

COLLECTIVE BARGAINING AGREEMENT

BY AND BETWEEN

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

AND

COMMUNICATION WORKERS OF AMERICA

CORRECTIONS LIEUTENANTS AND CAPTAINS

JULY 1, 2007 – JUNE 30, 2010

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PREAMBLE

THIS COLLECTIVE BARGAINING AGREEMENT, entered into this _____, by and between Lexington-Fayette Urban County Government (hereinafter "L.F.U.C.G."), and Communications Workers of America (hereinafter the "Union"), by which said parties hereby agree upon the terms and conditions as hereinafter set out, concerning wages, hours and working conditions of certain employees of the Division of Community Corrections.

ARTICLE 1

RECOGNITION

Section 1. Pursuant to KRS 67A.6901 as amended by SB102, L.F.U.C.G. recognizes the Union as the exclusive collective bargaining representative of its sworn, officers holding the positions of Lieutenant and Captain in the Division of Community Corrections.

Section 2. The Union recognizes the Mayor's representative and designee as the sole representative of L.F.U.C.G. for the purposes of collective bargaining negotiations.

Section 3. As used in this Agreement, unless specified otherwise, the term "member(s)" refers to sworn employees of the Lexington Division of Community Corrections holding the rank of Lieutenant and Captain.

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

Section 5. Every Lieutenant and Captain shall serve an initial probationary period of twelve (12) months from the date of promotion.

ARTICLE 2

SUBORDINATION

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

ARTICLE 3

L.F.U.C.G. RIGHTS

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

- A. Determination of the organizational structure of the Division of Community Corrections, including the existence, continuance, abolishment, restructuring, or combining, of all bureaus, departments, units, branches, and subparts thereof.
- B. The right to promulgate, at its discretion, policies, rules, regulations, and Orders which are not inconsistent with this agreement.
- C. The right to determine the methods, means, and personnel by which operations are to be implemented and established.
- D. The right to take action as necessary to carry out the mission of the Division of Community Corrections in an emergency.
- E. Assignment of personnel consistent with the provisions of this agreement.

- F. Determination of necessary qualifications, standards, and procedures, for hire and promotion, consistent with this Agreement.
- G. Establishment of standards of performance and service, and taking disciplinary action subject to this Agreement.
- H. Conferring and relieving of law enforcement powers. It is agreed and understood that the relieving or suspending of law enforcement powers is distinct from a suspension from pay; although L.F.U.C.G. reserves the power to relieve or suspend law enforcement powers, it is agreed that any suspension of a covered member from pay shall be deemed a disciplinary action.
- I. Elimination of positions, and any consequent reductions in force or layoffs.
L.F.U.C.G. 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. Reductions in force, by rank, will be made in seniority order with the lowest senior officer being force reduced first then moving up the seniority list until the desired reduction is completed.

Section 2. This agreement is not intended to restrict consultation with the Union regarding matters within the right of L.F.U.C.G. to determine.

ARTICLE 4

NON-DISCRIMINATION

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

Section 2. Union membership dues, as authorized by members on the approved form described in Section 3 below, or fair share fees shall be deducted monthly in an amount certified by the Union. Members wishing to revoke their Union membership, or to join the Union membership, must notify L.F.U.C.G. and the Union expressly and individually, in writing by

certified mail. Upon such notification, L.F.U.C.G. shall begin deducting membership dues or the fair share fee hereinafter described, whichever is appropriate, from the wages of such member as soon as practical but in no event later than the 2nd pay period following receipt of such notice.

Section 3. L.F.U.C.G. agrees to deduct from the wages of any member the dues as authorized by said member or fair share fee, as long as it is a continual or regular deduction, on a form authorized by L.F.U.C.G. and the Union.

