

COLLECTIVE BARGAINING AGREEMENT

BY AND BETWEEN

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

AND

FRATERNAL ORDER OF POLICE, TOWN BRANCH LODGE #83

CORRECTIONS OFFICERS AND SERGEANTS

Feb. 21, 2012 to Feb. 20, 2016

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PREAMBLE

THIS COLLECTIVE BARGAINING AGREEMENT, entered into this _____ day of _____, 20_____, by and between the Lexington-Fayette Urban County Government (hereinafter the “LFUCG”), and Town Branch Fraternal Order of Police Lodge No. 83, Inc. (hereinafter “Lodge”), by which said parties hereby agree upon the terms and conditions as hereinafter set out, concerning wages, hours and working conditions of certain employees of the Division of Community Corrections.

ARTICLE 1

RECOGNITION

Section 1. Pursuant to KRS 67A.6901, LFUCG recognizes the Lodge as the exclusive collective bargaining representative of its sworn officers holding the positions of Officer and Sergeant in the Division of Community Corrections. Non-sworn personnel, including trainees or recruits, and sworn officers during their initial probationary periods, and sworn personnel in grades other than Officer and Sergeant, are not included in this Agreement.

Section 2. The Lodge recognizes the Mayor’s representative and designee as the sole representative of LFUCG for the purposes of collective bargaining negotiations.

Section 3. As used in this Agreement, unless specified otherwise, the term “member(s)” refers to sworn employees of the Lexington Division of Community Corrections holding the grades of Officer and Sergeant, who have completed their initial probationary period. Initial probation period does not include promotional probation for Sergeants.

Section 4. LFUCG and the Lodge shall bargain promptly upon request by the other side and continue for a reasonable period of time in order to exchange freely information, opinions and proposals, and to endeavor to reach agreement on matters within the scope of representation.

Section 5. Every officer shall serve an initial probationary period of six (6) months from the date of hire. In extraordinary circumstances, the probationary period may be extended beyond the six (6) months not to exceed an additional six (6) month period.

Section 6. Every Sergeant shall serve an initial promotional probationary period of six (6) months from the date of promotion and shall be included in this agreement during said probationary period. If a sergeant is not able to complete the promotional probationary period they shall return to officer status.

ARTICLE 2

SUBORDINATION

This Agreement shall, in all respects wherever the same may be applicable herein, be subject and subordinate to all applicable statutes, constitutional provisions and any revisions, amendments or newly adopted provisions to any statute or constitutional provisions in effect upon the effective date of this Agreement or which may be hereafter enacted.

ARTICLE 3

LFUCG RIGHTS

Section 1. The inherent right to manage, direct and control working forces in all respects is expressly reserved to LFUCG; subject, however, to such limitations as are contained in this agreement. Exclusive rights of the LFUCG shall include, but not be limited to, any subject not preempted by Federal and State law.

- A. Determination of the organizational structure of the Division of Community Corrections, including the existence, continuance, abolishment, restructuring, or combining, of all bureaus, departments, units, branches, and subparts thereof.

- B. The right to promulgate, at its discretion, policies, rules, regulations, and Orders which are not inconsistent with this agreement.
- C. The right to determine the methods, means, and personnel by which operations are to be implemented and established.
- D. The right to take action as necessary to carry out the mission of the Division of Community Corrections in an emergency.
- E. Assignment of personnel consistent with the provisions of this agreement
- F. Determination of necessary qualifications, standards, and procedures, for hire and promotion, consistent with this Agreement.
- G. Establishment of standards of performance and service, and taking necessary disciplinary action subject to this Agreement.
- H. It is agreed and understood that the relieving or suspending of law enforcement powers is distinct from a suspension from pay. LFUCG reserves the power to relieve or suspend law enforcement powers during the course of an investigation or at any time there has been an allegation or report of possible harm to the member or others.
- I. Elimination of positions, and any consequent reductions in force or layoffs. LFUCG shall notify the Lodge President of known reductions in force as soon as practical after the decision to reduce the force has been made. Reductions in force, by rank, shall be made in seniority order with the lowest senior officer being force reduced first then moving up the seniority list until the desired reduction is completed. At the rank of sergeant in lieu of a layoff in force reduction the sergeant shall have the right to voluntarily demote to the rank of officer and be placed into the seniority scale to include all time. LFUCG shall correct the voluntary demotion back to sergeant prior to the returning of any staff.

Section 2. This agreement is not intended to restrict consultation with the Lodge regarding matters within the right of LFUCG to determine. In fact, it is the intention of the Lodge to work with LFUCG for the common good.

ARTICLE 4

NON-DISCRIMINATION

Section 1. Neither LFUCG nor the Lodge shall discriminate against any member because he or she is or is not a member of the Fraternal Order of Police, nor because of lawful Local activity or refraining there from, nor shall either party discriminate against any member on the basis of race, color, sex, age, creed, religion, marital status, sexual orientation, national origin, disability, political affiliation, nor any other protected class as specified by applicable Local, State, and Federal law.

Section 2. Harassment or Disparate Treatment. LFUCG shall take reasonable measures to prevent harassment or disparate treatment at the workplace. LFUCG shall take measures to provide members with a venue to report harassment, disparate and differential treatment as provided by CAO Policy 5R incorporated herein by reference.

ARTICLE 5

STRIKES, WORK STOPPAGES, AND SLOWDOWNS

Section 1. The Lodge recognizes that it is unlawful to engage in strikes and work stoppages. The Lodge agrees that it shall neither cause nor counsel any Member to engage in, encourage sanction or support any work stoppage, work slowdowns, unauthorized accelerated enforcement, mass absenteeism and other concerted efforts to alter work production. In addition, the Lodge agrees that any of the foregoing actions by members may constitute cause for their

termination, and that the Lodge shall not encourage such activity and shall take prompt and reasonable steps to discourage same.

Section 2. Mass or concerted call-ins of sick or other leave, shall be deemed strikes or work stoppages hereunder.

ARTICLE 6

LODGE SECURITY

Section 1. Membership in the Lodge is not compulsory. Members have the right to join or not join and neither party shall exert pressure or discriminate against a member regarding such matters. All members in the bargaining unit, however, shall be required to pay their fair share of the cost of representation by the Lodge, as provided for in applicable law.

Section 2. Lodge membership dues, as authorized by members on the approved form described in Section 3 below, or fair share fees shall be deducted monthly in an amount certified by the Lodge. Members wishing to revoke their Lodge membership, or to join the Lodge membership, must notify LFUCG and the Lodge expressly and individually, in writing by certified mail. Upon such notification, LFUCG shall begin deducting membership dues or the fair share fee hereinafter described, whichever is appropriate, from the wages of such member as soon as practical but in no event later than the 2nd pay period following receipt of such notice.

Section 3. LFUCG agrees to deduct from the wages of any member the dues as authorized by said member or fair share fee, as long as it is a continual or regular deduction, on a form authorized by LFUCG and the Lodge, said deduction to occur during the second pay period in each calendar month, pursuant to KRS 65.158. Upon request, thirty (30) days prior to the beginning of the fiscal year, and upon request every six (6) months thereafter, LFUCG shall transmit to the Lodge Treasurer a spreadsheet containing the list of current members together

with bi-weekly salary for each. Within fifteen (15) days the Lodge Treasurer shall return the spreadsheet with the dues or fair share amount for each member entered therein, which shall serve as certification of the amounts to be deducted under this section.

Section 4. Lodge membership dues, and fair share fees, shall be transmitted to the Treasurer of the Lodge by the fifteenth (15th) day of the succeeding month after such deductions are made. The Lodge shall annually certify, in writing, the current and proper amount of its membership dues at least thirty (30) days prior to the initial deduction, for the next twelve-month operating cycle.

Section 5. The check-off of regular Lodge dues shall be made only on the basis of written authorization signed by the individual employee from whose pay the dues shall be deducted, on a form authorized by LFUCG and the Lodge. All bargaining unit members, however, shall be required to pay their fair share of the cost of representation by the Lodge, pursuant to applicable law and the following:

- A. Employees who are included in the collective bargaining unit but who exercise their right to decline to become members of the Lodge, shall be required to pay a fair share fee, for cost of collective bargaining, the amount of which shall be determined as set forth below.
- B. The Lodge shall provide to all affected employees and to LFUCG at least thirty (30) days advance written notice of the amount of the “fair share” fee together with an accounting by an independent certified accountant setting forth the major categories of the Lodge’s budgeted expenses and designating those expenses which are related to bargaining, contract administration, and grievance adjustment (“chargeable”) and those which are not germane to bargaining, contract administration, and grievance adjustment (“non-chargeable”). The accounting and designations must be in a manner

allowing for appraisal of which portions of Lodge expenses are non-chargeable, and should indicate the percentage proportions of total Lodge expenses devoted to chargeable and non-chargeable purposes. The initial amount of the fair share or service fee shall be the amount of the Lodge dues reduced by a percentage equivalent to the percentage of the total Lodge expenses devoted to indisputably non-chargeable purposes as determined by the certified public accountant.

- C. The above described notice must also include a clear statement of the manner in which the amount of the fair share or service fee may be challenged by affected employees. The procedure for said challenges shall include a requirement that the challenges be in writing and delivered to the Lodge, with a copy to LFUCG, within thirty (30) days after receipt of the written notice described in the preceding subsection B.
- D. In the event of a challenge to the fair share fee, the Lodge shall afford the challenger a reasonably prompt resolution of the challenge, by an impartial decision-maker who may be an arbitrator chosen from a panel of arbitrators supplied by the Federal Mediation and Conciliation Service or a similar organization of professional arbitrators. The method of selection of the impartial arbitrator shall include a request for a panel, and the opportunity for alternate striking between the Lodge and the employee. All challenges to a single notice of the amount of the fair share fee shall be decided by a single decision-maker at a single hearing.
- E. In the event of a challenge, fifty percent (50%) of the fair share fee (as described in subsection B, above) shall be placed in an escrow account by LFUCG until the issuance of a decision by the impartial decision-maker as set forth above.

- F. In the event of a challenge, the final amount of the fair share fee as determined by the impartial decision-maker shall reflect only those expenses affirmatively related to collective bargaining, contract administration, and grievance adjustment.
- G. Upon rendering the impartial decision-maker's decision, the disputed amounts held in escrow shall be distributed to the challenging employee, the Lodge, or both, as indicated in the arbitrator's decision.
- H. Provided the foregoing conditions are met, then the deduction of the initial amount of the fair share or service fee shall be automatic following the thirty (30) day notice and information provided for hereinabove, and shall begin thirty (30) days after the provision of such notice regardless of whether the employee has signed written authorization therefore.
- I. The Lodge shall indemnify and save harmless LFUCG against any expense or liability, including attorney fees that may arise out of or by reason of any action taken by LFUCG consistent with the foregoing, in connection with a fair share fee. In the event LFUCG should be held liable or responsible for repayment of moneys paid to the Lodge pursuant hereto, the Lodge shall reimburse said moneys to LFUCG
- J. These provisions shall be interpreted insofar as possible in a manner consistent with applicable federal statutes or case law.
- K. LFUCG shall provide the Lodge a forty-five (45) minute period during new hire orientation to conduct Lodge related orientation.

