

2015-274

Additional File Contains Records Not Public, According to the Public Records Act

Other

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ORDINANCE NO. 2015-274

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A FUNDING AGREEMENT BETWEEN THE CITY AND FRED MOORE DAY NURSERY SCHOOL TO PROVIDE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR IMPROVEMENTS TO THE FACILITY AT 821 CROSS TIMBER STREET, DENTON, TEXAS; AUTHORIZING THE EXPENDITURE OF FUNDS NOT TO EXCEED \$108,927; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has received funds from the U.S. Department of Housing and Urban Development under the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the City Council has approved the 2015 Action Plan for Housing and Community Development which includes an authorized budget for expenditure of funds for improvements to the Fred Moore Day Nursery School facility; and

WHEREAS, the Fred Moore Day Nursery School has developed a program to assist low and moderate-income families with affordable child care services; and

WHEREAS, the City Council deems it in the public interest to enter into an agreement for improvements to the child care facility to provide much needed services for Denton families; NOW, THEREFORE,

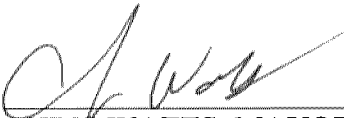
THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Manager is hereby authorized to execute the attached Agreement between the City of Denton and the Fred Moore Day Nursery School to provide for improvements to the day care facility noted therein.

SECTION 2. The City Council hereby authorizes the City Manager to expend funds in the manner and amount specified in the Agreement, not to exceed \$108,927, and to take any other actions necessary to complete the City's obligations under the Agreement.

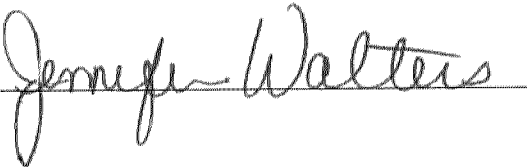
SECTION 3. This ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this the 15 day of September, 2015.

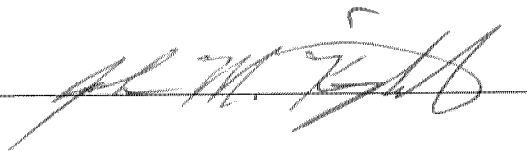

CHRIS WATTS, MAYOR

ATTEST:

JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY: 

2015-2016
AGREEMENT BETWEEN THE CITY OF DENTON
AND THE FRED MOORE DAY NURSERY SCHOOL

This Agreement is made and entered into by and between the City of Denton, a Texas municipal corporation, acting by and through its City Manager, pursuant to ordinance, hereinafter referred to as CITY, and the Fred Moore Day Nursery School, 821 Cross Timber Street, Denton, Texas, 76205, a Texas non-profit corporation, hereinafter referred to as SUBRECIPIENT.

WHEREAS, CITY has received Community Development Block Grant funds from the U.S. Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974, as amended; and

WHEREAS, CITY has adopted a budget for such funds and included therein an authorized budget for expenditure of funds for improvements to the existing facility for the SUBRECIPIENT; and

WHEREAS, CITY has designated the Community Development Division as the division responsible for the administration of this Agreement and all matters pertaining thereto; and

WHEREAS, CITY wishes to engage SUBRECIPIENT to carry out such project;

NOW, THEREFORE, the parties hereto agree, and by the execution hereof are bound to the mutual obligations and to the performance and accomplishment of the conditions hereinafter described.

1.
TERM

This Agreement shall commence on or as of September 1, 2015, and shall terminate on December 31, 2025, unless sooner terminated in accordance with Section 26 "Termination".

2.
RESPONSIBILITIES

SUBRECIPIENT hereby accepts the responsibility for the performance of all services and activities described in the Scope of Services attached hereto as Attachment A, and incorporated herein by reference, in a satisfactory and efficient manner as determined by CITY, in accordance with the terms herein. CITY will consider SUBRECIPIENT's executive officer to be SUBRECIPIENT's representative responsible for the management of all contractual matters pertaining hereto, unless written notification to the contrary is received from SUBRECIPIENT, and approved by CITY.

