

AGREEMENT

This Professional Service Agreement, made and entered into by and between the Louisville/Jefferson County Metro Government, by and through its Louisville Zoological Gardens, herein referred to as "Metro Government", and the Jefferson Community and Technical College for Kentucky Community and Technical College System, 109 E. Broadway, Louisville, KY 40202, herein referred to as "KCTCS/JCTC",

WITNESSETH:

WHEREAS, the Metro Government is in need of certain services with respect to a mentor/internship program, for the Louisville Zoological Gardens' Boma (African Petting Zoo) and Australian Walkabout in which students will interpret animal natural history, habitat preservation and African Culture for the public; and

WHEREAS, the KCTCS/JCTC has been determined by the Metro Government to have the necessary experience, expertise and qualifications to provide those services,

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

I. SCOPE OF PROFESSIONAL SERVICES

- A. KCTCS/JCTC shall provide services under the terms of this professional Agreement. The KCTCS/JCTC's work product may be reviewed from time to time by the Metro Government for purposes of determining that the services provided are within the scope of this Agreement.
- B. KCTCS/JCTC, while performing the services rendered pursuant to this Agreement, may incidental thereto utilize agents or employees of such KCTCS/JCTC. However, such use must be documented in the monthly invoice submitted for those services rendered.
- C. If from time to time KCTCS/JCTC needs to utilize the records or personnel of the Metro Government relative to performing the services required of this Agreement, then KCTCS/JCTC shall notify the proper agent of the Metro Government of this need and arrangements may be made for that contingency. However, at no time shall the Metro Government make available its resources without the full consent and understandings of both parties.
- D. The services of KCTCS/JCTC shall include but not be limited to interpretation of animal natural history, habitat preservation and culture for the Zoo's Boma and Australian Walkabout as specifically set forth in Exhibit A, which is incorporated herein by reference.

II. FEES AND COMPENSATION

- A. KCTCS/JCTC shall be reimbursed for services rendered according to the terms of this Agreement as described in Exhibit A. Total compensation payable to KCTCS/JCTC for services rendered pursuant to this Agreement, including materials and out-of-pocket expenses, shall not exceed one hundred twenty thousand dollars (\$120,000.00). Checks for services shall be made payable to the Kentucky Community and Technical College System. Payment for services shall be mailed to

the Kentucky Community and Technical College System, c/o Sponsored Projects Accounting, 300 North Main St, Versailles, KY 40383.

- B. Unless otherwise agreed to in writing by the Metro Government, services shall be rendered and payment therefor shall be made at monthly intervals throughout the duration of this Agreement. Payment shall only be made pursuant to a detailed invoice presented monthly, which invoice shall indicate a descriptive daily accounting of the hours expended in service under this Agreement, the particular nature of such service and out-of-pocket expenses. Copies of invoices or receipts for out-of-pocket expenses and other third party charges must be included with the KCTCS/JCTC's invoice when payment is requested. In the event payment is made in lump sum at the end of the service period, KCTCS/JCTC's final invoice shall indicate a descriptive daily accounting of hours expended as described heretofore.
- C. KCTCS/JCTC shall only be reimbursed out-of-pocket expenses if they are reasonable in amount and necessary to accomplish the scope of services of this Agreement. The Metro Government will not reimburse first class air fare, personal phone calls, short term parking expenses, or other premium type expenses. The Metro Government reserves the right to reduce or disallow expenses considered excessive or unnecessary under this Agreement.
- D. KCTCS/JCTC, to the extent that it provides the same or related services to other parties, agrees to pro-rate its billings and out-of-pocket expenses to the Metro Government which are of benefit to the other parties and to provide documentation to all parties to verify the pro-ration of such billings and expenses. In no event will the Metro Government pay bills or expenses which are considered to be double billing (i.e. billing two different parties for the same work or expense).

III. DURATION

- A. This Professional Service Agreement shall begin July 1, 2023 and shall continue through and include June 30, 2024. This Agreement may be extended for four additional one-year periods. Any extension shall be by mutual written Amendment.
- B. Either party may terminate this Agreement by submitting thirty (30) days' written notice to the non-terminating party of such intent to terminate. This Agreement may also be terminated by any party, with immediate notice to the non-terminating party, because of fraud, misappropriation, embezzlement or malfeasance or a party's failure to perform the duties required under this Agreement. A waiver by either party of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach.
- C. In the event of termination, payment for services complete up to and including date of termination shall be based upon work completed at the rates identified in this Agreement.

