbia Telecomm Corp., personally appeared Jeanne S. Horis, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to within the instrument, and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

NOTARY PUBLIC, residing in
Prince George's Co, Maryland [Signature]

My Commission Expires:

01/02/2018

00531271

EXHIBIT A

PROPOSAL TO DEVELOP STRATEGIC ANALYSIS OF BROADBAND
OPPORTUNITIES

APRIL 1, 2016