

## **Memorandum of Agreement**

Jefferson Community and Technical College (“JCTC”), an educational institution of the Kentucky Community and Technical College System (“KCTCS”), and Jefferson County Board of Education, a Kentucky public school district operating under the name of the Jefferson County Public Schools (“JCPS”), hereby enter into this Memorandum of Agreement (“Agreement”) dated August 1, 2019.

### **Recitals**

- A. JCPS, through Jefferson County High School (“JCHS”), seeks to provide primary education to its students at multiple locations, including in the southwest area of Louisville, Kentucky.
- B. JCTC maintains a campus for its secondary students in the southwest area of Louisville, with space available for use by JCPS.
- C. JCPS and JCTC wish to provide a supportive environment for JCHS students to continue their education at JCTC facilities at its Southwest campus at the location of 1000 Community College Drive, Louisville, KY, 40272.

### **Terms and Conditions**

- 1. **Term:** The term of this Agreement shall commence on August 1, 2019 and shall conclude on July 31, 2020, unless terminated by either party as provided herein. This Agreement may be extended for four additional one-year periods. Any extension shall be by mutual written Amendment.
- 2. **Termination:** Either party may terminate this Agreement with or without cause at any time with at least one semester’s written notice to the other party.
- 3. **Amendment:** This Agreement may only be modified by mutual written agreement.
- 4. **Use of Space and Technology:** JCTC shall provide JCPS with office space in rooms Tech 100E and Tech 100J to support two JCPS staff or faculty to administer and prepare primary education coursework and privately advise students. Office space shall include utilities, security and janitorial service, phone service, and internet connectivity. JCPS shall provide its own computers, printers, copy machine, and consumable supplies. JCTC shall also make available classroom space and classroom technology in room Tech 110A to JCPS during the days and times that JCPS provides instruction of primary education courses. This office and classroom space and classroom technology, collectively the “Premises”, shall be provided at no cost to JCPS.

JCTC reserves the right to limit the number of classes that JCPS may offer at any one time. JCPS agrees to notify JCTC by August, November, and April of each year of each course to be taught in the following semester or summer term. JCPS agrees to work with JCTC’s Office of Associate Dean of Academic Affairs to facilitate the assignment of classroom space prior to each semester or term.

In the event that JCTC’s Southwest campus closes due to weather, emergency, or other reason, and JCPS classes are scheduled during that closure, the decision on whether or not the campus will be open for JCPS classes will be made by JCTC. If JCTC determines that snow removal is required specifically for JCPS classes, any costs associated with that removal will be the responsibility of JCPS and will be invoiced to JCPS. JCPS shall make payment in accordance with the terms of the invoice.

5. **Legal Relationship:** Nothing in this Agreement or in the relationship shall imply or be interpreted as implying an employment, partnership, joint venture, agency, franchise or other form of agreement or relationship between JCTC and JCPS. No representatives for either party shall act as an agent for the other party or represent authority to act as such.
6. **Third Parties:** Nothing in this Agreement shall be construed as creating or giving rise to any right in any third parties or other persons other than the parties hereto.
7. **Assignment:** This Agreement shall not be assigned by either party.
8. **Liability and Indemnification:** To the extent permitted by Kentucky law, JCPS shall be responsible for any loss or damage due to its negligent and/or intentional acts and omissions. To the extent permitted by Kentucky law, JCTC shall be responsible for any loss or damage due to its negligent and/or intentional acts and omissions. Neither party shall indemnify the other.
9. **Insurance:** Without limiting any liabilities or any other obligations, both parties shall procure and maintain, until all of their obligations have been discharged, insurance against claims for injury to persons or damage to property which may arise from or in connection with this Agreement. Insurance shall be placed with companies that have an A. M. Best rating of not less than A- VII with the following minimum coverages:
- Commercial General Liability: Insurance shall provide coverage for the term of this Agreement and for a minimum of two years after the conclusion or termination of this Agreement, and shall include broad form contractual coverage with limits of \$1,000,000 per occurrence and \$3,000,000 annual aggregate.
- Workers' Compensation: Insurance in accordance with the provisions of applicable laws and regulations, and to include Employer's liability insurance with a minimum limit of \$1,000,000 for each accident.
- JCTC shall be provided with JCPS's Certificate of Insurance ("JCPS COI") within ten (10) calendar days of execution of this Agreement. JCTC shall be listed as both an additional insured and as a holder of the JCPS COI as follows: Jefferson Community and Technical College, 109 E Broadway, Louisville, KY 40202.
- Either party reserves the right to request and receive proof of insurance and/or certified copies of any or all of the above policies and/or endorsements from the other party at any time throughout the term of this Agreement.
10. **Nondiscrimination:** All parties acknowledge that they are equal opportunity employers and agree that they do not and will not discriminate against, harass, or retaliate against any student, employee, or job applicant on the basis of race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, or any other status or condition protected by applicable federal, state, or local laws. Each party hereto represents that they are in full initial and ongoing compliance with all current applicable federal, state, and local laws, regulations, and ordinances.
11. **Waiver:** No waiver by either party of any failure of the other party to keep or perform any undertaking or condition of this Agreement shall be deemed to be a modification of this Agreement or be a waiver of any preceding or subsequent breach of the same or any other undertaking or condition.

