

**GRANT AGREEMENT**

THIS GRANT AGREEMENT, made and entered into on the 20 day of June 2023, 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 **BLUEGRASS AGTECH DEVELOPMENT CORP.**, a Kentucky non-profit corporation, ("Organization") with offices located at 1500 Bull Lea Road, Suite 100, Lexington, Kentucky 40511.

**WITNESSETH**

**WHEREAS**, the Parties seek to establish a private and public partnerships to help establish Lexington-Fayette County as an innovation hub for agriculture technology;

**WHEREAS**, the Organization has secured funding from the Kentucky Agricultural Development Board, but anticipates needing additional funding for operational costs and to provide challenge grants for Lexington-Fayette County businesses to improve agriculture technology in Lexington-Fayette County and throughout the Commonwealth;

**WHEREAS**, the Organization seeks public funding to fill that financing gap and intends to use that public funding solely to fund operational expenses and challenge grants;

**WHEREAS**, LFUCG believes that funding an organization formed to cultivate an innovation ecosystem for entrepreneurs and startups in the ag-tech sector, as well as the high-paying jobs that will grow out of this partnership, would serve a public purpose;

**WHEREAS**, LFUCG desires to award Organization a cumulative grant of **\$1,000,000.00** ("Funds") to fill the anticipated gap in Organization's financing, allowing the Organization to begin its work to transform Lexington-Fayette County into an ag-tech innovation hub;

**WHEREAS**, the parties seek to memorialize their understanding through a separate, written agreement; 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. EFFECTIVE DATE; TERM.** This Agreement shall commence on the date of its execution and shall last until December 31, 2024, unless terminated by LFUCG at an earlier time.

**2. SCOPE OF WORK.** Organization may use the funds provided by LFUCG under this Agreement as follows:

- 1) Operational Expenses; and
- 2) "Challenge Grants" to businesses or organizations based in Lexington-Fayette County to encourage increased development of the ag-tech sector.

The parties agreed that it is in their mutual best interest to maximize the amount of funds that are used for Challenge grants. Therefore, in no event shall more than fifty percent (50%) of the total funding provided by LFUCG to the Organization be used by the Organization for purposes of other than the Challenge grants.

"Operational Expenses" shall be defined as 1) the salary of a Chief Executive Officer or Executive Director, or the cost of an initial full-time consultant to advise on the Organization's initial direction, but not both; 2) employee wages; 3) office supplies; 4) rent; and 5) startup expenses to be approved by LFUCG's Chief Development Officer. Prior to incurring an expense not listed herein, the Organization may request the opinion of LFUCG's Chief Development Officer regarding whether the expense is an "operational expense." The opinion of the Chief Development Officer shall be determinative. Funds may not be spent by the Organization for any other purpose without the prior written consent of LFUCG.

At all times, the Organization shall comply with any of the LFUCG's requests for specification as to how a cost fits within this Section. The Organization understands that its failure to comply with any of the LFUCG's requests is a material breach of this Agreement and LFUCG may seek termination of this Agreement for that breach, as well as any other applicable remedy.

**3. PAYMENT.** LFUCG shall pay Organization a total amount not to exceed **One Million dollars (\$1,000,000.00) ("Funds")** for the allowable expenses defined in Section 2, above. Such payments shall be disbursed by LFUCG as follows:

- 1) Up to Five Hundred Thousand Dollars (\$500,000.00) for Operational Expenses, with Two Hundred Fifty Thousand Dollars (\$250,000.00) disbursed upon execution of this Agreement and the remaining funds disbursed as needed upon the Organization providing LFUCG sufficient reasonable evidence of such necessary expenditures.
- 2) Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be disbursed upon execution of this Agreement for Challenge Grants.
- 3) Any remaining funds not allocated as provided above shall be disbursed to Organization for Challenge Grants in increments as otherwise agreed to by the parties.

LFUCG shall have thirty (30) days to make a payment after receiving a properly documented invoice.

**4. 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 not be entitled to any funds that have not been disbursed prior to termination.

Organization may only terminate this Agreement based upon LFUCG's failure to timely pay invoices as provided in this Agreement. Organization shall provide LFUCG with at least thirty (30) days advance written notice and an opportunity to cure prior to termination.

**5. REPORTING.** Organization shall provide LFUCG with all reports that Organization is required to provide to the Kentucky Agricultural Development Board within fourteen (14) days after provision to the Board. Organization shall also provide an annual report, on the form developed by the LFUCG, to the LFUCG, by December 31<sup>st</sup> of each year, describing its use of the funds provided under this Agreement for the previous year, including all documentation regarding the challenge grants issued by the Organization, as well as the Organization's progress in implementing its objectives. At all times, the Organization shall comply with any request by LFUCG for information or documents related to the activities funded by this grant.

Organization shall, at the call of the chair of the Economic Development Investment Board and the chair of the Budget, Finance, and Economic Development Committee, attend in person and present annually regarding the Organization's progress developing Lexington-Fayette County into an ag-tech innovation hub.

**6. 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.

**7. 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.

**8. 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.

c. Organization understands that receipt of this funding may subject it to requirements under the Kentucky Open Records Act.

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

**10. 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.

**11. 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.

**12. 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.

**13. 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.

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

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

**16. NO THIRD PARTY RIGHTS.** This Agreement does not create a contractual relationship with or right of action in favor of a third party against Organization or LFUCG.

**17. 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.

**18. 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.

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

For Organization:

NAME  
ADDRESS

For Government:

Kevin Atkins  
Chief Development Officer  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, Kentucky 40507

**20. 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.

**21. 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.

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

LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT

BY: Linda Gorton  
LINDA GORTON, MAYOR

ATTEST:

Mackenzie Stock  
Clerk of the Urban County Council

Deputy

BLUEGRASS AGTECH DEVELOPMENT  
CORP.

BY: Mark P. Lyons  
Mark P. Lyons, Chairman

COMMONWEALTH OF KENTUCKY)

COUNTY OF FAYETTE )

The foregoing instrument was acknowledged before me this the 10<sup>th</sup> day of May, 2023, by Mark P. Lyons, Chairman of the Bluegrass AgTech Development Corp., a Kentucky nonprofit corporation.



My commission expires: July 29, 2026

Leslie May Salyers  
Notary Public, State-at-Large, Kentucky

**Leslie May Salyers**  
NOTARY PUBLIC  
STATE AT LARGE  
KENTUCKY  
ID. # KYNP52716  
MY COMMISSION EXPIRES JULY 29, 2026

**ANNAUL REPORT QUESTIONNAIRE**

**(DUE BY NOON DECEMBER 31 EACH YEAR LFUCG FUNDS ARE UTILIZED)**

**ANNUAL REPORT FOR LEXINGTON -FAYETTE URBAN COUNTY GOVERNMENT**

**Challenge grants issued by Bluegrass AgTech Development Corp during the most recent calendar year to Lexington based companies:**

<b>Name of Company</b>	<b>Number of Employees</b>	<b>Employee Average Wage</b>	<b>Total New Payroll Created</b>	<b>New or Existing Company</b>
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**Challenge grants issued by Bluegrass AgTech Development Corp during the most recent calendar year to non-Lexington based companies:**

<b>Name of Company</b>	<b>Number of Employees</b>	<b>Employee Average Wage</b>	<b>Total New Payroll Created</b>	<b>New or Existing Company</b>
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