ARTICLE 7

LODGE BUSINESS

Section 1. The Lodge may select not more than three (3) members and the Lodge President to represent the Lodge in the negotiation of collective bargaining agreements for Community Corrections with LFUCG during working hours without loss in compensation. The persons so designated shall be allowed a reasonable time off, not to exceed ten (10) days each without loss of compensation to prepare proposals, collect data, meet with counsel and/or committee members and consultants for the purposes of expediting good faith negotiations. The Lodge shall provide fourteen (14) days prior notice to the Director of Community Corrections of the dates and times needed to conduct business relating to collective bargaining negotiations. LFUCG and the Lodge may mutually agree to waive said notice. The Director of Community Corrections shall be notified by the Lodge in writing of any substitutions or replacements of designated persons no less than forty-eight (48) hours before each such change shall take effect. The parties shall act in good faith to request and allow scheduled time off under this section as is most convenient to the parties.

Section 2. One (1) paid Lodge Representative may attend grievance meetings with Management. In addition to the Lodge Representative, one (1) additional employee as an unpaid observer and the named grievant may attend. The attorney for the grievant may attend in place of the unpaid observer, but at no time shall the number of Lodge representatives, including the named grievant, exceed three (3) persons. The amount of time spent on such activities shall be reported in writing within ten (10) days to the Director of Community Corrections.

Section 3. The Lodge may select no more than two (2) representatives who shall be allowed to attend extraordinary as well as regular sessions of the Kentucky General Assembly without loss in compensation. The Lodge shall submit in writing the names of its representatives

to the Director of Community Corrections not later than fourteen (14) days before the time when the expected leave shall be taken. The Lodge shall provide written notification to the Director of Community Corrections of any Lodge representative substitution/replacement. The amount of time spent on such activities shall be reported in writing within ten (10) days of completion of the term of the legislative session to the Director of Community Corrections.

Section 4. The President of the Lodge, when an active bargaining unit member of LFUCG Division of Community Corrections or his designee shall be authorized leave to attend conventions, seminars, meetings, and other business of the Lodge for a period of thirty (30) calendar days with pay in one (1) fiscal year (taken in hourly increments). Above referenced leaves, paid or unpaid, must be pre-approved by the member's immediate commander with forty-eight (48) hours being the standard for notification; however, it is understood that some time parameters might be shorter on a case-by-case basis. Approval shall not be unreasonably withheld. In addition, the President of the Lodge shall be allowed to use his accumulated vacation or holiday leave.

Section 5. The Director shall authorize leave with pay for two (2) duly elected delegates, who are active sworn employees of LFUCG Division of Community Corrections to attend the Lodge's national elections, Kentucky elections, Kentucky general membership meetings, and Kentucky board meetings.

Section 6. Up to six (6) Lodge members who are elected board members and active bargaining unit members of the Lodge or on the certified representative list shall be excused without pay to attend general membership meetings, regular and special board meetings, or representatives' meetings, not to exceed a total of three (3) hours per person per month, provided that forty-eight (48) hours prior supervisory notice is given.

Section 7. LFUCG agrees to provide the Lodge designated space on available bulletin boards upon which the Lodge may post notice of meetings, announcements, or Lodge information. The Lodge further agrees that it shall not post any material which would be derogatory to any individual, LFUCG, Lexington Division of Community Corrections, Commonwealth of Kentucky, or which constitutes campaign material for or against any person, organization, or faction thereof. Campaign material does not include announcements or information regarding internal campaign election meetings of the Lodge. All notices of the Lodge shall consist of items in good grammar, taste, and shall be signed by the President of the Lodge and/or Secretary of the Lodge. Copies of any material so posted shall be furnished to the Director of Community Corrections or his designee at least twenty-four (24) hours prior to posting. LFUCG may remove any material which is not authorized by the Lodge. LFUCG shall determine the quantity and size of all bulletin boards. The locations of the bulletin boards shall be mutually agreed upon. In addition the Lodge shall be permitted to send LFUCG email for the exact same purposes and under the exact same restrictions it uses bulletin boards.

Section 8. The parties agree that they shall each pay one-half (1/2) cost of the printing of this Agreement.

Section 9. The Lodge President may designate one (1) member to attend scheduled or special meetings of the entire Urban County Council and meetings of the Public Safety Committee. The member shall be required to use accumulated vacation or holiday leave and shall not be absent for any period longer than required to attend the meeting.

ARTICLE 8

SENIORITY

Section 1. Seniority of a member shall commence on the first date of employment as a LFUCG Division of Community Corrections Officer. No portion of this Agreement shall be applicable to any officer who has not completed his initial probationary period. Seniority of a Sergeant shall commence on the date of promotion to the position of the higher rank. Should a member voluntarily demote, seniority in the lower rank shall include all time served in the higher rank and be considered continuous as seniority in the lower rank.

Section 2. Seniority shall be considered continuous unless the member:

- A. Is discharged for cause.
- B. Is laid off for more than two (2) years.
- C. Fails to return to work within thirty (30) days without just cause after recall subsequent to a lay-off.
- D. Voluntarily resigns, unless at the sole discretion of LFUCG, a member returns to work within one (1) year after voluntary resignation, his or her seniority shall be deemed continuous, less such time as he or she was not a member of the Division of Community Corrections.

Section 3. Upon request, LFUCG shall semi-annually furnish the Lodge a seniority list based on this Article.

ARTICLE 9

ASSIGNMENTS

Section 1. Bureau assignments will be made according to the following parameters:

- A. Bureau and shift bids will be handled twice annually. The Lodge will provide at least a fifteen (15) day notification of the pending bid process date. Officers will have a minimum of fifteen (15) calendar days from the opening of the bid process to submit their bid preferences to the Director or designee in a prescribed format. Before the bid is conducted, the Director will announce the number of positions available in each classification and any special requirements for any positions concerning gender, experience, or other matters which impact management of the detention center.
- B. The officer bidding with the most seniority will be assigned excepting exclusions listed below:
 - 1. Unless the Director determines that a vacancy will not be filled, the Division will make bureau assignments to vacancies that occur during interim periods on a temporary basis for a period of no longer than thirty (30) days or until a special bid process can be arranged or the next bid process occurs, whichever time period is shorter.
 - 2. Administratively, the seniority rule may have to be overruled to prevent an overload of less experienced officers or sergeants on an assignment provided such action is taken with 72 hours (excluding weekends and holidays) of the bid results being delivered to management. If an incident requiring this unusual action occurs, it will be made right as soon as practical.

- C. The Director or designee may overrule the bid process for a legitimate managerial reason(s) in a specific individual instance(s). Such legitimate managerial reason(s) shall be communicated in writing to that member.
- D. Regular Days off (R.D.O.'s) - R.D.O.'s for shift personnel will be established by seniority.
- E. Unless the Director determines that a vacancy will not be filled, a Sergeant's assignment vacancy occurring after the execution of this Agreement shall be posted for a period of not less than fifteen (15) calendar days in the Division. The Sergeant bidding on the vacancy with the most seniority in rank will be assigned, other than those assignments that have been deemed critical by the Director. Administratively, the seniority rule may have to be overruled to prevent an overload of less experienced Sergeants on a shift or assignment, or for another legitimate managerial reason. Such legitimate managerial reason shall be communicated to the member in writing. If an incident requiring this unusual action occurs, it will be made right as soon as practical or at the next bid process whichever time period is shorter.
- F. In cases of "ties," whenever two (2) or more officers have the same hire date the order of seniority will be determined by lottery selection. Whenever two (2) or more sergeants have the same promotion date the order of seniority will be determined by earlier hire date; if a tie still exists the order of seniority will be determined by lottery selection.

Section 2. All positions other than those in the assignments as prescribed above shall be filled as provided in this section.

- A. A member applying for a vacancy in a part-time specialized team (i.e., Honor Guard, and CERT) will be selected by means of the most senior qualified bidder. Within

sixty (60) days of the final execution of this Agreement a list of qualifications for these positions will be provided to the Lodge. Current assignments to these positions will not be changed until vacancies occur.

- B. A member applying for appointment as a Field Training Officer (FTO) will be selected by means of the most senior qualified bidder. Within sixty (60) days of the ratification of this Agreement a list of qualifications for these positions will be provided to the Lodge. Current assignments to these positions will not be changed until vacancies occur.
- C. All positions in A or B above shall be conspicuously posted Division-wide for a period of no less than fifteen (15) days.
- D. The Director or his designee reserves the right to appoint to the following critical division positions without posting the vacancy: Public Information Officer, Bureau of Professional Standards, Bureau of CAP, Bureau of Master Control/Lobby, Classification Unit, Warehouse, Courthouse Processing, and Inmate Services Unit and any other critical position as designated by the Director of Community Corrections. A panel consisting of the affected bureau manager or his designee and three (3) commanders from non-affected areas shall review each application for appointment and shall select the best candidate considering length of service, experience, education, training, certifications, performance reviews, and disciplinary history. A Lodge representative may be present to observe each panel's deliberations.

Section 3. Transfers

- A. The transfer of a member is the movement from one position or task assignment to another position or task assignment within the Division. The following may be reasons for transferring a member:

1. A voluntary request;
 2. A lack of funding resulting from a loss of federal/state funds;
 3. An administrative reorganization;
 4. An unforeseen event or condition requiring prompt action;
 5. A change in the member's physical or mental condition;
 6. The resolution of a grievance or other problem affecting the operational efficiency of a unit or organization;
 7. The need for additional personnel at a specific work site;
 8. The best interests of the Division.
- B. A member shall be notified by the Director of Community Corrections or designee of the intended involuntary transfer by five (5) days written notice setting forth with specificity the reason for said transfer, unless the Director, in his sole discretion, declares an emergency or a member agrees to waive the five (5) days notice. The written notification of transfer shall set forth the specific factual basis which constitutes the reason for the transfer. A member who suffers a severe hardship as a result of a shift change may, however, request an extension of up to fourteen (14) days from the scheduled date of transfer. Any member subjected to a non-voluntary transfer shall begin earning the pay of the new position at the beginning of the next pay period upon being transferred whether it is a new assignment or a temporary transfer. This pay shall remain in effect until the non-voluntary transfer is corrected.

Section 4. Trades

Members may trade regular days off or shifts within their assigned bureau with notification to and approval of the shift commander. The trade must be completed within the same work week and must be submitted in writing with signatures of all members involved not

later than forty-eight (48) hours prior to the trade. Any change of scheduled days off or shifts that necessitates the utilization of overtime will not be permitted. A member may trade regular days off or shifts no more than three (3) days in a calendar month.

ARTICLE 10

PROMOTIONAL VACANCIES

Section 1. A vacancy shall be deemed to exist when a position in the Division is vacant due to demotion, termination, death, resignation, retirement, promotion or creation of a new position. If it is determined that a position shall not be filled, LFUCG shall provide written notice to the Lodge within ten (10) days after a vacancy occurs. If written notice is not given LFUCG shall take all necessary action to fill a vacancy within (90) days.

