

**AGREEMENT FOR PROFESSIONAL SERVICES**

This AGREEMENT made and entered into this 3<sup>rd</sup> day of March, 2017, by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky, created pursuant to KRS Chapter 67A (hereinafter the "LFUCG") and **LITTLER MENDELSON, P.C.**, acting by and through LaToi Mayo, 333 West Vine Street, Suite 1720, Lexington, KY 40507 (hereinafter "Firm").

**WITNESSETH:**

**WHEREAS**, the LFUCG is seeking assistance with evaluating its current sick leave and vacation leave policies and is seeking recommendations for changes consistent with best practices and all applicable federal, state, and local laws; and

**WHEREAS**, in order to select a firm to assist with this endeavor, the LFUCG issued a request for proposals ("RFP"); and

**WHEREAS**, the Firm and LaToi Mayo have extensive knowledge, experience and expertise in the area of human resources and employment law; and

**WHEREAS**, the LFUCG wishes to retain the legal services of LaToi Mayo, attorney at law, to serve as the legal advisor to evaluate our current leave policies and to recommend a modified model or new model with a detailed plan and outlines for all transitional issues; and

**WHEREAS**, the LFUCG wishes to efficiently utilize the services of the Firm in coordination with the legal services that the LFUCG can provide through its Department of Law;

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual covenants and conditions contained herein, the LFUCG and the Firm mutually agree as follows:

**I. EMPLOYMENT OF THE FIRM**

The LFUCG does hereby engage the Firm, and the Firm does hereby accept the engagement in accordance with the covenants and conditions contained herein.

## **II. SCOPE OF SERVICES**

The Firm agrees to provide professional services in accordance with the following terms and conditions:

**2.1. Scope of Services.** The Firm, through the services of LaToi Mayo, and other attorneys as required and approved by LFUCG and the Firm, under the direction and at the request of the Lexington-Fayette Urban County Government Department of Law agrees to render professional services regarding the recommendations for a new personal time off policy. The Services to be rendered shall be at the direction of the Mayor and/or his designated assistants and shall include the following:

- a. Consult with the Division of Human Resources and the Department of Law concerning our current vacation and sick leave programs;
- b. Develop recommendations for an alternate leave program which is consistent with KRS 67A.
- c. Make recommendations concerning any ordinance and policy revisions;
- d. Develop a leave payout program consistent with all applicable laws;
- e. Provide updates to the Commissioner of Law and the Director of Human Resources;
- f. Confer and consult with outside counsel for collective bargaining for implementation of the revised leave program;
- g. Perform any other task which is reasonably necessary to the completion of this project.

### **III. PAYMENT FOR SERVICES**

#### **3.1. Payment for Services.**

**A. Total Payment.** In consideration of the Firm's performance of the variety of services described herein, the total amount of this agreement shall not exceed Sixty-Five Thousand Dollars (\$65,000.00), excluding travel and out of pocket expenses. It is understood that Ms. Mayo may utilize the services of associate attorneys to assist during the rendering of services.

**B. Computer Research Charges.** The Firm agrees that prior to conducting computerized legal research that it will consult with the Commissioner of Law to determine if said research can be performed through the Law Department's existing computer research plan.

**C. Partial Payment.** The LFUCG will make payments to the Firm for services rendered. The Firm shall submit monthly invoices to the LFUCG and the LFUCG shall make payment to the Firm within thirty (30) days after receipt of each invoice. Invoices shall contain an adequate description of services performed. Receipts or detailed descriptions for out-of-pocket expenses claimed must accompany each invoice.

**D. Efficient Transmission of Documents.** The Firm agrees that it will utilize electronic transmission of documents whenever possible to avoid facsimile or copying charges.

**E. Photocopy Charges.** The Firm agrees that it will charge no more than 10 cents per page for black and white photocopies of documents and will use color copying only when necessary.

### **IV. MISCELLANEOUS**

**4.1. Non-discrimination.** The Firm agrees that it will not discriminate against any of its employees or applicants for employment because of their race, color, age, religion, sex, or

national origin and agrees to abide by all federal and state laws regarding non-discrimination. Any violation of such provisions shall constitute a material breach of this Agreement.

4.2. **Indemnification; Hold Harmless.** The Firm hereby covenants and agrees to indemnify and hold harmless the LFUCG, individually and collectively from all fines, suits, claims, demands, actions, costs, obligations, attorney fees, or liability of any kind arising solely out of the negligent actions of the Firm.

