

Funding Agreement between Colchester Borough Council and the Mercury Theatre

1.0 Introduction

- 1.1 Colchester's vibrant cultural offer is one of the Borough's unique selling points and something that Colchester Borough Council (CBC) looks to support and sustain, working with partners to align policy and funding to help deliver key social and economic outcomes through investment in the arts.
- 1.2 As Arts Council England (ACE) National Portfolio Organisations (NPOs) The Mercury Theatre, Colchester Arts Centre and Firstsite are key partners, together providing leadership, capacity, and innovative programmes of delivery that contribute to making Colchester a great place to live, learn, work and visit.
- 1.3 CBC provides core revenue grants to these organisations under the Strategic Arts Partner programme; to contribute to the delivery of the Council's Strategic Plan including the development of a new Cultural Strategy for Colchester; and to support Creative Colchester, a framework for enhancing the impact of the arts and creative industries on the local economy.
- 1.4 As part of the Council's commitment to transparency, quality and performance management systems, the organisations that receive CBC funding must set out clear objectives and provide performance and sector data so that the value provided through this partnership can be measured, evaluated and improved.
- 1.5 In normal circumstances in addition to confirming the monitoring process and funding, this document sets out pre agreed performance targets for the year. However due to the impact of Covid 19 on the Mercury's operations it is acknowledged that planned activity will be severely curtailed and setting performance targets for this unprecedented and uncertain time is unrealistic. Instead this document will record retrospectively the activity undertaken by the organisation during the funding period to secure its future, including the completion of the Mercury Rising project; deliver alternative programming adapted to the conditions; and in collaboration with the Council and One Colchester partners towards the community response to Covid 19.

2.0 Scope and Financial Arrangements

- 2.1 Between 1 April 2020 and 31 March 2021, the Council will fund the Mercury Theatre to the amount of £168,175. This funding was agreed by the Cabinet and full Council in line with the budget strategy to support the core operations of the organisation.
- 2.2 The Council has released this funding upfront in the first half of the year to support the organisation through the disruption to operations caused by Covid 19.

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- 2.3 Any financial investment that the Council needs to make under its obligations as the owner of the theatre buildings is deemed to be outside of this agreement. However, any tenant responsibilities that the Mercury Theatre holds are considered to be within this agreement.
- 2.4 On signing this Agreement, the Mercury Theatre recognises that it is in receipt of public funding and accepts responsibility for providing evidence of eligibility and collecting qualitative and quantitative performance data where applicable to the current circumstances.
- 2.5 Where appropriate and possible within current resources, Colchester Borough Council will provide non-financial support to the Mercury Theatre where it seeks to develop additional services that contribute towards meeting the Council's strategic priorities. If these additional services are developed to a point that requires additional funding, the Mercury Theatre may request such funding formally, and the Council may issue a separate funding agreement if applicable. If this circumstance arises, the services will be deemed to fall outside of this agreement.

3.0 Eligibility and Criteria for Acceptance

- 3.1 In order to be eligible for funding the Mercury Theatre must supply on request evidence to demonstrate that it is:
 - a. Properly constituted
 - b. Financially viable
 - c. Able to manage its work effectively, monitor and manage risk, and seek necessary professional financial, legal and insurance advice
 - d. Operating with effective policies and procedures in equal opportunities, health and safety, equality and diversity, access, and protection of children, young people and vulnerable adults.
 - e. Delivering on the current strategic priorities of the Council.

4.0 Performance monitoring framework

- 4.1 The Mercury Theatre must supply on request operations information to CBC, including a budget to cover the same period as the funding agreement (it is acknowledged this may be subject to amendment during the year as a result of Covid 19) and a copy of the audited accounts from 2019-20 when available.
- 4.2 Throughout the term of the agreement, the Mercury Theatre must submit quarterly budget reports if required and invite a Council representative to observe Board meetings if appropriate. The organisation will also participate in an annual review meeting, as outlined below.
- 4.3 At the end of the agreement period, the organisation must provide audited accounts and submit performance data (it is acknowledged the latter will be impacted by Covid 19) and other evidence in support of the organisation having delivered value for the Council's investment in this financial year.

