

**MEMORANDUM OF AGREEMENT
BETWEEN LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
AND NAMI LEXINGTON (KY), INC.**

THIS MEMORANDUM OF AGREEMENT (the “Agreement”), is made and entered into on the _____ day of _____, 2024 (the “Effective Date”), 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 NAMI Lexington (KY), Inc., a Kentucky corporation (“Organization”), with offices located at 498 Georgetown Street, Suite 100, Lexington, Kentucky 40508.

RECITALS

WHEREAS, Organization desires to purchase the property located at 865 – 869 Sparta Court, Lexington, Fayette County, Kentucky, and has requested funding from LFUCG to assist with the acquisition;

WHEREAS, LFUCG desires to provide funding to Organization to aid in the acquisition of said property, subject to an agreement by Organization to record a declaration of covenants and deed restrictions to restrict the use of the property for public purposes for a period of not less than fifteen (15) years; and

WHEREAS, this Agreement promotes a public purpose by assisting in Organization’s acquisition of the property in which it provides assistance to individuals in recovery from mental health challenges.

NOW, THEREFORE, and in consideration of the foregoing and the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties understand and agree as follows:

STATEMENT OF AGREEMENT

1. **Term**. This Agreement shall be in effect for fifteen (15) years from the date of recordation of a declaration of covenants and deed restrictions, or until such time when the covenants and restrictions expire or otherwise have not been extended (the “Term”).
2. **Proposal for Funding**. Organization requested funding from LFUCG in order to assist in its acquisition of the property located at 865 - 869 Sparta Court, Lexington, Fayette County, Kentucky (the “Property”). This Property houses Organization’s Participation Station, which provides services to individuals in recovery from mental health challenges. LFUCG’s assistance in Organization’s acquisition of this Property promotes a public purpose by helping Organization continue to provide these services to the community.
3. **Funds**. LFUCG hereby grants to Organization a total amount not to exceed One Hundred Forty One Thousand and Two Hundred Eleven Dollars and 00/100 Cents **[\$141,211.00]** (the “Funds”) to aid Organization in the purchase of the Property located at 865-869 Sparta Court, Lexington, Fayette County, Kentucky.

Organization acknowledges that the Funds awarded under this Agreement are public funds subject to all applicable state and local laws and regulations pertaining to the use of

public funds. Within 30 days following closing on the acquisition of the property, Organization shall provide to LFUCG documents evidencing payment thereof for the purposes set forth herein, including but not limited to a certified copy of the recorded deed to the property and a certified copy of the recorded declaration of covenants and deed restrictions. In any written or oral communications regarding the acquisition of the property using LFUCG funding, Organization shall identify LFUCG as the source of the Funds; Organization shall not identify individual Urban County Councilmember(s) as being responsible for the Funds.

4. Condition for Receipt of Funding. In order to be eligible for the Funds, Organization shall close on the Property not more than one hundred and twenty (120) days from the Effective Date, unless extended by written consent of LFUCG or a designated representative thereof.
5. Disposition and/or Change in Usage of Property Purchased with the Funds. Organization agrees that it shall only use the Funds for the expenditures set forth in this Agreement. Organization shall not:
 - a. spend the Funds on any other expenses or costs without first obtaining the written consent of LFUCG or a designated representative thereof;
 - b. transfer, sell, abandon, destroy, or otherwise dispose, or enter into any contract or agreement to see or otherwise transfer, any of the Property or assets purchased with the Funds without first obtaining the written consent of LFUCG or a designated representative thereof;
 - c. use the Property or assets purchased with the Funds to promote a private purpose; and/or
 - d. use the Property inconsistent with the programs and activities of Organization.

In exchange for the Funds, Organization agrees to the execution and recordation of a declaration of covenants and deed restrictions on the Property to restrict the usage and ownership of the Property for public purposes. These covenants and deed restrictions shall be executed at the closing and shall be recorded by Organization simultaneously with the recording of the deed to the property. Only LFUCG, or its successors and assigns, shall have the right to release the covenants and deed restrictions prior to the date on which the restrictions expire.