If a vacancy for the position of Sergeant is determined not to be filled immediately, officers serving in this position shall receive acting pay. If a vacancy for the position of Lieutenant is determined not to be filled immediately, Sergeants serving in this position shall receive acting pay.

Section 2. The Director shall notify the Lodge of intent to promote within ten (10) days after a vacancy occurs. The vacancy shall be filled within ninety (90) days of the Director's notice of intent to promote.

Section 3.

- A. Applicants for the position of sergeant shall have at least two (2) years of satisfactory (No disciplinary action higher than a written reprimand in the last calendar year) active service as an officer on the filing deadline date.

- B. An applicant for the position of lieutenant must have completed two (2) years of satisfactory (No disciplinary action higher than a written reprimand in the last calendar year) active service in the grade of sergeant on the filing deadline date.

Section 4.

- A. Promotions to the position of sergeant shall consist of two (2) phases: an objective written examination and an oral interview. Points given for the written exam shall be based upon the raw score. Points given for the final oral interview shall be determined by standardization. Criteria to be used for the standardization shall be provided in writing to the Lodge within thirty (30) days of the ratification of this agreement. Each shall be weighted equally. The aggregate score for promotional purposes shall be the total of the two (2) scores.

The written examination shall be administered by the Division of Human Resources. All applicants shall be identified by number only on the examination and a passing score must be obtained in order to proceed. A passing score shall be 70%.

Materials important to the promotion process include Division of Community Corrections Operational Orders, policies, rules, regulations, Standard Operating Procedures, Training bulletins, and government regulations that are applicable to the job.

A complete listing of the scores from the written examination shall be completed and posted within three (3) days following the written examination. Challenges to test questions shall be made within three (3) days of said posting. The Division of Human Resources shall respond to any challenges within three (3) days of receipt. Final scores shall be posted within seven (7) days of the examination. All candidates that receive a passing score shall proceed to the oral interview.

B. Promotions to the position of lieutenant shall consist of two (2) phases: a training and experience (T&E) evaluation conducted by the Division of Human Resources based on the information provided by the applicant; and an oral interview. Points given for the final oral interview shall be determined by standardization. Criteria to be used for the standardization shall be provided in writing to the Lodge within thirty (30) days of the ratification of this agreement. Each shall be weighted equally. The aggregate score for promotional purposes shall be the total of the two (2) scores. All candidates that receive a passing score shall proceed to the oral interview.

Section 5. Members of the Oral Interview Board shall be the same for all applicants for any one rank. There shall be no discussion of each candidate and each candidate shall be independently ranked by each rater.

The Oral Board shall consist of the following members:

- A. The Director of Community Corrections or a Bureau Manager
- B. A Sergeant or Lieutenant from the area where the vacancy exists.
- C. A Lieutenant or Captain.

The Director of Human Resources or his designee and a Lodge representative may be present during the interview process. The Director of Human Resources or his designee shall post the oral interview scores no later than five (5) days following the completion of interviews.

Section 6. The Director of Human Resources or his designee shall compile a composite score of the written examination and the oral interview. The composite score shall be the only score used to rank candidates for promotion from the official eligibility promotion list. Upon posting of this final list, the candidates shall be listed by name. Should the composite score of any candidates be equal, seniority shall prevail.

Section 7. A promotional vacancy in the ranks of sergeant and lieutenant shall be filled by one of the eligible candidates by the Director. The Director, at his discretion, may interview the candidates. The Director's recommendation for promotion shall be forwarded through the appropriate channels.

Section 8. The final eligibility list of applicants for promotion to sergeant and lieutenant shall remain in effect for two (2) years unless abolished by the Director.

Section 9. Any and all documents utilized during the promotional process, which are not protected from disclosure by law, shall be open to inspection by the designated Lodge Counsel upon reasonable advance notice.

ARTICLE 11

GRIEVANCE PROCEDURE

Section 1. A grievance is a difference or dispute between a member and LFUCG regarding the meaning, interpretation or application of the express terms of this Agreement or a disciplinary action. The purpose of this grievance procedure is to settle all grievances as quickly as possible to ensure efficiency and promote employee morale. Discipline greater than or equal to a written reprimand shall be grievable. Grievances of written reprimands shall begin at Step 2 of this procedure. Grievances of a suspension or dismissal shall begin at Step 3 (Human Resources) of this procedure as provided in Article 14. For non-grievable disciplines a letter of disagreement may be filed by the Lodge with LFUCG and placed in the employee's file within thirty (30) days from the date of the disciplinary action. A grievance is presented when it is written on the form attached as Appendix D and delivered to the designated Bureau Manager (Major) or designee by an official representative of the Lodge. Any dispute concerning the interpretation or application of an express provision of this agreement shall be subject

exclusively to this grievance procedure. Only the Lodge may file a grievance as the representative of any member(s) of the bargaining unit.

Section 2. One (1) paid Lodge representative, one (1) additional employee as an unpaid observer and the named grievant may attend the grievance meetings. The attorney for the grievant may attend in place of the unpaid observer, but at no time shall the number of Lodge representatives, including the grievant exceed three (3). Unless otherwise specified, all time limits specified herein shall be calendar days. The following rules for the presentation and solution of grievances are prescribed:

Step 1 - Bureau Manager (Major): The grievance shall, within ten (10) days of the grieved event, be presented to the Bureau Manager (Major) or the designated commander, who shall meet and discuss the grievance with the Lodge Representative within fourteen (14) days after the date presented. The Bureau Manager (Major) or the designated commander shall give a written answer documenting the result of the meeting to the Lodge Representative within ten (10) days following the meeting. If the Lodge fails to file a grievance within ten (10) days the event may not be grieved. If the Bureau Manager fails to schedule a meeting within fourteen (14) days or fails to issue a written response within ten (10) days of the meeting, the grievance shall be considered satisfied in favor of the grievant.

Step 2 - Director of Community Corrections: If the Lodge is not satisfied with the answer obtained in Step 1, the Lodge Representative may appeal in writing within ten (10) days to the Director of Community Corrections or his designee. The Director of Community Corrections or his designee shall arrange for a meeting within fourteen (14) days and shall respond in writing to the Lodge

representative within ten (10) days of the meeting. If the Lodge fails to file an appeal within ten (10) days the event may not be grieved. If the Director fails to schedule a meeting within fourteen (14) days or fails to issue a written response within ten (10) days of the meeting the grievance shall be considered satisfied in favor of the grievant.

Step 3 - Director of Human Resources: If a mutually satisfactory settlement can not be reached at Step 2 within ten (10) days from the receipt of the written response from the Director or his designee, the Lodge representative and or legal representative shall present the grievance in writing to the director of Human Resources. The director of Human Resources or his designee shall make a determination in writing within thirty (30) days from the date of receipt of the grievance. If the Lodge fails to present the grievance within ten (10) days the appeal to the Director of Human Resources shall be deemed waived. If the Director of Human Resources fails to issue a determination in writing within thirty (30) days of the presentation of the grievance the grievance shall be considered satisfied in favor of the grievant.

Step 4 - Advisory Arbitration:

(a) If the Lodge is not satisfied with the answer obtained in Step 3, it may, within seven (7) days after receipt of the Step 3 answer, seek arbitration by notifying LFUCG in writing of its intent to proceed to advisory arbitration. A panel of seven (7) names from the Federal Mediation and Conciliation Service (FMCS), Kentucky Department of Labor or the American Arbitration Association (AAA) shall be requested within seventy five (75) days of the notification date.

- (b) An arbitrator shall be selected by the Lodge and LFUCG by alternately striking a name from the panel submitted by the Kentucky Department of Labor, the Federal Mediation and Conciliation Service (FMCS) or the American Arbitration Association (AAA) with the side striking first determined alternately. The parties shall meet for the purpose of striking names from the panel within fourteen (14) days of receipt by both parties of the panel from which an arbitrator is to be selected. After an arbitrator is selected, both parties shall use their best efforts to schedule a hearing within a reasonable time.
- (c) The expenses, wages and other compensation of any witness called before the arbitrator shall be borne by the party calling such witnesses, and expenses such as wages of participants, preparation of briefs and data to be presented to the arbitrator, shall be borne by the party incurring the expenses.
- (d) The arbitrator's fee and expenses and cost of any hearing room shall be shared equally by each party.
- (e) The powers of the arbitrator are limited as follows: The arbitrator shall have no jurisdictional right to alter, amend, modify, disregard, add to or subtract from or change in any way any term or condition of this Agreement or to render an award which is in conflict with any provision of this Agreement. The arbitrator shall consider only the specific issue or issues submitted to him and shall confine his decision to a determination of the facts and an interpretation and application of this Agreement.
- (f) The decision and/or the award of the arbitrator shall be Advisory.

Section 3. If a grievance is not presented within the time limits set forth in this article, the grievance shall be considered waived. If a grievance is not appealed to the next Step within the specified time limit or any extension thereof, it shall be considered settled on the basis of LFUCG's last answer. LFUCG shall file a written answer to the grievance or appeal thereof within the time limits set forth herein. The time limits in each Step may be extended by mutual agreement of LFUCG and the Lodge representative involved in each Step. It is agreed that grievance settlements reached at the first or second steps are not precedent setting to either party.

Section 4. The procedure contained in this article is the sole and exclusive means of resolving all disciplinary actions and/or grievances arising under this Collective Bargaining Agreement.

Section 5. LFUCG and its representatives agree that it shall not attempt to bring about a settlement directly with a bargaining unit member on any grievance referred to the Lodge after it has received notice from the Lodge that it shall be representing the bargaining unit member.

ARTICLE 12

DIVISION ORDERS AND STANDARD OPERATING PROCEDURES

Section 1. LFUCG has the right to promulgate rules and regulations, including disciplining members, not inconsistent with the express provisions of this Agreement.

Section 2. No changes in Operational Orders, policies, rules, regulations, Standard Operating Procedures, and the like of the Division of Community Corrections shall be effective until they have been posted on bulletin boards and forwarded to the Lodge for a period of ten (10) calendar days prior to the effective date subject to the terms of Article 3.

Section 3. A member shall be bound by any change in Operational Orders, policies, rules, regulations, Standard Operating Procedures, and the like, upon receipt thereof; receipt shall

be verified by signature, or via email, which the member shall be required to give upon receiving the change.

Section 4. Prior to implementing any new work rules, policies, procedures, or standard operating procedures LFUCG shall notify Lodge at least ten (10) calendar days in advance of the effective date. If Lodge requests to meet over such a change within that notice period, LFUCG and Lodge shall meet to discuss the proposed changes. Neither Lodge's agreement nor impasse is required before implementing any change provided LFUCG complies with this section.

Section 5. The Division shall provide all Members access to all current Operational Orders, policies, rules, regulations, Standard Operating Procedures, and the like, including providing an updated master copy for members to review during off-duty hours. The master copy may not be removed from the premises.

ARTICLE 13

HEALTH AND SAFETY

Section 1. The Division shall take precautions to safeguard the health and safety of members during their hours of work and maintain standards of safety and sanitation, and the Lodge and all members shall cooperate in all matters concerning health and safety.

