

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "MOU"), made and entered into on this the 23rd day of March, 2023, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A (the "Government" or "LFUCG"), and the **AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFSCME LOCAL 4468** (the "Organization" or "Unit").

WITNESSETH

WHEREAS, the Council of the Lexington-Fayette Urban County Government has adopted Resolution No. 181-74 and Ordinance No. 4-75, which are attached hereto and incorporated herein by reference (the "Legislation"), which provide a process and procedure for the recognition of legitimate employee organizations by LFUCG in a non-bargaining unit context; and

WHEREAS, the Organization has been certified and recognized by LFUCG pursuant to the Legislation; and

WHEREAS, the Legislation contemplates the entering into of MOUs between LFUCG and the Organization pertaining to employees represented by a recognized organization and their working conditions; and

WHEREAS, LFUCG's Divisions of Waste Management and Human Resources have met with the Organization for a significant period and number of times and have entered into a set of proposed articles for consideration by the Urban County Council; and


WHEREAS, the proposed articles are incorporated into this MOU and the parties have tentatively agreed to the proposed articles, subject to approval and adoption of the MOU and the proposed articles by a majority of the members of the Organization.

NOW, THEREFORE, that for and in consideration of the mutual promises and covenants herein expressed, LFUCG and the Organization agree as follows:

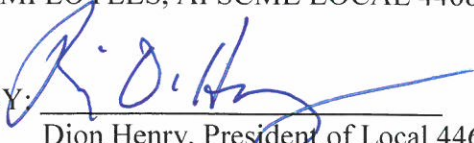
1. Term of Agreement - 4 years from time of signing.
2. This MOU and the proposed articles attached hereto and incorporated herein by reference are subject to the approval and adoption by a majority of the members of the Organization. In the event that a majority of the members of the Organization fails to approve and adopt the proposed articles attached hereto and incorporated herein by reference, this MOU and the proposed articles shall have no legal force or effect.

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

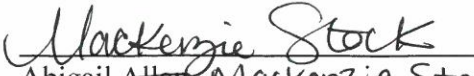
LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

BY: 
Linda Gorton, Mayor

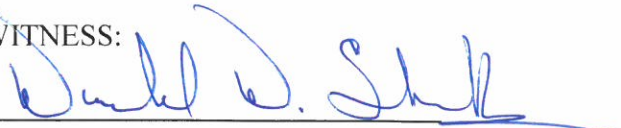
AMERICAN FEDERATION OF
STATE, COUNTY, AND MUNICIPAL
EMPLOYEES, AFSCME LOCAL 4468

BY: 
Dion Henry, President of Local 4468

ATTEST:


~~Abigail Allan Mackenzie Stock~~
Deputy Clerk of the Urban County Council

WITNESS:



Meet and Confer Memorandum of Understanding
Division of Waste Management

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PREAMBLE

THIS MEMORANDUM OF UNDERSTANDING, entered into by and between Lexington-Fayette Urban County Government (hereinafter "LFUCG"), and American Federation of State, County and Municipal Employees (hereinafter the "Union"), by which said parties hereby agree upon the terms and conditions as hereinafter set out, concerning benefits and working conditions of certain employees of the Division of Waste Management. Matters of inherent managerial policy, as defined by LFUCG Ordinance 4-75 and which is cited in Article 3 of this Memorandum of Understanding shall not be the subject of this memorandum of understanding.

**ARTICLE 1
RECOGNITION**

Section 1. Pursuant to LFUCG Ordinance 4-75, LFUCG recognizes the Union as the exclusive representative for non-managerial employees of LFUCG Division of Waste Management.

Section 2. The Union recognizes the Mayor's representative and designee as the sole representative of LFUCG for the purposes of negotiating this Memorandum of Understanding.

Section 3. As used in this Memorandum of Understanding, unless specified otherwise, the term "member(s)" refers to non-managerial employees of the LFUCG Division of Waste Management.

**ARTICLE 2
SUBORDINATION**

This Memorandum of Understanding 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 Memorandum of Understanding or which may be hereafter enacted. This Memorandum of Understanding will also be subordinate to any/all matters addressed through the LFUCG Code of Ordinances.

