



## Issue Paper

**DATE:**

May 18, 2022

**AGENDA ITEM (ACTION ITEM):**

Consider/Approve Fort Wright Elementary requests to approve a license agreement with Music Theatre International (MTI) to allow students at Fort Wright Elementary to perform Magic Tree House: Pirates Past Noon (February 2023) and Disney's Moana Jr. (May, 2023).

**APPLICABLE BOARD POLICY:**

01.1 – Legal Status of the Board

**HISTORY/BACKGROUND:**

Fort Wright Elementary is partnering with NKCES (Northern Kentucky Institute for Arts Education) to implement the AIM Program during the 2022-23 school year. This program provides resources and professional learning in arts education and arts integration. This program will support additional music, arts, and drama exposure to students in all grades. All students get an opportunity to be involved in the school community by participating in a drama production. Fort Wright Elementary requests permission to approve a license agreement with Music Theatre International (MTI) to allow students at Fort Wright Elementary to perform Magic Tree House: Pirates Past Noon (February 2023) and Disney's Moana Jr. (May, 2023).

**FISCAL/BUDGETARY IMPACT:**


\$1,240/ AIM Budget)

**RECOMMENDATION:**

Approval to Fort Wright Elementary requests to approve a license agreement with Music Theatre International (MTI) to allow students at Fort Wright Elementary to perform Magic Tree House: Pirates Past Noon (February 2023) and Disney's Moana Jr. (May, 2023).

**CONTACT PERSON:**

Tina Wartman

  
Principal/Administrator

  
District Administrator

  
Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.  
Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.



RACHAEL FASCIOTTO

HI, RACHAEL

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APPLICATIONS

ORGANIZATIONS: FORT WRIGHT ELEMENTARY SCHOOL ▼

## STEP 3

BUY A  
SHOWKIT

### Terms and Conditions

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### Show Information

Show	MAGIC TREE HOUSE: PIRATES PAST NOON KIDS		
License for	5/18/2022 - 5/18/2023		
Performances from	2/24/2023 - 2/25/2023		
Performance Dates			
CHARGE/DESCRIPTION	QUANTITY	RATE	AMOUNT
Royalty	1	\$163.50	\$163.50
Material Fee	1	\$381.50	\$381.50

\*Fees do not include additional materials, shipping and handling

where applicable, or sales tax.

\*\*All materials are non-refundable and non-transferable.

## Dramatic Performing Rights License

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1. Your authorized materials will consist of the following:

<b>DIRECTOR'S GUIDE</b>	<b>1</b>
<b>PIANO VOCAL SCORE</b>	<b>1</b>
<b>STUDENT BOOK</b>	<b>30</b>

2. You agree that

- Ticket prices for any performance of the Play shall not exceed \$10.00 per ticket and
- No performance shall take place for any audience exceeding 750 people unless such performances are free of any admission charge, donations or contributions. Any deviation from the foregoing restrictions requires the prior written permission of Music Theatre International.

3. This License grants you the right to perform the "Play" as many times as you would like within the licensed dates listed on the front of this license. In any event it is a violation of this license and copyright laws to use ShowKit® Materials in part or in whole past the license dates.

4. All advertising, such as posters and program covers, must include the show logo as provided in the ShowKit® Director's Guide. You will not make or sell merchandise bearing this logo, with the exception of t-shirts if purchased from MTI. You will inform the parents and students that they are also bound by this prohibition.

5. The student books are to be distributed to the performers and are theirs to keep. All performers in the show must be in 9th grade or younger, unless otherwise authorized in writing in advance by MTI.

6. The performance rights granted by this license apply only to the organization named on this license through special arrangement with Music Theatre International, exclusive licensing agent for live stage performances of this play.

7. You understand that this play is fully protected by Federal and International Copyright laws, and therefore:

- You will properly credit the Authors of the play, credit Music Theatre International and reproduce the play logo and trademark on all posters and in all programs exactly as provided.
- You may not add or delete any music or lyrics, alter any music or lyrics or interpolate songs not included in the ShowKit materials. The use of makeup to alter a performer's race or ethnicity (e.g., blackface, etc.) is strictly prohibited.
- You will not reproduce, post or electronically transmit on the Internet, rent or sell any of the materials contained in the ShowKit®. However, to aid in the rehearsal of your production, you may make limited individual practice recordings from the performance accompaniment recordings to provide some students as needed, which may contain up to a maximum of three (3) songs each per student. Such recordings may not be otherwise disseminated in any way.
- Recording: **This license does not grant you the right** to make, use and/or distribute a mechanical recording (rehearsal, performance or otherwise) of the Play or any portion of it by any means whatsoever, including, but not limited to, tape, film, CD, DVD or digital versions; or (ii) to televise, broadcast, stream, make available for download or otherwise post online or in social media or through any mobile device the Play or any portion of it. You agree to inform all parents, students and attendees of the above prohibitions against recording the show by means of both a program note and a pre-show announcement. If you have purchased a Streaming or Video License (where available) for your production of the Play, you may permit limited recording in accordance with the terms of the Streaming or Video License.