The CITY's Community Development Administrator will be CITY's representative responsible for the administration of this Agreement.

SUBRECIPIENT certifies that the activities carried out with Community Development Block Grant funds shall meet the program's National Objective of benefit to low and moderate-income persons. SUBRECIPIENT shall provide services to persons whose income is equal to or lower than 80% of the median income of the Dallas standard metropolitan statistical area. To accomplish this, the SUBRECIPIENT shall use the current applicable income limits published by the Department of Hous-

ing and Urban Development for the CDBG program. Income eligibility shall be determined by the sum of the gross income of all individuals residing in the household. Services must be provided directly to or on behalf of specific identified eligible clients. Eligibility documentation must be included in each client's file and updated annually or services must be provided to a clientele that is within a "presumed benefit" category.

3. CITY'S OBLIGATION

- A. Limit of Liability.** CITY will reimburse SUBRECIPIENT for expenses incurred pursuant and in accordance with the project budget attached hereto as Attachment B and the Scope of Services herein attached as Attachment A and incorporated herein by reference. Notwithstanding any other provision of the Agreement, the total of all payments and other obligations made or incurred by CITY hereunder shall not exceed the sum of \$108,927.
- B. Measure of Liability.** In consideration of full and satisfactory services and activities hereunder by SUBRECIPIENT and receipt of a requisition for payment with appropriate documentation of expenditures, CITY shall make payments to SUBRECIPIENT based on the Budget attached hereto and incorporated herein for all purposes as Attachment B, subject to the limitations and provisions set forth in this Section and Section 7 of this Agreement. Payments may be contingent upon certification of the SUBRECIPIENT's financial management system in accordance with the standards specified in OMB Circular A-110.
- (1) The parties expressly understand and agree that the CITY's obligations under this Section are contingent upon the actual receipt of adequate Community Development Block Grant (CDBG) funds to meet CITY's liabilities under this Agreement. If adequate funds are not available to make payments under this Agreement, CITY shall notify SUBRECIPIENT in writing within a reasonable time after such fact has been determined. CITY may, at its option, either reduce the amount of its liability, as specified in Subsection A of this Section or terminate the Agreement. If CDBG funds eligible for use for purposes of this Agreement are reduced, CITY shall not be liable for further payments due to SUBRECIPIENT under this Agreement.
 - (2) It is expressly understood that this Agreement in no way obligates the General Fund or any other monies or credits of the City of Denton.
 - (3) CITY shall not be liable for any cost or portion thereof which:
 - (a) has been paid, reimbursed or is subject to payment or reimbursement, from any other source;
 - (b) was incurred prior to the beginning date, or after the ending date specified in Section 1;
 - (c) is not in strict accordance with the terms of this Agreement, including all attachments attached hereto;
 - (d) has not been billed to CITY within 90 calendar days following billing to SUBRECIPIENT, or termination of the Agreement, whichever date is earlier; or
 - (e) is not an allowable cost as defined by Section 10 of this Agreement or the project budget.

- (4) CITY shall not be liable for any cost or portion thereof which is incurred with respect to any activity of SUBRECIPIENT requiring prior written authorization from CITY, or after CITY has requested that SUBRECIPIENT furnish data concerning such action prior to proceeding further, unless and until CITY advises SUBRECIPIENT to proceed.
- (5) CITY shall not be obligated or liable under this Agreement to any party other than SUBRECIPIENT for payment of any monies or provision of any goods or services.
- (6) **Funding not expended within two years of initial contract approval will revert to the City of Denton CDBG budget for use on alternative projects.**

4.

COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

- A. SUBRECIPIENT understands that funds provided to it pursuant to this Agreement are funds which have been made available to CITY by the Federal Government (U.S. Department of Housing and Urban Development) under the Housing and Community Development Act of 1974, as amended, in accordance with an approved Grant Application and specific assurances. Accordingly, SUBRECIPIENT assures and certifies that it will comply with the requirements of the Housing and Community Development Act of 1974 (P.L. 93-383) as amended and with regulations promulgated thereunder, and codified at 24 CFR 570. The foregoing is in no way meant to constitute a complete compilation of all duties imposed upon SUBRECIPIENT by law or administrative ruling, or to narrow the standards which SUBRECIPIENT must follow.

