

**Memorandum of Agreement
Between
Jefferson County Board of Education
And
Fund for the Arts
And
Commonwealth Theatre Center**

This Memorandum of Agreement (hereinafter "Agreement") is entered into between the Jefferson County Board of Education (hereinafter "JCPS"), a political subdivision of the Commonwealth of Kentucky, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218, Fund for the Arts (hereinafter "Fund for the Arts"), a nonprofit organization with its principal place of business at 623 West Main Street, Louisville, Kentucky 40202, and Commonwealth Theatre Center, Inc. (hereinafter CTC"), a Kentucky 501(c)(3) nonprofit corporation located at 1123 Payne Street, Louisville, Kentucky 40204.

WHEREAS Fund for the Arts has provided funding directly to CTC through the Arts for Kosair Kids© grant to provide arts experiences (hereinafter "Project") for JCPS students at Brooklawn state agency school (hereinafter "Brooklawn").

NOW THEREFORE, in consideration of the premises and the mutual promises set forth in this Agreement, JCPS, Fund and CTC agree that they will collaborate on the Project described below.

I. Fund for Arts agrees to:

- a) Provide grant funding directly to CTC for the costs of the Project.
- b) Work with JCPS and CTC to determine appropriate measures for program outcomes.

II. CTC agrees to:

- a) Provide Discover Drama workshops for students as outlined in Attachment A.
- b) Provide an Activism Residency for students as outlined in Attachment A.
- c) Provide the No Turning Back performance and pre/post show workshops as outlined in Attachment A.
- d) Participate in Kosair Charities community events to highlight the impact of the Project as approved by JCPS.
- e) Recognize Kosair Charities and the Project in any e-newsletter, social media and other appropriate materials throughout the Project year and use Arts for Kosair Kids© when recognizing the Project.

- f) CTC may not provide any data or information on the Project to a third-party, including, but not limited to, Fund for the Arts and Kosair Charities, without appropriate JCPS approvals.
- g) If CTC plans to use any kind of digital resource in providing programming to students, including digital platforms, websites, or databases, JCPS Digital Resource Review Committee may be required to approve.
- h) CTC may not use the name or logo of JCPS or Brooklawn in printed materials, websites, or social media without prior approval from JCPS Chief of Communications.
- i) Require all employees, volunteers and contractors (including employees of contractors) of CTC performing services on JCPS school premises during JCPS school hours under this Agreement submit per KRS 160.380 to a national and state criminal history background check by 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 administrative findings of child abuse and neglect records maintained by the Cabinet for Health and Family Services.
- j) No contractor, employee, intern, or volunteer shall be utilized to supervise students, or deemed to have the authority to supervise students, unless the volunteer has been designated to supervise students by the Principal and approved by the Superintendent/designee, and the volunteer has undergone the required records check.
- k) Prohibit contractors, employees, interns, and volunteers under this Agreement from performing services under this Agreement and from remaining upon the premises of a JCPS facility for any purpose under this Agreement if the contractor, employee, intern, or volunteer has been convicted of the following:
 - i. Any conviction for sex-related offenses.
 - ii. Any conviction for offenses against minors.
 - iii. Any conviction for felony offenses except as provided in number 6 below.
 - iv. Any convictions for deadly weapon-related offenses.
 - v. Any conviction for drug-related offenses, including felony drug offences, within the past seven (7) years.
 - vi. Any conviction for violent, abusive, threatening or harassment related offenses; OR other convictions determined by the Superintendent/designee to bear a reasonable relationship to the ability of the applicant to serve as a volunteer.
- l) Contractors, employees, interns, and volunteers under this Agreement shall immediately notify the school principal or the Volunteer Talent Center if they are convicted of or plead guilty to one of the criminal offenses listed above and shall immediately cease providing services under this Agreement and shall not remain upon premises of a JCPS facility for any purpose under this Agreement.
- m) CTC will ensure that the volunteers/contractors/employees under the supervision of JCPS staff shall comply in all material respects with all applicable laws and regulations and all

applicable JCPS policies and procedures of which JCPS informs CTC.

- n) If the performance of this Agreement involves the transfer by JCPS to CTC of any data regarding any student that is subject to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g as amended, (“FERPA”), CTC agrees to:
 - i. In all respects, comply with the provisions of FERPA, including any requirements of Chapter 99 of Title 34 of the Code of Federal Regulations and any other applicable state or federal law.
 - ii. Use any such data for no purpose other than to fulfill the purposes of this Agreement, and not share any such data with any person or entity other than CTC and its employees, contractors, volunteers, and agents, without prior approval of JCPS. Disclosure shall be limited to only those employees, contractors, volunteers, or agents who are necessary for the fulfillment of this Agreement.
 - iii. Require all employees, contractors, volunteers, and agents of CTC to comply with all applicable provisions of FERPA with respect to any such data. CTC shall require and maintain confidentiality Agreements with each employee, contractor, volunteer, or agent with access to data pursuant to this Agreement.
 - iv. Maintain any such data in a secure environment, whether physical or electronic, and not copy, reproduce, or transmit any such data except as necessary to fulfill the purposes of this Agreement. CTC shall notify JCPS within 24 hours in the event of any data breach or disclosure of data to any person or entity other than the parties listed in section ii of this provision.
 - v. Collect, store, and maintain data in a manner that does not permit the identification of an individual student by anyone other than employees, contractors, or agents of CTC necessary for the fulfillment of this Agreement and having a legitimate interest related to the purposes of this Agreement in knowing such personal identification, and not disclose any such data in a manner that would permit the identification of an individual student in any form, including, but not limited to, published results of studies.
 - vi. Destroy or return to JCPS any such data obtained under this Agreement within thirty days (30) after the date by which it is no longer needed by CTC for the purposes of this Agreement. CTC will require all employees, contractors, volunteers, or agents of any kind to comply with this provision.
- o) JCPS retains the right to audit CTC’s compliance with the confidentiality requirements of this provision.
- p) For any projects, involving research, program evaluation, monitoring activities, or data collection of any kind, JCPS student or staff participation is voluntary. As a federally authorized Institutional Review Board (IRB), JCPS complies with the federal definition for research, which includes sharing of Personally Identifiable Information (PII) for the purpose of answering a question or evaluating activities for effectiveness beyond standard educational or operational procedures. Thus, all research, program evaluation and data collection activities must be approved by the JCPS IRB and shall not begin before approval is secured from the JCPS IRB.