**Important Legal Notice:** By checking the checkbox below, I hereby agree to all the terms and conditions set forth in the license agreement and represent the following:

- 1) I am authorized to enter into this agreement on behalf of the person, organization or entity (the "Account Holder") whose account I logged onto at the start of this online session;
- 2) I understand that by checking the checkbox below, I am entering into a legally binding agreement on behalf of the Account Holder;
- 3) You understand all Showkits and the content are non-refundable and non-transferable.

**I want to enter into this License Agreement**

☐ Please confirm that you have read and accept and agree to the terms and conditions of the License Agreement.

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New York, NY 10019  
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APPLICATIONS

ORGANIZATIONS: FORT WRIGHT ELEMENTARY SCHOOL ▼

# STEP 3

BUY A  
SHOWKIT

## Terms and Conditions

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## Show Information

Show		DISNEY'S MOANA JR.	
License for Performances from		5/18/2022 - 5/18/2023	
Performance Dates		5/12/2023 - 5/13/2023	
CHARGE/DESCRIPTION	QUANTITY	RATE	AMOUNT
Royalty	1	\$139.00	\$139.00
Material Fee	1	\$556.00	\$556.00

\*Fees do not include additional materials, shipping and handling  
where applicable, or sales tax.

**\*\*All materials are non-refundable and non-transferable.**

# **Dramatic Performing Rights License**

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1. Your authorized materials will consist of the following:

<b>ACTOR'S BOOK</b>	<b>30</b>
<b>DIRECTOR'S GUIDE</b>	<b>1</b>
<b>PIANO VOCAL SCORE</b>	<b>1</b>

**Your ShowKit materials will be provided digitally as well as via hard copy.**

2. You agree that

- Ticket prices for any performance of the Play shall not exceed \$10.00 per ticket and
- No performance shall take place for any audience exceeding 750 people unless such performances are free of any admission charge, donations or contributions. Any deviation from the foregoing restrictions requires the prior written permission of Music Theatre International.

3. This License grants you the right to perform the "Play" as many times as you would like within the licensed dates listed on the front of this license. In any event it is a violation of this license and copyright laws to use ShowKit® Materials in part or in whole past the license dates.

4. All advertising, such as posters and program covers, must include the show logo as provided in the ShowKit® Director's Guide. You will not make or sell merchandise bearing this logo, with the exception of t-shirts if purchased from MTI. You will inform the parents and students that they are also bound by this prohibition.

5. The student books are to be distributed to the performers and are

theirs to keep. All performers in the show must be in 9th grade or younger, unless otherwise authorized in writing in advance by MTI.

6. The performance rights granted by this license apply only to the organization named on this license through special arrangement with Music Theatre International, exclusive licensing agent for live stage performances of this play.

7. You understand that this play is fully protected by Federal and International Copyright laws, and therefore:

- You will properly credit the Authors of the play, credit Music Theatre International and reproduce the play logo and trademark on all posters and in all programs exactly as provided.
- You may not add or delete any music or lyrics, alter any music or lyrics or interpolate songs not included in the ShowKit materials. The use of makeup to alter a performer's race or ethnicity (e.g., blackface, etc.) is strictly prohibited.
- You will not reproduce, post or electronically transmit on the Internet, rent or sell any of the materials contained in the ShowKit®. However, to aid in the rehearsal of your production, you may make limited individual practice recordings from the performance accompaniment recordings to provide some students as needed, which may contain up to a maximum of three (3) songs each per student. Such recordings may not be otherwise disseminated in any way.
- Recording: **This license does not grant you the right** to make, use and/or distribute a mechanical recording (rehearsal, performance or otherwise) of the Play or any portion of it by any means whatsoever, including, but not limited to, tape, film, CD, DVD or digital versions; or (ii) to televise, broadcast, stream, make available for download or otherwise post online or in social media or through any mobile device the Play or any portion of it. You agree to inform all parents, students and attendees of the above prohibitions against recording the show by means of both a program note and a pre-show announcement. If you have purchased a Streaming or Video License (where available) for your production of the Play, you may permit



limited recording in accordance with the terms of the Streaming or Video License.

