

## **AGREEMENT**

**THIS PROFESSIONAL SERVICE CONTRACT**, 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 **KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM FOR JEFFERSON COMMUNITY AND TECHNICAL COLLEGE**, 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 who 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, at the request of the Metro Government, 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 THIRTY THOUSAND DOLLARS (\$130,000.00)**. 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 the contract, 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 contract. 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 contract.

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 is a professional service contract which shall begin July 1, 2016 and shall continue through and including June 30, 2017.

B. This Agreement may be terminated 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, without 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/JCC shall maintain during the course of the work, and retain not less than five years from the date of final payment on the contract, 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**

Kentucky Community And Technical College System/University of Kentucky Community College System for Jefferson Community and Technical College (KCTCS/JCTC), as agencies of the Commonwealth of Kentucky, although vested with sovereign immunity, are subject to the Board of Claims Act, KRS 44.070-44.160. Claims against KCTCS/JCTC relating to personal injury or property damage may be filed and decided under the provisions of the Act. To the extent permitted by that Act and other 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.

## **INSURANCE REQUIREMENTS**

Prior to award of contract and commencing work, Contractor shall obtain at its own cost and expense the following types of insurance 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. The Contractor shall not commence work under this Contract until all insurance required under the Contract Document has been obtained and until copies of policies or certificates thereof are submitted to **Louisville/Jefferson County Metro Government's Purchasing Division** and approved by the Louisville/Jefferson County Metro Government's Risk Management Division. The Contractor 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 Contractor evidencing proof of coverage's.

Without limiting Contractor's indemnification requirements, it is agreed that Contractor 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 until final acceptance of the work by the Louisville/Jefferson County Metro Government (Metro). Metro may require Contractor to supply proof of subcontractor's insurance via Certificates of Insurance, or at Metro's option, actual copies of policies.

- A. The insurance to be procured and maintained and **minimum** Limits of Liability shall be as follows, unless different limits are specified by addendum to the contract (and such

minimum limits shall not limit access to the full amount of insurance available (whether through primary, excess or umbrella policies) on Contractor's or subcontractors policy(ies), if that/those policy(ies) provide for Limits above the minimum):

1. **COMMERCIAL GENERAL LIABILITY**, via the **Occurrence Form**, primary, non contributory ,with a **\$1,000,000** Combined Single Limit for any one Occurrence and **\$2,000,000** aggregate for Bodily Injury, Personal Injury, 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** 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.

#### **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's Risk Management Division.

#### **VII. 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.

#### **VIII. 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.

**IX. AUTHORITY**

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

**X. 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.

## **XI. 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 agreement duly executed by all of the parties hereto.

**XII. 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 indemnify, defend and hold the Metro Government harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

**XIII. SUCCESSORS**

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

**XIV. 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.

**XV. 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.

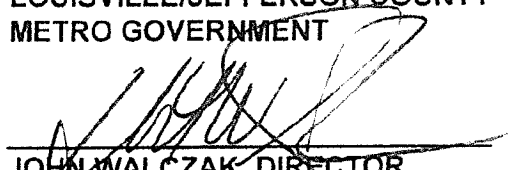
**XVI. CALCULATION OF TIME** Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first 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.

**XVII. 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.

**XVIII. VIOLATIONS OF AND COMPLIANCE WITH KENTUCKY LAWS** The 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 the KCTCS/JCTC or subcontractor. The KCTCS/JCTC shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the KCTCS/JCTC or subcontractor for the duration of the contract.

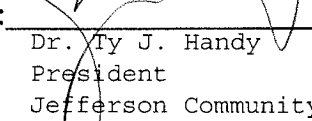
WITNESS the agreement of the parties hereto by their signatures affixed hereon.

LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT

  
\_\_\_\_\_  
JOHN WALCZAK, DIRECTOR  
LOUISVILLE ZOOLOGICAL  
GARDENS

Date: 9-1-16

JEFFERSON COMMUNITY AND  
TECHNICAL COLLEGE

By:   
\_\_\_\_\_  
Dr. Ty J. Handy  
President  
Jefferson Community and Technical College

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

APPROVED AS TO FORM AND  
LEGALITY CONTINGENT  
UPON APPROVAL OF  
OF THE APPROPRIATION FOR  
THIS CONTRACT BY THE  
METRO COUNCIL

  
\_\_\_\_\_  
MICHAEL J. O'CONNELL  
JEFFERSON COUNTY ATTORNEY

Date: 9/1/16

Taxpayer Identification No.  
(TIN): 

Louisville/Jefferson County  
Revenue Commission Account

No.: 

**EXHIBIT A**

## Exhibit A 2016-2017 Agreement

### **Scope of Services July, 2016**

The Louisville Zoological Garden (Zoo) and Jefferson Community and Technical College (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. 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 JCTC students while benefiting the missions of both institutions.

#### **Program**

KCTCS/JCTC will develop a program using 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 JCTC for planning purposes and ongoing staffing needs. The Zoo agrees to fund a full time JCTC 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 JCTC Project Manager will act as the liaison between the Zoo the College, and will have a direct reporting line to the 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. 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 JCTC Project Manager. In addition to the two interpretive areas listed above, there may be additional opportunities to utilize Zoo facilities to offer JCTC classes on site in a variety of disciplines. Additional opportunities may involve scheduled theatrical interpretations by 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 JCTC Project Manager and the Zoo's Assistant Director of Conservation, Education, & Collections or designee. Species for which the Zoo and College will have 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.

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**

JCTC will develop a new position for the project, Project Manager, within the KCTCS personnel system. This position will have a direct reporting line to the Dean of Academic Affairs, Downtown Campus, who will help ensure the program and its offerings are in keeping with academic rigor required by the institution and coordinated with the various academic program offerings of the college. The Project Manager will be an employee of the College and will have the responsibility for project oversight and administration and management. This position will also act as the liaison between the College and 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**

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 work in this program must complete an orientation prior to beginning work. The content of this orientation will be developed jointly by the JCTC 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 the College regarding the staffing needs they expect the College 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 JCTC regarding the possible impact on the interpretive exhibits included in this agreement. The JCTC Project Manager will use this information to plan for appropriate levels of staffing. The goal of the college and the Zoo is to create and maintain an enriching, quality experience both for the participants and visiting guests.

**Anticipated Fees and Compensation**

Personnel Costs:	\$125,300
Other Costs:	
Scholarships for participants (est. 5@ \$420)	\$ 2,100
KCTCS Indirect Costs	\$ 2,600
<b>TOTAL</b>	<b>\$130,000</b>

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.