

**MEMORANDUM OF AGREEMENT**  
**Between**  
**Jefferson County Board of Education**  
**And**  
**Fund for the Arts**

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 Fund for the Arts (hereinafter "FUND"), a Kentucky nonprofit corporation with its principal place of business at 623 West Main Street, Louisville, KY 40202.

WHEREAS FUND and JCPS will work together to implement the 5x5 Arts Initiative, a program which works to provide five live arts experiences to JCPS elementary school students before they complete their fifth grade. The 5x5 program is part of a broader FUND for the Arts in Learning Initiative.

Attachment C, attached and incorporated herein by reference, lists the elementary schools currently participating in the 5x5 grant program.

THEREFORE, in consideration of the terms, conditions, premises, and mutual agreements set forth herein, JCPS and FUND agree as follows:

**1. Duties of JCPS:**

- a. Match payments made by Fund for the Arts for JCPS elementary schools to participate in the 5x5 program, up to the amount of and not to exceed \$100,000.

**2. Duties of FUND:**

- a. Agrees to arrange for the services of its Arts Program Partners for student arts educational in-school/field trip programming for participating JCPS elementary schools as part of its 5x5 grant program as outlined in Attachment D, attached, and incorporated herein by reference.
  - i. Agrees to work with each participating JCPS elementary school, based on the school's arts educational programming plan to determine scheduling of the in-school/field trip arts educational programming for the duration of the services provided.
  - ii. Agrees to cover all the costs of the 5x5 program for participating JCPS elementary schools in excess of \$100,000.
  - iii. Will not refer to any JCPS funding provided to schools under this Agreement as grants or donation in any social media sites media sites or publications due to JCPS funds being considered a payment for services.

- iv. Ensure that any selected Arts Program Partner paid under this agreement to provide programming in schools that is more than a one-time event, also remains compliant with terms stated within this Agreement.
  - v. Agree that share of the costs will be based on the submission of two invoices, one in February 2025 and one in June 2025, each in an amount up to but not to exceed \$50,000.
  - vi. Fund shall provide a list to JCPS of all schools awarded 5x5 funding for Round 1 and Round 2. By June 30 of each year, Fund will provide a final report of all schools receiving funding for the 2024-2025 school year listing the amount of funding used by each school.
- b. Acknowledges that projects involving program evaluation, monitoring activities, or data collection or research of any kind, are subject to JCPS IRB review and approval as determined by the JCPS IRB to meet federal, State, and Board policies. In these cases, 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.
- c. If the performance of this Agreement involves the transfer by JCPS to FUND 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”), FUND and JCPS must manage the data transfer in accordance with FERPA requirements, and FUND agrees to the following conditions:
- i. If FUND requests transfer of identifiable data by JCPS that is subject to JCPS IRB procedures, as determined by the JCPS IRB to meet federal, State, and Board policies, JCPS cannot transfer identifiable data to FUND before the JCPS IRB-approved informed consent process has been executed. In this case, FUND does not function as an exception under FERPA. FUND is responsible for obtaining, and maintaining, signed consent after JCPS IRB approval. No data will be provided under this Agreement without signed consent from the guardian for records requests involving students or from the JCPS employee or community member for records requests involving adults. FUND must deliver copies of the signed authorization to JCPS upon request.
  - ii. If FUND has been legally deemed a FERPA exception by JCPS in accordance with FERPA Exception Conditions, then FUND shall:
    - (a) 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.

- (b) 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 FUND 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.
  - (c) Require all employees, contractors, volunteers, and agents of FUND to comply with all applicable provisions of FERPA with respect to any such data. FUND shall require and maintain confidentiality Agreements with each employee, contractor, volunteer, or agent with access to data pursuant to this Agreement.
  - (d) 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. FUND 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.
  - (e) 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 FUND 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.
- d. Use reports produced for this project only for the purposes described above. The data and reporting shall not be used for personal or institutional gain or profit.
  - e. To direct all communication and decisions regarding the evaluation, data collection, and analysis to the Accountability, Research, and Systems Improvement office.
  - f. Acknowledges that JCPS retains the right to audit FUND's compliance with this agreement.
  - g. FUND 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.
  - h. 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.
  - i. Maintain an all-risk property and casualty insurance policy with respect to the facilities and a policy of general commercial liability in amounts no less than \$1,000,000/\$2,000,000 per policy and provide JCPS with a certificate of insurance upon request.
  - j. Require all FUND 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:

- i. Any conviction for sex-related offenses.
  - ii. Any conviction for offenses against minors.
  - iii. Any conviction for felony offenses, except as provided below.
  - iv. Any conviction for deadly weapon-related offenses.
  - v. Any conviction for drug-related offenses, including felony drug offenses, within the past seven years.
  - vi. Any conviction for violent, abusive, threatening or harassment related offenses.
  - vii. Other convictions determined by the Superintendent/designee to bear a reasonable relationship to the ability to perform services under this Agreement.
- k. FUND shall require all staff and volunteers performing services on JCPS school premises during JCPS school hours under this Agreement 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 substantiated child abuse and neglect records maintained by the Cabinet for Health and Family Services.
- l. FUND staff and volunteers will comply with all JCPS health safety guidelines including rules related to COVID-19 mitigation.
- m. To the extent that JCPS facilities are closed to students, those facilities will also be unavailable to FUND. During any periods of the Non-Traditional Instruction (NTI) or remote learning, JCPS facilities will not be available to FUND.