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5.0 Annual review process

- 5.1 A review meeting will take place between Colchester Borough Council and Mercury Theatre at least once during the period of the agreement. The meetings shall be attended by the Portfolio Holder (PFH), relevant officer(s) of the Council and Executive staff of the Mercury Theatre.
- 5.2 The Portfolio Holder and Theatre Management may be asked to sit before a Scrutiny Panel to monitor performance and achievements. As such, the bi-annual review process should be seen as an opportunity to ensure that the Portfolio Holder can evidence performance within their area of responsibility.

6.0 Acknowledgement of funding

- 6.1 The Mercury Theatre will acknowledge its financial assistance from CBC in all marketing and communication materials in print, electronic, broadcast and other formats.
- 6.2 The organisation is asked to specify steps that it has taken within the period of this Agreement to promote the support that it receives from the Council in Section 9.

7.0 General conditions

- 7.1 The funding provided under this agreement may not be assigned to any other person, association, or company other than while delivering the Business Plan and agreed performance targets.
- 7.2 This agreement does not constitute the Mercury Theatre as an agent of the Council or otherwise make the Council liable to any person who may take proceedings against the Theatre.
- 7.3 The Council reserves the right to nominate annually a councillor to be a director on the Mercury Board.
- 7.4 Funds will be repayable in full to the Council in the event of any of the following:
 - i. Misuse of payment received from the Council by Mercury Theatre
 - ii. A breach of the law by Mercury Theatre
 - iii. Petitioning the court for the appointment of an administrator
 - iv. Having a receiver appointed over all or any part of the Theatre's assets
 - v. Being the subject of a petition or resolution for the Mercury Theatre's 'winding up'
- 7.5 The Council should be consulted where any change or development in the direction of the organisation's affairs might affect this Agreement.

8.0 Breach in agreement

- 8.1 In the event of either the Council or the Mercury Theatre notifying the other in writing of a breach in this agreement, the parties shall meet to discuss the alleged breach within 21 days.
- 8.2 Both the Council and the Mercury Theatre agree that they have an equal responsibility to reach a practical and reasonable solution to the breach, but if after 12 weeks a solution has not been agreed then the parties mutually agree to arbitration.

9.0 End of year performance review to be completed Apr 2021

As with everyone, over the last year, Covid-19 has had an historical impact on our sector and our survival as an organisation.

As we started the year, we were forced to have to cancel performances of our site-specific show *Borders* in the old Library in the Town Hall. At this stage it was unclear as to how long the initial lockdown would continue for and the severity across all areas of our operation.

As the year has progressed with a further two lockdowns the challenges presented by Covid have gone on for much longer than any of us had ever anticipated. At the time of writing it is still unclear from the latest Government guidelines when we will be able to re-open. Even if we are given to re-open under social distancing at a reduced capacity of 50% this would be financially unviable (the potential loss of at least £6,000 per night).

However, against all of the odds we have been able to 'weather the storm'. It is evident that recovery to 'business as normal' will take much longer than we had ever anticipated not only in terms of ensuring the safety of our staff and audiences but in terms of our usual business streams coming back online. For example, touring product is currently not available as producers and companies are not willing to 'risk' being out on the road. They all face the threat of cancellation, the lack of available insurance cover and the financial risk from reduced houses as well as the health of their staff and artists.

1. Context

When compared to the majority of our sector and other regional theatres of our size and financial model we are incredibly lucky.

In the previous financial year, we had reduced our staff numbers to accommodate a limited year of performances and events due to the capital project. As we were closed we avoided the additional liabilities that others have encountered such as high staff and overheads, work being on stage, contracted to appear or in development.

During the year we have lost at least **£2.9 million** of income across our box office, ancillary sales, fundraising and associated trading.

We now face a unique position of having meet our overheads and running costs *and* meet the unknown costs of re-opening a new building. A challenge

to say the least.

2. Planning and Risk Management

In order to try and effectively manage the ever-changing environment and respond to Government guidelines throughout the year we put in place a comprehensive risk management strategy that has included:

- Organisational Risk Register
- Daily Senior Management Briefings
- Weekly Board and Executive Briefing Meetings attended by the Chair, Treasurer and Vice Chair
- Monthly Management Accounts

All expenditure has been frozen (apart from essential spend) along with all vacant posts unless deemed to be essential for programme or operational delivery.

