

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "MOU"), made and entered into on this the 7th of May, 2015, 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 MOU's between LFUCG and the Organization pertaining to employees represented by a recognized organization and their working conditions; and

WHEREAS, the 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 have been approved and adopted by a majority of the members of the Organization.

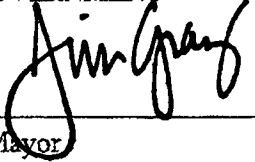
NOW, THEREFORE, that for and in consideration of the mutual promises and covenants herein expressed, LFUCG and the Organization agree as follows:

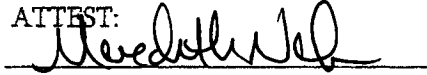
1. That the above recitals are incorporated herein by reference as if fully stated.
2. That the parties agree to recognize and comply with the Articles, which are attached hereto and incorporated herein by reference.
3. That this MOU shall be for a duration of two (2) years from the above referenced date of execution and shall automatically renew from year to year thereafter unless either party shall notify the other in writing at least ninety (90) days prior to the expiration date that it desires to terminate or modify the MOU. Negotiations shall begin within a reasonable time of the receipt of the above notice.
4. That except as provided herein, the Legislation shall remain in full force and effect until amended or modified by the Urban County Council.
5. The parties agree that if any section, subsection, sentence, clause, phrase, or portion of this MOU is for any reason held invalid or unlawful by a court of

competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof, which shall remain in full force and effect.

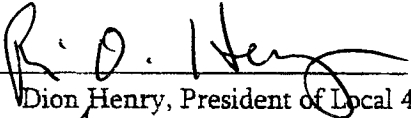
IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding at Lexington, Kentucky, the day and year first above written.

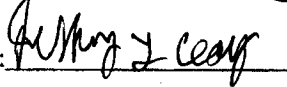
LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

BY: 
Jim Gray, Mayor

ATTEST: 
Meredith Nelson
Clerk of the Urban County Council

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

BY: 
Dion Henry, President of Local 4468

WITNESS: 

A RESOLUTION RELATING TO RECOGNITION OF EMPLOYEE ORGANIZATIONS BY THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - In accordance with the procedures set forth herein, the Urban County Council is willing to recognize legitimate employee organizations which represent a majority of the non-supervisory employees in an appropriate unit for the purpose of meeting and conferring with their representatives concerning employee benefits and working conditions. For the purposes of this resolution, meeting and conferring shall mean the willingness of administrators of the Urban County Government and representatives of the employee organization to meet and confer at reasonable times and places, but it shall not require either party to agree to a proposal or require the making of a concession. The terms under which recognition is to be granted shall be worked out by administrators of the Urban County Government and the employee organization requesting recognition and shall be subject to the approval of the Urban County Council.

With respect to the request of any employee organization for recognition, administrators of the Urban County Government are prepared, as long as the normal operations of employees in question are maintained, to immediately meet with representatives of the employee organization to work out the terms under which recognition would be granted. To help insure the orderly resolution of questions over recognition, the Urban County Council, where appropriate, is willing to join with the employee organization to jointly request the assistance of a mediator to assist the parties.

Section 2 - This resolution shall become effective immediately upon its passage.

PASSED URBAN COUNTY COUNCIL: October 3, 1974

H. Foster Perry
Mayor

ATTEST:
Richard W. Johnson
Clerk of Urban County Council

PUBLISHED: October 9, 1974-1t

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, is entered into by and between the Lexington-Fayette Urban County Government, hereinafter referred to as the Government, and the LEXINGTON PROFESSIONAL FIREFIGHTERS ASSOCIATION, LOCAL UNION 526 (also known as the International Association of Firefighters Local 526, AFL-CIO, CLC hereinafter referred to as the Representative.

W I T N E S S E T H

WHEREAS, differences have arisen between the Government and the members of the Lexington-Fayette Urban County Fire Department; and

WHEREAS, the Council of the Lexington-Fayette Urban County Government has adopted an ordinance setting forth specific procedures for recognition of legitimate employee organizations representing a majority of the non-supervisory employees in an appropriate unit. A copy of said ordinance is attached hereto and incorporated herein by reference.

In the event all members of the Lexington-Fayette Urban County Fire Department resume their normal duties and normal work activities, the following assurances and agreements are made by and between the parties:

1. Neither the Government nor the Representative shall knowingly permit or encourage any employee or member to harass or carry out reprisals against other members or employees of the Fire Department, because of their participation or non-participation in any job action prior to this date. Harrassment or reprisal shall not be defined to include disciplinary actions or judicial remedies available to Lexington-Fayette Urban County Government.

In the event charges should be filed as a result of the job actions, discipline would be fair, just and equal without discrimination on the basis of facts and circumstances.