**Rider for  
DISNEY'S MOANA JR.**

**Specific Licensing Guidelines and Provisions**

1. **DISNEY PUBLIC IMAGE AND REPUTATION.** You acknowledge that Disney is extremely sensitive about maintaining the wholesome Disney public image and preserving and enhancing the Disney reputation for consistently offering family entertainment of the highest caliber. You agree that neither you, nor your employees and representatives, shall take any action which could poorly reflect upon such Disney public image or reputation and you shall at all times manage the production and presentation of the Play in a manner consistent with such Disney public image and reputation. All staff will be made aware of Disney's standards and will conduct themselves in a manner in accordance with these standards and with the expectations of a family audience. In addition to the foregoing, you agree not to list any of your sponsors in connection with any advertising or promotion of the Play if such sponsors do business in any of the following categories: alcohol, tobacco, and firearms. Any violation of the foregoing provisions shall entitle us to immediately terminate this Agreement and to injunctive relief to prohibit any further use of the Play.
  
2. **TRADEMARKS.** You shall acquire no right under this Agreement to use, and shall not use, the name "Disney" (either alone or in conjunction with or as part of any other word or name) or any fanciful characters, designs, logos or trademarks of The Walt Disney Company or any of its related, affiliated or subsidiary companies:
  - 2.1 in any of your advertising, publicity or promotions other than as part of the title page for programs of your production of the Play, all as provided in paragraph 1 of this Rider and to factually describe Disney's role in your production, namely, that Disney is a

licensor only of its stage play and not Disney owned production elements, and is not a producer of your show.

2.2 to express or imply any endorsement by Disney of your production of the Play or any other of your activities; or:

2.3 in any other manner whatsoever (whether or not similar to the uses hereinabove specifically prohibited).

Violation of one or more of these Guidelines and Provisions constitutes a material breach of contract and may result in the immediate revocation of your performance license. Please read the Guidelines and Provisions carefully.

## **DISNEY LIMITED STREAMING AND REMOTE PERFORMANCE LICENSE**

The following shall constitute a rider to the associated Production Contract and is deemed incorporated by reference into such contract.

Licensee has requested the right to record its AMATEUR production of the Play to make it available for viewing remotely on a secure streaming platform, and MTI has agreed, insofar as it is concerned, to permit such recording and streaming, strictly on the terms and conditions set forth in this Limited Streaming License and the associated Production Contract.

Accordingly, the Licensee agrees as follows:

### **A. Grant of Rights and Streaming Options**

**1. Grant of Capture and Streaming Rights.** Notwithstanding any prohibition against video recording in the associated Production Contract for the Play, this Streaming License grants Licensee permission to (i) capture its live stage production of the Play, and make such capture available to remote audience members who have purchased tickets to view the stream ("Stream Viewers") on a private, secure (password-protected) streaming platform ("Secure Streaming Platform") or (ii) to perform the Play remotely (as

described in Paragraph 2(c) below). Licensee acknowledges and agrees that (i) all terms and conditions of the Production Contract and any associated riders, including the prohibition on making changes to the book, music and lyrics of the Play, apply to any performance livestreamed or recorded pursuant to this Streaming License (each, a "Video Performance"), and (ii) all Video Performances may be distributed only via the Secure Streaming Platform, and streaming, broadcasting or any other distribution of the Video Performance is not permitted on any other platform or service (e.g., YouTube, Vimeo, Google Classroom, Facebook, Zoom or other social media if not protected by a password). Prior to making the Video Performance available to Stream Viewers, Licensee shall notify MTI in writing of the complete details of its distribution plan, including dates, platform on which the Video Performance will be available, etc.

**2. Streaming and Performance Options for the Play:** This Streaming License permits the Licensee to do the following:

**(a) Livestream:** Licensee may livestream (as defined below) one or more performances of its live stage production solely to Stream Viewers via the Secure Streaming Platform. Livestreams may be shown only live, although the Secure Streaming Platform may permit Stream Viewers a limited period of time to pause or restart from the beginning. "Livestream" means that the Video Performance is broadcast live over the Secure Streaming Platform.