- q) CTC acknowledges that any violation of this Agreement and/or the provisions of FERPA or accompanying regulations related to the nondisclosure of protected student information constitutes just cause for JCPS to immediately terminate this Agreement pursuant to Article V of this Agreement.
- r) CTC will maintain an all-risk property and casualty insurance policy with respect to the facilities and a policy of commercial general liability in amounts no less than \$1,000,000/\$2,000,000 per policy and provide JCPS with a certificate of insurance upon request.
- s) CTC understands and agrees that the Project may not interfere with the instructional program of JCPS.
- t) To the extent that JCPS facilities are closed to students or restricted to visitors, those facilities will also be unavailable to CTC. During any periods of the Non-Traditional Instruction (NTI) or remote learning, JCPS facilities will not be available to CTC staff, students, volunteers, or contractors.

III. JCPS/Brooklawn agree to:

- a) Recognize Arts for Kosair Kids©, Fund for the Arts, CTC and the Project in any e-newsletter, social media and other appropriate materials throughout the Project year and will use Arts for Kosair Kids© when recognizing the Project.
- b) As permitted by JCPS and Brooklawn, participate in community events highlighting the impact of the Project.
- c) Provide a space and support for the Project as described in Attachment A.
- d) Recruit students for the Project.
- e) Post at least one update on social media highlighting and promoting the Project, as is permitted by JCPS. Arts for Kosair Kids© and Fund for the Arts will be tagged in the post.
- f) Work with CTC to create a year-end report on the Project.

IV. General Conditions

All parties will designate individual(s) to serve as liaison to facilitate matters in a reasonable and timely manner. Failure to comply with the foregoing provisions will constitute just cause for JCPS to immediately terminate this Agreement pursuant to Article V of this Agreement.

V. Period of Performance and Termination

This Agreement shall be in effect for the period beginning March 1, 2023 and ending June 30,

2023. Any party may terminate this Agreement by giving the other 30 days' written notice. The Jefferson County Board of Education may terminate this Agreement immediately if student confidentiality or safety is deemed to be in jeopardy or for any other reason the Superintendent determines is in the best interest of the school. This Agreement may be terminated immediately by JCPS upon ten (10) business days' written notice to CTC or Fund for the Arts for its failure to cure a material breach of this Agreement.

VI. Modification

No waiver, alteration, or modification of the provisions of this Agreement shall be binding unless in writing and mutually agreed upon by both JCPS and CTC.

VII. Equal Opportunity

During the performance of this Agreement, CTC shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Kentucky Equal Employment Act of 1978, KRS 45.550-45.640, and the American Disabilities Act, and shall not discriminate against any JCPS employee, student or student's, parent or guardian because of race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, or disability or limitations related to pregnancy, childbirth, or related medical conditions.

VIII. Indemnification

To the extent permitted by Kentucky law, JCPS agrees CTC, its affiliated entities and their respective employees, officers, directors, agents, shareholders, and members shall not be responsible for any personal injury, property damage or any other loss suffered as a result of such possession or use of delivered equipment and curriculum materials from CTC.

IX. Independent Parties

In the performance of the duties and obligations imposed on each party by this Agreement, it is mutually understood and agreed that CTC and Fund for the Arts are always acting as an independent contractor with respect to JCPS, and no party shall be construed to be an agent or representative of any other.

X. Captions

Section titles or captions contained in the Agreement are inserted only as a matter of convenience and reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provisions hereof.

XI. Entire Agreement

This Agreement contains the entire Agreement between JCPS, Fund for the Arts and CTC and supersedes all prior Agreements executed contemporaneously with the execution of the

Agreement and incorporated herein by reference shall remain in full force and effect.

IN TESTIMONY THEREFORE, the parties have caused this Agreement to be executed in their respective name, on the day and year signed below, with the effective date as of February 28, 2023.

JEFFERSON COUNTY PUBLIC SCHOOLS

Marty Pollio, Ed.D.
Superintendent

Date

FUND FOR THE ARTS

Andre Kimo Stone Guess
President and CEO

Date

COMMONWEALTH THEATER CENTER

Ian Frank
Managing Director

Date