Section 2. No member shall be required to work in excess of sixteen (16) hours consecutively, provided however, a member may waive this section. When a Member is scheduled for a detail, training, or pre-planned event outside of his or her regularly scheduled tour of duty, LFUCG shall provide five (5) calendar days prior notice. This section shall not apply in exigent circumstances as determined by the Director.

Section 3. The Division shall make available on a twenty-four (24) hour basis for use as necessary the following equipment: Bio hazard kit items, OC canisters, and all necessary equipment and supplies for sanitizing Division equipment. Operational facility weapons for

members authorized to use same shall be made available on a twenty-four (24) hour basis. A member shall be permitted to obtain said equipment with the permission of the Member's commanding officer. All staff shall be provided with OSHA required Personal Protective Equipment.

Section 4 Uniforms / Equipment

- A. Upon initial appointment as a sworn member of the Lexington Division of Community Corrections, Bargaining Unit members shall receive all uniforms and equipment required to perform the Bargaining Unit members' assigned duties as required by the director of Community Corrections. All uniforms and any other equipment provided by the Employer shall remain the property of the employer.
- B. Bargaining Unit members shall receive a uniform allowance of Four Hundred Dollars (\$400.00) per year with one-half (\$200.00) being paid in January and one-half (\$200.00) being paid in July for maintenance care and replacement of uniforms and other miscellaneous items as per the Quartermaster Program as necessary due to normal wear and tear. In addition, bargaining unit members shall be eligible to receive replacement uniforms where the item in question has been damaged or destroyed in the performance of the bargaining unit member's duties and not as the result of normal wear and tear duties. The Director of the Community Corrections or his designee shall have complete discretion to determine whether items were damaged or destroyed as a result of normal wear and tear or in the performance of the bargaining member's duties.
- C. Beginning on July 1, 2012 LFUCG shall provide uniforms through a Quartermaster program.

- D. It is the employee's responsibility to acquire the necessary uniform items from the quartermaster program or otherwise and present themselves properly attired for work under division policies. The LFUCG shall have no obligation to provide "in store" access to members during scheduled work hours or to have any obligation to pick up or deliver uniform items.
- E. Uniform items available to employees under the quartermaster program shall be in according to Division of Correction regulations.
- F. Upon completion of the Training Academy probationary officers shall receive the standard uniform allowance as defined in this section.
- G. In the event an employee's uniform allowance is exhausted during the fiscal year and said employee needs or is required to purchase a uniform item(s) the employee shall be responsible for acquiring the uniform item(s) at their own expense
- H. Upon separation of employment with the Division of Community Corrections for any reason all uniforms and official equipment provided by the Division or purchased through the quarter master program shall be returned to the division. The value of any items not returned shall be deducted from the employee's final paycheck.

Section 5. Members shall be required to submit to a physical examination once every two (2) years consisting of job related tests/examinations or as necessary to determine physical fitness for duty. The standard for physical fitness shall be the LFUCG approved position description for each position. Results concerning any fitness for duty issues shall be submitted and disclosed pursuant to Article 15 of this Agreement. A member may elect to have the biennial physical examination performed by his/her primary care physician, with the stipulation that the primary care physician can perform all required tests, with a maximum reimbursement to the member of thirty-five dollars (\$35.00). A member who elects to have his/her biennial physical

examination conducted by a member's physician shall also be required to undergo any physical examination or test necessary to comply with state or federal law.

ARTICLE 14

DISCIPLINARY PROCEDURES

Section 1. It is agreed that LFUCG has a right to discipline members only for just cause. The disciplinary code that shall be used as a guideline for this Article shall be the current published disciplinary code for all LFUCG employees as found in the Employee Handbook. This code is subject to amendment and/or change. A copy of the current code is appended to this contract as Appendix A.

Section 2. Discipline of members includes oral warning, written reprimand, suspension, or dismissal. Coaching and counseling sessions are not disciplinary actions.

Section 3. LFUCG shall not take any disciplinary action against any member for any non-criminal act or violation after the expiration of a thirty (30) day period from the date on which such violation or act occurred, unless it can be shown that LFUCG was not aware that a violation or act occurred or the matter is the subject of an open investigation. Every effort shall be made to ensure that any discipline regarding the act or violation is issued within sixty (60) days of the act or violation.

Section 4. Disciplinary actions of suspension or dismissal shall be initiated by the delivery of proposed disciplinary action to a member. After delivery of the proposed discipline the Director or his designee shall meet with the member and, if requested, a Lodge representative. At the meeting the member shall be advised of the level of discipline proposed to be issued. The member and/or the Lodge representative shall be given the opportunity to present the member's side of the matter and any materials relating to the violation he wants the Director

to consider prior to issuing discipline. If the member does not attend the meeting with the Director, discipline shall be issued and shall be final.

Section 5. Disciplinary Action

- A. Discipline of suspension or dismissal shall be issued by the Director not later than the time period provided in Section 3. If the member is not physically available to be presented with the discipline, LFUCG shall issue discipline by sending a written copy of the discipline via certified mail to member's last provided mailing address of record. The date postmarked shall be considered the date that the discipline was received.
- B. Upon receipt of the discipline by the member, the grievance and arbitration procedure set forth in Article 11 (Grievance Procedure) may be invoked by the Lodge. For suspensions and dismissals, the grievance shall begin at the level of the Human Resources Director (Step 3 of the Grievance Procedure) and shall proceed as provided in Article 11. For written reprimands the Grievance Procedure shall begin at the level of Director (Step 2).

Section 6. Coaching and counseling sessions shall be removed from the member's record twelve (12) months from the date of the entry. Oral warnings shall be removed from the member's record twelve (12) months from the date of the entry. Written reprimands and suspensions shall be removed from the member's record twenty-four (24) months from the date of the entry.

ARTICLE 15

PERSONNEL FILES

Section 1. Personnel files and any other employee files and records are the sole responsibility of the LFUCG

Section 2. LFUCG's responsibilities for employee files include upkeep, retention, production, and purging of files.

Section 3. LFUCG shall maintain employee confidentiality to the full extent permitted by law and access to a member's personnel records shall be restricted to the following:

- A. Member who is the subject of the file or authorized (in writing) representative may review their own records upon request.
- B. Member's supervisor.
- C. Director and/or designee.
- D. Director of Division of Human Resources and/or designee.
- E. Member of the Department of Law

Section 4. No file, record or content therein of which a member has not been previously advised shall be utilized against the member for matters of discipline. A Member may submit written documentation for his/her official personnel file that refutes or explains any item in the Member's file. The documentation shall not contain any inflammatory or derogatory statements.

Section 5. LFUCG shall follow retention schedules for employee files that comply with applicable laws and regulations. In the event a subpoena or Open Records Request is served on LFUCG, it shall immediately notify the member and/or the Lodge.

Section 6. Supervisors may maintain one file on each member under their direct supervision and documents contained in the supervisory file shall not be retained after one (1)

year from said documentation. A Member may review his supervisory file during his regular work shift upon request provided such review does not disrupt operations.

Section 7. Any Member may obtain a complete copy of his/her personnel file at his/her cost without the use of the Open Records Act. The member shall also have access to any electronic files. Except during an open investigation, no file shall be maintained about a member without his knowledge.

ARTICLE 16

RESIDENCY

No member shall be required to live in Lexington/Fayette County.

ARTICLE 17

MILITARY LEAVES

Section 1. Members who are also Members of the National Guard, the military reserve or any of the armed services of the United States shall be granted leaves of absence, not to exceed twenty-one (21) calendar days per military training year (i.e. October 1 - September 30) to participate in regular annual training, including fifteen (15) days leave with pay.

Section 2. A Member inducted or enlisted into active duty with the armed forces of the United States, any reserve unit or the National Guard for a period in excess of thirty (30) days shall be eligible for supplement pay equal to the difference between the Member's regular salary and his/her military pay.

Section 3. A Member inducted or enlisted into active duty with the armed forces of the United States, any reserve unit or the National Guard for a period in excess of thirty (30) days

shall be eligible to continue his selected medical insurance plan at the same level of employee contribution derived from this Agreement.

ARTICLE 18

LEGAL PROTECTION

Section 1. LFUCG shall provide for the defense of a Member in any legal action filed against the member arising out of an act or omission occurring within the scope of his employment. A Member shall be represented by the Department of Law, private counsel employed through the Department of Law, or represented by separate private counsel at his own expense, with the prior written approval of the Department of Law, when a claim is made against him as an individual for money damages, for personal injury, or property damages resulting from the good faith performance of his official duties, whether suit may or may not be pending on the claim at that time, even if the claim arises from acts performed by the Member prior to the effective date of this Agreement, and even if the claim is not presented until the Member has left the position currently held.

Section 2. If a settlement of a claim is made or a judgment is rendered against a Member and that Member was either represented by the Department of Law, private counsel employed through the Department of Law or represented by separate private counsel at his own expense, with the prior written approval of the Department of Law, that settlement or judgment shall be paid by LFUCG in accordance with the procedures, discretion, and determination vested in the Department of Law. Provided, however, LFUCG's responsibility under this Agreement to indemnify a Member shall not include any duty to pay punitive damages.

Section 3. Upon receiving service of a summons and complaint in any action in tort brought against him or a notice of a claim to be made, a Member shall, within five

(5) days of receipt, give written notice of such action, including a copy of the summons and complaint, to the Department of Law.

Section 4. LFUCG may refuse to pay a judgment or settlement in any action against a Member, or if LFUCG pays any claim or judgment against any Member pursuant to Section 2 of this Article, it may recover from such Member the amount of such payment and the costs to defend if it determines that:

- A. The Member acted or failed to act because of fraud, malice, or corruption; or
- B. The action was outside the actual or apparent scope of his employment; or
- C. The Member was willfully negligent or malicious; or
- D. The Member willfully failed or refused to assist the defense of the cause of action, including the failure to give notice to LFUCG pursuant to Section 3 of this Article; or
- E. The Member compromised or settled the claim without the approval of LFUCG; or
- F. The Member obtained private counsel without the consent of the Department of Law, in which case, LFUCG may also refuse to pay any legal fees incurred by the Member.

Section 5. No provision of this Article shall in any way be construed to abrogate the defense of sovereign immunity, official immunity, or governmental immunity.

ARTICLE 19

COURT-RELATED PAY

Section 1. In the event that an active member is required to appear to testify in Court or in a legislative or administrative proceeding outside of his regularly scheduled work hours, he shall be paid a minimum of two (2) hours at the rate of 1 and ½ times his regular hourly rate of pay, or for the actual time spent for such appearance at the rate of 1 and ½ times his regular hourly rate of pay if more than two (2) hours.

Section 2. In order to claim pay under Section 1, of this Article, the Member must document that he was testifying as to matters involving his employment with LFUCG. Such pay is not available when testifying about matters related to off-duty employment or other non-work related matters.

