

**AGREEMENT FOR PROFESSIONAL SERVICES**

This **AGREEMENT** made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2024 by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky, created pursuant to KRS Chapter 67A (hereinafter the “LFUCG”) and **FROST BROWN TODD LLC**, Frost Brown Todd, 250 West Main Street, Suite 2800, Lexington, KY 40507-1749 (hereinafter “Firm”).

**WITNESSETH:**

**WHEREAS**, LFUCG will begin the first phase of renegotiation of its collective bargaining agreements for (a) Firefighters Lieutenants and Captains; (b) Fire Majors; (c) Police Officers and Sergeants; and (d) Police Lieutenants and Captains.

**WHEREAS**, the Firm and Joseph Scholler have extensive knowledge and experience in the area of collective bargaining negotiation, including negotiation and analysis for LFUCG and are well qualified to perform such services; and

**WHEREAS**, LFUCG wishes to retain the negotiating services of Joseph Scholler, to serve as negotiator for contract discussions and negotiations in regard to collective bargaining for LFUCG; and

**WHEREAS**, the current collective bargaining agreement for Firefighters Lieutenants and Captains expires on June 30, 2025; and

**WHEREAS**, the current collective bargaining agreement for Fire Majors expires on June 30, 2026; and

**WHEREAS**, the current collective bargaining agreement for Police Officers and Sergeants expires on June 30, 2026; and

**WHEREAS**, the current collective bargaining agreement for Police Lieutenants and Captains expires on June 30, 2026; and

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

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

**I. EMPLOYMENT OF THE FIRM**

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

**II. SCOPE OF SERVICES**

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

**2.1. Scope of Services.** The Firm, through the services of Alexander Ewing, Joseph Scholler, Jennifer Bame and other attorneys as required and approved by LFUCG and the Firm, under the direction and at the request of the Mayor of the Lexington-Fayette Urban County Government (the “Mayor”) and such of her assistants as she may designate, agree to render professional services regarding the collective bargaining process involving LFUCG and its bargaining units to be undertaken pursuant to Kentucky Revised Statutes Chapter 67A.

The Services to be rendered shall be at the direction of the Mayor and/or her designated assistants and shall include the following:

- a. Consult with the Mayor, the Chief of Staff, the Commissioner of Law, the Commissioner of Public Safety and such other of the Mayor’s assistants as she may designate, regarding preparation for, and the conduct of,

negotiations for wages, relevant employee benefits including healthcare benefits, and other terms and conditions of employment;

- b. Develop negotiation positions and proposals including LFUCG goals and objectives;
- c. Analyze union proposals and develop appropriate LFUCG responses;
- d. Act as leader of the LFUCG negotiating team, under the direction of the Mayor and/or her designated assistants at a reasonable number of negotiation sessions;
- e. Develop negotiating plans and strategies including recommendations of the most appropriate course of action to accomplish LFUCG goals;
- f. Provide updates to the Urban County Council upon request of the Mayor;
- g. Assist LFUCG in any subsequent court actions which may result from the negotiations, or other administrative process including impasse proceedings, subject to the supervision of the Commissioner of Law. It is understood that such services will be billed outside “Section 3.1 – Payments” at a rate to be negotiated by the Parties;
- h. Perform any other task which is reasonably necessary to the completion of the negotiation process and the finalization of new labor agreements with the aforementioned bargaining units.

It is understood that LFUCG will collect all necessary comparable jurisdiction wage and benefits data.

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

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

**A. Total Payment.** In consideration of the Firm's performance of the variety of services described herein, the total amount of this agreement shall be Sixty Thousand Dollars (\$60,000.00) for each of the following contracts (a) Firefighters Lieutenants and Captains; (b) Fire Majors; (c) Police Officers and Sergeants; and (d) Police Lieutenants and Captains, excluding travel, out of pocket expenses, and any additional services authorized by LFUCG according to this Agreement. Payment for services will begin \_\_\_\_\_. In the event circumstances arise that changes the scope of the work or increases the expected amount of work, the Commissioner of Law has discretion to negotiate a fair supplemental payment.