**(c) Remote Performance:** Licensee may use video conferencing technology (e.g., Zoom) or other video recording methods to create a "Remote Performance" of the Play and may stream such Remote Performance on a Secure Streaming Platform, subject to the following. A "Remote Performance" is a production of the Play in which cast members perform individually from remote locations (e.g., at home) rather than live onstage. The Remote Performance may be presented live on a video-conferencing platform (with or without prerecorded segments) or the individual performances may be recorded separately and edited together to create a single Video Performance for streaming. Licensee may utilize any video recording method, including video conferencing technology (e.g., Zoom), for auditions and rehearsals and to capture

its Remote Performance. Regardless of the method of creating a Remote Performance, no changes or additions in the book, lyrics or music of the Play may be made in the editing process. Licensee acknowledges that although Zoom and other video conferencing technology may be used in the performance, capture and editing of the Remote Performance, the final edited Remote Performance may only be distributed on the Secure Streaming Platform. It is permissible to stream a Zoom performance through the Secure Streaming Platform but the Zoom performance cannot be distributed directly to an audience through Zoom). Remote Performances under this paragraph may be viewed solely by Stream Viewers who have purchased tickets to view on the Secure Streaming Platform on the performance dates set forth in Licensee's Production Contract.

**3. Secure Streaming Platform:** The platform on which Licensee streams the Video Performance must be password-protected and must not permit downloading, copying or other duplication or redistribution of the Video Performance. If the platform itself has the capability to allow downloading or duplication, Licensee must ensure that the settings for this Video Performance are such that downloading is not permitted. Licensee must provide a password to MTI to enable MTI and the authors and rightsholders of the Play to view the Video Performance

**4. Term:** If any of the conditions set forth in the Production Contract have changed in any way that would affect streaming performances (including change of dates, cancellation or addition of performance(s), ticket price adjustments), Licensee agrees it will notify its MTI customer representative in writing immediately, and MTI must approve all changes in writing before they may take effect. Such changes may alter the fees quoted in the Production Contract. If Licensee requests the right to add additional streaming performances, Licensee agrees not to announce, advertise, present or sell tickets for such additional performances without prior written approval from MTI. Unless MTI agrees in writing to a longer term, Licensee may make the Video Performance available only throughout the term of the Performance License (the "Term"). Following the expiration of the Term, Licensee must take down and

disable access to the Video Performance (and notify MTI in writing that it has done so) within 48 hours of the last scheduled performance.

## **B. General Terms and Conditions**

**5. Royalties and Fees:** Licensee acknowledges that in addition to any royalties or other fees payable pursuant to the Production Contract for the right to produce and present the Play, Licensee will pay the fees listed at the top of this License, if any. If no fees or royalties are listed above, then this License is included in your Production Contract at no additional charge. If a Streaming Royalty is listed above, it will be the greater of (a) the gross proceeds from all streaming tickets sold multiplied by the streaming royalty percentage set forth above and (b) the Per Performance Minimum Royalty set forth above. For example, if you are not charging for streaming tickets, you must still pay the Per Performance Minimum Royalty for each streaming performance. Licensee must account for all sales of tickets, whether to live performances or the Video Performance, in accordance with the terms of the Performance License.

**6. Advertising Restrictions:** Licensee is not permitted to advertise and sell tickets for the Video Production regionally or nationally. Accordingly, Licensee agrees that its advertising, marketing and promotion of the Video Performance will be limited to its customary local outlets and its social media accounts. Licensee shall not issue any advertising or publicity for streaming to national media such as Broadway.com, Broadway World, Playbill, etc.

**7. Non-Commercial Venture.** Licensee acknowledges that the Video Performance may be created by Licensee solely for streaming on a Secure Streaming Platform and neither the Video Performance nor any other video recording of the Play may be sold, leased, duplicated or rented except as provided as herein or in a separate MTI video license (available for certain titles only).

**8. Billing.** Licensee shall post the full billing credits for the Play onscreen, and shall follow all requirements as to order, size and wording of credits, as provided in the associated Production

Contract). Licensee may also distribute a digital program to each Stream Viewer. Such billing shall include the following credit:

**STREAMING IS PRESENTED BY SPECIAL ARRANGEMENT WITH  
MUSIC THEATRE INTERNATIONAL (MTI) NEW YORK, NY.**

**All authorized performance materials are also supplied by MTI.  
mtishows.com**

**9. Restriction on Distribution.** In no event may any recording of the Play authorized herein, either in whole or in part, be otherwise reproduced and/or disseminated in any way, including broadcasting, televising, sale or electronic transmission and/or posting on the Internet or social media except as expressly authorized in this Streaming License.

