

Doc. 10/29/14

This INTERLOCAL COOPERATION AGREEMENT (Interlocal Agreement), as defined in KRS 65.240, finally dated as of _____ day of _____, between the CITIES OF MIDWAY AND VERSAILLES (Hereinafter called "CITIES") and the FISCAL COURT OF WOODFORD COUNTY (hereinafter called "COUNTY"), all of which are signatories hereto.

SECTION 1. EFFECTIVE DATE AND DURATION. This Interlocal Agreement shall be effective from and after (i) its execution, (ii) the approval of this Interlocal Agreement by the Attorney General of the Commonwealth as required by KRS 65.300, and (iii) the filing of a certified copy of this Interlocal Agreement with the County Clerk of the county in which each of the parties hereto is located and with the Secretary of State of the Commonwealth as required by KRS 65.290.

This Interlocal Agreement is intended to be perpetual in duration and shall continue in effect from and after its effective date so long as two or more signatories remain party to this agreement.

SECTION 2. VERSAILLES-MIDWAY-WOODFORD COUNTY COMMISSION ON HUMAN RIGHTS. There is hereby established the Versailles-Midway-Woodford County Commission on Human Rights, which shall be a public agency as defined by KRS 61.805 of the Kentucky Open Meetings Act and KRS 61.870 of the Kentucky Open Records Act.

SECTION 3. PURPOSE. Cities and county agree that the purpose of the joint undertaking shall be:

- A. To provide for execution within the cities and county of the policies embodied in the Federal Civil Rights Act of 1964 (78 Stat. 241);
- B. To provide for execution within the cities and county of the policies embodied in the Kentucky Civil Rights Act (KRS Chapter 344);
- C. To safeguard all individuals within the cities and county from discrimination because of race, color, sex, age (over 40), gender identity, sexual orientation, familial status, physical condition, religion, or national origin.

disability,

SECTION 4. DEFINITIONS. In this agreement:

- A. "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race,

color, sex, age (over 40), gender identity, sexual orientation, familial status, physical condition (as defined in Title 29USC Sect. 706 (6)), religion or national origin.

- B. "Commission" means the Versailles-Midway-Woodford County Commission on Human Rights.
- C. "Gender Identity" means the actual or perceived appearance, expression, or identity of a person with respect to masculinity or femininity.
- D. "Sexual Orientation" means an individual's actual or imputed heterosexuality, homosexuality, bisexuality, or asexuality.
- E. "HRC Investigator" means an individual who has been so designated by the Versailles-Midway-Woodford County Commission to investigate complaints filed with the Versailles-Midway-Woodford County Human Rights Commission (HRC). The Commission may enter into a contract, inter-local agreement, or cooperative working agreement with another government or Human Rights Commission to investigate complaints involving sexual orientation or gender identity as may be required by the Versailles-Midway-Woodford County Human Rights County Commission.
- F. "HRC Hearing Officer" means an attorney, licensed to practice law in the Commonwealth of Kentucky, with no less qualifications than a District Judge, who has been appointed by the Versailles-Midway-Woodford County Human Rights Commission to conduct administrative hearings.

SECTION 5. COMPOSITION OF THE COMMISSION.

- A. *The Commission shall consist of 9 members, who shall be appointed on a bipartisan basis and shall be broadly representative of employers, proprietors, trade unions, religious groups, human rights groups, and the general public.*
- B. *The mayor of the City of Midway shall appoint 1 member, which appointment shall be for a term of three years.*
- C. *The mayor of the City of Versailles shall appoint 3 members, which appointments shall be for a term of three years.*
- D. *The County Judge/Executive of Woodford County shall appoint 5 members, which appointments shall be for a term of three years.*
- E. *No elected city or county official shall be a member of the Commission.*
- F. *In the event of incapacity, death, or resignation of any member, his or her successor shall be appointed for the unexpired term of the withdrawing member.*
- G. *Members shall be eligible for reappointment for an additional term.*
- H. *The members shall serve without compensation.*

- I. Should any vacancy occur, the appointing authority shall have the right to fill said vacancy for the unexpired term.