IV. EMPLOYER/EMPLOYEE RELATIONSHIP

It is expressly understood that no employer/employee relationship is created by this Agreement nor does it cause KCTCS/JCTC to be an officer or official of the Metro Government. By executing this Agreement, the parties hereto certify that its performance will not constitute or

establish a violation of any statutory or common law principle pertaining to conflict of interest, nor will it cause unlawful benefit or gain to be derived by either party.

V. RECORDS-AUDIT

KCTCS/JCTC shall maintain during the course of the work, and retain not less than five years from the date of final payment on this Agreement, complete and accurate records of all of KCTCS/JCTC's costs which are chargeable to the Metro Government under this Agreement; and the Metro Government shall have the right, at any reasonable time, to inspect and audit those records by authorized representatives of its own or of any public accounting firm selected by it. The records to be thus maintained and retained by KCTCS/JCTC shall include (without limitation): (a) payroll records accounting for total time distribution of KCTCS/JCTC's employees working full or part time on the work (to permit tracing to payrolls and related tax returns), as well as canceled payroll checks, or signed receipts for payroll payments in cash; (b) invoices for purchases receiving and issuing documents, and all the other unit inventory records for KCTCS/JCTC's stores stock or capital items; and (c) paid invoices and canceled checks for materials purchased and for subcontractors' and any other third parties' charges.

VI. HOLD HARMLESS AND INDEMNIFICATION CLAUSE

KCTCS/JCTC, as an agency of the Commonwealth of Kentucky, although vested with sovereign immunity, is subject to the Kentucky Claims Commission, KRS Chapter 49. Claims against KCTCS/JCTC relating to personal injury or property damage may be filed and decided under the provisions of KRS Chapter 49. To the extent permitted by all applicable law, KCTCS/JCTC, shall defend, indemnify and hold harmless the Metro Government from and against any and all claims which may result from any error or omission arising out of KCTCS/JCTC's performance under this Agreement.

VII. INSURANCE REQUIREMENTS

- A. Prior to commencement of work, KCTCS/JCTC shall obtain at its own cost and expense the types of insurance indicated in this Section VII through insurance companies licensed in the State of Kentucky. Insurance written by non-admitted carriers will also be considered acceptable, in accordance with Kentucky Insurance Law (KRS 304.10-040). Workers' Compensation written through qualified group self-insurance programs in accordance with Kentucky Revised Statutes (KRS 342.350) will also be acceptable. KCTCS/JCTC shall not allow any subcontractor to commence work until the insurance required of such subcontractor has been obtained and copies of Certificates of Insurance retained by KCTCS/JCTC evidencing proof of coverages.

Without limiting KCTCS/JCTC's indemnification requirements, it is agreed that KCTCS/JCTC shall maintain in force at all times during the performance of this Agreement the following policy or policies of insurance covering its operations, and require subcontractors, if subcontracting is authorized, to procure and maintain these same policies. Metro Government may require KCTCS/JCTC to supply proof of subcontractor's insurance via Certificates of Insurance, or at Metro Government's option, actual copies of policies.

- B. The following clause shall be added to KCTCS/JCTC's (and approved subcontractors) Commercial General Liability Policies:

The Louisville/Jefferson County Metro Government, as well as its elected and appointed officials, employees, agents and successors are included as additional insured when required by written contract but only with respect to the general liability insurance including products and completed operations hazard and subject to provisions and limitations of the policy.

- C. The insurance to be procured and maintained and minimum Limits of Liability shall be as follows, unless different limits are specified by addendum to this Agreement (and such minimum limits shall not limit access to the full amount of insurance available (whether through primary, excess or umbrella policies) on KCTCS/JCTC or subcontractors policy(ies), if that/those policy(ies) provide for limits above the minimum):
1. Commercial General Liability: via the Occurrence Form, primary and non-contributory, with a \$1,000,000 Combined Single Limit for any one Occurrence and \$2,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage and Products/Completed Operations, including:
 - a. Premises - Operations Coverage
 - b. Products and Completed Operations
 - c. Contractual Liability
 - d. Broad Form Property Damage
 - e. Independent Contractors Protective Liability
 - f. Personal Injury
 2. Workers' Compensation (if applicable): insuring the employers' obligations under Kentucky Revised Statutes Chapter 342 at Statutory Limits, and Employers' Liability - \$100,000 Each Accident/\$500,000 Disease - Policy Limit/\$100,000 Disease - Each Employee.