SUBRECIPIENT further accrues and certifies that if the regulations and issuances promulgated pursuant to the Act are amended or revised, it shall comply with them, or notify CITY, as provided in Section 23 of this Agreement.

SUBRECIPIENT agrees to abide by the conditions of and comply with the requirements at 24 CFR Part 200 and the regulations at 24 CFR Parts 84 and 85 as applicable.

- B. SUBRECIPIENT shall comply with all applicable federal laws, laws of the State of Texas and ordinances of the City of Denton.
- C. SUBRECIPIENT is required to comply with the applicable uniform administrative requirements as described in 24 CFR 570.502, 570.505 and 24 CFR 570 subpart K with the exceptions noted below:
- (1) SUBRECIPIENT does not assume CITY'S environmental responsibilities described at CFR 570.604; and
 - (2) SUBRECIPIENT does not assume the CITY's responsibility for initiating the review process under the provisions of 24 CFR Part 52.
- D. SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of the Contract Work Hours Safety Standards Act, the Copeland "Anti-Kickback Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40

USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards and insofar as those acts apply to the performance of this contract. SUBRECIPIENT will work with CITY to obtain and maintain documentation of compliance. Upon written request by the CITY, SUBRECIPIENT will obtain the services of consultant to monitor the contractor's compliance with these requirements.

- E. SUBRECIPIENT agrees to comply with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this agreement, and shall also be binding on any of the SUBRECIPIENT'S subcontractors. The SUBRECIPIENT certifies that no contractual or other disability exists which would prevent compliance with these requirements. SUBRECIPIENT further agrees to include a statement in all subcontracts requiring compliance with Section 3 and requiring subcontractors, to the greatest extent feasible, to provide opportunities for training and employment to low and moderate-income individuals that are residents of the project area. Upon written request of the CITY, SUBRECIPIENT will obtain the services of a consultant to monitor the general contractor's compliance with the Section 3 requirements.
- F. SUBRECIPIENT certifies that it is not currently listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689 and will not enter into agreements to expend Federal funds with contractors that are currently listed.

5. REPRESENTATIONS

- A. SUBRECIPIENT assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.
- B. The person or persons signing and executing this Agreement on behalf of SUBRECIPIENT do hereby warrant and guarantee that he, she, or they have been fully authorized by SUBRECIPIENT to execute this Agreement on behalf of SUBRECIPIENT and to validly and legally bind SUBRECIPIENT to all terms, performances and provisions herein set forth.
- C. CITY shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either SUBRECIPIENT or the person signing the Agreement to enter into this Agreement. SUBRECIPIENT is liable to CITY for any money it has received from CITY for performance of the provisions of this Agreement if CITY has suspended or terminated this Agreement for the reasons enumerated in this Section.
- D. SUBRECIPIENT agrees that the funds and resources provided to SUBRECIPIENT under the terms of this Agreement will in no way be substituted for funds and resources from other sources, nor in any way serve to reduce the resources, services, or other benefits which would have been available to, or provided through, SUBRECIPIENT had this Agreement not been executed.

6.

PERFORMANCE BY SUBRECIPIENT

SUBRECIPIENT will provide, oversee, administer, and carry out all of the activities and services set out in the Work Statement, attached hereto and incorporated herein for all purposes as Attachment A, utilizing the funds described in Attachment B, attached hereto and incorporated herein for all purposes and deemed by both parties to be necessary and sufficient payment for full and satisfactory performance of the program, as determined solely by CITY and in accordance with all other terms, provisions and requirements of this Agreement.

No modifications or alterations may be made in the Scope of Services without the prior written approval of the City's Community Development Administrator.

7.