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 Memorandum of Understanding. 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 Waste Management, 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 Memorandum of Understanding.
- 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 Waste Management in an emergency.
- E. Assignment of personnel consistent with the provisions of this Memorandum of Understanding.
- F. Determination of necessary qualifications, standards, and procedures, for hire and promotion, consistent with this Memorandum of Understanding.
- G. Establishment of standards of performance and service, and taking disciplinary action subject to this Memorandum of Understanding.
- H. Elimination of positions, and any consequent reductions in force or layoffs. LFUCG will notify the Local Union President of known reductions in force as soon as practical after the decision to reduce the force has been made.
- I. All rights as identified in LFUCG Ordinance 4-75.

Section 2. This Memorandum of Understanding is not intended to restrict consultation with the Union regarding matters within the right of LFUCG to determine.

**ARTICLE 4
NON-DISCRIMINATION**

Neither LFUCG nor the Union shall discriminate against any member because he or she is or is not a member of the Union, 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, creed, religion, marital status, ages, national origin, disability, political affiliation, or sexual orientation.

**ARTICLE 5
STRIKES, WORK STOPPAGES, AND SLOWDOWNS**

Section 1. The Union recognizes that it is unlawful to engage in strikes and work stoppages. The Union further agrees that it shall not engage in, condone, or encourage work slowdowns, unauthorized accelerated enforcement, and other concerted efforts to alter work production. In addition, the Union agrees that any of the foregoing actions by members may constitute cause for their termination, and that the Union shall not encourage such activity and shall take prompt and reasonable steps to discourage same.

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

**ARTICLE 6
UNION SECURITY**

Section 1. The Union and LFUCG agree to comply with the requirements of Kentucky law related to Union membership and the deduction of union dues.

Section 2. LFUCG will continue to provide one deduction for the benefit of union dues check-off (union dues) for members consistent with Kentucky law.

Section 3. LFUCG will provide the Union, upon request, the name, job classification, work location, and date of hire of all non-managerial employees of the LFUCG Division of Waste Management.

ARTICLE 7
UNION BUSINESS

Section 1. For purposes of negotiating the next Memorandum of Understanding, the Union may select not more than two (2) member and one (1) alternate along with the Union President to represent the Union during working hours without loss in compensation, along with a representative from the staff of Council 62 and in a manner consistent with the ground rules established for such representation in the 2013 meet and confer sessions.

Section 2. LFUCG Division of Waste Management and AFSCME may meet up to once every four (4) months, not to exceed three (3) times a year, upon agreement of the parties to discuss issues of interest to both. The party requesting said meeting must present a meeting agenda in writing to the other party no later than seven (7) days in advance of the meeting. The meetings shall last no longer than one (1) hour unless otherwise mutually agreed. Attending these meetings for the Union may be two members, including the local President or designee, and one other member chosen by the Local, and one representative from Council 62 staff. Attending these meetings for LFUCG will be the Director of Waste Management and the Director of Human Resources, or their respective designees. By prior mutual agreement, the parties may agree to bring in additional individuals who may be pertinent to the conversation, but no more than two Waste Management employees who are members of local 4468 shall be on paid time during these meetings.

Section 3. Upon request, one (1) paid Union representative and the grievant may attend grievance meetings with management held within the Division of Waste Management. For purposes of grievance meetings as described herein, in addition to the Union representative, one (1) additional member 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 the number of Union representatives, including the named grievant, shall exceed three (3) persons. In the event the Union wishes to initiate a grievance meeting, then they shall give management at least two (2) business days advance notice. Such meetings shall be scheduled at a mutually agreeable day and time. Members may also request representation at disciplinary meetings, as outlined in Article 15 of this Memorandum of Understanding.

Section 4. LFUCG agrees to provide the Union designated space or a bulletin board upon which the Union may post notice of meetings, announcements, or Union information. The Union further agrees that it shall not post any material which would be derogatory to any individual, LFUCG, Lexington Division of Waste Management, 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 Union. All notices of the Union shall consist of items in good grammar and taste. LFUCG shall determine the size of the bulletin board. The locations of the bulletin board shall be mutually agreed upon. In addition the Union shall be permitted to send LFUCG email for the exact same purposes and under the exact same restrictions it uses bulletin boards. All material must be approved by the Director of Waste Management or his/her designee before posting. Such approval decision must be made within one (1) business day.

