

SUBCONTRACT FOR CHILDCARE SERVICES

This document is a Subcontract for childcare services between Denton Independent School District ("DISD") and Fred Moore Day Nursery School, Inc. ("FMDNS") and is dated November 16, 2021.

WHEREAS, DISD is an independent school district organized and existing pursuant to the laws of the State of Texas and has its main administrative offices situated at 1307 North Locust, Denton, Denton County, Texas;

WHEREAS, DISD's mission is to empower lifelong learners to be engaged citizens who positively impact their local and global community;

WHEREAS, FMDNS was founded in the early 1950s as a non-profit childcare center, exempt from Federal income taxation under §501(c)(3) of the Internal Revenue Code, that offers curriculum based comprehensive, affordable, and well-balanced childcare programs for children from infancy through kindergarten age with goals to help every child develop the intellectual and social skills necessary to excel in kindergarten and develop an early love of lifelong learning and has its main administrative offices at 821 Cross Timbers, Denton, Denton County, Texas;

WHEREAS, FMDNS and DISD are licensed by the State of Texas pursuant to the Human Resources Code, Chapter 42, and is a provider of Child Care Services;

WHEREAS, DISD has the duty to seek working relationships with public and private entities to make effective use of resources and to serve the needs of public-school students in the community.

WHEREAS, DISD and the FMDNS, both recognizing the significance, the importance, and the value of early childhood education, began their collaboration in the 1990's with DISD conveying an unneeded portion of its educational facilities to FMDNS, which serves as FMDNS's original facility, situated on Cross Timbers, in Denton, Texas;

WHEREAS, DISD currently has two educational facilities dedicated solely to early childhood education, the Ann Windle School for Young Children and the Popo and Lupe Gonzalez School for Young Children; and

WHEREAS, DISD and FMDNS, understanding the growth of their community, the significance of efficiency in facility use, and the importance of providing quality early childhood education to the community, desire to continue their collaboration and expand their provision of early childhood educational services.

NOW THEREFORE, for and in consideration of the promises and the mutual covenants set forth in this subcontract, the parties agree as follows:

- I. **FMDNS** will maintain a board of directors according to their by-laws and subcontract operations to DISD. FMDNS will work closely with DISD, and DISD shall, through a sub-contract as agreed upon by the superintendent of DISD, continue to help fulfill the FMDNS mission to provide quality services for early childhood clients that meet the income qualifications set forth with a sliding income scale. DISD will work with FMDNS Board of Directors to make any necessary adjustments to the income scale in future years based on community need and income guidelines.
- II. **Operation of FMDNS at Cross Timbers Location.** DISD will own and operate the Cross Timbers daycare location subcontracting with FMDNS and dba FMDNS to provide services and DISD will continue to provide daycare services for students' infant through 2 years and 11 months old based on sliding income scale as described above.
- III. **Three-Year-Old Students** currently in the FMDNS program or three-year-old students that would be in the future FMDNS program would qualify to attend the program at FMDNS location or at Ann Windle School for Young Children either by state qualification or on a sliding income scale.
- IV. **Four-Year-Old Students** currently in the FMDNS program or four-year-old students that would be in the future FMDNS program would qualify to attend the program at FMDNS location or at our Pre-Kindergarten program located on multiple campuses either by state qualification or on a sliding income scale and as space allows
- V. **Other Services** normally provided to FMDNS students such as extended day program and summer programs will be provided to FMDNS students as a sub-contract by DISD at normal rates and times. Accounting services will be provided for FMDNS board with reporting on a quarterly basis or other timeframe as necessary to meet any grant requirements.
- VI. **FMDNS Board of Directors** will also be invited to join an early education advisory board to give community feedback for all our early childhood programs as long as it does not impair their independence standards according to the FMDNS by-laws.
- VII. **The Building** at Cross Timbers location cost for operation, maintenance, and capital improvement will be the responsibility of DISD.
- VIII. **All revenues** received through the Foundation Program with the State of Texas for average daily attendance will be property of DISD and tuition payments from the sliding scale will be considered payment for the subcontract. Also, the board for FMDNS will allocate any other funds received for student scholarships on a per student basis, based on the difference between the sliding scale tuition and full tuition. Finally, the FMDNS will consider opportunities for fundraisers for the benefit of FMDNS students.
- IX. **Jurisdiction.** This Subcontract shall be governed by the laws of the State of Texas.
- X. **Venue.** Venue to any judicial or administrative dispute arising pursuant to this Subcontract shall be in Denton County, Texas.

- XI. Legal Relationship.** It is understood and agreed that FMDNS is an independent entity and regardless of anything in this subcontract to the contrary, DISD and FMDNS shall not be construed to be partners or joint venturers, nor shall the relationship of the parties be constructed as principal and agent, master and servant, or employer and employee for any purpose whatsoever. FMDNS as an independent entity assumes any and all liability for injury to the FMDNS or its agents or employees, and DISD assumes no liability for injury to FMDNS or its agents or employees, unless such injury is caused by the DISD. It is further understood that the FMDNS shall be solely liable for damage that is the direct result of FMDNS' actions, its agents or employees.
- XII. Indemnification.** To the extent allowed by law, each party agrees to release, defend, indemnify, and hold harmless the other (and its officers, agents, and employees) from and against all claims or causes of action for injuries (including death), property damages (including loss of use), and any other losses, demands, suits, judgments, and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from its performance under this subcontract. DISD may be held liable only to the extent provided in Texas Civil Practice and Remedies Code, Chapter 101. This subcontract and the indemnity provided herein is not intended to and shall not create any cause of action for the benefit of third parties or any person not a party to this subcontract. It is expressly understood and agreed that, in the execution of this subcontract, no party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental or quasigovernmental powers and functions. By entering this subcontract, the parties do not create any obligations, express or implied, other than those set forth herein, and this subcontract shall not create any rights in parties not signatories hereto.
- XIII. Waiver of Breach.** No waiver by either party of any default or breach of a term or condition of this Subcontract by the other party may be treated as a waiver of any subsequent default or breach of the same or any other term or condition of this Subcontract.
- XIV. Amendment or Modification.** This Subcontract may only be modified, changed or altered at any time upon mutual agreement of the parties, provided that any such modification, change, and/or alteration be reduced to writing and approved by the governing bodies of the Fred Moore Day Nursery and DISD.
- XV. Complete and Entire Subcontract.** This Subcontract, and any other schedules, exhibits and addenda attached hereto prior to execution by the parties, states the entire understanding between the parties with respect to its subject matter, and supersedes all prior proposals, negotiations and other written or oral communications between the parties with respect to the subject matter of this Subcontract.

The foregoing Subcontract between Denton Independent School District and Fred Moore Day Nursery was offered for approval on motion made by _____, seconded by _____, after discussion was adopted by the Board of Trustees of the Denton Independent School District in a regularly scheduled meeting called, posted, and held in Denton, Denton County, Texas on _____, 2021, at which _____ Trustees were present, by the following vote: _____ for, _____ against, and _____ abstaining.

DENTON INDEPENDENT SCHOOL DISTRICT

Doug Chadwick, President
Board of Trustees

ATTEST:

Charles Stafford, Secretary

FRED MOORE DAY NURSERY, INC.
President, Board of Directors