





Bullitt County Public Schools

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MEMO

TO: Jesse Bacon 

FROM: Mark Mitchell 

DATE: August 15, 2018

RE: Board Agenda Item – Facility Usage Contract between the Office of Career and Technical Education and Jefferson Community Technical College – Welding Classes at the Area Technical Center

Presented for Board approval is a Facility Usage Contract from Mr. Darrell Vincent allowing Jefferson Community and Technical College Workforce Solutions (JTCWS) to use their facilities through a contract with the Office of Career and Technical Education.

The contract allows for JTCWS to use the Area Technology Center from September 14, 2018 through November 30, 2018 from 5:30 pm to 9:00 each Friday. The contract is provided for your review. The contract has been reviewed by Buckman & Farris, PSC and is true to form and legality.

I recommend the Board approve the request from Mr. Darrell Vincent allowing JTCWS to use the Area Technology Center.

Attachment: Facility Usage Contract



**FACILITY USAGE CONTRACT
BETWEEN
KENTUCKY DEPARTMENT OF EDUCATION
OFFICE OF CAREER AND TECHNICAL EDUCATION
AND
Jefferson Community and Technical College Workforce Solutions**

This Contract is made and entered into this 9th day of August 2018, by and between the Kentucky Department of Education, Office of Career and Technical Education (hereinafter referred to as "OCTE") and **Jefferson Community and Technical College Workforce Solutions** (hereinafter referred to as the "Second Party").

W I T N E S S E T H:

WHEREAS, the Second Party has requested the use of facilities and grounds utilized by OCTE and/or OCTE equipment (hereinafter referred to as "OCTE facilities, ground, and/or equipment") for non-commercial activities during non-instructional time either before the commencement of or after the conclusion of the school day; and

WHEREAS, the OCTE Associate Commissioner, or his authorized deputy pursuant to KRS 156.802(3) of such facilities or grounds has, in his or her discretion, confirmed the availability and initially approved the use of designated portions of such facilities and grounds, and/or the use of designated equipment, all on specified date(s) and time(s) pursuant to the terms and conditions of this Contract; and

WHEREAS, the Second Party has agreed to pay all applicable actual costs and to abide by and satisfy all other terms and conditions of this Contract as consideration for the use of the specified area(s) of the OCTE facility, grounds, and/or equipment on the specified date(s) and time(s).

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. OCTE agrees to make available to the Second Party, the welding classroom and lab in the Bullitt County ATC, and the safety equipment therein, each Friday, September 14th, 2018 to November 30th, 2018 from 5:30 PM to 9:00 PM.

2. The Second Party agrees that the areas of the OCTE facility and/or grounds and/or any OCTE equipment specified in "1," above, will be used only for the following activities or purposes: to teach WLD 151 to up to 12 students.
3. The Second Party shall pay OCTE the amount of \$85 per night for a total of \$1020 for the facility and \$47.75 per night for a total of \$573 for custodial staff and security in consideration for the use specified in "2," above, of the stated OCTE facilities, grounds and/or equipment. The Second Party shall pay said amount in full by December 6th, 2018. The Payment of \$1020 shall be made payable to the Kentucky State Treasurer and sent to the Bullitt County ATC 395 High School Drive, Shepherdsville, KY 40165 for the facility and the Payment of \$573 shall be made directly to the custodian for custodial and security services.
4. The parties agree that the use by the Second Party of the area(s) of the OCTE facility/grounds and or the equipment specified in "1," above, shall be subject to each of the following terms and conditions:
 - a. Prior to its proposed use of the OCTE facility/grounds, the Second Party shall:
 - i. Execute and return this Contract;
 - ii. Submit payment of the amount set forth in "3," above;
 - iii. If requested by the OCTE, procure and maintain throughout the term of this Contract a general liability insurance policy with a reputable insurer having an A.M. Best financial strength rating of "A"- or better, in which:
 - (a) the OCTE is indemnified in an amount not less than \$1,000,000 per occurrence/\$2,000,000 aggregate for any and all claims whatsoever, including injury to persons and damage to property, arising out of the use of the facilities/grounds by the Second Party, including but not limited to, its agents, employees, representatives, servants, licensees, invitees or participants; and (b) the OCTE is named as an additional insured under the policy. A certificate of insurance must be provided to the OCTE prior to the use of the facilities/grounds.

The Second Party and the OCTE agree that any insurance policy(ies) procured by the Second Party that provides benefits or protection for the OCTE shall be primary and that any insurance policy(ies) procured by the OCTE shall be secondary

for any claims arising out of the Second Party's use of the facilities/grounds.

The executed Contract and the certificate of insurance shall each be submitted to the OCTE at the Bullitt County ATC 395 High School Drive, Shepherdsville, KY 40165, by September 14th, 2018.

The Second Party acknowledges and agrees that failure on its part to timely submit an executed Contract or payment in full or a requested certificate of insurance shall be grounds for non-approval by the OCTE of the Second Party's facility usage application and immediate cancellation by the OCTE of any such Contract.