PAYMENTS TO SUBRECIPIENT

- A. The CITY shall pay to the SUBRECIPIENT a maximum amount of money totaling \$108,927 for activities carried out under this Agreement. CITY will pay these funds on a reimbursement basis to the SUBRECIPIENT within twenty days after CITY has received supporting documentation of eligible expenditures. SUBRECIPIENT's failure to request reimbursement on a timely basis may jeopardize present or future funding.

Funds are to be used for the sole purpose of completing facility improvements based on the budget herein attached as Attachment B. These improvements will support the SUBRECIPIENT'S efforts to carry out the activities described in the Scope of Services herein attached as Attachment A.

- B. Excess Payment. SUBRECIPIENT shall refund to CITY within ten working days of CITY's request, any sum of money which has been paid by CITY and which CITY at any time thereafter determines:

- (1) has resulted in overpayment to SUBRECIPIENT; or
- (2) has not been spent strictly in accordance with the terms of this Agreement; or
- (3) is not supported by adequate documentation to fully justify the expenditure.

- C. Disallowed Costs. Upon termination of this Agreement, should any expense or change for which payment has been made be subsequently disallowed or disapproved as a result of any auditing or monitoring by CITY, the Department of Housing and Urban Development, or any other Federal agency, SUBRECIPIENT will refund such amount to CITY within ten working days of a written notice to SUBRECIPIENT, which specifies the amount disallowed. Refunds of disallowed costs may not be made from these or any funds received from or through CITY

- D. Reversion of Assets. SUBRECIPIENT, upon expiration of this Agreement shall transfer to the CITY any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. If CITY finds that SUBRECIPIENT is unwilling and/or unable to comply with any of the terms of this Contract, CITY may require a refund of any and all

money expended pursuant to this Contract by SUBRECIPIENT, as well as any remaining un-expended funds which shall be refunded to CITY within ten working days of a written notice to SUBRECIPIENT to revert these financial assets. The revision of these financial assets shall be in addition to any other remedy available to CITY either at law or in equity for breach of this Contract.

- E. **Obligation of Funds.** In the event that actual expenditure rates deviate from SUBRECIPIENT's provision of a corresponding level of performance, as specified in Attachment A, CITY hereby reserves the right to reappropriate or recapture any such underexpended funds.
- F. **Contract Close Out.** If requested, SUBRECIPIENT shall submit the Agreement close out package to CITY, together with a final expenditure report, for the time period covered by the last invoice requesting reimbursement of funds under this Agreement, within 15 working days following the close of the Agreement period. SUBRECIPIENT shall utilize the form agreed upon by CITY and SUBRECIPIENT.

8. WARRANTIES

SUBRECIPIENT represents and warrants that:

- A. All information, reports and data heretofore or hereafter requested by CITY and furnished to CITY, are complete and accurate as of the date shown on the information, data, or report, and, since that date, have not undergone any significant change without written notice to CITY.
- B. Any supporting financial statements heretofore requested by CITY and furnished to CITY, are complete, accurate and fairly reflect the financial condition of SUBRECIPIENT on the date shown on said report, and the results of the operation for the period covered by the report, and that since said date, there has been no material change, adverse or otherwise, in the financial condition of SUBRECIPIENT.
- C. No litigation or legal proceedings are presently pending or threatened against SUBRECIPIENT.
- D. None of the provisions herein contravene or are in conflict with the authority under which SUBRECIPIENT is doing business or with the provisions of any existing indenture or agreement of SUBRECIPIENT.
- E. SUBRECIPIENT has the power to enter into this Agreement and accept payments hereunder, and has taken all necessary action to authorize such acceptance under the terms and conditions of this Agreement.
- F. None of the assets of SUBRECIPIENT are subject to any lien or encumbrance of any character, except for current taxes not delinquent, except as shown in the financial statements and/or other documents furnished by SUBRECIPIENT to CITY.
- G. Each of these representations and warranties shall be continuing and shall be deemed to have been repeated by the submission of each request for payment.