Section 5. The parties agree that they will each pay one-half (1/2) of the cost of the printing of this Memorandum of Understanding.

Section 6. The Union may submit a single informational flier to Human Resources for inclusion in the New Employee Orientation packet for non-managerial employees of the LFUCG Division of Waste Management. The size of the flier shall not exceed 8.5" x 11". It shall comply with Article 7, Section 4 content requirements and restrictions, the non-discrimination requirements of Title VI of the Civil Rights Act of 1964, and related non-discrimination authorities. No materials may be included in the New Employee Orientation packet unless first approved by Human Resources. The Union may use the designated space or bulletin board provided for in Section 4 with the same approval.

ARTICLE 9 LAY-OFF AND RECALL

Section 1. When it becomes necessary to reduce the number of Waste Management employees that will affect Members covered by this Memorandum of Understanding, AFSCME shall be notified as soon as practical.

Section 2.

(a) The urban county council shall in the exercise of reasonable discretion have the authority to abolish any classified civil service position when economic necessity requires it or there is no longer a need for a particular position to exist. Any employee occupying said position may be laid off or suspended until and if such position is recreated or reestablished. The abolition of any position shall not be a subterfuge to effect another purpose but shall be actual and bona fide, and shall not amount to the mere alteration, modification or abolition of title only.

(b) When employees in a designated class within an executive unit are to be laid off, such employees shall be determined in the following order of succession:

(1) Part-time employees;

(2) Temporary employees who are filling classified positions;

(3) Probationary employees;

(4) Permanent employees.

(c) Any reduction in the number of employees of any executive unit shall to the extent that it requires the layoff of any permanent employees be made in the reverse order of their seniority, computed the same as under Article 8 for original appointments. In case of equal service, regular employees in the class involved shall be laid off in order of the lowest average performance rating for the last two (2) years of service.

(d) Should any employee contend that he has been aggrieved by the abolition or proposed abolition of his position, he may at any time within ninety (90) days file a petition in the Fayette Circuit Court, stating his reason why it should not be abolished; and upon issue joined thereon, by the urban county government, the burden shall be on the latter to establish the necessity for and the good faith of the urban county government in abolishing said office or position.

Section 3.

(a) If any abolished position is recreated or reestablished within one (1) year, then any former classified civil service employee who was deprived of his position shall be restored to the position he formerly held or occupied in the order of his seniority as provided in Article 8, if he shall elect to do so.

(b) The director shall simultaneously advise any such employee at his last- known address and advertise pursuant to KRS chapter 424 that the position has been recreated or reestablished.

(c) All classified civil service employees who are recalled must report within thirty (30) calendar days from the date of recall. Employees who fail to report within the prescribed time limits will be considered to have declined reemployment.

(d) Probationary employees who are recalled must complete their remaining time in probationary status before they can be permanently appointed. Time spent in layoff status will not be counted toward the required probationary period.

(e) Prior service time shall be counted for purposes of determining a recalled employee's seniority as well as entitlement to vacation leave, sick leave and, for employees hired before June 24, 1996, longevity pay.

Section 4. AFSCME will be furnished copies of all official layoff and recall notices to the affected Member(s) or a list of such layoffs and recalls as appropriate.

ARTICLE 10 JOB VACANCIES AND PROMOTIONS

Section 1. When LFUCG determines that a vacant position is to be filled or a job is created in a position covered by this Memorandum of Understanding, the notice of the position to be filled shall be posted for five (5) working days in conspicuous locations appropriate for such notice in Waste Management facilities and a copy given to the Union. Members interested in the posted vacancy shall fill out an online LFUCG application. The decision to assign employees to a hiring panel is solely left to management and in accordance with established administrative policies. Any employee may be asked to voluntarily serve on a panel, and if approved to serve, may do so without loss of pay. The Unit may provide the names of one or more members to management for consideration for an appropriate hiring panel, but nothing herein shall limit the discretion of management in selecting a hiring panel in accordance with established administrative policies.