Section 3. A Member shall be granted leave with pay, not to exceed three (3) calendar months in any one (1) calendar year, in order to serve on a duly impaneled jury of any court. When on jury duty, the Member must report for work if he is excused by the court for part of the day or for one (1) or more full days. When the jury duty is over, the Member must submit a copy of his jury duty check stubs to his supervisor who shall forward the information to the payroll coordinator for verification that the Member served on jury duty for the number of days of leave that the Member was granted.

ARTICLE 20

OVERTIME

Section 1. A workday shall consist of eight (8) hours. A regular work week shall be forty (40) hours in any calendar week. Members shall be paid overtime at the rate of one and one-half (1 ½) times their regular rate of pay for all hours worked in excess of forty (40) hours in any calendar week.

Section 2. Members are scheduled in advance to work a forty (40) hour schedule. The Division may modify schedules within a scheduled work week in order to respond to disasters, emergencies, declared by the Director, to achieve specific law enforcement objectives, or as otherwise necessary to assure adequate staffing levels. Nothing herein shall preclude the Division from granting a member's request for a schedule change.

Section 3. Overtime earned shall be reported and paid in six (6) minute increments.

Section 4. The Division shall not change a member's scheduled R.D.O.'s unless three (3) days notice is given. Provided, however, this three (3) days notice shall not have to be given if the Director, in his sole discretion, declares an emergency or a member agrees to waive the notice.

Section 5. All members covered under this agreement shall have the right to work overtime in not only the member's current bureau assignment, but shall also have the right to work any other bureaus of the facility for which they are qualified.

Section 6. Overpayment

If a member is inadvertently overpaid his salary, the LFUCG shall collect the overpayment by deducting the amount of the overpayment from future paychecks, after notice to and opportunity to be heard by the member. If it is determined that the overpayment was not justified, the LFUCG shall use the following formula to collect the amount due: the total amount of the overpayment shall be divided by the number of pay periods during which the mistake(s) occurred. The quotient shall be deducted from the subsequent paychecks until the overpayment is satisfied. If the member separated from service, any remaining owed amount shall be deducted from any payout due the member upon separation. If the payout is insufficient to cover the remaining amount, the member shall immediately pay LFUCG the difference. If a member is inadvertently underpaid his salary, the LFUCG shall correct the mistake in the next paycheck.

Section 7. In those areas where members have scheduled R.D.O.'s, the day for mandatory overtime shall be the second day after the return from the RDO; the day for secondary overtime shall be the fourth day after the return from RDO. Once mandatory primary and secondary lists have been exhausted (i.e. the member has served or been excused) any request for subsequent call back duty if needed shall be the third day after the return from RDO.

ARTICLE 21

ACTING PAY

Section 1. When a Member is assigned to work in an acting capacity for more than forty (40) hours in a position having a higher classification or pay than his regular position, the member shall be paid at the base pay rate established for the higher classification retroactive to the first day of assignment to that position. A Member in an acting assignment shall receive time in service in the acting assignment which relates back to the beginning of the assignment if the member is promoted to the position.

Section 2. A Member's service in an acting assignment shall be memorialized and placed into his permanent personnel file.

ARTICLE 22

PAID AND UNPAID LEAVES

I. VACATION AND HOLIDAY LEAVE

Section 1. Annual Vacation/Holidays

Effective upon ratification of this Agreement by the LFUCG, full-time members are eligible to receive annual vacation/holiday time with pay as provided in the schedule set forth below:

Vacation

For the first two years of the contract:

<u>Years of service</u>	<u>Monthly Leave Earned</u>
1 through 10 years	8 hours / month
10 years or higher	12 hours / month

For the second two years of the contract:

<u>Years of service</u>	<u>Monthly Leave Earned</u>
1 through 10 years	10 hours / month
10 years or higher	14 hours / month

Holidays (8 hours/day)

For the full term of the contract

Independence Day	Christmas Day
Martin Luther King Jr.'s Birthday	New Years Day
Memorial Day	Presidents Day
Thanksgiving Day (Thursday and Friday)	Labor Day
Christmas Eve Day	

During the first two years of this Agreement, the following paragraph shall not be in effect and each employee shall be granted only the above listed holidays. In addition, at the beginning of each fiscal year, each employee shall be granted sixteen (16) hours of swing holiday leave, which may be taken at any time during the fiscal year in accordance with the requirements of this Agreement.

- A. The following is the agreed process for requesting vacation or holiday leave time:
1. Members shall bid for assignments twice annually in January and July. The first bid process under this agreement shall be in July 2012 and each January and July thereafter.
 2. Once Staff has been made aware of the bidding results commanders shall meet with members according to seniority to schedule leave time in increments of one week or more for the following six (6) months.
 3. Management will assign by seniority. Once approved there will be no bumping by seniority.

4. Members may only apply for leave time they have already accrued in their leave bank.
 5. Once accumulated, officers may request additional leave time accrued throughout the year. Such time shall be granted based on availability.
 6. Management reserves the right under Article 3 to adjust or change vacations schedules due to extreme and exigent circumstances.
- B. Leave usage in less than a full week segment as outlined in Section B shall be allowed as follows:

The employees request shall be granted/denied based on availability. A supervisor shall not deny said request if adequate personnel are scheduled to work their requested time frame at the time the leave request is made. All leave requested must be within the current six month bid period. Members may only apply for leave they have already accrued in their leave bank.

A Member may request up to four (4) hours of leave with pay to donate blood during regular work hours at any licensed blood center certified by the Food and Drug Administration. A Member requesting leave shall obtain approval from his Bureau Manager or his designee prior to approval prior to the donation and must submit verification of blood donation or deferral upon return to work. There is no limitation on the number of times a Member may donate other than that imposed by the blood donation centers usually no more than six (6) times per year.

The Bureau Manager, or his designee, may authorize up to four (4) hours of personal leave with pay annually to participate in community projects that are not directly work related. Community projects leave time cannot be accumulated or paid out at retirement or termination.

Members are permitted to call in using emergency leave. Emergency leave is limited to situations involving use of accumulated leave to handle an unforeseen personal matter which is not covered by sick leave. An unforeseen personal matter is one that the member could not have reasonably foreseen, and which was created by an unavoidable situation less than twenty four hours before the beginning of the shift on which the leave is needed. The member must have sufficient accumulated vacation or holiday leave to request use of emergency leave. A member may not request approval for leave that he has not yet accumulated for the pay period. The member shall use the same call in procedure as is in effect for sick leave. Emergency leave is limited to not more than 16 hours per calendar year.

- C. Annual vacation/holiday accrual is cumulative to the extent set forth herein. Accrued annual vacation/holiday cannot exceed two hundred sixty-four (264) hours and any vacation/holiday in excess of this amount must be taken by December 31 of any calendar year. Upon separation of service (i.e. retirement, termination, resignation), a Member shall be entitled to receive reimbursement for accrued annual vacation/holiday. Payment for vacation/holiday shall be based on the Member's regular rate of pay.

Section 2. Vacation and holiday leave may be taken in six (6) minute increments, consistent with the KRONOS system

Section 3. If the LFUCG deducts leave usage from a members leave bank, and the member is entitled to have that leave restored, the LFUCG shall restore the leave within two pay periods of the decision to restore.

II. LEAVE OF ABSENCE WITHOUT PAY

Leave of absence may be granted to maintain continuity of service instances where unusual and avoidable circumstances require a member's absence. Leaves are granted on the assumption that the Member will be available to return to regular employment when the conditions necessitating the leave permit.

The duration of each leave will depend upon each circumstance and the recommendation and approval of the Director of Community Corrections, but shall not exceed one-hundred and eighty (180) days. The leave of absence is considered a privilege. Granting of leaves of absence will be administered with upmost discretion, taking into account the Member's service record and the circumstances necessitating the request. Intended period of absence from work must be indicated.

Never will a leave of absence be authorized to permit a member to engage in gainful employment other than mandatory military service. When the need to be absent is known, the Member will be expected to advise the Director of Community Corrections in writing at the earliest possible time. Absence without reason may result in disciplinary action. The giving of false reasons for an absence shall result in disciplinary action. Leaves of absence will not interrupt service time. The member shall be returned to the same or equal employment, unless circumstances of the agency have so changed as to make it impossible or unreasonable to do so. Leave of absence shall be without pay and benefit accrual, other than for military leave, a condition precedent to a request for a leave of absence requires a Member to have exhausted all vacation, holiday, and approved sick leave benefits.

III. SICK LEAVE

Section 1. Sick leave with pay shall be granted to a Member when he is unable to perform his duties because of his sickness or injury or that of an immediate family member. The immediate family member for the purpose of this section shall include parents, spouse, and children. Sick leave may be taken in six (6) minute increments, consistent with the KRONOS system.

Section 2. A Member who is unable to report for duty because of illness, injury, prescribed medication or treatment shall immediately notify his commanding officer or other competent authority as designated by the Bureau/Unit Commander upon determining the need to be absent from duty. This notification should be made at least one (1) hour prior to the scheduled reporting time.

Section 3. Medical Statement

A Member who is absent from work for three (3) or more consecutive work days, or where the Bureau/Unit Commander has reasonable suspicion to believe an abuse of sick leave may be occurring, may be required to provide a medical statement from his treating physician substantiating his need for leave.

Proof of abuse of paid sick leave privileges may constitute grounds for disciplinary action including dismissal.

Section 4. For the first two years of the contract, sick leave shall be accrued at a rate of eight (8) hours per month. For the remainder of the contract, sick leave shall be accrued at a rate of ten (10) hours per month. Sick time may be accumulated up to six hundred (600) hundred hours. Once a Member has accrued six hundred (600) hundred hours of sick time, any amount of time exceeding the six hundred (600) hundred hour cap

shall be paid to the member at his regular rate of pay, by separate check, on the second pay period in January of each calendar year.

Section 5. Members who have accumulated more than 480 sick hours are permitted to participate in the LFUCG sick bank program, contributing up to 40 hours to a fellow employee in need.

IV. FAMILY MEDICAL LEAVE (FMLA)

Any Member who has been on the payroll at least one (1) year and who has worked twelve hundred fifty (1250) hours during the calendar year may be entitled to up to twelve (12) weeks of leave (or 480 hours) in a twelve (12) month period under the Family and Medical Leave Act. This time shall cover the birth of a child for the mother or father, or placement of a child in the home through foster care or adoption. The Member must use all accrued sick, vacation and/or holiday leave, after which the remaining leave will be without pay.

V. BEREAVEMENT LEAVE

Section 1. A Member will be able to use up to three (3) days of Bereavement Leave time for a death for the following listed immediate family members. Bereavement Leave will be treated as a permitted absence without loss in pay for purposes of arranging or attending funeral services or settling an estate. Additional time for bereavement leave may be granted using sick, holiday, or vacation time when bereavement leave has been exhausted. Bereavement Leave may be used in hourly increments and is not required to be taken consecutively. Bereavement leave will be granted for the following family members: Parents, Step-parents, Spouse, Spouse's Parents, Children, Step-children, Foster children, Siblings, Step-siblings, Half-siblings, Brother-in-law, Sister-in-law, Grandparents, Spouse's grandparents, Grandchildren, and Great-Grandparents.