**9.
COVENANTS**

- A. SUBRECIPIENT agrees to execute a lien that will be placed on the property assisted with Community Development Block Grant (CDBG) funds. The lien will name the CITY as the primary beneficiary for a period not to exceed ten years.
- B. During the period of time that payment may be made hereunder and so long as any payments remain unliquidated, SUBRECIPIENT shall not, without the prior written consent of the Community Development Administrator or her authorized representative:
- (1) Mortgage, pledge, or otherwise encumber or suffer to be encumbered, any of the assets of SUBRECIPIENT now owned or hereafter acquired by it, or permit any pre-existing mortgages, liens, or other encumbrances to remain on, or attached to, any assets of SUBRECIPIENT which are allocated to the performance of this Agreement and with respect to which CITY has ownership hereunder.
 - (2) Sell, assign, pledge, transfer or otherwise dispose of accounts receivables, notes or claims for money due or to become due.
 - (3) Sell, convey, or lease all or substantial part of its assets.
 - (4) Make any advance or loan to, or incur any liability for any other firm, person, entity or corporation as guarantor, surety, or accommodation endorser.
 - (5) Sell, donate, loan or transfer any equipment or item of personal property purchased with funds paid to SUBRECIPIENT by CITY, unless CITY authorizes such transfer.
 - (6) Enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such an agreement.
- B. SUBRECIPIENT agrees, upon written request by CITY, to require its employees to attend training sessions sponsored by the Community Development Division.

**10.
ALLOWABLE COSTS**

- A. Costs shall be considered allowable only if incurred directly and specifically in the performance of and in compliance with this Agreement and in conformance with the standards and provisions of Attachments A and B.
- B. Approval of SUBRECIPIENT's budget, Attachment B, does not constitute prior written approval, even though certain items may appear herein. CITY's prior written authorization is required in order for the following to be considered allowable costs:

- (1) CITY shall not be obligated to any third parties, including any contractors of SUBRECIPIENT, and CITY funds shall not be used to pay for any contract service extending beyond the expiration of this Agreement.

Written requests for prior approval are SUBRECIPIENT's responsibility and shall be made within sufficient time to permit a thorough review by CITY. SUBRECIPIENT must obtain written approval by CITY prior to the commencement of procedures to solicit or purchase services, equipment, or real or personal property. Any procurement or purchase which may be approved under the terms of this Agreement must be conducted in its entirety in accordance with the provisions of this Agreement.

11. PROGRAM INCOME

- A. For purposes of this Agreement, program income means earnings of SUBRECIPIENT realized from activities resulting from this Agreement or from SUBRECIPIENT's management of funding provided or received hereunder. Such earnings include, but are not limited to, income from interest, usage or rental or lease fees, income produced from contract-supported services of individuals or employees or from the use or sale of equipment or facilities of SUBRECIPIENT provided as a result of this Agreement, and payments from clients or third parties for services rendered by SUBRECIPIENT under this Agreement.
- B. SUBRECIPIENT shall maintain records of the receipt and disposition of program income in the same manner as required for other contract funds, and reported to CITY in the format prescribed by CITY. CITY and SUBRECIPIENT agree that any fees collected for services performed by SUBRECIPIENT shall be used for payment of costs associated with service provision. Revenue remaining after payment of all program expenses for service provision shall be considered Program Income and shall be subject to all the requirements of this Agreement and the regulations found at CFR, Section 570.504.
- C. SUBRECIPIENT shall include this Section in its entirety in all of its contracts which involve other income-producing services or activities.
- D. It is SUBRECIPIENT's responsibility to obtain from CITY a prior determination as to whether or not income arising directly or indirectly from this Agreement, or the performance thereof, constitutes program income. SUBRECIPIENT is responsible to CITY for the repayment of any and all amounts determined by CITY to be program income, unless otherwise approved in writing by CITY.