Section 2. Upon written request, the Division of Human Resources will provide the Union with the names of the applicants in the bargaining unit applying for the position and the name of the person awarded the position.

Section 3. The Member who is awarded the position/vacancy shall receive the new rate of pay and classification if applicable no later than the beginning of the next pay period following ratification by the Urban County Council.

Section 4. Specialized training will be provided on a regular basis to provide members the opportunity of a new assignment where a vacancy exists.

Section 5. Any employee whose position has changed in accordance with established administrative policies may request to complete a Job Profile Questionnaire (JPQ) for purposes of analyzing his or her job duty changes. A Member may express to the Director of Waste Management their desire to assist in the division's review of their own job description and, if approved, may do so without loss of pay.

ARTICLE 11

MEMORANDUM OF UNDERSTANDING GRIEVANCE PROCEDURE

Section 1. The phrase "MOU grievance" as used in this Article does not mean "grievance" as defined in LFUCG Code of Ordinances Section 22-32 and Section 21-49. Instead, an MOU grievance as used in this Article solely refers to a difference or dispute between a member and LFUCG regarding the meaning, interpretation or application of the express terms of this Memorandum of Understanding. Matters of recruitment, examination, classification, probation compensation programs affecting the classified civil service, matters addressed in LFUCG Code of Ordinances Section 21-49 and Section 22-32, and discipline shall not be the subject of the MOU grievance procedure outlined herein. All MOU grievances shall be set forth in writing. Any MOU grievance as defined above shall be adjusted in the manner set out below. Only the Unit may file an MOU grievance as the representative of any member(s) of the meet and confer unit (hereinafter referred to as the "Unit").

Section 2. The Unit President or his designee from the current list of stewards and the grievant shall represent the Unit in the Steps below. All time limits specified herein shall be calendar days unless specified otherwise. The following rules for the presentation and solution of MOU grievances are prescribed:

Step 1 & 2 – Manager: The MOU grievance shall, within ten (10) days of the grieved event, be submitted in writing to the Manager or the designated supervisor, who shall meet and discuss the MOU grievance with the Unit Representative within seven (7) days after the date of submission of the form. The Manager or designated supervisor shall give a written decision to the Unit Representative within (10) days following the meeting.

Step 3 – Director Waste Management and/or Commissioner of Environmental Quality & Public Works: If the Unit is not satisfied with the decision obtained in Step 2, the Unit may appeal in writing to the Director of Waste Management or his appointed designee and/or the Commissioner of Environmental Quality & Public Works, provided that the appeal is presented within ten (10) days after receipt by the Unit of the Step 2 decision. Within ten (10) days after receipt of the appeal, the Director of Waste Management or this designee and/or the Commissioner of Environmental Quality & Public Works shall meet and discuss the MOU grievance with the Unit, and give the Unit his decision in writing within ten (10) days following the meeting.

Step 4 – Chief Administrative Officer or his Designee: If the Unit is not satisfied with the answer obtained in Step 3, the Unit may appeal the MOU grievance to the Chief Administrative Officer within ten (10) days after receipt of the Step 3 answer. Within ten (10) days after receipt of the appeal, the Chief Administrative Officer or his designee shall meet and discuss the MOU grievance with the Unit Representative, and shall provide a written decision within ten (10) days following the meeting.

Step 5 – Advisory Mediation:

(a) If the Unit is not satisfied with the Step 4 answer it may, within seven (7) days after receipt of the Step 4 answer, seek mediation by advising LFUCG in writing of its intent to proceed. A panel of seven (7) names shall be provided from the Federal Mediation and Conciliation Services (FMCS) within forty-five (45) days of the Unit's notice.

(b) A mediator shall be selected by the Unit and LFUCG by alternately striking a name from the panel submitted by FMCS. 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 a mediator is to be selected.

(c) The mediator's fee and expenses and the cost of any hearing room shall be shared equally by the parties.