- b. The Second Party and its invitees' access to OCTE facilities/grounds shall be strictly limited to those parts of the OCTE facilities/grounds specified in "1," above, and reasonable means of entry to and egress from those OCTE facilities/grounds.
- c. The Second Party shall abide by all OCTE policies, procedures, rules and regulations in its use of the OCTE facility/grounds, and equipment, and shall be strictly liable for any and all damage to the OCTE facility/grounds, and equipment, which occurs during the time specified in "2," above, or as a result of the Second Party's usage of said OCTE facility/grounds, and equipment.
- d. The Second Party shall observe all applicable fire and safety regulations and codes.
- e. The Second Party agrees that, unless prior approval is given by OCTE in writing, no hazardous materials (including, by not limited to, flammable materials or liquids, fireworks, pyrotechnic devices, explosives, poisonous materials or plants, or strong acids or caustics) and no dangerous animals will be brought onto the OCTE facilities/grounds or used in any way while occupying any portion of the OCTE facilities/grounds.
- f. The Second Party shall prohibit the use of tobacco products and alcoholic beverages in or on the OCTE facility/grounds, except that tobacco products may be used after the instructional time for the school has finished for that day, in such area(s) as may be designated by OCTE.
- g. The Second Party shall not allow any immoral or illegal activity, including but not limited to, gambling, in or on the OCTE facility/grounds.

- h. The Second Party shall not make any alterations to the OCTE facility/grounds or equipment without prior written approval of the OCTE and any local board of education that holds title to the facility/grounds or equipment.
- i. The Second Party shall not sublease, reassign, or in any way encumber any portion of the OCTE facility/grounds or item of equipment covered by this Contract.
- j. The use of OCTE equipment shall not be a part of this Contract unless such equipment is specifically listed in "1," above. In the event equipment is listed the Second Party agrees that:
 - i. Equipment may not be used by the Second Party if such use interferes with OCTE's school activities;
 - ii. Equipment shall not be removed from the OCTE facility/grounds; and
 - iii. The Second Party shall assume full responsibility for any and all expenses resulting from the transfer, repair, or replacement of equipment necessitated as a result of the Second Party's use thereof.

In the event that OCTE equipment is damaged, OCTE shall send a report to the Second Party at the address listed in the Second Party's Facility Usage Application. A resolution agreeable to the OCTE shall be a pre-requisite to continued use by the Second Party of any OCTE facility/grounds or equipment.

- k. In the event equipment assigned for Second Party's use is either unavailable or in unsatisfactory working condition on the date and at the time scheduled for its use, the Second Party's sole remedy shall be a prorated refund of any equipment usage costs paid by the Second Party for such period during which the equipment was so unavailable for use
- l. The Second Party shall ensure that proper care is taken of the OCTE facilities/grounds during its use thereof, and that the OCTE facility/grounds are left in as good a condition after each individual use as immediately before it. The Second Party agrees that any furniture or equipment moved during the use of the OCTE facilities/grounds shall be restored to its original position and that the OCTE facilities/grounds shall be left in a clean and tidy condition.

- m. The Second Party shall not sell or offer to sell any merchandise on the OCTE facility/grounds.
 - n. The Second Party shall be responsible for the conduct of individuals using the OCTE facility/grounds as a result of the Second Party.
 - o. The Second Party shall not use the OCTE facility/grounds, or equipment for commercial purposes or for profit activities.
 - p. The Second Party agrees that if the OCTE facility/grounds, employees, or equipment become unavailable due to circumstances beyond the OCTE's control, including but not limited to: loss of electrical power, sickness, terrorism, war, adverse weather, or natural disaster (earthquake, fire, flood, ice storm, tornado, windstorm, etc.), the Second Party's sole remedy shall be a prorated refund of the applicable actual costs paid by the Second Party for use during such period of unavailability.
 - q. The Second Party agrees to give notice to the OCTE, within 24 hours, of any incident resulting in bodily injury or property damage occurring on or in any way connected with the Second Party's use of the OCTE facilities/grounds or equipment. Such notice shall include details of the time, place, and circumstances of the incident, as well as the names and addresses of any person(s) witnessing the incident.
 - r. The Second Party shall not discriminate on the basis of race, color, national origin, religion, sex, age or disability in its employment, delivery of services, or the availability of program participation in connection with its use of OCTE facilities/grounds and equipment, and will always conduct itself in conformity with the provisions of Title VI and VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended, Rehabilitation Act of 1973, as amended, Age Discrimination Act of 1975, as amended, Americans with Disabilities Act of 1990, and Executive Order No. 11246 of September 24, 1965, as amended, and all other applicable laws and regulations which prohibit discrimination.
5. The terms and conditions of this Contract may be extended or amended at any time by mutual agreement, commemorated in writing and signed by both parties.

6. Either party shall have the right to terminate this Contract for convenience at any time upon 30 days written notice, served upon the other party by certified or registered mail with return receipt requested. In addition, either party may terminate this Contract immediately for cause upon written notice served upon the other party by registered or certified mail with return receipt requested.
7. If any part, term or provision of this Contract is held illegal or in conflict with any federal law or law of the Commonwealth of Kentucky, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular part, term, or provision held to be invalid, if the remainder of the Contract is capable of performance.
8. All questions as to the execution, validity, interpretation and performance of this Contract shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this Contract shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.

Access to Records:

The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

In the event of a dispute between the contractor and the contracting agency, Attorney General, or the Auditor of Public Accounts over documents that are eligible for production and review, the Finance and Administration Cabinet shall review the dispute and issue a determination, in accordance with Secretary's Order 11-004.

Executed by signature and so authorized by the respective governing bodies of the parties to this Facility Usage Contract:

**KENTUCKY DEPARTMENT OF EDUCATION
OFFICE OF CAREER AND TECHNICAL EDUCATION**

By: _____

Date

[ATC Name]

Principal

Date

SECOND PARTY

(Name)

Date

(Title)
Authorized Representative for Second Party