

**Memorandum of Agreement
Between
Jefferson County Board of Education
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 and Commonwealth Theatre Center, Inc. (hereinafter "CTC"), a Kentucky 501(c)(3) nonprofit corporation located at 1123 Payne Street, Louisville, Kentucky 40204.

WHEREAS CTC has received a Louisville Metro Government External Agency Fund grant to implement the Drama for Learning: At-Risk Youth (Middle and High) using innovative curriculum to build academic and social skills for at-risk youth (hereinafter 'Project').

WHEREAS CTC and Newcomer Academy (hereinafter "Newcomer") desire to implement the Project for Newcomer students.

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

I. JCPS/Newcomer agree to:

- A. Work with CTC to schedule programming with classroom teachers and students at the school location during Spring 2023.
- B. JCPS and Newcomer Academy will review/approve drafts of social media posts or other public relations submitted by CTC.
- C. If Newcomer Academy teachers wish to make any student product a Backpack Skills for Success artifact, they will provide their own recording technology.
- D. If Newcomer Academy teachers/students wish to perform artistic work developed in CTC residencies, they will organize family/school sharing with their community and invite CTC to any open performance.
- E. At the closure of programs, participating teachers will share a statement regarding the value of CTC programming in the classroom, as approved by school administration and JCPS.

II. Duties of CTC:

- A. Assign two teaching artists per classroom residency to implement programming.

- B. Contact Newcomer staff and participating teachers in advance of the residency for an orientation to learn about classroom culture and share information/resources about the residency curriculum.
- C. Submit a draft of any social media or public relations about this project to JCPS Communications for review and approval prior to any publication.
- D. If CTC plans to have students or teachers use any digital resource in providing programming to students, including technology devices not owned by JCPS, digital platforms, websites, or databases, JCPS Digital Resource Review Committee must approve.
- E. Not use the name or logo of JCPS or individual JCPS schools in printed materials, websites, videos, or social media without prior approval from JCPS.
- F. For any projects involving program evaluation, monitoring activities, data collection, or research of any kind, JCPS student or staff participation is voluntary. As a federally authorized Institutional Review Board (IRB), JCPS complies with the federal definition of 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.
- G. 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:
 - 1. 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.
 - 2. 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.
 - 3. 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 contractor, volunteer, or agent with access to data pursuant to this Agreement. CTC shall require that each employee with access to data as outlined herein is informed of its confidential nature and must maintain its confidentiality on terms no less restrictive than those contained herein or as otherwise required by applicable law.

4. Maintain any such data in a secure environment, whether physical or electronic, and do 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 this Agreement.
 5. 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.
 6. Destroy or return to JCPS any such data obtained under this Agreement within thirty days (30) after the date by which CTC no longer needs it for the purposes of this Agreement. CTC will require all employees, contractors, volunteers, or agents of any kind to comply with this provision.
- K. JCPS retains the right to audit CTC's compliance with the confidentiality requirements of this provision.
- L. 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.
- M. Maintain an all-risk property and casualty insurance policy with respect to CTC facilities, to the extent work performed under this Agreement occurs at 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.
- N. Require all CTC employees/volunteers/contractors performing services under this Agreement to have on file a Criminal Records Check, per Kentucky law and JCPS requirements, completed no more than five years ago. Employees/contractors convicted of any of the following, per JCPS Board Policy 03.6, shall not be considered:
1. Any conviction for sex-related offenses.
 2. Any conviction for offenses against minors.
 3. Any conviction for felony offenses, except as provided below.
 4. Any conviction for deadly weapon-related offenses.

5. Any conviction for drug-related offenses, including felony drug offenses, within the past seven years.
 6. Any conviction for violent, abusive, threatening or harassment related offenses.
 7. Other convictions determined by the Superintendent/designee to bear a reasonable relationship to the ability to perform services under this Agreement.
- O. CTC staff, students, and volunteers will follow all JCPS health and safety guidelines when in JCPS buildings.
 - P. To the extent that JCPS facilities are closed to students, 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.

III. Mutual Duties:

- A. Each party shall not discriminate based on 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, disability, or limitations related to pregnancy, childbirth, or related medical conditions.
- B. Each party shall comply with all federal and state laws and regulations and all JCPS policies applicable to the provision of the services described in this Agreement, including without limitation the Federal Family Educational Rights and Privacy Act (FERPA), the Kentucky Educational Rights and Privacy Act (KFERPA), the federal Health Insurance Portability and Accountability Act (HIPAA) and JCPS policies and procedures for volunteers and visitors entering JCPS facilities.
- C. The respective administrative offices of JCPS and CTC who have responsibility for the implementation of this Agreement shall meet periodically during the term of this Agreement to evaluate the Program and discuss issues of mutual concern.

- IV. **Term:** This Agreement shall be effective commencing March 29, 2023 and shall terminate on June 30, 2023. The Agreement may be extended by mutual written Agreement of JCPS and CTC.
- V. **Termination:** Either party may terminate this Agreement prior to the end of its term by giving sixty (60) days prior written notice to the other party. If JCPS terminates the Agreement, CTC will be permitted in their discretion to continue to provide services during the period in which the sixty (60) day notice becomes effective.
- VI. **Amendment:** This Agreement may be modified or amended only by a written agreement signed by JCPS and CTC.

- VII. **Independent Parties**: JCPS and CTC are independent parties, and neither shall be construed to be an agent or representative of the other and, therefore, neither shall be liable for the acts or omissions of the other. However, each party shall be liable for any negligent or wrongful acts of its employees, students, and invitees.
- VIII. **Captions**: Section titles or captions in this Agreement are inserted as a matter of convenience and reference and in no way define, limit, extend, or describe the scope of this Agreement.
- IX. **Entire Agreement**: This Agreement contains the entire Agreement between JCPS and CTC concerning the CSP and supersedes all prior agreements, either written or oral, regarding the same subject matter.
- X. **Severability**: If a court of competent jurisdiction holds any provision of this Agreement unenforceable, such provision shall be modified to the extent required to make it enforceable and consistent with the spirit and intent of this Agreement. If such a provision cannot be so modified, the provision shall be deemed separable from the remaining provisions of this Agreement and shall not affect any other provision.
- XI. **Counterparts**: This Agreement may be executed in counterparts, wherein each executed counterpart shall be deemed an original, and all executed counterparts shall constitute one and the same instrument.
- XII. **Applicable Law**: This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Kentucky.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed.

JEFFERSON COUNTY PUBLIC SCHOOLS:

Marty Pollio, Ed.D
Superintendent

Date

COMMONWEALTH THEATER CENTER

Ian Frank
Managing Director

Date