(d) The powers of the mediator are limited as follows: The mediator shall have no right to alter, amend, modify, disregard, add to or subtract from or change in any way any term or condition of this Memorandum of Understanding or to render an award that is in Conflict with any provision of this Memorandum of Understanding. The mediator shall consider only the specific issue or issues submitted and shall confine the decision to a determination

on the facts and an interpretation and application of the Memorandum of Understanding. The mediator's decision shall be nonbinding.

Section 3. If an MOU grievance is not presented within the time limits set forth in this Article, the MOU grievance shall be considered waived. If an MOU 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 decision. If LFUCG does not answer an MOU grievance or an appeal thereof within the specified time limits the MOU grievance shall be deemed as denied at that Step and the MOU grievance may be appealed to the next Step. The time limits in each Step may be extended by a mutual written agreement of LFUCG and the Unit Representative involved in each Step. It is agreed that MOU 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 MOU grievances arising under this Memorandum of Understanding.

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

ARTICLE 12 WORK WEEK AND OVERTIME

Section 1. If ready, willing and able to work, all full-time Members shall be eligible to work a forty (40) hour work week assuming work is available. The work week shall run from Monday through the following Sunday, during seven (7) consecutive twenty-four (24) hour periods.

Section 2. A Member shall be paid one and one half (1 ½) times the Member's regular hourly rate for all hours worked in excess of forty (40) hours. Overtime related to special duties i.e. material recovery facility, cart distribution, safety/training, and special events/litter collection will be worked by the members regularly assigned to those duties on an as needed basis. In the event that personnel resources in addition to the above are needed for overtime duties, then members who have the essential skills and training for these overtime duties will be eligible to work overtime via a rotating list of interested members, which shall be based upon the seniority of the respective Members (i.e., time employed within the division) with the most senior Member being placed at the top of the list. The list will operate in a rotating manner in which once a

Member is assigned overtime he or she will be placed at the bottom of the list. However, management reserves the right to ensure a core group of three (3) Members who are regularly assigned these duties are also assigned overtime for these events.

Section 3. Members will be moved to the bottom of the rotation list only after they have either been contacted and refused overtime, or have accepted and worked the offered overtime. Members who are regularly offered overtime as part of the Training Team will not be on the overtime rotation list, and shall not be offered additional overtime unless everyone on the overtime rotation list has declined. At times, it will be necessary to offer overtime to members out of order on the rotation list if they have the necessary skill and ability required of the task or operation to be performed. In the event that members are eligible and have the time to work the specific assignment, but refuse to perform the assignment, their names will be removed from the list for a period of one year. If members who are assigned to work overtime do not follow the Division of Waste Management's call-in procedures or do not perform their assignments properly they will be removed from the list for a period of one year and subject to disciplinary action in accordance with the LFUCG Uniform Disciplinary Code Guidelines. However, the Division of Waste Management reserves the right to reinstitute those members taken off the rotating overtime list to fulfill any emergent personnel needs.

Section 4. Those employees subject to the incentive plan as solely determined by the Division of Waste Management will be allowed to go home with no loss in pay up to two (2) hours before the end of their shift once they have completed their route and any assignments they have been given for that day.

Section 5. A member may express to the Director of Waste Management their desire to participate in the route assessment/optimization process and, if approved, may do so without loss of pay. The Unit may provide the names of one or more members to management for consideration to participate in the route assessment/optimization process, but nothing herein shall limit the discretion of management in determining who may participate in accordance with established administrative policies.

Section 6. The Division of Waste Management will provide as much notice as possible when changing work schedules; however, advance notice cannot be guaranteed. Employees who would experience hardship due to a schedule change may appeal to their supervisor for a schedule adjustment or submit a leave request; however, approval cannot be guaranteed.

Section 7. The Division of Waste Management will provide Union Leadership with a copy of the overtime rotation list weekly.

ARTICLE 13
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 Memorandum of Understanding.

Section 2. No changes in Operation Orders, policies, rules, regulations, Standard Operating Procedures, and the like of the Division of Waste Management shall be effective until they have been posted in a conspicuous location and forwarded to the Union for a period of seven (7) calendar days prior to the effective date subject to the terms of Article 3, excluding personnel assignments or other matters requiring immediate operational need or response.