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

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

**D. Legal Work by LFUCG Department of Law.** Should legal opinions be required during negotiations, any legal opinions shall be provided by the Commissioner of Law or designated LFUCG legal staff, unless otherwise requested by LFUCG. Frost Brown Todd LLC shall consult with the Commissioner of Law regarding the substance of such legal opinions if requested.

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

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

**G.** With the exception of the above, the parties agree to Frost Brown Todd LLC's Additional Terms and Conditions of Client Engagements (copy attached as Exhibit "A") regarding expense and related issues.

#### **IV. MISCELLANEOUS**

**4.1. Non-discrimination.** The Firm agrees that it will not discriminate against any of its employees or applicants for employment because of their race, color, age, religion, sex, or national origin and agrees to abide by all federal and state laws regarding non-discrimination. Any violation of such provisions shall constitute a material breach of this Agreement.

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

**4.3. Ownership of Documents.** All documents which are obtained or prepared in the performance of this Agreement and/or pertaining to any of the matters with respect to which the Firm is providing services for LFUCG, are to be and will remain the property of LFUCG. Upon request after the termination or expiration of this Agreement, the Firm shall surrender to LFUCG all reports, memoranda, correspondence, files, forms, contracts, documents, estimates, field notes, investigations, studies and other data and other materials (including all copies thereof).

This paragraph shall survive the expiration or termination of this Agreement. The Firm may temporarily retain the reproducible materials described above and prepare copies of any of these documents provided the copies are produced at the Firm's own expense, and a copy of the final contracts negotiated pursuant to this Agreement will be provided to the Firm at LFUCG's expense.

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

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

## **V. CURTAILMENT AND TERMINATION**

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

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

**B.** Either party to this Agreement may terminate this Agreement without cause upon thirty (30) days written notice. During the thirty-day notice period, the Firm shall faithfully carry out its duties under this Agreement to facilitate the bargaining of the contracts referenced

herein. Subject to the provisions of all paragraphs and subparagraphs of Section 3.1, the Firm shall receive compensation in full for services performed to the date of such termination or curtailment. LFUCG shall make this final payment within thirty (30) days after the Firm has delivered the last of any partially completed documents, together with any records that may be required to determine the amount due.

**5.2. Term of Agreement.** This Agreement shall be effective upon execution by the Mayor, and shall remain in force for twelve months, or upon completion of the negotiation process and execution of new labor agreements, whichever period is longer.

**5.3. Acknowledgements.**

A. This Agreement contains all the understandings between the parties. It is represented and understood by the parties that the “Whereas” clauses preceding the Terms and Conditions part herein, are an integral part of this Agreement. This Agreement may not be varied, altered, or modified in any way by any party, except by written instrument signed by both appearing parties.

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

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

D. The parties agree that all discussions, reports, memoranda, correspondence, files, forms, contracts, documents, estimates, field notes, investigations, studies and other data shall remain confidential to the fullest extent permitted by law and the Firm further specifically agrees

to make no public comments about the services being rendered pursuant to this Agreement except as directed by the Mayor or his designated assistants.

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

F. It is agreed that the Firm reserves the right to continue to represent or to undertake to represent existing or new clients in any matter that is not substantially related to the Firm's work for LFUCG even if the interests of such clients in those other matters are directly adverse to LFUCG, including litigation in which LFUCG or its officers or related entities are parties. The Firm agrees, however, that the prospective consent to conflicting representation reflected in the preceding sentence shall not apply in any instance where as the result of the Firm's representation of LFUCG, the Firm has obtained sensitive, proprietary or otherwise confidential information that, if known to any such other client of the Firm, could be used in any such other



matter by such client to the material disadvantage of LFUCG and/or any of its individual officers or the entities represented by those officers or agents.