SECTION 6. FUNCTIONS.

- A. The Commission shall encourage fair treatment and equal opportunity for all persons regardless of race, color, sex, age (over 40), gender identity, sexual orientation, familial status, physical condition (as defined in Title 29 USC Sect. 706 (6)), religion, or national origin; and shall promote mutual understanding and respect among all economic, social, religious, racial, and ethnic groups; and shall endeavor to eliminate discrimination against, and antagonism between religious, racial, sex, age (over 40), gender identity, sexual orientation, familial status or physical condition, and ethnic groups and their members.
- B. The Commission shall administer such enforceable ordinances and resolutions forbidding discrimination as the legislative bodies of the cities and county may enact.

SECTION 7. POWERS AND DUTIES. In performing its functions, the Commission shall have the following powers and duties:

- A. To employ a qualified director and other necessary personnel within the limits of funds made available.
- B. To conduct or arrange for research projects and studies into and publish reports on discrimination and progress in equal opportunity in the community.
- C. To accept gifts or bequests, grants, or other payments, public or private, to help finance its activities.
- D. To receive, initiate, investigate, seek to conciliate, and hold hearings on complaints alleging discrimination.
- E. To recommend methods of elimination of discrimination and intergroup tensions, and to use its best efforts to secure compliance with its recommendations.
- F. To cooperate with other intergroup relations agencies, both public and private, on the local, state, and national level in performing its functions under this agreement.
- G. To cooperate with the various departments, agencies, and boards of the cities and county of the Commonwealth in effectuating the purpose of this agreement.

- H. To enlist the support of civic, religious, professional, educational organizations and institutions in community activities and programs that will further the goals of this agreement.
- I. To organize community committees and councils that will work toward the goals of this agreement.
- J. To recommend legislation to the city and county legislative bodies and modes of executive action to the mayors and county judge/executive that will effectuate the purpose of this agreement.
- K. To adopt, promulgate, amend, and rescind such rules of procedure and by-laws as it sees fit.
- L. To submit an annual report of its activities and of the progress and problems in intergroup relations in the community to the mayors and county judge/executive.

SECTION 8. QUORUM. A quorum of the Commission shall consist of a simple majority of the actual membership of the Commission. A simple majority of vote of all members present, where there is a properly constituted quorum, shall be necessary to transact any official business.

SECTION 9. MEETINGS. The Commission shall meet as often as it deems necessary, but its regular meeting shall be the first Thursday of the month at 7:00 p.m., unless otherwise decided by the Commission, which shall establish a regular meeting place for meetings.

SECTION 10. ELECTION OF OFFICERS. The Commission shall bi-annually elect a Chairman, and Vice-Chairman, a Secretary and a Treasurer, and such other officers as it shall deem necessary. The Chairman of the Commission shall appoint such committees as the Commission may deem necessary in order to carry out its functions.

SECTION 11. COOPERATION OF CITY AND COUNTY DEPARTMENTS. The services of all other city and county departments, agencies and boards shall be made available to the Commission upon its request. Information in the possession of any city and county department, agency or boards shall be furnished to the Commission upon its request, and to the extent permitted by law. Upon the refusal of the director or head of any department, agency, or the board of the city or county to furnish any information which has been requested by the Commission, the matter shall be referred to the appropriate mayor or county judge/executive.

SECTION 12. EXPENDITURES. Cities and county may appropriate a sum during the fiscal year of each to be expended by the Commission to carry out this agreement. The Commission shall submit its proposed budget to cities and county for the coming fiscal years in accordance with the laws and regulations prescribed for or established by each for budgetary matters.

SECTION 13. Property Rights. Cities and county shall have an undivided interest as joint tenants without right of survivorship in all property of any kind whatsoever acquired by the Commission. The portion of the undivided interest of the cities and county in such property shall be in the same ratio as their respective cumulative appropriations bear to the total appropriations of each to the Commission. At the termination of the agreement, cities and county shall divide the Commission's property or the proceeds of any sales thereof in accordance with their respective interests established by this section. Nothing in this agreement shall prevent the Commission from leasing, or borrowing property to further the purposes of this agreement.