**3. 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 FUND 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.

4. **Term**: This Agreement shall be effective commencing December 4, 2024 and shall terminate on June 30, 2025. The Agreement may be extended by mutual written agreement of JCPS and FUND.
5. **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, FUND will be permitted in their discretion to continue to provide services during the period in which the sixty (60) day notice becomes effective. JCPS may terminate this agreement immediately in the event of a student health or safety concern or a breach of paragraph 2.j above. In the event of an immediate termination, fund shall not be permitted to continue to provide services after receipt of the notice of termination.
6. **Amendment**: This Agreement may be modified or amended only by a written agreement signed by JCPS and FUND.
7. **Independent Parties**: JCPS and FUND 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. Each party shall, however, be liable for any negligent or wrongful acts of its own employees, students, and invitees.
8. **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.
9. **Entire Agreement**: This Agreement contains the entire agreement between JCPS, and FUND concerning the FUND and supersedes all prior agreements, either written or oral, regarding the same subject matter.
10. **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, 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.
11. **Counterparts**: This Agreement may be executed in counterparts, in which case each executed counterpart shall be deemed an original, and all executed counterparts shall constitute one and the same instrument.
12. **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:**

**Fund for the Arts:**

\_\_\_\_\_  
Marty Pollio, Ed.D, Superintendent

*Janie Buckler*  
\_\_\_\_\_  
Name and Title

**Date:** \_\_\_\_\_

**Date:** November 11, 2024

## ATTACHMENT A

### FUND FOR THE ARTS 5X5 PROGRAM- LIST OF PARTICIPATING SCHOOLS

Alex R Kennedy	Dixie
Atkinson	Dunn
Auburndale	Eisenhower
Audubon Traditional	Engelhard
Bates	Fairdale
Blake	Farmer
Bloom	Fern Creek ES
Blue Lick	Field
Bowen	Foster Traditional
Brandeis	Frayser
Breckinridge-Franklin	Goldsmith
Brown	Greathouse Shryock Traditional
Byck	Greenwood
Camp Taylor	Gutermuth
Cane Run	Hartstern
Carter Traditional	Hawthorne
Chancey	Hazelwood
Chenoweth	Hite
Cochran	Indian Trail
Cochrane	Jacob
Coleridge-Taylor Montessori	Jeffersontown
Coral Ridge	Johnsontown Road
Crums Lane	

## ATTACHMENT B

### ARTS PROGRAM PARTNER FOR THE ARTS 5X5 PROGRAM INFORMATION FOR REQUESTING FUNDING

The goal of the Fund for the Arts 5x5 Program is to provide elementary school students with a continuum of arts experiences, at least five (5) arts and culture experiences by the completion of grade five (5). The 5x5 program engages students in performances, workshops, and residencies offered by the Fund for the Arts Program Partner. All programs offered are connected to Kentucky Core Content and are designed to enhance what students are learning in the classroom.

Please contact Fund for the Arts, with any questions: (502) 582-0127.

#### **5x5 Program Request Process and Materials for the school year:**

Funding Request Form. For each program that you will request funding, you will complete a Program Request Form. This form has been redesigned to make it more user friendly. You can access this form on the Fund for the Arts website, [www.fundforthearts.org/funding](http://www.fundforthearts.org/funding) under 5x5 and Teacher Arts Grants (TAG).

5X5 and Teacher Arts Grants (TAG) Brochure. The format of this brochure was redesigned to be more user-friendly and encourage exploration of new programs. You will notice that an At-A-Glance summary of all programs offered is provided beginning on page 6 of the brochure. A PDF of the brochure is available on the Fund for the Arts website, [www.fundforthearts.org/funding](http://www.fundforthearts.org/funding) under 5x5 and Teacher Arts Grants (TAG).

Program Schedules. During the school year, schools awarded funds through 5x5 will be required to finalize scheduling of their awarded programs with the Arts Program Providers within 60 days of notification of the award. The program schedules will be submitted via a form on the Fund for the Arts website - the link to the form will be provided in the award announcement email to liaisons and principals.



## **ATTACHMENT B (CONT)**

### **ARTS PROGRAM PARTNER FOR THE ARTS 5X5 PROGRAM INFORMATION FOR REQUESTING FUNDING**

#### **Steps for Developing and Submitting Funding Request:**

1. Review 5x5 and Teacher Arts Grants (TAG) Brochure.
2. Discuss with your principal, ILT/SBDM, and teachers what their arts in education programming needs are for the school year.
3. Contact the Arts Program Partners to discuss specifics about their arts in education programs. Arts group contact information is included on page 4 of the education brochure.
4. Complete the Funding Request Form for each program your school will request during the school year.
5. Schools may have two opportunities to submit funding requests for each school year.
6. Schools may request funding at each deadline. Please note that funding priority is given to requests submitted in Round 1.
7. Request funding decisions will be sent via email to the person who submitted the application with a copy to the school principal.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Insurance Services LLC 312 Elm Street, Suite 2400 Cincinnati, OH 45202	CONTACT NAME: Jennifer Trappe PHONE (A/C, No, Ext): 513-270-8227 E-MAIL ADDRESS: jennifer.trappe@usi.com FAX (A/C, No): 610-537-2223
INSURED Fund for the Arts 623 W. Main Street Louisville, KY 40202	INSURER(S) AFFORDING COVERAGE INSURER A : Cincinnati Insurance Company INSURER B : Cincinnati Indemnity Company INSURER C : INSURER D : INSURER E : INSURER F : NAIC # 10677 23280

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		EPP0190591	04/16/2022	04/16/2025	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			EBA0190591	04/16/2024	04/16/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> RETENTION \$			EPP0190591	04/16/2022	04/16/2025	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	EWC037236808	04/16/2024	04/16/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is added as Additional Insured as respects General Liability.

## CERTIFICATE HOLDER

## CANCELLATION

Board of Education of Jefferson County.  
Attn: Insurance/Real Estate  
Dept 3332 Newburg Road  
Louisville, KY 40218

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