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

Section 5. The check-off of regular union dues shall be made only on the basis of written authorization signed by the individual employee from whose pay the dues will be deducted, on a form authorized by L.F.U.C.G. and the Union. All employees, however, shall be required to pay their fair share of the cost of representation by the Union, pursuant to applicable law and the following:

- A. Employees who are included in the collective bargaining unit but who exercise their right to decline to become members of the Union, shall be required to pay a fair share fee, the amount of which shall be determined as set forth below.
- B. The Union shall provide to all affected employees and to L.F.U.C.G. at least thirty (30) days advance written notice of the amount of the "fair share" fee together with an accounting by an independent certified accountant setting forth the major categories of the Union's budgeted expenses and designating those expenses which are related to bargaining, contract administration, and grievance adjustment

("chargeable") and those which are not germane to bargaining, contract administration, and grievance adjustment ("non-chargeable"). The accounting and designations must be in a manner allowing for appraisal of which portions of union expenses are non-chargeable, and should indicate the percentage proportions of total union expenses devoted to chargeable and non-chargeable purposes. The initial amount of the fair share or service fee shall be the amount of the union dues reduced by a percentage equivalent to the percentage of the total union expenses devoted to indisputably non-chargeable purposes as determined by the certified public accountant.

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

- E. In the event of a challenge, fifty percent (50%) of the fair share fee (as described in subsection B, above) shall be placed in an escrow account by L.F.U.C.G. until the issuance of a decision by the impartial decision-maker as set forth above.
- F. In the event of a challenge, the final amount of the fair share fee as determined by the impartial decision-maker shall reflect only those expenses affirmatively related to collective bargaining, contract administration, and grievance adjustment.
- G. Upon rendering the impartial decision-maker's decision, the disputed amounts held in escrow shall be distributed to the challenging employee, the Union, or both, as indicated in the arbitrator's decision.
- H. Provided the foregoing conditions are met, then the deduction of the initial amount of the fair share or service fee shall be automatic following the thirty (30) day notice and information provided for hereinabove, and shall begin thirty (30) days after the provision of such notice regardless of whether the employee has signed written authorization therefore.
- I. The Union shall indemnify and save harmless L.F.U.C.G. against any expense or liability, including attorney fees that may arise out of or by reason of any action taken by L.F.U.C.G. consistent with the foregoing, in connection with a fair share fee. In the event L.F.U.C.G. should be held liable or responsible for repayment of moneys paid to the Union pursuant hereto, the Union shall reimburse said moneys to L.F.U.C.G.
- J. These provisions shall be interpreted insofar as possible in a manner consistent with applicable federal statutes or case law.

ARTICLE 7

UNION BUSINESS

Section 1. Sections 1, 2, 4, 5, and 6 of Article 7 of the Collective Bargaining Agreement between LFUCG and the Union for Corrections Officers and Sergeants (July 1, 2007 – June 30, 2010) [hereinafter “Officers/Sergeants Contract”] contain the total numbers of Union representatives, delegates, stewards, and authorized leaves related to the Union business described in such sections for Officers, Sergeants, Lieutenants, and Captains.

Section 2. The Union may select no more than one (1) representative from the Lieutenants and Captains bargaining unit recognized herein who shall be allowed to attend extraordinary as well as regular sessions of the Kentucky General Assembly without loss in compensation. The Union will submit in writing the names of its representative to the Director of Community Corrections not later than fourteen (14) days before the time when the expected leave will be taken. The Union shall provide written notification to the Director of Community Corrections of any Union representative substitution/replacement. The amount of time spent on such activities shall be reported in writing within ten (10) days to the Director of Community Corrections.

Section 3. The bulletin board provided pursuant to Section 7 of the Officers/Sergeants Contract shall be for the use of the Union for both the Officers and Sergeants bargaining unit and the Lieutenants and Captains bargaining unit recognized herein.

Section 4. The parties agree that they will each pay one-half (1/2) of the cost of the printing of this Agreement.

ARTICLE 8

SENIORITY

Section 1. Seniority of a member shall commence on the date of promotion to the position of the higher rank. Should a member demote, seniority in the lower rank shall include all time served in the higher rank and be considered continuous as seniority in the lower rank. At no time will seniority from a lower rank count as seniority in a higher rank.

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

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

Section 3. L.F.U.C.G. shall semi-annually furnish the Union a seniority list based on this Article.

ARTICLE 9

ASSIGNMENTS

Section 1. Bureau and/or Unit assignments affecting Lieutenants and Captains will be made by the Director of Community Corrections based on the needs of the facility. Letters of interest may be accepted by the Director from members; however, they shall not determine which candidate is selected. Vacancies shall be posted identifying the specific vacant position.