6. Termination; Breach and Cure; Recovery of Funds. LFUCG shall have the right to terminate this Agreement in the event that Organization defaults or is in material breach of its obligations under this Agreement. In the event of termination based upon a material condition of non-performance or default by Organization, LFUCG shall provide Organization with advance written notice specifying the nature of such breach. Organization shall have ten (10) days from the receipt of such notice to cure such breach. If more time is reasonably required for Organization's performance or ability to cure such breach, then Organization shall notify LFUCG in writing of its proposed schedule for performance and commence performance within such ten (10) day period; thereafter, Organization shall diligently proceed to completion. If Organization fails to cure or to commence cure within such ten (10) day period, then LFUCG shall have the right to terminate this Agreement immediately by serving Organization with written notice of termination. In the event that this Agreement is terminated, LFUCG shall be entitled to recover all funds advanced to Organization for which it has not yet expended on the Proposal in accordance with this Agreement.

Organization understands that if the Property is sold by Organization or if the use of the Property is changed, Organization shall reimburse LFUCG, within 90 days of the sale or change in use, 100% of the Remaining Value of LFUCG's contribution (the Funds) based upon the following depreciation schedule:

In:	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
15-year Depreciation	3.33%	6.67%	6.67%	6.67%	6.67%	6.67%	6.67%	6.66%	6.67%	6.66%	6.67%	6.66%	6.67%	6.66%	3.33%
15-year Remaining Value	96.67%	90.00%	83.33%	76.66%	69.99%	63.32%	56.65%	49.99%	43.32%	36.66%	29.99%	23.33%	16.66%	10.00%	3.33%

The % of depreciation shall be applied to the Funds LFUCG contributed, being \$141,211.00, for the year the Property was sold or the use of the Property was changed, with month 1 of Year 1 being the date of closing. If not paid within such 90-day period, LFUCG shall have a lien against the Property in the amount of the remaining value of the Funds, and may enforce same in the same manner as a lien for real property taxes may be enforced.

7. Record Retention; Reporting; Access. Organization shall create, maintain, and preserve sufficient records of its expenditures to demonstrate compliance with the requirements of this Agreement. Organization shall provide such records to LFUCG promptly upon written request. Such records shall be maintained not less than five (5) years after the expiration or termination of this Agreement. Organization shall provide LFUCG with all necessary access and/or documentation to verify its compliance with any provision of this Agreement and the Exhibits attached hereto.
8. 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.
9. Indemnity. Organization shall defend, indemnify and hold harmless LFUCG and/or its officers, agents, employees, representatives, assignees, and/or designees from any and all liability, actions, claims, demands, or suits, and all related costs, attorney fees, and expenses arising out of or resulting from this Agreement. 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 associated with the use of the Funds.
10. Open Records. Organization understands and agrees that this Agreement and any related documents relating thereto 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.

11. Independent Contractors. 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 in the performance of this Agreement.
12. 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.
13. 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.
14. No Assignment; No Third Party Rights. Organization may not assign any of its rights and duties under this Agreement without prior written consent of LFUCG. This Agreement does not create a contractual relationship with or right of action in favor of a third party against either Organization or LFUCG.
15. Law and Venue. This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky. Venue for all actions arising under this Agreement shall lie in the Circuit Court of Fayette County, Kentucky.
16. Amendments. This Agreement may be amended or modified from time to time only by the mutual written agreement of the parties hereto. 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.
17. 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
18. Notice. Any notice required by this Agreement shall be delivered via hand delivery or certified mail, return receipt requested, to the following:

To LFUCG: Lexington-Fayette Urban County Government
 Department of Social Services
 200 East Main Street
 Lexington, Kentucky 40507

Attn: Tiffany Masden

To Organization: NAMI Lexington (KY), Inc.
498 Georgetown Street, Suite 100
Lexington, Kentucky 40508
Attn: Phil Gunning, Executive Director

19. Entire Agreement. This Agreement shall constitute the entire agreement between the parties hereto, 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.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**LEXINGTON-FAYETTE
URBAN COUNTY GOVERNMENT**

NAMI Lexington (KY), Inc.

Linda Gorton, Mayor

PHIL GUNNING, EXECUTIVE DIRECTOR

Attested by:

Clerk of the Urban County Council