Section 2. A Member will be able to use up to one (1) day of Bereavement Leave time for a death of the following: Aunt, Uncle, First Cousin, Niece, or Nephew (this does not include “in-law” or “step-relationships”).

Section 3. Bereavement leave is not subject to schedule adjustment.

ARTICLE 23

DISABILITY LEAVE AND MODIFIED DUTY

Section 1. Any member who sustains an injury or an illness as a result of a service connected incident must notify their immediate supervisor as soon as practicable after the incident occurs. The supervisor shall complete the appropriate form. It is the responsibility of a member to advise the Director through the appropriate chain of command of an inability to perform all job functions required of active duty status. If a competent medical authority determines that a member can perform substitute work (modified duty), the member must work in a modified duty capacity, if so assigned, unless he is in an FMLA status.

Section 2. If the member is medically required to be absent from their job duties and cannot perform substitute work (modified duty) as a result of a service-connected injury or illness, the member must complete a Disability Leave Request Form and submit it to the Director through the chain of command for submission to the Director of Human Resources within ten (10) work days of the incident.

Section 3. The completed Disability Leave Request form must have the following documentation attached:

- A. A copy of the corresponding First Report of Injury or Illness (IA-1); and
- B. A written statement from a competent medical authority as to the member’s specific diagnosis, treatment plan, and your current work activity status.

Section 4. Any member who suffers an injury or illness as a result of a service connected injury or illness shall be granted, upon proper investigation and authentication, leave equal to full pay for a period up to twelve (12) months from the date of injury or illness.

The disability leave payable shall be supplementary to any worker's compensation income benefits to which the Member is eligible, but in no case should payments exceed the difference between the Member's worker's compensation benefits and his average weekly earnings as defined in KRS 342.140.

Section 5. An injured or ill member shall initially be placed on their own accumulated sick leave, or if sick leave is not available, on vacation or holiday leave for all absences from scheduled work time. Upon an investigation and authentication that the member's injury or illness is the result of a service-connected incident, all sick, vacation, or holiday leave hours that have been used as a result of the injury or illness shall be reinstated. It is the member's responsibility to submit a new Disability Leave Request form with the required supporting documents if the medical authority states that he is unable to perform work in any capacity, past the date for which the disability leave status has been granted. Disability leave status can only be granted for a period of up to twelve (12) months for each injury or illness except as provided in Section 11.

Section 6. If, during a disability leave, a competent medical authority determines that the member can perform substitute work (modified duty), he must work in a modified duty capacity, if so assigned, unless he is in a FMLA status. Any return to work is based on a medical statement as to their work limitations, and they must submit the statement to their immediate supervisor for appropriate job assignment.

Section 7. A member can remain in a modified duty status for a period of no more than twelve (12) months for each injury or illness, and must submit a statement from a competent

medical authority regarding his work activity status during each thirty (30) day period. If the member is on either modified duty status or disability leave status, they must submit a doctor's statement releasing them to full work activities before the member can return to their regular duties.

Section 8. When the member has been granted disability leave status, he must refund to LFUCG the amount equal to any Workers Compensation wage payments made to him as a result of the injury or illness in order to be eligible for disability leave status. Any time over ninety (90) days that is spent on disability leave status shall not count toward the member's vacation accrual rate nor shall he accumulate sick leave or vacation leave during such absence from duty. When an official LFUCG holiday occurs, the member shall receive holiday pay but not disability leave pay for that day.

Section 9. If the competent medical authority determines that the member has a permanent disability, the member shall apply, if eligible, to the County Employees Retirement System for disability retirement benefits or apply for alternative LFUCG employment. Failure to apply for disability retirement benefits or alternative employment shall terminate the member's disability leave status short of the twelve (12) months and he may resign or his employment shall be terminated.

Section 10. All substitute modified duty assignments as a result of a work related injury or illness shall be made within the Division of Community Corrections, and must conform to the medical instructions indicated on the medical report authorizing the members leave status.

Section 11. The total time in modified duty and disability combined shall not exceed twelve (12) months for the same injury or illness except that this may be extended at the discretion of the Director for up to an additional six (6) months if there is a definitive return to work date provided by the treating physician.

ARTICLE 24

DEATH IN THE LINE OF DUTY

Section 1. In the event that a member dies as a result of service connected cause, the LFUCG shall pay to the beneficiary designated by the Member or, in the event there is no designated beneficiary, to the Members estate, the sum of one-hundred-thousand dollars (\$100,000.00) subject to applicable withholdings, if any. The payment shall be made in a lump sum, a portion of which shall be paid to a funeral home chosen by the beneficiary or estate to cover funeral and burial expenses unless waived by the beneficiary or estate. The payment provided for in this Article shall be in addition to any applicable pension benefits, any Workers Compensation income benefits, and any Social Security benefits which may be due.

ARTICLE 25

HEALTH AND WELLNESS BENEFITS

Section 1. Effective as of the execution of this Agreement, employees may elect to be covered by the health insurance plans offered by LFUCG. The options available to employees shall include those plans, benefits, and contributions offered by LFUCG

Section 2. Each Member may elect to be covered by the health insurance plans, dental insurance, vision and other plans offered by LFUCG. Any premiums in excess of LFUCG monthly contributions shall be paid by the employee through equal pay period contributions. Effective upon implementation, LFUCG shall contribute \$430.74 per month on behalf of each employee enrolled in the flexible benefit program. In year two of the contract LFUCG shall contribute \$455.74 per month on behalf of each employee enrolled in the flexible benefit program and in year three and four of the contract, LFUCG shall contribute \$480.74 on behalf of

each employee enrolled in the flexible benefit program. LFUCG benefit contribution may be combined by employees to purchase benefits.

Section 3. If an employee opts not to enroll in the Flexible Benefit Plan or LFUCG monthly contributions exceed premium cost, LFUCG shall contribute the same monthly contributions as set forth herein or the excess contributions, whichever is applicable, to the employee's deferred compensation accounts. However, members must provide proof of alternate medical insurance coverage to request this provision.

Section 4. The Lodge shall provide a representative to sit on any group or committee that LFUCG may create related to health care costs and benefits.

Section 5. Any member passing away whether on duty or not, shall have all vacation and holiday time paid out at their current rate of pay. These funds upon death shall be paid to the beneficiary listed by the member. If a member has at least five years of service, accumulated sick leave shall be paid out in the same manner.

ARTICLE 26

LIFE INSURANCE

The LFUCG shall provide all members with a group life insurance plan that contains the following provisions:

- A. \$25,000.00 payment upon death of the insured.
- B. \$25,000.00 accidental death and dismemberment insurance.

ARTICLE 27

TUITION BENEFIT

Section 1. Members, with at least one year of Community Corrections service, shall receive reimbursement for the cost of tuition and books for up to \$1,200.00 per year upon verification of successful completion of coursework at a grade of "C" or better for undergraduate courses or at a grade of "C" or better for graduate course work and submission of applicable receipts at an accredited college, university or facility of higher education. Course taken must be job related or as verified as part of a degree program related to Government, Public Safety, Corrections or other Law Enforcement related career field. Verification required for reimbursement shall include transcripts and receipts delineating actual costs.

Section 2. Request for reimbursement must be submitted within thirty (30) days of completion of the course to be eligible for reimbursement.

Section 3. Except as provided in Section 4, below, any member who participates by use of the tuition benefit shall be required to continue employment with LFUCG for eighteen (18) months from the last date of reimbursement unless he repays LFUCG for any funds received for the tuition benefits under this Article within that eighteen (18) month period. It is agreed that such payment shall be deducted from the final payout to the employee if not otherwise arranged.

Section 4. The parties agree that tuition benefits for members who enroll at Midway College in its Business Administration associate degree program may be provided by direct payment by LFUCG to Midway College. In the event a member who so enrolls fails to complete the degree program or fails to continue employment with LFUCG for two (2) years after earning the degree, the member shall be responsible for payment to LFUCG of the amount of tuition benefits paid to Midway College. It is agreed that such payment shall be deducted from the final payout to the employee if not otherwise arranged.

ARTICLE 28

PERSONAL PROPERTY REIMBURSEMENT

A member shall be reimbursed by LFUCG for certain personal property damaged or destroyed while in the performance of an official action. A member who receives payment under this Article must seek restitution for any property for which payment was made. Failure to pursue restitution may result in requiring the member to reimburse LFUCG for any payment and may make the member ineligible to make any further claims under this Article. If restitution or other recovery is received, the amount(s) shall be paid in full to LFUCG. LFUCG reserves the right as an alternative to payment under this Article to provide a comparable replacement for any damaged or destroyed property. LFUCG further reserves the right to deny payment if the members negligence resulted in the damage or destruction of his property.

Personally owned items (i.e. watches, eyeglasses, contact lenses, dental equipment etc.) shall not be reimbursed for more than \$200.00 per item. Payments under this Article shall be limited to \$500.00 per occurrence with a maximum of \$1000.00 per calendar year, except that personally owned firearms may be reimbursed for replacement value. This coverage shall only apply to items not covered by the Division of Risk Management policy. The limits contained herein may be increased for exceptional circumstances at the discretion of the Director of Community Corrections.

ARTICLE 29

SHIFT DIFFERENTIAL

Members permanently assigned to second and third shift assignments shall receive shift differential for all hours worked as follows:

<u>Shift</u>	<u>Amount</u>
Second	\$0.50 / hour
Third	\$1.00 / hour

Entitlement to shift differential is based solely on actual permanent assignment, and is not triggered by hours worked on overtime or regular duty. Shift differential shall be applied for those members permanently assigned to second or third shift for all time worked, including any overtime.

ARTICLE 30

SALARY SCHEDULE

The pay schedules for the bargaining unit, attached hereto as Appendix B and Appendix C, shall be effective beginning upon implementation of this agreement. During the first two years of this agreement, members shall remain at their current step. In year three and four of the agreement the schedules shall increase by \$400 each year and each member shall advance on their step schedule. For Officers, members shall be placed at their appropriate pay based upon years of service as an officer.

Bargaining unit members holding the rank of Officer shall move into the next higher year of the schedule on their job date as an Officer of Community Corrections. Members holding the rank of Sergeant shall move into the next higher year of the schedule based upon their date of

promotion to Sergeant. Upon promotion to Sergeant, the bargaining unit member shall be placed at the starting pay established for Sergeants on Appendix C.

ARTICLE 31

ALCOHOL AND DRUG-FREE WORKPLACE

The Lodge and LFUCG agree to maintain a drug free workplace. The public has a right to expect public safety employees to be both physically and mentally prepared to assume their duties at all times, free from serious impairments which result from the use of controlled substances, alcohol, and other forms of drug abuse.

The Director of Human Resources shall be responsible for the administration of and establishing the operational procedures necessary to implement this policy.

I. CONDITIONS OF EMPLOYMENT:

Adherence and compliance to this article including but not limited to the rules, regulations, policies and procedures shall be a condition of employment with the LFUCG

II. SCOPE:

A. Alcohol - Scope and Defined

Reporting to work or having at any time during the work day, a detectable odor of an alcoholic beverage on his/her breath, which results in a BAC of 0.02% or above, shall cause the employee to be disciplined up to and including dismissal.