3. Staff Well-Being

Last March all staff were set up to work at home with the necessary IT equipment, internet connections and online approvals and security passwords. Staff have had their work stations risk assessed and additional equipment provided if needed.

The health and well-being of all staff has been closely monitored by their line manager. This has been supported by additional training in mental health awareness and remote working. We have implemented a range of support, meetings and gatherings to ensure effective communication and clarity of decision-making such as:

- Virtual tea breaks
- Regular team and staff meetings
- Social events (quiz's, Christmas party etc)

4. Support for Freelancers

We have established a Hardship Fund (total funds - **£45,000**) to support any freelance staff and their dependents who have worked with us in the last two years. They are able to apply confidentially to our Executive Director for support. (Our Memo and Arts allow us to issue grants).

5. Programme

As soon as possible at the start of the year we transferred our programme on line (such as Youth Theatre and our masterclasses and workshops). This included a range of new events such as:

- Festival of New Theatre (in partnership with Essex University)
- Artist Networking Events
- Play Readings
- Family Sing a longs and story reading

Number of Digital Events: **118**

Audience Attendance: **5,513**

Number of Access Performances: **10**

Prior to this year we only had two of our live shows recorded at broadcast standard that we were able to stream during the year:

Cinderella

Easter Screening: **61,272**

December Schools Screening: **336,000**

December Care Homes (Essex): **10,860**

December household screening: **11,092**

Total: 419,224

It should be noted that the Cinderella was one of the only fully subtitled pantos available in England last Christmas.

Pieces of String

Easter Screening **7,200**

Given the success of these screenings we are in the process of raising funds to buy more equipment to enable us to film and record our work in future.

Digital Theatre Festival **210**

Events **13**

Participation and Engagement Activities

Creative Engagement Sessions **214**

(across Schools, Youth Theatre, Care Homes)

Mercury Creatives Launch **96**

Mercury Creatives Sessions **96**

(mentoring/advice)

Mercury Creatives Applications **118**

Businesses supported **110**

Master Classes **21**

Mercury Reads (Play Readings) **6**

Mercury Connects **6**

(Artist networking)

Youth Theatre Sessions **60**

LGBTQ History Month (Feb '21) (tbc)

We are currently presenting a month of events in partnership with Outhouse and Colchester Pride to support local LGBTQ artists and audiences.

Borders photographic competition

Total Entrants: **19**

SECCADS creative business development

Total applicants: **17**

Number of participants: **17**

Number of session: **6**

Essex Theatre Artists Network

Total Members: **899**

Other projects continued online:

- The Mercury Teachers' Network successfully continued online having been set up to consult teachers from Essex about ways in which the Mercury could work more closely with them at Primary, Secondary and Further Education levels. We continue our partnership with Royal Opera House Bridge to support this aspect of our work.
- Creative Engagement staff worked with other local organisations and the Royal Opera House Bridge to establish a Local Cultural Education Partnership to ensure the future engagement of schools in the quality provision of arts and cultural activities.
- Our Aspire, Share Create continued during the year in response to a gap in out of school provision for young people with autism spectrum conditions in partnership with Autism Anglia. For example we have recently offered an Arts Award Programme for young disabled people for the first time. This programme continues to be funded by Essex County Council and managed by Action for Children.

6. Audience Data

Due the nature of online activities it has not been possible to fully gather data of participants household address. From our limited surveys we estimate at least **39%**

being Colchester residents.

7. Press Coverage

During the year there were **232** mentions in the press about our work.

8. Mercury Rising Capital Project

During the year the Mercury's Board, Executive and Senior Management continued to develop the scheme in partnership with Colchester Borough Council and Colchester Borough Homes.

The challenges of the various lockdowns have had a significant impact on the project resulting in the programme now being 7 months late. This was as a result of:

- Requirement to reduce contractors allowed on site down to 25%
- Interruptions in the supply chain for materials
- Contractors and their staff shielding or self-isolating and therefore not being available when scheduled

At the start of the year we were just **£200,000** away from our fundraising target with the programme on time to complete in August and re-open to the public last September.

We now estimate that the project will receive practical completion on the 20th April and 'soft open' to the public (front of house and bar area only) late May Bank Holiday with our Youth and Community Programme and hires commencing on the 1st June.