Section 3. A member shall be bound by any change in Operation Orders, policies, rules, regulations, Standard Operating Procedures, and the like, upon receipt thereof so long as they are consistent with the provisions of this Memorandum of Understanding and any superseding laws and statutes upon posting thereof as provided in Section 2.

ARTICLE 14
HEALTH AND SAFETY

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

Section 2. The Division of Waste Management gives matters regarding employee safety top priority. No member working an assigned collection route, serving as either a driver or grounds person shall be required to work in excess often (10) hours consecutively, excluding lunch breaks or non-working idling time, provided however; a member may waive this section. Members may be required to work in excess of ten (10) consecutive hours if they are not working on a collection route as defined above. This section shall not apply in extraordinary circumstances as determined by the Director. When a vehicle is unavailable to a driver, this shall be considered drive time.

Section 3. The Division will make available on a twenty-four (24) hour basis all necessary safety equipment applicable to the tasks that members have been assigned. Members shall be permitted to obtain said equipment with the permission of the member's supervisor.

Section 4. Any uniforms or clothing required by LFUCG Division of Waste Management to be worn by members shall be provided by LFUCG and replaced periodically in order to keep up with the normal wear and tear associated with this job.

Section 5. At least one copy of the LFUCG Employee Handbook shall remain accessible for Members on premises at the main LFUCG Waste Management Facility. Further, employees will be made aware of and instructed on how to access the Employee Handbook on line. Copies of any Policy and Procedures not included in the Employee Handbook shall also be maintained in the same fashion.

Section 6. Two (2) members employed by the Division of Waste Management shall be placed on the LFUCG Safety Review Board. The members shall be selected by mutual agreement of the Director of Waste Management and the Local Union President.

Section 7. Members shall not be obligated to take their vehicles out in dangerous or extreme conditions, such as those days where LFUCG has closed non-essential operations due to extreme weather, such as snow and ice.

Section 8. A member may express to the Director of Waste Management their desire to serve on the Incident Review Committee as the division's representative and, if approved, may do so in accordance with established administrative policies without loss of pay. The Unit may provide the names of one or more members to management for consideration to serve as the division's representative on the Incident Review Committee, but nothing herein shall limit the discretion of management in selecting a division representative in accordance with established administrative policies and the needs and practices of the division.

ARTICLE 15 DISCIPLINARY PROCEDURES

Section 1. It is agreed that LFUCG has a right to discipline Unit members for just cause. LFUCG's Uniform Disciplinary Code shall be used as the guideline for this Article. This code is subject to amendment and/or change. A copy of the current code is appended to this MOU as

Appendix A. The disciplinary code that will be used as a guideline for this Article will be the current published disciplinary code for all LFUCG employees as found in the Employee Handbook. Progressive discipline will be applied as appropriate pursuant to the guidelines as outlined in the Uniform Disciplinary Code.

Section 2. Discipline of Unit members includes the issuance of an oral warning, a written reprimand, a suspension, or charges for dismissal. Coaching and counseling sessions are not disciplinary actions and are not covered under this Article. Oral warnings shall be removed from the member's record twelve (12) months from the date of the entry.

Section 3. No Unit member shall be dismissed, suspended, or involuntarily reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, or a violation of law involving moral turpitude, or as otherwise may be provided by state law, except in accordance with the provisions of KRS 67A.280 and the relevant provisions of Lexington-Fayette Urban County Government's Code of Ordinances, which may be amended. A Unit member is entitled to representation by a Unit attorney at any disciplinary proceeding of the Civil Service Commission involving that member at the discretion of the member and consistent with the rules and regulations adopted by the Commission.

Section 4. In the event a Unit member is to receive discipline, or asked to meet with the Division of Human Resources pursuant to an investigation regarding such Unit Member, he/she may request the attendance of the Unit president or his designee for the purpose of observing. The Unit representative is not entitled to otherwise participate and such attendance by the Unit representative shall be on his or her own time or after assigned work is completed. The disciplinary or investigative processes shall not be unreasonably delayed due to the availability of the Unit representative. It is solely the responsibility of the Unit member to request a representative and any advisory meeting between the Unit member and the representative shall not occur during work hours.