B. Legal Drugs - Scope and Defined

Any controlled substance or chemical legally obtained and used for the purpose, and in the amounts medically recommended in expressed written instructions, of the manufacturer.

C. Illegal Drugs - Scope and Defined

1. Any drug as defined by federal or state controlled substances statutes (KRS 218A.080) of which cannot be obtained legally.
2. Any drug as defined by federal or state controlled substances statutes of which cannot be obtained legally, without being prescribed by a duly licensed physician or health care worker authorized to dispense drugs.

3. Any drug which has been legally obtained by prescription, but which is used or distributed by one whose name does not appear on the prescription container or not used in the prescribed manner by the person whose name appears on the prescription container.
4. Any combination of alcohol and legal or illegal drugs shall be classified as illegal when the used intent is for misuse or abuse.

III. DEFINITIONS: (All definitions are for the purpose of this policy)

- A. **Accident** – Any occurrence of events which leads to property damage, physical injury, or death.
- B. **Actual Physical Control** – A term referring to driver's or operator's physical position and capabilities which permit someone to control, manipulate, readily set into motion or operation or utilize vehicles, machinery or equipment.
- C. **Blood Alcohol Content (BAC)** - A scientific metric measurement of alcohol from a specific measured sample of breath expressed in percentage form. **BREATH:** A volume of breath expressed in terms of grams of alcohol per 210 liters of breath.
- D. **Blood Alcohol Test (BAT)** - A medically acceptable procedure or scientifically approved instrumentation test to determine the content of alcohol in the blood.
- E. **Chain of Custody** - The ability to identify each person or facility who has control of a sample at any given time from the time the sample is taken until a final disposition occurs.
- F. **Drug Paraphernalia** - Any item used for administering, packaging or transporting illegal drugs.
- G. **Drug Test** - Tests scientifically designed and medically approved, that determine the presence of drugs in the body.
- H. **Drugs** - Any chemical substance that adversely alters a mind or body function when entering the body.
- I. **Employee** – Refers to those members who are covered under this contractual agreement.
- J. **Evidential Breath-Testing Devices (EBTs)** - A specifically designed device, approved by the National Highway Traffic Safety Administration (NHTSA), used by a certified breath-alcohol technician, following specific breath-testing procedures, in the collection and analysis of breath samples to determine the BAC level.
- K. **Integrity Checks** - A fail safe mechanism, built into the urinalysis/urine drug screen, which measures the level of certain elements normally found in the body that become abnormal when a urine sample to be tested is diluted or altered.

- L. **Medical Staff** - Authorized personnel qualified by license or certification to perform medical procedures.
- M. **Medical Review Officer (MRO)** - A licensed (doctor or doctor of osteopathy) specifically authorized, appointed and approved by the LFUCG, who is responsible for receiving results generated by the authorized and approved LFUCG drug and alcohol testing program laboratory. The MRO shall have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individual's confirmed positive test results, together with the employee's medical history and any other relevant biomedical information.
- N. **Positive Drug Screen** - The results of an approved medical or scientific test, properly reviewed and approved by a MRO, that reveal the presence of an illegal substance in the human body, as defined in VIII, "Testing Safeguards, Terminology and Guidelines."
- O. **Reasonable Suspicion** - Whether a reasonable, prudent individual, trained in the symptoms of drug or alcohol abuse would believe, based upon observation, that someone was under the influence of drugs or alcohol; or that based on observation or information that drugs and/or alcohol is being used or stored on LFUCG property.
- P. **Substance(s)** - As used in this context, a substance is any chemical compound that shall adversely alter the mind or body function when entering the body.
- Q. **Testing facilities** - Any physical area contracted by the LFUCG and designed to accurately administer scientific and medically approved tests.
- R. **Urinalysis/Urine Drug Screen** - Urine samples are screened for specified drugs and/or their metabolites utilizing enzyme immunoassay (EIA) using defined cutoffs.
 - 1. Those urines found to be positive by the EIA methodology are then confirmed by gas chromatography mass spectroscopy (GCMS).
 - 2. All urine drug screens and confirmations are to be conducted by a laboratory recognized and approved by the College of American Pathologists (CAP) or Substance Abuse and Mental Health Services Administration (hereafter referred to as SAMHSA) (Formerly: National Institute of Drug Abuse (NIDA)).

IV. **EMPLOYEE ASSISTANCE PROGRAM (EAP):**

The LFUCG has established and maintains an EAP which informs employees of the dangers of alcohol and drug abuse and offers assistance to employees seeking help for alcohol or drug abuse, and the personal and emotional problems associated with abuse.

A. **Members Who Seek Assistance - PRIOR TO NOTIFICATION OF TESTING:**

At any time prior to testing, an employee may acknowledge his or her drug or alcohol abuse and secure a leave of absence to undergo rehabilitation in a certified program.

An admission of substance abuse, including alcohol, shall not subject the employee to disciplinary action providing the aforementioned process is followed and the employee successfully completes the rehabilitation program.

After acknowledgment of substance abuse involving the workplace, refusal to commit to and successfully complete an authorized rehabilitation program shall be grounds for discipline.

Should the employee commit to rehabilitation, a determination shall be made by the EAP, the Director of Human Resources and the Director of Community Corrections as to whether the employee can remain on the job in a current or available substitute duty capacity during rehabilitation, performing duties that pose no risk to fellow employees, property, or the general public or whether the employee must take a leave of absence or sick time during rehabilitation.

B. Leave During Treatment:

There shall be two (2) types of treatment plans for LFUCG employees:

1. **In-patient followed by Outpatient Phase:** The in-patient phase shall be charged as sick leave or other leave, if such is available. If sick or other leave has been exhausted, their status shall be changed to leave of absence without pay.
2. **Outpatient Phase Only:** Normally, the employee shall return to work at his normal or alternate duties. However, if the EAP Representative recommends other duties during this phase, then provisions shall be made.

C. Medical Insurance:

The cost of rehabilitation shall be provided by the LFUCG to those employees who are covered by the government's medical insurance, but only to the extent of applicable coverage which exist at the time of any claim. Employees are responsible for all costs not covered by the employee's medical insurance.

V. PROHIBITED BEHAVIOR:

The following behavior and activities are prohibited under this article and may subject the employee to disciplinary action up to and including dismissal.

- A. Use, possession, distribution, or sale of alcohol, illegal drugs or drug paraphernalia or the unlawful manufacture, distribution, dispensation, possession or use of controlled substances on government property or within government vehicles.
- B. Being impaired anytime during the work day, as a result of using, alcohol, illegal drugs, misusing a legally prescribed drug, or any chemical substance, is prohibited behavior.

- C. Members who are called to report back to duty are forbidden to report to their work site or job if impaired, and shall immediately, via telephone, notify their supervisor of such.
- D. Being impaired at any time while operating a government owned vehicle as a result of using alcohol, an illegal drug, illegal use of a legally prescribed drug, or any chemical substance is prohibited behavior.
- E. Operating or performing any safety sensitive function with a BAC of 0.02% or above, or being impaired at any level by any drug. At no time shall a member work displaying the odor of alcoholic beverages on or about his person.
- F. Ingesting any alcoholic substance prior to post-critical incident testing after a Critical Incident or using of any drugs prior to post-critical incident testing after a Critical Incident without medical authorization or under medical treatment.
- G. Storing in a locker, desk, vehicles, or other places on government premises any illegal drug, drug paraphernalia or alcohol which use or possession is unauthorized.
- H. Refusing to provide a blood, urine, saliva or breath sample for testing when required by reasonable suspicion, post critical or for authorized random testing.
- I. Switching or altering any submitted specimen for testing.
- J. Testing positive for drugs or alcohol.
- K. Refusing to complete a laboratory chain of custody form after providing a laboratory specimen for testing.
- L. Failure to report to the employee's immediate supervisor and/or Director, the use of any legal drug which may adversely alter the employee's behavior, physical or mental ability.

VI. EMPLOYEES' REPORTING RESPONSIBILITIES:

A. LEGAL DRUGS:

Prior to ingesting any legal drug, it shall be the sole responsibility of the employee to inquire from the attending physician, pharmacist, or health care provider, if the legal drug may limit or impair their ability to perform the duties of his/her position in any way.

Employees who have knowledge or have been informed, that the use of any legal drug may present a safety risk, shall immediately report such drug use to their immediate supervisor to determine job related consequences.

Should any legal drug adversely alter the senses of or prevent the employee from performing the job duties in a safe and productive manner, it shall be the responsibility of the employee to notify his/her immediate supervisor, advising them

of the limitations the legal drug poses. Supervisors who are aware of such a situation are to instruct the employee to report performance problems to the Major (or in his absence, the highest ranking command staff).

The Director of Community Corrections, or his designee, and the Director of Human Resources, or his designee, shall then determine if the employee can safely and effectively perform the assigned job duties while taking the legal drug. If it is determined that the employee cannot perform the job duties safely and effectively, the employee may be required to take a leave of absence, sick time or assigned other duties to be determined by the Director and the Director of Human Resources or designee.

In cases of an unexpected adverse reaction to any legal drug while at work, the employee, without delay, shall immediately notify his immediate supervisor.

All employees who have an unexpected adverse reaction to any legal drug shall, without delay, safely cease operating vehicles where continued operation while impaired may be inherently dangerous, and shall immediately notify their immediate supervisor.

No supervisor or Director may assign, direct, or order an impaired employee to continue operating a vehicle or equipment, or performing a safety sensitive function.

B. ALCOHOL/DRUG RELATED ARREST OR SUMMONS:

Employees arrested or summoned for violation of any law or ordinance pertaining to the illegal manufacturing, distribution, dispensation, possession or use of alcohol, or legal or illegal drugs shall immediately report such arrest or summons to the Director, who shall in turn report same to the Director of Human Resources or designee.

Employees shall immediately report any arrest or summons for violation of any law relating to the use or possession of alcohol to their Director, who shall report same to the Director of Human Resources or designee.

Such employees shall further be obligated to keep the Director apprised of the court status and final disposition of the case. Failure to report such violation may be considered grounds for dismissal.

VII. REFUSAL TO SUBMIT TO A PROPER REQUEST FOR TESTING:

For the purposes of detecting alcohol and illegal drug use/abuse, drug or breath alcohol test (BAT) shall be requested. All tests shall be done in accordance with current applicable statutory or case laws to protect each employee's constitutional rights. Refusal to submit to a drug or BAT, under these stipulations, shall be immediate grounds for dismissal.

VIII. TESTING SAFEGUARDS, TERMINOLOGY AND GUIDELINES:

Alcohol and Drug Screening shall be conducted under the following circumstances:

A. Drug Tests and Cutoff Levels

RANDOM TESTING FOR ALL CDL PERSONNEL – Random testing for sworn personnel that are CDL holders and who utilize that license for LFUCG shall be tested under both the five (5) panel, as required by DOT (Department of Transportation), and shall also be tested under the nine (9) panel.