**10. Copyright Infringement.** Licensee understands that its failure to follow the above requirements, even if inadvertent, could subject Licensee to liability for statutory copyright infringement under federal law. Licensee agrees that, without limiting any other recovery that MTI and/or the rightsholder(s) may obtain against Licensee, whether at law or at equity, for its breach of this Agreement, Licensee shall, at a minimum, reimburse MTI and/or the rightsholder(s) for its out-of-pocket legal fees and shall pay to MTI and/or the rightsholder(s) damages equal to three times the total license royalty fees paid or payable to MTI by Licensee for its production of the Play or statutory damages in lieu thereof.

**11. Third-Party Permissions.** Permission granted herein to make a Video Performance available to Stream Viewers is limited to rights in the Play only. MTI cannot grant permission for others whose permission may be required such as, but not limited to, performers, production personnel, directors, choreographers, and designers as well as the theatre or venue owner. Licensee shall obtain all necessary releases and permissions from such personnel (including parents or legal guardians of minor children) and any applicable unions (e.g., Actors Equity, American Federation of Musicians, etc.). Licensee shall indemnify, defend (with counsel chosen by the applicable party being indemnified) and hold harmless MTI and the

authors and other rightsholders of the Play from and against all charges, damages, costs, expenses (including reasonable outside attorney's fees), judgments, settlements, penalties, liabilities or losses of any kind or nature whatsoever suffered or incurred by MTI, the authors and other rightsholders of the Play, and their respective parents, affiliates, subsidiaries, directors, officers, agents, employees, licensees, successors, and assigns arising out of any actual or threatened third-party action which relates in any way to the Video Performance or Licensee's live stage production of the Play.

**12. Compliance with Laws.** Licensee represents and agrees that it shall be aware of and comply with any and all applicable federal, state and local laws applicable to its production, including laws, regulations and ordinances pertaining to social gathering restrictions as well as any other rules or guidance regarding the COVID-19 outbreak which may impact any aspect of Licensee's production of the Play, including but not limited to Licensee's rehearsals, performances and audience attendance. By permitting Licensee to stream its production, MTI makes no representation or assessment of the legality or prudence of the Licensee's decision to proceed with its production, nor shall MTI or the rightsholders be held liable for any claims arising out of Licensee's decision to proceed with its production. Licensee shall indemnify and hold MTI and the rightsholders harmless from any claims, costs, and damages arising out of Licensee's production.

**13. Limited Audiovisual Rights.** Other than to the limited extent provided for in the foregoing, no film rights, television rights or merchandising rights are made available to Licensee as part of this Streaming License. Licensee acknowledges that the rights granted are limited to capturing a live-stage performance and Licensee is not permitted to adapt the Play for video conferencing (e.g., Zoom) unless Paragraph 2 of this Streaming License includes remote performance rights.

**14. Disney Image and Reputation.** Licensee acknowledges that the terms of the Additional Guidelines and Provisions incorporated by reference in the Licensee's Production Contract, including the provisions relating to the use of Disney intellectual property and its

public image and reputation, apply to any content added by Licensee to the Video Performance (e.g., opening or closing credits, frames, intermission content, etc.). Licensee shall include the following copyright notice at the end of the video:

© Walt Disney Productions.

**15. Limitation of Liability.** To the fullest extent provided by law, except as provided in the next sentence, in no event will MTI or the rightsholders of the Play be liable to Licensee on any legal theory (including, without limitation, negligence) or for its errors or omissions, or otherwise for any direct, special, indirect, incidental, consequential, punitive, exemplary, or other losses, costs, expenses, or damages arising out of this Limited Streaming License, even if MTI has been advised of the possibility of such losses, costs, expenses, or damages. MTI's and the rightsholders' total liability is limited to the total compensation paid to MTI under this Limited Streaming License.

**16. Miscellaneous.** All other provisions, terms and conditions of the Production Contract shall continue in full force and effect. This Streaming License shall be governed by the laws of the State of New York.

**Important Legal Notice:** By checking the checkbox below, I hereby agree to all the terms and conditions set forth in the license agreement and represent the following:

- 1) I am authorized to enter into this agreement on behalf of the person, organization or entity (the "Account Holder") whose account I logged onto at the start of this online session;
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