ARTICLE 16 PERSONNEL FILES

Section 1. Personnel files and any other employee files and records are the sole property and 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 will be utilized against the member for matters of discipline.

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 Union.

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.

ARTICLE 17

RESIDENCY

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

ARTICLE 18

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, consistent with LFUCG practice.

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 to continue his selected medical insurance plan at the same level of employee contribution derived from this Memorandum of Understanding.

**ARTICLE 19
LEGAL PROTECTION**

Section 1. LFUCG shall provide for the defense of a Member in any civil action arising out of an act or omission occurring within the scope of his employment pursuant to Section 2-7 of the LFUCG Code of Ordinances.

**ARTICLE 20
PAID AND UNPAID LEAVES**

I. VACATION AND HOLIDAY LEAVE

Section 1. Annual Vacation/Holidays

Effective upon ratification of this Memorandum of Understanding 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

<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

Those members who work a 4-day, 10-hour schedule will receive 10 hours of holiday pay for the holidays listed below. Those members who work a 5-day, 8-hour schedule will receive 8 hours of holiday pay for the holidays listed below.

Independence Day	New Years Day
Martin Luther King Jr.'s Birthday	President's Day
Memorial Day	Juneteenth (the 19 th day of June)
Labor Day	Veterans Day (the 11 th day of November)
Thanksgiving (Thursday and Friday)	Christmas Eve Day
Christmas Day	

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 Memorandum of Understanding.

A. The following is the agreed process for requesting vacation time:

1. Prior notice:

- a. Regular vacation leave time must be requested by the employee in writing on the Leave Request form a minimum of one (1) week in advance.
- b. Advance prior notice however, should generally be equal to the amount of time that the employee wishes to be off. For example, if an employee wants to take a two (2) week vacation, it is reasonable to expect that the request be submitted at least two weeks prior to the beginning of the vacation, or preferably sooner.
- c. Vacation time must be approved by the employee's immediate supervisor. An approved vacation is a signed Leave Request form. Vacations will be granted on a first-requested basis.

2. Reasons leave denied

- a. Leave will be granted only if the time does not interfere with the Waste Management Division's operations and with other approved leaves.
 - b. When a supervisor denies a requested leave and that employee does not report to work; then the employee will be marked Absent Without Approved Leave (AWOL).
- B. Annual vacation/holiday accrual is cumulative to the extent set forth herein. Accrued annual vacation cannot exceed one-hundred sixty-eights (168) hours. Accrued annual-holiday cannot exceed (80) hours. 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. Holiday hours shall be calculated as time worked.
- C. Acknowledging that due to operational constraints it is sometimes difficult for members to keep their accrued annual vacation/holiday time under the maximum levels set above, members will be guaranteed leave if requested at least thirty (30) days in advance of the effective date of the leave.

Section 2. Vacation and holiday leave may be taken in hourly increments.

II. LEAVE OF ABSENCE WITHOUT PAY

Leave of absence may be granted to maintain continuity of service in instances where unusual and unavoidable 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 of absence will depend upon each circumstance and the recommendation and approval of the Director of Waste Management, but shall not exceed ninety (90) days. The leave of absence is considered a privilege. Granting of leaves of absence will be administered with utmost 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 Waste Management 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. 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 of the member for purpose of this section shall include parents, spouse, and children. Sick leave may be taken in hourly increments.

Section 2. A member who is unable to report for duty because of illness, injury, prescribed medication or treatment shall immediately notify his manager or other competent authority as designated by the manager 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. A member who is absent from work for three (3) or more consecutive work days, or where the manager 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.
- B. Proof of abuse of paid sick leave privileges may constitute grounds for disciplinary action including dismissal.

Section 4. Sick leave shall be accrued at a rate often (10) hours per month. Sick time may be accumulated up to six hundred (600) hours. Once a member has accrued six hundred (600) hours of sick time, any amount of time exceeding the six hundred (600) hour cap shall be paid to the member at his regular rate of pay, as soon as practical after January 1 of each calendar year.