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

FROST BROWN TODD LLC  
By: Joseph Scholler  
JOSEPH SCHOLLER

LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT  
By: \_\_\_\_\_  
LINDA GORTON, MAYOR

WITNESS:

\_\_\_\_\_  
ABIGAIL ALLAN, COUNCIL CLERK

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

## EXHIBIT A

### FROST BROWN TODD LLP

#### ADDITIONAL TERMS AND CONDITIONS OF CLIENT ENGAGEMENTS

1. Expenses. Expenses we incur on the engagement are charged to the Client's account. Expenses include such items as court costs, hard copy document reproductions, travel expenses, messenger service charges, overnight mail or delivery charges, extraordinary administrative support, filing fees, fees of court reporters and charges for depositions, fees for expert witnesses, and other expenses we incur on your behalf. Our charges for these services reflect our actual out-of-pocket costs based on usage, and in some areas may also include our related administrative expenses.

2. Monthly Statements. Unless a different billing period is agreed upon with the Client, the Firm will render monthly statements indicating the current status of the account as to both fees and expenses. The statements shall be payable upon receipt. If statements are not paid in full within 30 days, we reserve the right to add a late charge of 1% per month of the amount due. If it becomes necessary for the Firm to file suit or to engage a collection agency for the collection of fees or expenses, the Client shall pay all related costs and expenses, including reasonable attorneys' fees.

3. Retainers. Any retainer payment will normally be less than the Firm's ultimate fees and expenses, which must be kept current irrespective of your retainer payment(s). Such a payment or series of payments is not intended as a limitation upon the Firm's fees and expenses. Retainer payments will be deposited into a client trust account (which you agree may be maintained outside the state of the engagement letter signatory's office), and we may draw against it to satisfy any of your invoices that are more than 60 days past due. We may require that the retainer be replenished as a condition of continuing work on your behalf. In addition, we may request additional retainer payments if you request additional services and we agree to provide them, or if we determine that the cost of the required services and expenses to be incurred on the engagement may exceed any retainer balance. Additional retainer payments must be made within 15 days of the dates we request them. We reserve the right to discontinue our representation until you make such requested payments. The Firm may apply the advance payment toward any unpaid fees and expenses, in which event the Client shall make an additional deposit to restore the advance payment to its original level. Additional advance payments must be made within fifteen days of the date the request is made. Any unexpended balance of advance payments will be refunded to the Client, without interest, at the end of this engagement.

4. Litigation Matters. If this engagement involves litigation, the Client may be required to pay the opposing party's court costs. Such costs include filing fees, witness fees, and fees for depositions and documents used at trial. We will not settle litigated matters without the Client's express consent. We require the Client's active participation in all phases of the case.

5. Waiver of Future Conflicts. In deciding whether to consent to future conflicts as described in the engagement letter, the Client should consider how you might be affected by our

Firm being adverse to you in another matter, or by our representing you in a matter in which the adverse party is also a client of the Firm (albeit in other matters). Because we would not be adverse to the Client on the same matter on which we represented the Client (or one substantially related to such matter), we do not believe that there is any material risk that our commitment and dedication to the Client's interests will be adversely affected. Furthermore, your waiver of future conflicts does not waive your right to have our Firm maintain the confidentiality of client information obtained by us in representing you. If our representation of another client in a matter is directly adverse to you, our lawyers who have had significant involvement in our work for you will not work on the matter for such other client. We will take appropriate measures to ensure that your proprietary or other confidential information will not be made available to lawyers or others in our Firm involved in such matter. On the other hand, in our representation of other clients pursuant to this waiver of future conflicts, we may obtain confidential information of interest to you that we cannot share with you.

6. Generative AI. Unless you expressly instruct us otherwise, we may use on your matters applications that incorporate generative artificial intelligence that meet the Firm's security protocols, are not open-source applications, and are otherwise approved by the Firm. We may also train such applications using our information-management systems, which may include work product we created for you. We will comply with applicable ethics and court rules in any use of generative artificial intelligence.