SECTION 14. PROPERTY OWNERSHIP. All property of the Commission, real or personal, tangible or intangible, shall be acquired, held and disposed of by the Versailles-Midway-Woodford County Commission on Human Rights.

SECTION 15. RELATIONSHIP WITH KENTUCKY COMMISSION ON HUMAN RIGHTS. The Commission shall, when requested, act in an advisory capacity to and otherwise cooperate with the Kentucky Commission on Human Rights whenever possible to effectuate compliance with state laws.

The Commission is authorized to enter into cooperative working agreements with the Kentucky Commission on Human Rights whenever enforceable ordinances or resolutions forbidding discrimination are enacted which are in conformity with state laws.

SECTION 16. UNLAWFUL PRACTICES.

It is hereby unlawful for any person to discriminate in any way prohibited in KRS 344.040, 344.045, 344.050, 344.060, 344.070, 344.080, 344.090 (Employment), KRS 344.120 (Public Accommodations), 344.140, 344.145, 344.280, 344.290, 344.360 (Housing Practices), 344.367, KRS 344.370 (Financial Practices), KRS 344.380 (Block Busting), or KRS 344.400, based upon race, color, religion, national origin, sex, age (over 40), gender identity, sexual orientation, familial status or physical disability of any type.

- A. As to claims for discrimination under this Article based upon race, color, religion, national origin, sex, age (over 40), familial status, or disability, the exemptions provided in KRS 344.040(2), 344.090, 344.100, 344.130, 344.145(2), 344.360(14), 344.362, and 344.365, as amended, shall apply.
- B. The prohibition of discrimination in this Article based upon gender identity and sexual orientation shall not apply:
- (1) To the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of the family of the owner resides in one of the housing accommodations;
 - (2) To the rental of a portion of a housing accommodation by the occupant of the housing accommodation, or by the owner of the housing accommodation if the owner or a member of the family of the owner resides therein;
 - (3) To a religious institution, or to an organization operated for charitable or educational purposes, which is operated, or supervised, or controlled by a religious corporation, association, society, to the extent that the religious corporation, association, or society limits, or gives preferences in sale, lease, rental, assignment, or sublease of real property to individuals of the same religion, or makes selection of buyers, tenants, lessees, assignees, or sub lessees that is calculated by such religious corporation, association, or society to promote the religious principles for which it is established or maintained;
 - (4) To the private sale by a private individual homeowner who disposes of a property without the aid of any real estate operator, broker, or salesman, and without advertising or public display;
 - (5) To a real estate operator to require the operator to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.
 - (6) To any single-family house sold or rented by an owner; provided that the private individual owner does not own more than three single-family houses at any one time. In the case of sale of any single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted by this section shall apply only with respect to one sale within any 24-month period. The sale or rental of any single-family house shall be accepted from the application of this chapter only if the house is sold or rented:

- (a) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of the facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent, salesperson or person; and
- (b) Without the publication, posting or mailing, after notice of any advertisement or written notice of any advertisement, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other professional assistance as necessary to perfect or transfer the title.
- (7) To restrooms, shower rooms, bath houses and similar facilities which are in their nature distinctly private;
- (8) To YMCA, YWCA and similar type dormitory lodging facilities;
- (9) To hospitals, nursing homes, penal or similar facilities, with respect to any requirement that men and women not be in the same room.
- (10) Nothing herein shall be construed to prevent an employer from:
- (a) Enforcing a written employee dress policy; or
- (b) Designating appropriate restroom and shower facilities.
- (11) Employment Exceptions. Notwithstanding any other provisions of this Article, it shall not be an unlawful practice for:
- (a) An employer to hire and employ employees; or an employment agency to classify or refer for employment an individual; or for a labor organization to classify its membership or to classify or refer for employment an individual; or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ an individual in any such program, on the basis of religion or national origin in those certain instances where religion or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise;
- (b) A religious organization, corporation, association, or society to employ an individual on the basis of religion to perform work connected with the carrying on by such corporation, association, or society of its religious activity;
- (c) A school, college, university, or other educational institution to hire and employ individuals of a particular religion, if the school, college, university, or other education institution is in whole or substantial part owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of the school, college, university, or

other educational institution is directed toward the propagation of a particular religion, and the choice of employees is determined by such organization to promote the religious principles for which it is established or maintained;

