

MEMORANDUM OF UNDERSTANDING

This document is a Memorandum of Understanding (this "Memorandum of Understanding") between Denton Independent School District ("DISD") and Fred Moore Day Nursery School, Inc. ("FMDNS") and is dated November 16, 2021 and replaces the MOU approved by the DISD Board of Trustees on April 13, 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 is 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 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 Memorandum of Understanding, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, 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 through a sub-contract as agreed upon by the superintendent of DISD will 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 and 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.
- 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 and any other property previously deeded to FMDNS and still owned by FMDNS will revert to DISD ownership as outlined in the restrictive deed covenants amended in 2011. DISD will assume responsibility for loan at FirstState Bank for facility upgrades. The amount currently outstanding is approximately \$77,000 (seventy-seven thousand dollars).
- VIII. **Jurisdiction.** This Memorandum of Understanding shall be governed by the laws of the State of Texas.
- IX. **Venue.** Venue to any judicial or administrative dispute arising pursuant to this Memorandum of Understanding shall be in Denton County, Texas.
- X. **Legal Relationship.** It is understood and agreed that FMDNS is an independent contractor and regardless of anything in this Memorandum of Understanding 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 contractor 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.

- XI. 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 Memorandum of Understanding. DISD may be held liable only to the extent provided in Texas Civil Practice and Remedies Code, Chapter 101. This Memorandum of Understanding 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 Memorandum of Understanding. It is expressly understood and agreed that, in the execution of this Memorandum of Understanding, 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 quasi-governmental powers and functions. By entering into this Memorandum of Understanding, the parties do not create any obligations, express or implied, other than those set forth herein, and this Memorandum of Understanding shall not create any rights in parties not signatories hereto.
- XII. Waiver of Breach.** No waiver by either party of any default or breach of a term or condition of this Memorandum of Understanding 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 Memorandum of Understanding.
- XIII. Amendment or Modification.** This Memorandum of Understanding 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.
- XIV. Complete and Entire Memorandum of Understanding.** This Memorandum of Understanding, 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 Memorandum of Understanding.

The foregoing Memorandum of Understanding 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