2. Upon recognition, as set forth in the Ordinance, but not sooner than twenty (20) days and not longer than forty-five (45) days after the granting of said recognition, the Representative shall present its proposals in writing and by the forty-fifth day the Representative shall have the privilege of meeting and conferring with the administrators of the Government concerning employee benefits and working conditions. The Parties may jointly agree to use mediation to assist in the process of negotiation in the event the parties have difficulty in agreeing.

3. The Representative agrees not to promote, instigate, or otherwise create a work slow-down, strike or other concerted interference with the duties and operations of the Lexington-Fayette Urban County Fire Department. The Government agrees not to engage in any lockout of the employees covered by this agreement.

4. The parties agree that if any provision of this agreement or the application of such provision should be rendered or declared invalid by any Court action by reason of any existing or subsequently enacted State or Federal legislation, the remaining parts or portions of this Memorandum of Understanding shall remain in full force and effect.

Entered into this 31st day of October, 1974.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: H. Foster Pettit

H. Foster Pettit, Mayor

LEXINGTON PROFESSIONAL FIREFIGHTERS
ASSOCIATION LOCAL UNION 526

By: Richard C. Wilson President

John B. Drake Jr. Chairman

Raymond K. Glass

James R. Craig

Melvin C. Miller

Bruce R. Mergerson

AN ORDINANCE ESTABLISHING THE PROCEDURE FOR RECOGNITION OF
EMPLOYEE ORGANIZATIONS BY THE LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

WHEREAS, by Resolution No. 181-74, the Council of the Lexington-Fayette Urban County Government expressed its willingness to recognize legitimate employee organizations, as herein defined, which represent a majority of the non-supervisory employees in an appropriate unit for the purpose of meeting and conferring; and

WHEREAS, it is the intent of the Council of the Lexington-Fayette Urban County Government that nothing herein shall be construed to either encourage or discourage organization of its public employees; and

WHEREAS, it is necessary that guidelines be established so that the procedures for recognition and meeting and conferring are clear and definite;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - Definitions

- a. "Public employer" or "employer" shall mean the Lexington-Fayette Urban County Government.
- b. "Public employee" or "employee" means any person employed by the employer except persons elected by the people or appointed in the non-classified service, members of boards, authorities and commissions, attorneys for the employer, probationary employees employed after the effective date of this ordinance, seasonal employees, temporary or part-time employees, supervisors, managerial employees, and confidential employees.
- c. "Managerial employee" means any employee involved in formulating, determining, or effectuating the policies of the employer, or agency thereof, and any employee who acts as a representative of the employer for the purpose of meeting and conferring.
- d. "Confidential employee" means any employee who is

engaged in personnel work for the employer, who is employed in the Office of the Administrative Services, or who is the personal secretary to a Commissioner or Division Head.

e. "Supervisor" means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.

f. "Employee organization" or "organization" means any employee or group of employees, associations, or fraternal order, however organized or constituted, which represents or seeks to represent public employees, as defined in Section 1 (b), concerning employee benefits and working conditions, but shall not include an organization that discriminates with regard to membership because of race, color, creed, sex, or national origin.

Section 2. Public Employees' Rights. Public employees shall have the right to form, join, and participate in, or to refrain from forming, joining, or participating in any employee organization.

Section 3. Recognition Procedures.

a. Any employee organization may, upon notification to the Chief Administrative Officer, file a petition in a form which will be provided for this purpose for recognition as the representative for the public employees in a proposed unit. The petition shall contain the signatures of thirty percent (30%) or more of the public employees within the proposed unit who desire to be represented by said employee organization for the purpose of meeting and conferring. The petition shall also contain the

following:

1. The name, affiliation, if any, and the address of the petitioning employee organization, and its representative.
2. A list of the elected officers, if any, their addresses, telephone numbers, and terms of office.
3. A description of the unit which petitioner claims to be appropriate.
4. The number of public employees in the proposed unit.
5. An acknowledgement that such organization agrees that its participation or assistance in any strike or job action shall result in the termination of recognition.
6. A copy of the local and/or national Constitution and By-Laws of the organization, if any.
7. A clear and concise statement of any other relevant facts.

b. Where a petition is filed pursuant to the provisions of subsection (3) of this section and the Chief Administrative Officer or his designated representative finds after an investigation of the petition that it meets the requirements of sufficiency concerning representation, he shall within 36 days of receipt of said petition:

1. Define the proposed unit and determine which public employees shall be qualified and entitled to vote in any election held.
2. In defining the proposed unit, the Chief Administrative Officer or his designated representative shall establish the broadest unit practicable in which employees have an identifiable community of interest in order to insure that representation of public employees is not fragmented.
3. Notify the Mayor and the Urban County Council and representatives of the petitioning unit of his findings by way of communication and said findings be also made public at the next regular meeting of the Urban County Council.
4. After approval of the communication by the Council, order an election by secret ballot to be conducted.

by the County Board of Elections
or its duly authorized representative, as soon
as practicable.