7. Insurance coverage. Unless we have been explicitly retained to address insurance coverage issues (as documented in this engagement letter), we have no responsibility or obligation to (a) identify any potentially applicable insurance coverage, (b) provide notice to any carrier, or (c) advise the Client on issues relating to insurance coverage at any point during our representation.

8. Corporate Transparency Act. Unless we have been explicitly retained to advise on compliance with the federal Corporate Transparency Act or any similar state statute (collectively "CTA"), we have no responsibility to advise the Client on compliance with the CTA or applicability of CTA exemptions. When our work on behalf of the Client involves creating a new legal entity, we will provide to the Client any Firm-specific information required for a CTA filing. We will not be responsible for making any initial or updated filing required under the CTA, which shall remain the responsibility of the Client.

9. Termination. The Client has the right to terminate our representation at any time by notifying us of your intention to do so in writing. We will have the same right, subject to an obligation to give the Client reasonable notice to arrange alternative representation. If either party should elect to terminate our relationship, our fees and expenses incurred up to that point still will be due to us.

10. Withdrawal. Under the rules of professional conduct by which we are governed, we may withdraw from our representation of the Client in the event of, among other reasons, (a) nonpayment of our fees and expenses; (b) misrepresentation or failure to disclose material facts concerning the engagement; (c) action taken by the Client contrary to our advice; and (d) in situations involving a conflict of interest with another client. If such a situation occurs, which we do not expect, we will promptly give the Client written notice of our intention to withdraw.

11. Post-Engagement Services. The Client is engaging our Firm to provide legal services in connection with a specific matter. After completion of that matter, changes may occur in the applicable laws or regulations that could have an impact on the Client's future rights and obligations. Unless the Client engages us after completion of the matter to provide additional advice on issues arising from the matter, the Firm has no continuing obligation to advise the Client with respect to future legal developments.

12. Retention and Disposition of Documents. At the Client's request, its documents and property will be returned to the Client upon conclusion of our representation in the matter described above, although the Firm reserves the right to retain copies of any such documents as it deems appropriate. Our own files pertaining to the matter will be retained by the Firm. These firm files include, for example, administrative records, time and expense reports, personnel and staffing materials, and credit and accounting records. All documents and property, including those belonging to the Client, that are retained by the Firm will be transferred to the person responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, and consistent with professional conduct rules, we reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us *within a reasonable time after the termination of the engagement* without further notice to the Client.

13. Audit letters. We will comply strictly with, and not go beyond, the terms of the ABA Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information (December 1975) in any response that you request we make to your auditors regarding "loss contingencies" affecting you.

14. Consultation with Firm Counsel. From time to time, issues arise that raise questions as to our duties under the professional conduct rules that apply to lawyers. These might include conflict of interest issues and could even include issues raised because of a dispute between us and a client over the handling of a matter. The Firm has in-house counsel who advise the Firm's lawyers in such matters. We believe that it is in our clients' interest, as well as the Firm's interest, that in the event issues arise about our duties and obligations as lawyers, we receive candid and confidential advice from counsel versed in these subjects. Accordingly, the Client agrees that if we determine in our own discretion during the course of the representation that it is either necessary or appropriate to consult with our Firm's counsel (either the Firm's internal counsel or, if we choose, outside counsel), we have the Client's consent to do so and that our representation of the Client shall not waive any attorney-client privilege that the Firm may have to protect the confidentiality of our communications with our internal or outside counsel.

15. Retirement Plan Advice. If the Client engages the Firm to provide legal services with respect to a retirement plan that is subject to the Employee Retirement Income Security Act, the Client should be aware that certain "covered service providers" must disclose some very specific information to the Client as a responsible fiduciary before the Client engages those services. While the Firm would not usually be serving as a "covered service provider," there are some situations in which it might be. A description of the disclosures required in those situations can be located at [final-regulation-service-provider-disclosures-under-408b2.pdf \(dol.gov\)](#).

16. Authorization. By the Client's agreement to these terms of our representation, the Client authorizes us to take any action we deem advisable on the Client's behalf on this matter. We will, whenever possible, discuss with the Client in advance any significant actions we intend to take.

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