- (d) An employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if the difference is not the result of an intention to discriminate because of race, color, religion, national origin, sex, age (over 40), gender identity, sexual orientation, familial status or physical disability of any type, nor is it an unlawful practice of an employer to give and to act upon the results of any professionally developed competency or ability test provided that the test, its administration or action based upon the test results is not designed, intended or used to discriminate because of race, color, religion, national origin, sex, age (over 40), gender identity, sexual orientation, familial status or physical disability of any type.

SECTION 17. GENERAL EXCEPTIONS.

The provisions of this Article regarding sexual orientation or gender identity shall not apply to a religious institution, association, society or entity or to an organization operated for charitable or educational purposes, which is owned, operated or controlled by a religious institution, association, society or entity, except that when such an institution or organization receives a majority of its annual funding from any federal, state, local or other governmental body or agency, or any combination thereof, it shall not be entitled to this exemption.

The Cities (Midway and Versailles) and County (Woodford) are prohibited from substantially burdening a person's freedom of religion by the provisions of KRS 446.350. Accordingly, where a person, by action or inaction, violates the provisions of this ordinance due to a sincerely held religious belief, the individual or entity alleging the violation must prove by clear and convincing evidence that the Cities or County has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest to establish the existence of the violation. A burden shall include withholding benefits, assessing penalties, exclusion from programs or access to facilities.

SECTION 18. ENFORCEMENT PROCEDURE.

(A) Relationship with the Kentucky Commission on Human Rights

In order to effectuate and enforce the provisions of this Article, the Versailles-Midway-Woodford County Commission on Human Rights shall enter into a cooperative working agreement with the Kentucky Commission on Human Rights whereby all claims filed with the Versailles-Midway-Woodford County Commission alleging discrimination in employment, public accommodations, housing, financial and credit transactions, based on race, color, religion, national origin, sex, age (over 40), familial status or physical disability of any type shall be referred to the Kentucky Commission on Human Rights for investigation and enforcement in accordance with the Kentucky Civil Rights Act, KRS Chapter 344 et seq. The Versailles-Midway-Woodford County Human Rights Commission shall reserve to itself the resolution of all claims of discrimination based on sexual orientation or gender identity.

(B) Filing and Processing Complaints:

(1) Any person claiming to be aggrieved by a violation of this ordinance may, within 180 days of the alleged violation or one year if the alleged violation pertains to housing file a written complaint under oath with the Versailles-Midway-Woodford County Human Rights Commission containing the following information:

- (a) The name and address (if known) of the alleged violator ("Respondent") or facts sufficient to identify such person.
- (b) An outline of the material facts upon which the complaint is based.
- (c) The alleged violation.
- (d) That any conduct of the Complainant was for the purpose of obtaining housing, employment or public accommodation in question and not for the purpose of harassment or entrapment of the person against whom the complaint is made.
- (e) That a complaint concerning this same matter has not been filed with another agency or that any complaint concerning this matter filed with another agency has been dismissed by such agency without a final judgment on the merits.

(2) Upon receipt of the complaint, the Versailles-Midway-Woodford County Human Rights Commission shall first make the following determination, and take the following action:

- (a) If the complaint alleges discrimination based on race, color, national origin, religion, sex, age (over 40), familial status or disability, the complainant shall immediately be referred to the Kentucky Commission on Human Rights for further

processing, investigation and/or administrative proceedings in accordance with the Kentucky Civil Rights Act, KRS Chapter 344, et seq.

(b) If the complaint alleges discrimination based on sexual orientation or gender identity, a copy of the complaint shall be served on the Respondent by certified mail. The Respondent shall file a written response to the complaint within twenty (20) days from the receipt thereof.

