

MEMORANDUM OF UNDERSTANDING

I. General:

This Memorandum of Understanding (MOU) sets forth the terms between the Lexington-Fayette Urban County Health Department (LFCHD) and the Lexington-Fayette Urban County Government (LFUCG) regarding the provision of LFUCG employees ("Personnel") to assist LFCHD in providing COVID-19 vaccine doses to permanent or temporary residents of Fayette County, Kentucky.

LFUCG intends to provide Personnel solely for the limited purpose of assisting LFCHD with administering COVID-19 vaccine doses to limited populations identified by LFCHD ("Services").

II. Responsibilities:

LFCHD, for the limited purposes related to Services provided by Personnel, will:

1. Make all decisions over the distribution and storage of vaccination doses acquired by it under its Provider Agreement with the Centers for Disease Control and Prevention ("CDC"), subject to any controlling laws, contracts or other Federal or state agencies.
2. At its discretion, utilize Personnel only for the purpose of providing Services and only to the extent LFCHD is satisfied that individual Personnel members meet all requirements under the CDC or other federal, state or local laws for providing the Services.

LFUCG will, for the limited Services provided by Personnel to LFCHD:

1. Be solely responsible for hiring and terminating all Personnel.
2. Be solely responsible for paying Personnel the agreed upon wages, including sick pay, vacation pay, holiday pay or other pay as required by law or its contracts or other agreements with the Personnel;
3. Be solely responsible for paying or withholding all required payroll taxes, contributions, and insurance premiums for programs that LFUCG is legislatively mandated to provide to Personnel to LFUCGs employees;
4. Be solely responsible for providing unemployment compensation coverage to any and all Personnel as required by law or its contracts or other agreements with the Personnel;
5. Be solely responsible for providing workers' compensation insurance coverage, in accordance with all applicable laws of the Commonwealth of Kentucky, that will apply to the provision of Services by the Personnel.
6. Be solely responsible for selecting appropriate and duly qualified employees to act as Personnel for the purposes of providing the Services.
7. Be solely responsible for any acts of negligence of the Personnel during the provision of the Services.

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III. Compliance:

The parties agree that they each will comply with all applicable federal, state or local laws and ordinances, and that neither of them will discriminate against any employees or contractors of the other on the basis of race, color, religion, national origin, sex, age, disability, status as a disabled veteran or veteran of the Vietnam Era, or any other basis prohibited by law.

IV. Indemnification:

To the extent allowable by law, LFUCG will hold harmless LFCHD from and against all claims, demands, suits, and expenses (including reasonable attorneys' fees) brought by any person or party for LFCHD's alleged failure to, relative to the limited Services described herein:

- i. pay wages, sick pay, vacation pay, holiday pay, or any other wage or benefit under the Fair Labor Standards Act ("FLSA"), the Kentucky Wage and Hour Act ("KWAHA"), or any other applicable federal or state wage and hour laws;
- ii. properly report and collect all ordinary federal, state and local payroll taxes and withholdings on the Personnel, including FICA, FUTA and Social Security;
- iii. to provide unemployment compensation and workers' compensation insurance and coverage in accordance with the law of the Commonwealth of Kentucky; and
- iv. to provide liability insurance for the Personnel regarding the provision of the Services.

LFUCG further agrees that the Personnel shall be identified, selected and supervised solely by LFUCG, and that to the extent allowable by law, LFUCG will hold harmless LFCHD from and against any actual or alleged claims, damages, suits, or expenses (including reasonable attorneys' fees) brought by any person, entity, or party (including any Personnel) in any way connected with the Services performed by any LFUCG Personnel or arising from the performance of this Agreement, including, without limitation, personal injury (including death) or loss, theft or damage of or to any tangible or intangible property, or any other claim that may arise from the Services provided by the Personnel.

LFUCG further agrees to indemnify, defend and hold harmless LFCHD from any claim arising under workers' compensation laws, to the extent they are not otherwise addressed herein.

The parties agree that the Personnel are provided solely for the purposes of the Services.

To the extent allowable by law, LFCHD agrees to hold harmless LFUCG for, but only for, its own actions and/or negligence.

Nothing contained herein is intended to be, nor shall it be, a waiver of any defense, including that of sovereign immunity, either party may have as to any third party. Nothing contained herein is intended to be, nor shall it be, a waiver of any right or obligation of either party under this agreement, any preceding or subsequent agreement, or under all applicable laws.

V. Duration:

This MOU shall be in effect from December 23, 2020 through until December 31, 2021 but may be renewed by both parties for up to an additional six (6) month period. THE PARTIES EXPRESSLY AGREE THAT THE TERMS HEREIN ARE RETROACTIVE TO DECEMBER 23, 2020, AND THAT ANY CLAIM ARISING FROM THE PROVISION OF SERVICES FROM DECEMBER 23, 2020 THROUGH DECEMBER 31, 2021 ARE SUBJECT TO THE TERMS SET FORTH HEREIN.

The parties further agree that the provisions herein regarding the parties obligations to indemnify, defend and hold harmless shall continue in force and effect regardless of the termination of this Agreement, although said termination will prevent any additional accrual of rights to indemnification, defense and holding harmless for actions taken after the termination of the Agreement.

VI. Choice of Law and Venue:

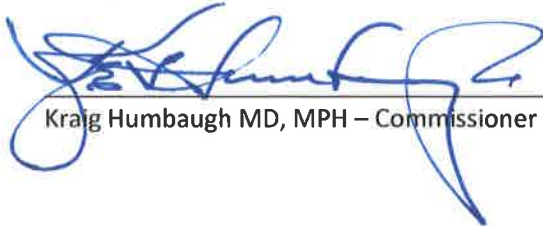
The parties agree that the laws of the Commonwealth of Kentucky shall apply to any and all claims between them that are related to this Agreement in any way. The parties further agree that any claims arising under or related to this Agreement must be brought in Fayette Circuit Court in Fayette County, Kentucky, unless required otherwise by any statute or other law of the Commonwealth of Kentucky or its political subdivisions.

VII. Severability:

The parties agree that, should any term or provision herein be voided or otherwise affected by order of any court, agency or tribunal, the remaining portions of the agreement remain effective.

In witness thereof, the parties, by the signatures below of duly authorized representatives, with said authorization confirmed by the signatures hereto, hereby agree to the terms herein:

Lexington-Fayette County Health Department:



Craig Humbaugh MD, MPH – Commissioner of Health

Date: April 13, 2021

Lexington-Fayette Urban County Government:



Linda Gorton, Mayor

Date: April 19th, 2021



Clerk of the Urban County Council