D. ACCEPTABILITY OF INSURERS

Insurance is to be placed with Insurance Companies with an A. M. Best Rating of no less than "A- VI", unless proper financial information relating to the Company is submitted to and approved by Metro Government's Risk Management Division.

E. MISCELLANEOUS

1. KCTCS/JCTC shall procure and maintain insurance policies and shall furnish Certificates of Insurance upon the execution of this Agreement. The Certificates shall include the name and address of the person executing the Certificate of Insurance as well as the person's signature. If policies expire before the completion of this Agreement, renewal Certificates of Insurance shall be furnished to Metro Government at least fifteen (15) days prior to the expiration of any policy(s).
2. Upon execution of this Agreement, Certificates of Insurance as required above shall be furnished to:

Louisville/Jefferson County Metro Government
Office of Management and Budget
Louisville Fire Department

611 West Jefferson Street, 3rd Floor
Louisville, Kentucky 40202

3. Upon renewal of insurance coverage (s), Certificates of Insurance evidencing renewal shall be furnished to:

Louisville/Jefferson County Metro Government
Office of Management and Budget
Risk Management Division
611 West Jefferson Street
Louisville, Kentucky 40202
4. Cancellation or Material Change of Coverage: KCTCS/JCTC shall notify Metro Government's Risk Management Division of any policy cancellation within two business days of its receipt of same. Upon any material change (changes that reduce/restrict limit or terms and conditions to the insurance coverage) in coverage as required above, KCTCS/JCTC shall notify Metro Government's Risk Management Division within two business days. If KCTCS/JCTC fails to notify Metro Government as required by this Agreement, KCTCS/JCTC agrees that such failure shall be a breach of this Agreement. Metro Government reserves the right to require the insurance policy(s) required above to be specifically endorsed to provide notice of cancellation and/or material change of coverage in accordance with policy provisions. When requested by the Metro Government, a copy of the policy endorsement shall be provided to Metro Government's Risk Management Division.
5. Approval of the insurance by Metro Government shall not in any way relieve or decrease the liability of KCTCS/JCTC hereunder. It is expressly understood that Metro Government does not in any way represent that the specified Limits of Liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of KCTCS/JCTC.

VIII. REPORTING OF INCOME

The compensation payable under this Agreement may be subject to federal, state and local taxation. Regulations of the Internal Revenue Service require the Metro Government to report all amounts in excess of \$600.00 paid to non-corporate contractors. KCTCS/JCTC agrees to furnish the Metro Government with its taxpayer identification number (TIN) prior to the effective date of this Agreement. KCTCS/JCTC further agrees to provide such other information to the Metro Government as may be required by the IRS or the State Department of Revenue.

IX. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Kentucky. In the event of any proceedings regarding this Agreement, the Parties agree that the venue shall be the state courts of Kentucky or the U.S. District Court for the Western District of Kentucky, Louisville Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

X. AUTHORITY

KCTCS/JCTC, by execution of this Agreement, does hereby warrant and represent that it is qualified to do business in the State of Kentucky, and has full right, power and authority to enter into this Agreement.

XI. CONFLICTS OF INTEREST

Pursuant to KRS 45A.455:

- (1) It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:
 - (a) He, or any member of his immediate family has a financial interest therein; or
 - (b) A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or
 - (c) Any other person, business, or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- (2) It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.
- (3) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
- (4) The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every local public agency written contract and solicitation therefor.
- (5) It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

XII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter set forth herein and this Agreement supersedes any and all prior and contemporaneous oral or written agreements or understandings between the parties relative thereto. No representation, promise, inducement, or statement of intention has been made by the parties that is not embodied in this Agreement. This Agreement cannot be amended, modified, or supplemented in any respect except by a subsequent written addendum duly executed by all of the parties hereto.