The **five panel drug test** shall test for:

<u>Drug</u>	<u>Screening Limit</u>	<u>Confirmation Limit</u>
<i>Amphetamines</i>	1000 NG/ML	
Amphetamine		500 NG/ML
Methamphetamine		500 NG/ML
<i>Cannabinoids</i>	50 NG/ML	
Carboxy – THC		15 NG/ML
<i>Cocaine</i>	300 NG/ML	
Benzoyulecgonine		150 NG/ML
<i>Opiates</i>	2000 NG/ML	
Codeine		2000 NG/ML
Morphine		2000 NG/ML
<i>Phencyclidine</i>	25 NG/ML	25 NG/ML

RANDOM TESTING; REASONABLE SUSPICION TESTING; AND ALL POST-CRITICAL INCIDENT TESTING - shall have a **nine panel drug test** which tests for:

<u>Drug</u>	<u>Screening Limit</u>	<u>Confirmation Limit</u>
Amphetamines	1000 NG/ML	500 NG/ML
Barbiturates	200 NG/ML	200 NG/ML
Benzodiazepines	200 NG/ML	200 NG/ML
Cannabinoids	100 NG/ML	15 NG/ML
Cocaine	300 NG/ML	150 NG/ML
Methadone	300 NG/ML	300 NG/ML
Opiates	300 NG/ML	300 NG/ML
Phencyclidine	25 NG/ML	25 NG/ML
Propoxyphene	300 NG/ML	300 NG/ML

B. Testing Safegaurds

All testing shall conform to Substance Abuse and Mental Health Service Administration (SAMHSA) drug testing protocol.

C. Reasonable Suspicion Testing (RST)

Employees shall be tested for drugs or alcohol when reasonable suspicion exists to determine if the employee is under the influence of drugs or alcohol. The basis for the decision shall be documented, in writing, by supervisory personnel or by medical personnel. A determination shall be based upon observation and documentation of one or more of the following:

1. Detection of an alcoholic substance emitting from the employee's breath.
2. Observation(s) of the employee's speech being unusually slurred or noticeably different without a proper medical reason being given.
3. Observation(s) of the employee's actions or conduct as being noticeably different or impaired and not consistent with normal conduct and without proper explanation.
4. Observation(s) that the employee's appearance, in conjunction with the above, indicates that the employee is impaired.
5. A pattern of abnormal conduct or erratic behavior.
6. Observable phenomenon, such as direct observation of drug or alcohol use or possession and/or physical symptoms of being under the influence of a drug and/or alcohol.

At the request of the Director or the Director of Human Resources or designee, the observed employee may be required to submit to an independent blood/breath/urine test to determine if the employee is impaired. The requested testing is to be done by a designated medical facility within two (2) hours—but no later than eight (8) hours—after observation.

D. Post-Critical Incident Testing (PCI)

1. Any employee, who is involved in any of the following, shall immediately notify their supervisor to confirm if the employee shall be tested.
 - a. an accident while operating a Division assigned vehicle, with property damages of \$5,000.00 or more;
 - b. a work related accident or incident resulting in any fatality;
 - c. a work related incident or accident involving any injury requiring emergency treatment;
 - d. a work related incident involving property damage of \$5,000.00 or more; or,
 - e. a work related incident or accident with a combination of vehicle and property damages of \$5,000.00 or more.

2. Such testing shall be conducted by a designated medical facility within two (2) to eight (8) hours of the incident.
3. Nothing in this section contravenes the right of LFUCG to require testing after a critical incident, injury or accident, based on reasonable suspicion as provided in Section C above, regardless of the nature of the incident or injury, or the amount of damage.

E. Random Testing (RAN)

Random Testing means that drug tests are unannounced and that through a random selection process all employees have an equal chance of being selected. The following are pools for random selection:

1. An employee selected for random testing through the use of the random selection procedures specified within this article shall be subjected to testing of his blood, breath or urine, for the presence of alcohol and/or drugs within his system.
2. During ANY random testing, if a medical staff member of an approved medical facility detects an employee to be under the influence of alcohol or drugs, the employee may be required to submit to additional blood or breath testing prior to submission of the urine specimen, for the purpose of establishing their BAC.
3. Employees who have reported to any approved medical facility for testing under this policy and are obviously impaired and have a confirmed BAC test result of 0.02% or above, shall be immediately reported by the medical facility to the Director of Human Resources (or designee) and the MRO.

Confirmed positive test results and the corresponding documentation shall be forwarded by the medical facility to the MRO for review and investigation.

IX. CONFIDENTIALITY:

For the purposes of implementing the provisions of this Article, each employee who undergoes drug testing shall execute a medical release in order for the employer to obtain the results of the drug screening testing. Except as otherwise provided by state or federal law with regard to communicable diseases, or without further authorization of the employee, the releases referred to in this Article shall authorize only the release of the examination results to the drug screening test results. No other medical finding may be released without the express written permission of the employee. Information including test results obtained on individuals as part of this drug and alcohol abuse policy shall be treated confidentially and shall be disclosed only after express written consent is submitted and approved by the LFUCG to those having a legitimate need to know. No tests for medical conditions shall be run on samples provided for drug screening. Any medical condition inadvertently identified by drug screening shall remain confidential and shall not be reported to the LFUCG

X. RANDOM SELECTION PROCEDURES:

- A. The Division of Human Resources, or its designee, shall initiate, maintain, and update computer files containing the following information:
1. Employee numbers
 2. Employee names
 3. Employee SSN's
 4. Employee's Division
- B. The Division of Human Resources, or its designee, utilizing random selection procedures, shall generate lists of random names from the select pools. A Letter of Notification, addressed from the Director of Human Resources, or his designee, shall be forwarded to the appropriate employee. The Director shall receive a separate memorandum identifying the name of the employee who has been selected.
- C. An employee must take a photo identification and the Letter of Notification to the nearest testing facility within two (2) hours of being notified of their random selection.
- D. Employees who are on vacation, off-duty, or on sick or disability leave, shall not be called in from that status. Within twenty-four (24) hours of the employee's return to duty, the Division of Human Resources, or its designee, shall resubmit the Letter of Notification to the employee. The employee shall be instructed to report with a valid official photo identification and the Letter of Notification to the designated testing facility within two (2) hours.

XI. TESTING FACILITIES:

The Division of Human Resources shall provide a list of testing facilities to the Lodge and shall also notify of any changes in testing locations or procedures as soon as reasonably possible.

XII. DISCIPLINARY ACTION:

Any employee who violates any provision of this Article shall be recommended for disciplinary action in the following manner:

- A. Drugs
- Use of, possession of, or a positive drug screen and confirmation of the presence of an illegal drug, shall result in recommendation for dismissal.

B. Alcohol

1. **Under The Influence:** With a BAC of 0.04% or above:

1st Offense: Any employee reporting to work and/or operating or in actual physical control of a government owned/leased vehicle or equipment shall be recommended for dismissal.

2. **Impairment:** With a BAC of 0.02% but less than 0.04%:

- a. 1st Offense: Suspension without pay from LFUCG duties for 160 hours.

Mandatory evaluation by the EAP for alcohol dependency.

Satisfactory completion of a program for alcohol abuse counseling and rehabilitation and/or other professional treatment which has been recommended and approved by the EAP Coordinator.

- b. 2nd Offense: Shall be recommendations for dismissal by the LFUCG

XIII. SEARCHES:

LFUCG reserves the right to conduct searches of LFUCG owned property including, but not limited to, lockers, desks and government owned/leased vehicles. Employees shall be expected to cooperate in conducting the searches.

Searches of employees and employees' personal property located on government property, including automobiles, shall only be conducted upon probable cause that the employee is under the influence of illegal drugs or alcohol, or that illegal drugs or alcohol is being kept on personal property, which is located on government property.

ARTICLE 32

RESPONSIBLE RELATIONSHIP

The LFUCG and the Lodge recognize that it is in the best interest of both parties, the employees, and the public that all dealings between them be characterized by mutual responsibility and respect. To ensure that this relationship continues and improves, the LFUCG and the Lodge and their respective representatives at all levels shall apply the terms of this contract in accordance with the language contained therein and consistent with the Lodge's status as exclusive bargaining representative of all employees in the unit. The grievance and

arbitration provision shall be the sole remedy for all grievances which are qualified subject matter for arbitration.

ARTICLE 33

FEDERAL OR STATE LAWS

If any provision of this Agreement, or any amendments thereto, or application of the provisions of said Agreement and amendments to any employee, groups of employees, or circumstances are rendered invalid or inappropriate by any Federal or State Law, or by the final determination of any Court, Board, or Authority of competent jurisdiction, or should the National Labor Relations Board, as a result of any proceedings, hold any employee included within the bargaining unit not properly included within such unit, the remainder of said Agreement or amendments or the application of such provisions to an employee, groups of employees and circumstances other than those as to which it is held invalid or inappropriate, shall not be affected thereby.

ARTICLE 34

GENDER

Any and all reference in this Agreement to the masculine gender shall be deemed to refer to either female and/or masculine gender as the case may be.

ARTICLE 35

SECONDARY EMPLOYMENT

LFUCG shall continue to allow secondary employment based on applicable law, judicial precedent and policies and guidelines of the Division consistent therewith.

ARTICLE 36

MISCELLANEOUS WORKING CONDITIONS

Section 1. There shall be no restriction on the reasonable use of a cell phone while on break or the reasonable use of government email for personal communication.

Section 2. Any member required by his job duties to obtain and maintain a CDL shall be provided with sufficient time to prepare for and take all required examinations with no loss in compensation. LFUCG shall pay all fees related to the application or renewal of the license. Members required to maintain a CDL shall receive CDL compensation equal to that provided to other LFUCG employees.

Section 3. It is agreed that LFUCG shall meet with the Lodge at reasonable times upon request to discuss issues regarding working conditions.

ARTICLE 37

TERM

Section 1. This Agreement shall be for four (4) years from Feb. 21, 2012 except as otherwise agreed in this Agreement.

Section 2. This Agreement shall automatically be renewed from year to year thereafter unless either party shall notify the other in writing at least one hundred and twenty (120) days prior to the expiration date of this Agreement that it desires to terminate, amend, or modify this Agreement. In the event that such notice is given, negotiations shall begin not later than ninety (90) days prior to the expiration date.

Section 3. This Agreement shall continue in full force and effect upon expiration pending ratification of a successor collective bargaining agreement or impasse of the parties after good faith negotiations.

AFFIRMATION

Pursuant to Kentucky Revised Statutes, the Lexington-Fayette Urban County Government and the Fraternal Order of Police Lodge #83, do sign and acknowledge that through the collective bargaining process this Collective Bargaining Agreement has been mutually agreed upon.

IN WITNESS WHEREOF, the parties have affixed their signatures this 21st day of FEBRUARY, 2012.

FRATERNAL ORDER OF POLICE,
LODGE #83

BY: 

KEVIN JOHNSON, PRESIDENT

BY: 

VICTORIA WHITE, CHIEF
NEGOTIATOR

LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

BY: 

JIM GRAY, MAYOR

BY: 

LESLIE JARVIS, CO-CHIEF NEGOTIATOR

BY: 

EDWARD GARDNER, CO-CHIEF
NEGOTIATOR