

PURCHASE OF SERVICE AGREEMENT

THIS PURCHASE OF SERVICE AGREEMENT (hereinafter "Agreement"), made and entered into on the \_\_\_\_ day of July, 2013, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS chapter 67A ("Government"), 200 East Main Street, Lexington, Kentucky 40507, and **LEXARTS, INC.**, ("Organization") with offices located at 161 North Mill Street, Lexington, Kentucky 40507.

W I T N E S S E T H

That for and in consideration of the mutual promises and covenants herein expressed, the Government and the Organization agree as follows:

1. Government hereby retains Organization for the period beginning on July 1, 2013, and continuing for a period of twelve (12) months from that date unless within that period Government gives the Organization thirty (30) days written notice of termination of this Agreement in which case this Agreement shall terminate thirty (30) days from the date notice is given to the Organization.

2. Government shall pay Organization the sum of Four Hundred Fifty Thousand Dollars (\$450,000.00) for the services required by this Agreement. Said services shall include: re-

granting funds to nonprofit organizations providing arts and cultural programming in Lexington-Fayette County; providing below-market rental space for arts organizations at ArtsPlace and the Downtown Arts Center; organizing and managing community arts events; and publishing materials related to the arts

3. Organization shall submit a mid-year report, no later than January 31, 2014, to Government, on such forms as the Government shall provide, containing, for each of the services enumerated which were provided during the previous months: (a) a description of the service provided, including the quantity and quality of the service provided; and (b) a six-month Income/Expense report comparing income and expenses for the relevant period to the Board approved budget.

4. In the event of termination of this Agreement by Government as provided for in paragraph 1 above, Organization shall be entitled to that portion of total compensation due under this Agreement as the service rendered bears to the service required herein.

5. Organization shall perform all duties and services included in this Agreement faithfully and satisfactorily at the time, place and for the duration prescribed herein. Compensation paid pursuant to this Agreement shall be used exclusively for the services set forth and for no other purpose. Funds re-granted to non-profit organizations providing arts and

cultural programming shall be paid to these recipients in a timely manner. Any alteration in the nature of such services and duties constitutes an amendment to this Agreement and must be in writing signed by both parties. Organization shall keep itself fully informed of all federal and state laws and all municipal ordinances and regulations in any manner affecting the work or performance of this Agreement, and shall at all times observe and comply with such laws, ordinances and regulations, whether or not such laws, ordinances or regulations are mentioned herein, and shall indemnify Government, its officers, agents and employees against any claim or liability arising from and based on the Organization's violation of any such laws, ordinances or regulations.

6. Organization represents that it has filed all federal, state and local income tax returns required by law in the legally prescribed time and manner. This Agreement shall not become effective unless and until copies of all of the executed originals of the aforementioned tax returns filed for the Organization have been registered for the current tax year by the Organization in the office of the Government, and the Organization shall not be compensated unless and until such registration has taken place.

7. The Organization shall, on such forms as the Government shall provide, submit to Government an annual report

and financial statement which summarize the previous year's activities regarding the services enumerated herein. Such report and statements shall be submitted no later than July 31, 2014 for the FY 2014.

8. Books of accounts shall be kept by the Organization and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of the Organization. The books of accounts, together with all bonds, notes, bills, letters and other writings belonging to the Organization, shall be maintained at the principal place of business of the Organization as set forth in this Agreement. Government shall have free and complete access to the books, papers and affairs of the Organization, that relate to the performance of this Agreement, at all reasonable times, and if it desires, it may have the books and papers of the Organization, that relate to the performance of this Agreement, audited and examined by auditors, accountants or attorneys. Any examination shall be at the expense of the Government.

9. Government may designate such persons as may be necessary to monitor and evaluate the services rendered by the Organization. The Government, its agents and employees, shall, at all times, have unrestricted access to all places where or in which the services required hereunder are being carried on and

conducted. Inspection and monitoring of the work by these authorities shall in no manner be presumed to relieve in any degree the responsibility or obligations of Organization, nor to constitute the Organization as an agent of the Government.

10. Organization shall provide equal opportunity in employment for all qualified persons, shall prohibit discrimination in employment because of race, color, creed, national origin, sex or age, shall promote equal employment through a positive, continuing program of equal employment, and shall cause each of its subcontracting agencies to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

11. Organization shall adopt 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 submitted to Government for review within thirty (30) days of the execution of this Agreement.

12. This instrument contains the entire agreement between the parties, and no statement, promises or inducements made by either party or agent of either party that is not contained in

this written Agreement shall be valid and binding; and this Agreement may not be enlarged, modified or altered except in writing signed by the parties and endorsed hereon.

13. Organization agrees that it shall apply all funds received by it from the Urban County Government in accordance with the following investment policy guidelines:

A. Objectives: Capital preservation with surety of income. Reasonable competitive income consistent with high investment quality and purpose of funds. All investments shall conform with state and local law and regulations and these policies.

B. Investment Funds Management: The governing board may elect to either:

(1) Manage its investment through its executive director where the size or complexity of funds to be managed is deemed by the board to be within the training, expertise and/or available time capacity of the executive director and the operating staff; or

(2) Utilize the professional investment management facilities of a local bank trust department acting in a fiduciary capacity within the same approved investment policies and federal, state, local and trust laws and regulation. The trust department may utilize its regular short-term one hundred percent (100%) US Treasury Fund for daily funds investment.

The election of option 1 or 2 should be made consistent with the relative cost incurred and in the case of option 2 the cost shall be competitive among local trust departments.

C. Investment Policies - - Safety and Prudence.

(1) Short-term liquidity funds shall be invested in "riskless" investment, i.e., deposits in Kentucky commercial banks or savings and loan

associations that are fully federally insured or deposits collateralized by U.S. Treasury securities with a current market value of at least one hundred percent (100%), or in direct obligations of U.S. Treasury securities.

Investments shall be diversified according to maturity in order to meet projected cash flow needs.

Collateral pledged to secure uninsured deposits shall be held at a federal reserve bank with the receipt providing absolute control by the agency.

(2) Retirement funds, endowment funds, long-term capital reserve funds and any other special funds may be held and invested by a local bank trust department under investment objectives and diversification in accordance with the individual nature of the funds and pursuant to the "prudent man" investment rule as well as general trust law.

(3) All investments shall be reviewed monthly by a finance or investment committee of the agency.

(4) Local brokerage firms may hold and invest funds provided that investments are located within Kentucky and are full insured.

D. Audit - - All investments shall be audited at least annually by independent certified public accountant who shall express an opinion as to whether or not investments during the year audited have conformed with state and local law and regulation and with the approved investment policies.

14. Notice - Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:

For Organization:

LexArts, Inc.  
161 North Mill Street  
Lexington, Kentucky 40507

Att: Jim Clark

For Government: Lexington-Fayette Urban County Gov.  
200 East Main Street  
Lexington, Kentucky 40507

Att: Bill O'Mara, Commissioner  
Department of Finance

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

LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT

LEXARTS, INC.

BY: \_\_\_\_\_  
Jim Gray, Mayor

BY: \_\_\_\_\_  
Its: \_\_\_\_\_

ATTEST:

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