XIII. OCCUPATIONAL HEALTH AND SAFETY

KCTCS/JCTC agrees to comply with all statutes, rules, and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, 29 U.S.C. 650 et. seq., as amended, and KRS Chapter 338. KCTCS/JCTC also agrees to notify the Metro Government in writing immediately upon detection of any unsafe and/or unhealthful working conditions detected at any Metro-owned property where KCTCS/JCTC performs work under this Agreement. KCTCS/JCTC agrees, to the extent permitted by Kentucky law, to indemnify, defend and hold the Metro Government harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

XIV. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

XV. SEVERABILITY

If any 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 hereunder.

XVI. 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.

XVII. CALCULATION OF TIME

Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time. For example, if on January 1, KCTCS/JCTC is directed to take action within ten (10) calendar days, the action must be completed no later than midnight, January 11.

XVIII. CAPTIONS

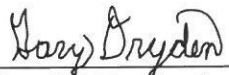
The captions and headings of this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Agreement.

XIX. VIOLATIONS OF AND COMPLIANCE WITH KENTUCKY LAWS

KCTCS/JCTC shall reveal any final determination of a violation by the KCTCS/JCTC or subcontractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to KCTCS/JCTC or subcontractor. KCTCS/JCTC shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to KCTCS/JCTC or subcontractor for the duration of the contract.

WITNESS the agreement of the parties hereto by their signatures affixed hereon.

KCTCS/JCTC



Gary W. Dryden Jr., VP of Administration and Chief Financial
Officer

6/17/2023
Date


Metro Government



Dan Maloney, Director
Louisville Zoological Gardens

20 June 2023
Date

Approved as to form and legality contingent upon approval of the appropriation for this Agreement by the Metro Council

DocuSigned by:


Michael J. Rutherford, Jefferson County Attorney

8/28/2023
Date

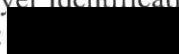

Taxpayer Identification No.
(TIN): 
Louisville/Jefferson County Revenue Commission Account
No.: 

EXHIBIT A

July, 2023

The Louisville Zoological Garden (Zoo) and KCTCS/JCTC will create and implement a cooperative, experiential education program to provide quality education for Zoo guests. This will be accomplished by providing college-level students paid learning opportunities provided by KCTCS/JCTC professors/mentors and Zoo staff. Students will study and learn the art and science of education, biology, conservation, animal husbandry, guest services, and natural history laying the groundwork for their professional futures.

The Zoo has expanded interpretive programs in the Boma African Petting Zoo and the Wallaroo Walkabout. KCTCS/JCTC student interpreters will have cooperative learning opportunities to assist the Zoo in the implementation of programming that will bring exhibits to life for Zoo guests. This Agreement will provide KCTCS/JCTC with a living applied classroom with which to inspire students and provide unique, hands-on learning experiences that are unique and meaningful in a variety of careers and the Zoo will gain a dynamic education delivery system. For some students that may be interested in employment at the Zoo, individuals that complete these cooperative educational programs will have advanced in depth knowledge of the job skills required to compete for job openings that may become available. This partnership will advance knowledge, competency-based learning, and provide opportunities for KCTCS/JCTC students while benefiting the missions of both institutions.

Program

KCTCS/JCTC will develop a program using KCTCS/JCTC students to provide staffing and interpretation for the Boma African Petting Zoo and Wallaroo Walkabout. Staffing needs for these areas will be identified by the Zoo and provided to KCTCS/JCTC for planning purposes and ongoing staffing needs. The Zoo agrees to fund a full time KCTCS/JCTC Project Manager ("Project Manager") who will work in concert with Zoo administrators to provide the necessary student interpreters in the two main interpretive areas listed above. The Project Manager will act as the programmatic liaison between the Zoo and KCTCS/JCTC, and will have a direct reporting line to the KCTCS/JCTC Academic Dean, so as to ensure all college academic requirements are met and maintained. The Zoo, through Assistant Director of Conservation, Education, & Collections or designee, will schedule and provide in depth training of Zoo requirements for the Project Manager, and additional training for interns as determined by both parties. KCTCS/JCTC, through the Project Manager, will provide an orientation and training sessions before starting interns in their positions. The content of Zoo related training will be developed in cooperation with the Assistant Director of Conservation, Education, & Collections and the Project Manager. In addition to the two interpretive areas listed above, there may be additional opportunities to utilize Zoo facilities to offer KCTCS/JCTC classes on site in a variety of disciplines. Additional opportunities may involve scheduled theatrical interpretations by KCTCS/JCTC Theater students who may not necessarily be scheduled interns in these areas. KCTCS/JCTC curriculum for interns will include educational storylines that emphasize African and Australian culture, natural history, animal domestication and respect for the earth. This part of the curriculum will be reviewed and approved by the Zoo for accuracy and appropriateness prior to implementation.