12. **Severability:** If any provision of this Agreement shall be declared illegal, void or unenforceable, the remaining provisions shall continue in full force and effect.

13. **Notice:** Any notice, demand, or consent required or permitted to be given hereunder shall be effective upon delivery if hand-delivered, if sent by registered or certified mail with return receipt requested, or by overnight mail delivery for which evidence of delivery is obtained by the sender, at the address(es) set forth below or such other address(es) as either party may designate in writing:

To JCTC:

Jefferson Community & Technical College  
Office of Grants and Contracts  
109 E Broadway  
Louisville, KY 40202

To JCPS:

Jefferson County Public Schools  
Office of the Superintendent  
3332 Newburg Rd  
Louisville, KY 40218

With copy to:

Jefferson Community & Technical College  
Office of VP for Academic Affairs  
109 E Broadway  
Louisville, KY 40202

With copy to:

Jefferson County Public Schools  
General Counsel  
3332 Newburg Rd  
Louisville, KY 40218

Electronic mail shall not constitute written notice.

14. **Dispute Resolution:** The parties do not expect any unresolvable disputes to arise between them under this Agreement. However, to the extent such disputes may arise, the parties agree that any disputes between them arising from, related to, or in connection with this Agreement or the facts and circumstances leading thereto shall be exclusively subject to the laws of Kentucky, and the jurisdiction and venue of the courts in Franklin County, Kentucky, without regard to otherwise applicable choice of law provisions.

In the event of a dispute, the chief executive officers or the authorized designates of each party shall meet as soon as practicable to negotiate a resolution. If no resolution can be achieved, the parties agree to resolve any disputes between them in Franklin County, Kentucky by means of non-binding mediation using a mutually agreed mediator. In the event of a failure of mediation for any reason, the parties agree that the dispute may be filed in Franklin County Circuit Court.

Nothing about this provision shall bar either party from seeking appropriate injunctive relief in Franklin County, Kentucky courts to prevent an imminent, irreparable harm.

15. **Governing Law:** This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky. Both parties are Kentucky public agencies and any and all allegations and claims for negligence against either party arising from actions taken under this Agreement shall be brought before the Kentucky Claims Commission pursuant to Chapter 49.

16. **Background Checks:** If JCTC's employees require access to the Premises on a regularly scheduled and continuing basis for the purpose of providing services directly to JCPS students, all individuals performing such services are required to submit per KRS 160.380 to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating no findings of substantial child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services. JCTC shall promptly notify JCPS of any JCTC staff at the Southwest campus of whom JCTC becomes aware either are or have been charged with a crime

that, if convicted, would disqualify them under KRS 160.380 (even though they are not a school employee nor an independent contractor of JCTC) or KRS 17.165. JCPS shall have the right to prohibit a JCTC staff member from coming onto the Premises if there is reasonable cause to do so including, but not limited to, the following: JCPS learns the JCTC staff member has failed a criminal background check as specified herein above, or JCPS learns the JCTC staff member has been charged with a sex crime or violent offense as set forth in KRS 160.380 (even though the person is not a school employee nor an independent contractor of JCTC) or KRS 17.165.

### **Approval**

In testimony whereof, witness the duly authorized signatures of the parties hereto:

#### **Jefferson Community and Technical College**

Ty Handy  
President

Date

#### **Jefferson County Board of Education**

Martin Pollio  
Superintendent

Date