The project continues to meet all necessary RIBA Stages, tendering and procurement processes.

We were successful in securing a grant of **£864,089** from the Arts Council England/DCMS Capital Kickstart Funding

Additional funds were offered from CBC's Town Deal Fund of **£350,000** and the Mercury was able to secure a loan of **£400,000** from NESTA.

We now estimated the project costs have increased due to Covid to **£11.3 million** with all funds secured apart from **£210,000**.

A Joint Working Group meets on a monthly basis between Colchester Borough Council, Colchester Borough Homes, Arts Council England and Essex County Council. In addition, the Mercury's Board of Directors has established a Capital Sub Committee to ensure appropriate governance of the scheme with a further internal Capital Operations Group made up of Senior Management and Heads of Department managing the associated day to day work streams.

9. Equality Data

Audiences/Attendees

BAME	13%
Disabled or D/deaf	15%
Male	42%
Female	48%
Prefer Not to Say	10%

Workforce

Number of Permanent staff	36
Freelance Staff	132
Gender (Perm and Freelance)	
Male	59
Female	72
Prefer Not to Say	37

BAME

Permanent Staff	8.33%
Freelance	5%
Total (average)	7.1%

LGBT

Permanent Staff	16.67%
Freelance	25%
Total (average)	19.6%

10. Financial Position

We could not have got through this year without the additional support outlined below. During the year there were moments where our Executive Team and Board were facing significant redundancies or depleting all our reserves.

Additional one-off funding was received from:

Arts Council/DCMS Cultural Recovery Fund 1	£250,000
Wolfson Foundation	£120,000 (1)
Covid19 Grant (CBC Rate Relief)	£10,000
CJRS Payments (Furlough)	£190,000
Garfield Weston Foundation	£100,000 (2)
Total	£670,000

(1) We will carry forward this award to 2021/22 to support in-year costs to support re-opening.

(2) We will carry forward this award to support the staging of Outdoor Shakespeare in the Park planned for August.

The additional ACE/DCMS funding has met the costs of the following:

- Pilot Youth and Community Programme (implementing Covid-19 safety measures) from 2021/22 in the new building.
- All PPE costs – screens, temperature checking devices etc
- Staff Training – Covid Health and Safety
- Business Consultant
- Health and Safety Consultant
- Marketing campaign to build confidence amongst vulnerable audience members (including new access videos for disabled audiences, video featuring new Covid safety measure etc)

We have made a further application (as per the fund guidelines) to Arts Council England/DCMS CRF 2 for **£125,000** towards costs in the first quarter of next year.

We have applied for:

- Trading losses in the quarter when compared to our standard trading quarter (start of 2018/19).
- Contactless till system and iPads for Front of House (to support Covid safe ancillary sales)
- Feasibility Study for outdoor performances – Castle Park – Summer 2021

We expect a decision by the end of March.

With the additional support received during the year we have been able to retain our unrestricted reserve level at **£267,000**.

11. Additional Activities

The Mercury continues to be active in the civic life and well-being of Colchester and Essex through board and project group representation in forums such as:

- Creative Colchester
- Colchester Business Improvement District (BID)

- Essex Chamber of Commerce
- Haven Gateway Partnership
- Visit Essex

In response to Covid-19, we were proud to be able to offer support such as:

- Secondment of staff to CBC to support emergency marketing and comms
- Paid time off for staff to volunteer at the Foodbank
- Our wardrobe staff made scrubs and masks for Colchester General Hospital
- Active membership of One Colchester Emergency Response Board
- Offer free space (at the Abbeyfield Centre) for local schools to host socially distanced learning, the local mosque for prayers and meetings and local tenants association meetings.

11.0 Acceptance

11.1 Upon signing this agreement, the organisation agrees to the terms and conditions of funding and use reasonable endeavours to meet the performance targets and monitoring framework that have been outlined above.

On behalf of Mercury Theatre	Date	22/2/21
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Signed (Executive Director)

Signature redacted in compliance with GDPR 2016

Name (please print) Steve Mannix

Signed (Portfolio Holder)

Name (please print)

On behalf of Colchester Borough Council	Date	
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Signed (Officer)

Name (please print)