4.3. **Ownership of Documents.** All documents which are obtained or prepared in the performance of this Agreement and/or pertaining to any of the matters with respect to which the Firm is providing services for the LFUCG, are to be and will remain the property of the LFUCG. Upon request after the termination or expiration of this Agreement, the Firm shall surrender to the LFUCG all reports, memoranda, correspondence, files, forms, contracts, documents, estimates, field notes, investigations, studies and other data and other materials (including all copies thereof). This paragraph shall survive the expiration or termination of this Agreement. The Firm may temporarily retain the reproducible materials described above and prepare copies of any of these documents provided the copies are produced at the Firm's own expense

4.4. **Assignment of Contract.** This Agreement shall not be assignable in whole or in part without the written consent of the parties hereto, and it shall extend to and be binding upon, the heirs, administrators, executors and assigns of the parties hereto.

4.5. **Independent Contractor.** The retention of and acceptance by the Firm for the rendering of the services agreed herein shall be for the Firm, acting as an independent contractor to the LFUCG.

## V. **CURTAILMENT AND TERMINATION**

**5.1. Curtailement or Termination of Services.** The LFUCG and the Firm hereby agree to the full performance of the covenants contained herein. The LFUCG reserves the right, at its discretion, to immediately terminate or curtail the services provided pursuant to this Agreement for documented cause, including but not limited to misfeasance, malfeasance, or non-performance of the Agreement by the Firm.

A. In the event the LFUCG shall terminate or curtail the services or any part of the services of the Agreement herein provided for cause, the LFUCG shall notify the Firm in writing and the Firm shall discontinue work under this Agreement immediately upon receipt of such notice.

B. Either party to this Agreement may terminate this Agreement without cause upon thirty (30) days written notice. During the thirty day notice period, the Firm shall faithfully carry out its duties under this Agreement. Subject to the provisions of all paragraphs and subparagraphs of Section 3.1, the Firm shall receive compensation in full for services performed to the date of such termination or curtailment. The LFUCG shall make this final payment within thirty (30) days after the Firm has delivered the last of any partially completed documents, together with any records that may be required to determine the amount due.

**5.2. Term of Agreement.** This Agreement shall be effective upon execution by the Mayor, and shall remain in force for twelve months, or upon completion of the scope of work contained in this agreement, whichever period is longer.

**5.3. Acknowledgements.**

A. This Agreement contains all the understandings between the parties. It is represented and understood by the parties that the "Whereas" clauses preceding the Terms and Conditions part herein, are an integral part of this Agreement. This Agreement may not be

varied, altered, or modified in any way by any party, except by written instrument signed by both appearing parties.

**B.** In the event that any provision or portions of this Agreement shall be determined to be invalid or unenforceable for any reason, the remaining provisions of this Agreement shall remain in full force and effect to the fullest extent permitted by law.

**C.** This Agreement has been made in and shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky. Time is of the essence.

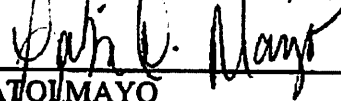
**D.** The parties agree that all discussions, reports, memoranda, correspondence, files, forms, contracts, documents, estimates, field notes, investigations, studies and other data shall remain confidential to the fullest extent permitted by law and the Firm further specifically agrees to make no public comments about the services being rendered pursuant to this Agreement except as directed by the Mayor or his designated assistants.

**E.** The parties hereto agree that any suit, action or proceeding with respect to this Agreement may only be brought in or entered by, as the case may be, (a) in the courts of the Commonwealth of Kentucky situated in Lexington, Fayette County, Kentucky or (b) the United States District Court for the Eastern District of Kentucky, Lexington Division, and the parties hereby submit to the jurisdiction of such courts for the purpose of any such suit, action, proceeding, or judgment and waive any other preferential jurisdiction by reason of domicile. The parties hereby irrevocably waive any objection that they may now or hereafter have to the laying of venue of any suit, action, or proceeding arising out of or related to this Agreement brought in the courts of the Commonwealth of Kentucky or the United States District Court for the Eastern District of Kentucky, Lexington Division, and also hereby irrevocably waive any

claim that any such suit, action, or proceeding brought in any one of the above-described courts has been brought in an inconvenient forum.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date first above written.

LITTLER MENDELSON, LLC

  
\_\_\_\_\_  
LATOL MAYO

LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT

By: \_\_\_\_\_  
JIM GRAY, MAYOR

WITNESS:

\_\_\_\_\_  
MARTHA ALLEN, COUNCIL CLERK

DATE: \_\_\_\_\_