IV. FAMILY MEDICAL LEAVE (FMLA)

Any member who has been on the payroll at least one year and who has worked twelve hundred fifty (1250) hours during the previous twelve (12) months 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 may 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"). Additional time for bereavement leave may be granted using holiday or vacation time when bereavement leave has been exhausted.

ARTICLE 21 FITNESS FOR 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 immediately after the incident occurs. 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 an appropriate medical authority determines that a member can perform assigned duties as outlined in the Division of Waste Management job description for that grade, he will remain on active duty unless he is in on FMLA status.

Section 2. If the member is medically required to be absent from their job duties and cannot perform their duties 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 an appropriate medical authority as to the member's specific diagnosis, treatment plan, and your current work activity status.

Section 4. An injured or ill member will 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 by the Division of Risk Management 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 will 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 9.

Section 5. If, during a disability leave, an appropriate medical authority determines that the member can perform their duties as outlined, he must return to duty, 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.

Section 6. If the member is on disability leave status, he must submit a statement from an appropriate medical authority releasing him before the member can return to his regular duties.

Section 7. When the member has been granted disability leave status, he must refund to LFUCG the amount equal to any Worker's 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 will not count toward the member's vacation accrual rate nor will he accumulate sick leave or vacation leave during such absence from duty. When an official LFUCG holiday occurs, the member will receive holiday pay but not disability leave pay for that day.

Section 8. If an appropriate 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 will terminate the member's disability leave status short of the twelve (12) months and he may resign or his employment will be terminated.

Section 9. The total time in disability status will 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 MCO physician.

Section 10. Any member who sustains an injury or an illness as a result of a service connected incident and is prevented from performing the essential functions of his regular job assignment, but is not prevented from working altogether, that Member may request and/or be offered a temporary reassignment to a position which they are still capable of performing the essential functions of. Temporary reassignments shall be considered on a case-by-case basis but will not be unduly withheld so long as there is an appropriate position available. The LFUCG Division of Waste Management agrees to make an effort to make temporary assignments available to members who are unable to perform the functions of their job due to reasons other than service connected injuries. AFSCME Local 4468 recognizes that those injured in a service connected incident will be given priority on receiving modified duty assignments, and the final decision on making these assignments rests solely with the Director of the Division of Waste Management. Modified duty assignments are not guaranteed and for non-service connected injuries will in no case exceed six (6) months from the date of the injury or illness.

ARTICLE 23

HEALTH AND WELLNESS BENEFITS

Section 1. Effective as of the execution of this Memorandum of Understanding, employees may elect to be covered by the health insurance plans offered by LFUCG. The options available to employees will 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 the going rate per month on behalf of each employee enrolled in the flexible benefit program or as otherwise provided by LFUCG.

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. One member designated by Local 4468 shall sit on LFUCG's Benefits Advisory Committee for purposes of making a recommendation to LFUCG. LFUCG shall consider, but shall not be bound by any recommendation of the Benefits Advisory Committee, prior to determining which insurance coverage is selected.

Section 5. LFUCG Division of Waste Management agrees to provide boots for LFUCG Division of Waste Management employees once every one year.

**ARTICLE 27
PERSONAL PROPERTY REIMBURSEMENT**

A member may be reimbursed by LFUCG for work-related personal property damaged or destroyed while in the performance of an official action, but at the sole discretion of the LFUCG.

**ARTICLE 29
ALCOHOL AND DRUG-FREE WORKPLACE**

The policy that will be used will be the current published LFUCG Alcohol and Drug- Free Workplace Policy as found in the CAO Policies. This policy is subject to amendment and/or change.

**ARTICLE 30
RESPONSIBLE RELATIONSHIP**

The LFUCG and the Union 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 Union and their respective representatives at all levels will apply the terms of this memorandum of understanding in accordance with the language contained therein and consistent with the Union'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 31
FEDERAL OR STATE LAWS

If any provision of this Memorandum of Understanding, or any amendments thereto, or application of the provisions of said Memorandum of Understanding 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 Memorandum of Understanding 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 32
GENDER

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