(C) Investigation – Findings and Conciliation

(1) The Versailles-Midway-Woodford County Human Rights Commission shall provide for an HRC Investigator who shall investigate the circumstances surrounding all complaints filed with the Versailles-Midway-Woodford County Human Rights Commission in the areas of sexual orientation or gender identity. The HRC Investigator shall report the results of all investigations promptly to the Versailles-Midway-Woodford County Human Rights Commission.

(2) If, after receipt of the report of the HRC Investigator, Versailles-Midway-Woodford County Human Rights Commission determines that there is no probable cause to believe that a violation has occurred, the Versailles-Midway-Woodford County Human Rights Commission shall dismiss the complaint. Written notices of the dismissal shall be served upon the Complainant and Respondent by U.S. Mail postage prepaid. The notice shall state that the Complainant or his or her designee may file a written request for reconsideration within ten (10) days in accordance with the provisions set out in KRS 344.200.

(3) If, after receipt of the report of the HRC Investigator, the Versailles-Midway-Woodford County Human Rights Commission determines that there is probable cause to support the allegations contained in the complaint, the Versailles-Midway-Woodford County Human Rights Commission shall endeavor to eliminate the alleged violation by a conciliation agreement, signed by all parties and the Chair(s) of the Commission, wherein the alleged violation is eliminated and the Complainant is made whole to the greatest extent practicable. The conciliation agreement shall include provisions to enforce its terms. It shall be an unlawful practice for a party to a conciliation agreement to violate its terms (KRS 344.290).

(4) "Probable cause" is defined as a reasonable amount of suspicion, supported by circumstances sufficiently strong to justify a prudent and cautious person's belief that certain facts are probably true.

(5) Any member of the Versailles-Midway-Woodford County Human Rights Commission who is substantially involved in the investigation as to the existence of probable cause

shall recuse himself/herself from the determination of the existence of probable cause. The definition of "substantially involved" shall be made by the Chair(s) of the Versailles-Midway-Woodford County Human Rights Commission.

(6) If a settlement is achieved, the Versailles-Midway-Woodford County Human Rights Commission shall furnish a copy of a signed conciliation agreement to the Corporation Counsel for review and approval as to matters of law. Any law or aspect of the agreement that is deemed to be contrary to or in violation of federal, state or local ordinances shall be removed from the agreement and the parties and the Versailles-Midway-Woodford County Human Rights Commission shall reconvene for additional discussion in an effort to reach a legal agreement. The terms of the conciliation agreement may be made public, but no other information relating to any complaint, its investigation or its disposition may be disclosed without consent of the Complainant and the person charged. A conciliation agreement need not contain a declaration or finding that a violation has in fact occurred and it may provide for dismissal of the complaint without prejudice.

(7) If conciliation is not achieved by agreement between the parties, the Versailles-Midway-Woodford County Human Rights Commission shall appoint a HRC Hearing Officer who shall proceed with a hearing in accordance with Section (D) below, the Kentucky Civil Rights Act, and KRS 13B.

(D) Hearing Procedures, Judicial Review and Appeals

(1) The Versailles-Midway-Woodford County Human Rights Commission shall set a date, time and location for a hearing and notify the Complainant and respondent in writing at least twenty (20) days in advance of that hearing date.

(2) A hearing officer shall be appointed by the Versailles-Midway-Woodford County Human Rights Commission to conduct an administrative hearing and to regulate the course of the proceedings in a manner that will promote the orderly and prompt conduct of the hearing.

(3) All pre-hearing proceedings, hearings, judicial review and appeals shall be conducted in accordance with all applicable provisions of the Kentucky Civil Rights Act, including KRS 344.240 and KRS 13B, the provisions of all of which are hereby adopted in full and incorporated herein by reference.

(4) If the Hearing Officer finds that a violation has occurred, he/she/may recommend the following penalties:

(a) For the first or second offense, a civil penalty of not less than \$100.00, but not greater than \$250.00.