Section 4. Representation Elections.

a. Any secret ballot election ordered pursuant to the provisions of this ordinance shall be conducted by the County Board of Elections, or its duly authorized representative who shall have charge of and make all necessary provisions for said election, canvass the vote, and certify the results thereof.

b. The election ballot shall contain the name of the petitioning employee organization, and the name or names of any employee organization which petitions to intervene, if such petition contains the signatures of ten percent (10%) or more of the public employees in the defined unit and otherwise complies with Section 3(a) (1) - (7). The ballot shall also contain a statement that may be marked by any public employee voting that he does not desire to be represented by any of the named employee organizations.

c. Notices of the election shall be posted as soon as practicable after the date, time and place of the election are determined, but not less than 3 days before the election.

d. The employer and any employee organization appearing on the ballot shall have the right to designate one observer for each polling place; provided, however, that the County Board of Elections, or its duly authorized representative, may permit each party to designate two such observers. The function of observers will be to act as checkers at the polling place, to assist in the identification of voters, to inspect and check the machine before and after the election and assist in the actual vote count and certification of the same, and otherwise to assist in the conduct of the election as directed by the County Board of Elections, or its duly authorized representative. Electioneering shall not be permitted within fifty (50) feet of the polling place. Also, there shall be no electioneering during the working hours of eligible voters.

e. Where the names of two or more employee organizations are on the ballot and none of the choices receives votes from fifty percent (50%) plus one (1) of the total number of public employees eligible to vote in the election, a runoff election shall be held;

Section 5. Meeting and Conferring.

a. Whenever an employee organization has been certified pursuant to the provisions of this ordinance, administrators of the Lexington-Fayette Urban County Government and representatives of the employee organization shall meet at reasonable times and places and confer over employee benefits and working conditions, but it shall not require either party to agree to a proposal or require the making of a concession.

b. Matters of inherent managerial policy, which shall include but shall not be limited to such areas of discretion or policy as the functions and programs of the public employer, the standards of services, the overall budget, the utilization of technology, the determination of whether goods or services shall be made, provided or purchased, and the methods, means and number of personnel by which the employer's operations are to be conducted, shall not be the subject of meeting and conferring.

Section 6. Mediation. Where appropriate, the parties may jointly request the assistance of a mediator. The mediator's function shall be limited to assisting the parties and it shall not include the issuance of any formal reports or public recommendations.

Section 7. Severability. If any provision of this ordinance or the application of such provision should be rendered or declared invalid by any Court action, the remaining parts or portions of this ordinance shall remain in full force and effect.

provided that the total number of votes received by the two or more employee organizations on the ballot is at least fifty percent (50%) plus (1) of the total number of public employees eligible to vote in the election. The runoff election ballot shall contain the two (2) choices from the original ballot which received the largest number of votes.

f. The County Board of Elections, or its duly authorized representative, shall certify the results of the elections, and where an employee organization receives valid ballots from fifty percent (50%) plus one (1) of the total number of employees eligible to vote in the election, the County Board of Elections, or its duly designated representative, shall certify the organization as the representative of those public employees who are members of said employee organization in the defined appropriate unit for the purpose of meeting and conferring.

g. If the employer has a reasonable doubt as to an employee organization's majority status after said organization has been certified, or if a petition is submitted to the Chief Administrative Officer containing the signatures of thirty percent (30%) or more of the employees in an appropriate unit requesting that a decertification election be held, the Chief Administrative Officer shall order that a decertification election be conducted by secret ballot in accordance with the provisions set forth in this section.

h. No election shall be conducted in any unit or subdivision thereof in which a valid election has been held within the preceding twelve month period.

Section 8. Ordinance Takes Precedence. This ordinance shall take precedence over all conflicting ordinances and resolutions concerning this subject matter previously enacted by the Council of the Lexington-Fayette Urban County Government.

Section 9. Effective Date. This ordinance shall become effective after signed, published and recorded as required by law.

PASSED URBAN COUNTY COUNCIL: January 2, 1975

H. Foster Perri
Mayor

ATTEST:

Harbry N. Johnson
Clerk of Urban County Council

PUBLISHED: January 8, 1975-1t

COUNTY
GOVERNMENT

Revised
THE MUNICIPAL BUILDING, 136 WALNUT STREET, LEXINGTON, KENTUCKY 40507 (606) 255-5631

TO:

FROM:

DATE:

SUBJECT: Technical Amendments to the Recognition Ordinance of
Employer Organizations

On Page 4 - Section 4 - Article d.

Strike out the last sentence beginning with "Others may.... and
substitute the following sentence:

"Electioneering shall not be permitted within fifty (50)
feet of the polling place. Also, there shall be no
electioneering during the working hours of eligible voters,
~~or during the periods of shift changes."~~

On Page 5 - Section 4 - Article f.

7th line down after "representative," strike out remaining sentence
and substitute the following:

"shall certify the organization as the representative of
those public employees who are members of said employee
organization in the defined appropriate unit for the
purpose of meeting and conferring.

Dean D. Hunter, Jr.
Chief Administrative Officer

DDH:RAW/jz