The Zoo will provide instruction in the basics of animal husbandry, public safety, emergency procedures/protocols, and guest management as appropriate as part of the orientation programming for interns. This instruction will be coordinated through the Project Manager and the Zoo's Assistant Director of Conservation, Education, & Collections or designee. Species for which the Zoo and KCTCS/JCTC will share care and responsibility will include but is not limited to: African dwarf goats, Nubian goats, miniature donkeys, African tortoises, wallaroo, red-necked wallabies, and emu.

KCTCS/JCTC will ensure student interns have an understanding along with Zoo-required training to help ensure that Zoo guests interact safely and respectfully with the animals, as well as assist with guest access and movement through the exhibits. The care of animals and exhibit areas will include some cleaning, animal feeding and general husbandry practices. In addition, the interns will have the opportunity to interact with Zoo guests and interpret Australian natural history in the Wallaby Walkabout exhibit.

Implementation

Phase 1: Program Development/Leadership. KCTCS/JCTC has developed a new position for the Project Manager within the KCTCS/JCTC personnel system. This position has a direct reporting line to the KCTCS/JCTC Dean of Academic Affairs, who will help ensure the program and its offerings are in keeping with academic rigor and coordinated with the various academic program offerings of KCTCS/JCTC. The Project Manager is an employee of KCTCS/JCTC and will have the responsibility for project oversight and administration and management. This position also acts as the programmatic liaison between KCTCS/JCTC and the Zoo, will recruit and place students in intern positions, and be responsible for the record keeping, personnel management, and employee coverage at the sites included in this Agreement.

Phase 2: Recruitment/Selection. KCTCS/JCTC will recruit students for the internship/cooperative education opportunities that are created as a result of this program. The Project Manager will use a variety of methods to accomplish this task, and will include in-person and on-line approaches to inform students about this opportunity. Part of the recruitment phase may include the request that the Zoo participate in the Spring Fling or Student Fairs and bring an animal to the campus, as appropriate, to develop interest of students at the event.

Phase 3: Training. Students selected to intern in this program must complete an orientation prior to beginning their internship. The content of this orientation will be developed jointly by the Project Manager and the Zoo Assistant Director of Conservation, Education, & Collections. Proper orientation is required to prepare students for situations they are likely to face and are Zoo specific. They include, but are not limited to: The Zoo and its mission, animal husbandry, public safety, interacting with guests, and emergency procedures.

Phase 4: Implementation. The Zoo is open seven days a week year round (closed on Thanksgiving, Christmas, and New Year's Day), and offers extended hours on Thursday, Friday, and Saturday evenings during the months of June and July. The Zoo will provide information to KCTCS/JCTC regarding the staffing needs the Zoo expects KCTCS/JCTC to meet for the interpretive exhibits included in this Agreement. Realizing that the number of visitors at the Zoo vary from week to week, which can have a direct impact on staffing needs (weekends, week days, special events, etc.), the Zoo will provide ongoing information to KCTCS/JCTC regarding the possible impact on the interpretive exhibits included in this Agreement. The Project Manager will use this information to plan for appropriate levels of staffing. The goal of KCTCS/JCTC and

the Zoo is to create and maintain an enriching, quality experience both for the participants and visiting guests.

Anticipated Fees and Compensation to KCTCS/JCTC

Personnel Costs:	\$113,500
Other Costs:	
Current Expense/supplies	\$ 1,195
Scholarships for participants (est. 5@ \$500):	\$ 2,500
KCTCS/JCTC Indirect Costs:	\$ 2,805

TOTAL	\$120,000
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Fees can be established on an hourly, daily, weekly or monthly basis. It is suggested that service fees be determined at an hourly rate for interns with the Zoo billed monthly for services rendered.

It will be incumbent upon KCTCS/JCTC to create and supply the education programs and some educational artifacts. Zoo staff will work with KCTCS/JCTC staff in program development, have management authority over this service in its entirety and approve all programs prior to public presentation.