- (b) For the third or subsequent offense, a civil penalty of not less than \$250.00, but not greater than \$500.00. The hearing officer shall submit the final adjudication and recommended order to the Versailles-Midway-Woodford County Human Rights Commission for approval.
- (5) Upon approval by the Versailles-Midway-Woodford County Human Rights Commission, the HRC Officer shall mail a copy of the Order to the Complainant and Respondent, postage pre-paid. The Respondent shall have thirty days to pay any penalty issued in the Order. If the Respondent does not pay the penalty within the time given, the Versailles-Midway-Woodford County Human Rights Commission shall inform the City/County Administrator who shall take all action deemed appropriate to collect any and all penalties, to include an action in the appropriate court to enforce the penalties. Respondent may appeal an order of the Versailles-Midway-Woodford County Human Rights Commission to the Woodford Circuit Court within thirty (30) days after the final order of the Versailles-Midway-Woodford County Human Rights Commission has been mailed as provided herein. The procedure for an appeal shall be the same as set forth in KRS 13B.140.
- (6) The Versailles-Midway-Woodford County Human Rights Commission shall report at least quarterly to the City/County Councils concerning all complaints received and the disposition thereof.

SECTION 19. ENFORCEMENT BY PRIVATE ACTION.

Rights created under this Article may be enforced by civil action in the state courts of general jurisdiction pursuant to the provisions in KRS 344.450 and 344.270.

SECTION 20. OBSTRUCTION AND RETALIATION

The provisions of KRS 344.280, as such provisions may be amended, relating to Obstruction and Retaliation, are adopted by reference herein.

SECTION 21. CONTRACT FOR SERVICES. The Commission may contract with city or county or both to have persons employed by either city or county to aid the Commission in the performance of its functions.

SECTION 22. TERMINATION. This agreement shall continue from year to year (July 1 through June 30), unless notice of termination is given by either party thereto, in writing, at least sixty (60) days prior to June 30.

SECTION 23. DISTRIBUTION OF ASSETS UPON TERMINATION. In the event of termination of this Interlocal Agreement, all of the remaining assets of the Commission, if any, shall be distributed and /or transferred as required or contemplated by any applicable law and, to the extent not so required or contemplated, shall be distributed equally among parties to this Interlocal Agreement.

SECTION 24. NATURE OF AGREEMENT. The parties to this Interlocal Agreement agree hereby to engage in a joint and cooperative undertaking only within the scope herein set out and do not intend to create as between the parties any relationship of surety, indemnification or responsibility for the debts or claims against any other party. Furthermore, the parties do not intend that the execution of this Interlocal Agreement or any action taken pursuant to this Interlocal Agreement shall constitute a waiver of any defense or immunity that the parties would otherwise be entitled to under any applicable law.

SECTION 25. LIABILITY OF OFFICERS AND EMPLOYEES OF PARTICIPATING PUBLIC AGENCIES. No officer or employee of any of the cities or counties which become parties to this Interlocal Agreement shall be subject to any personal liability for any debt or contract created pursuant to this Interlocal Agreement.

SECTION 26. EXECUTION AND VALIDITY, AND AUTHORIZATION OF SIGNATURE PAGE. This Agreement shall be valid when executed in any number of counterparts (each of which shall be an original) upon (i) due authorization by an ordinance, resolution or order of the governing body of the cities or county and (ii) the execution, acknowledgment and delivery by the chief executive officer of the cities or county of a counterpart signature page in the form attached hereto, which together with this Interlocal Agreement and all other duly executed signature pages shall constitute the complete agreement among all the parties hereto.

SECTION 27. FURTHER ACTS AND DEEDS. Each city and county authorizes and directs its chief executive officer and other such officers as may be necessary to execute, acknowledge and deliver any and all documents, certificates or instruments necessary or required to effectuate this Interlocal Agreement.

SECTION 28. CONSTRUCTION. This Interlocal Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

SECTION 29. SEVERABILITY. If any provision of this Interlocal Agreement is held to be in conflict with any applicable statute or rule of law and is otherwise held to be unenforceable,

the invalidity of such provision shall not affect any or all of the remaining portions of this Interlocal Agreement.