12. MAINTENANCE OF RECORDS

- A. SUBRECIPIENT agrees to maintain records that will provide accurate, current, separate, and complete disclosure of the status of the funds received under this Agreement, in compliance with the provisions of Attachment B, attached hereto, and with any other applicable Federal and State regulations establishing standards for financial management including Section 2 CFR Part 200 and the regulations at 24 CFR Part 84 and 85 as applicable; Title 24 CFR Section 570.502 (b); Title 24 CFR Sections 570.504 and 570.506 as they pertain to costs incurred, au-

dits, program income, administration and other activities and functions. SUBRECIPIENT's record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure. Nothing in this Section shall be construed to relieve SUBRECIPIENT of fiscal accountability and liability under any other provision of this Agreement or any applicable law. SUBRECIPIENT shall include the substance of this provision in all subcontracts.

- B. SUBRECIPIENT agrees to retain all books, records, documents, reports, and written accounting procedures pertaining to the operation of programs and expenditures of funds under this Agreement for five years after project completion.
- C. Nothing in the above subsections shall be construed to relieve SUBRECIPIENT of responsibility for retaining accurate and current records, which clearly reflect the level and benefit of services provided under this Agreement.
- D. At any reasonable time and as often as CITY may deem necessary, the SUBRECIPIENT shall make available to CITY, HUD, or any of their authorized representatives, all of its records and shall permit CITY, HUD, or any of their authorized representatives to audit, examine, make excerpts and copies of such records, and to conduct audits of all contracts, invoices, materials, payrolls, records of personnel, conditions or employment and all other data requested by said representatives.

13. REPORTS AND INFORMATION

At such times and in such form as CITY may require, SUBRECIPIENT shall furnish such statements, records, data and information as CITY may request and deem pertinent to matters covered by this Agreement.

SUBRECIPIENT shall submit beneficiary and financial reports to CITY no less than once per month. The beneficiary report shall detail client information, including race, income, female head of household and other statistics required by CITY. The financial report shall include information and data relative to all programmatic and financial reporting as of the beginning date specified in Section 1 of this Agreement. Beneficiary and financial reports shall be due to City within 15 working days after the end of each month.

Unless the CITY has granted a written exemption, SUBRECIPIENT shall submit an audit conducted by independent examiners in accordance with Generally Accepted Accounting Principles. If the SUBRECIPIENT receives and/or expends more than \$500,000 in federal funding, the audit must be conducted in accordance with OMB Circular A-133 as applicable within thirty days after receipt of such audit.

14. MONITORING AND EVALUATION

- A. CITY shall perform on-site monitoring of SUBRECIPIENT's performances under this Agreement.

- B. SUBRECIPIENT agrees that CITY may carry out monitoring and evaluation activities to ensure adherence by SUBRECIPIENT to the Scope of Services, and Program Goals and Objectives, which are attached hereto as Attachment A, as well as other provisions of this Agreement.
- C. SUBRECIPIENT agrees to cooperate fully with CITY in the development, implementation and maintenance of record-keeping systems and to provide data determined by CITY to be necessary for CITY to effectively fulfill its monitoring and evaluation responsibilities.
- D. SUBRECIPIENT agrees to cooperate in such a way so as not to obstruct or delay CITY in such monitoring and to designate one of its staff members to coordinate the monitoring process as requested by CITY staff.
- E. After each official monitoring visit, CITY shall provide SUBRECIPIENT with a written report of monitoring findings documenting findings and concerns that will require a written response to the City. An acceptable response must be received by the City within 60 days from the SUBRECIPIENT's receipt of the monitoring report or audit review letter. Future contract payments can be withheld for SUBRECIPIENT's failure to submit a response within 60 days.
- F. SUBRECIPIENT shall submit copies of any fiscal, management, or audit reports by any of SUBRECIPIENT's funding or regulatory bodies to CITY within five working days of receipt by SUBRECIPIENT.
- G. SUBRECIPIENT will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

15. DIRECTORS' MEETINGS

During the terms of this Agreement, SUBRECIPIENT shall cause to be delivered to CITY copies of all notices of meetings of its Board of Directors, setting forth the time and place thereof. Such notice shall be delivered to CITY in a timely manner to give adequate notice, and shall include an agenda and a brief description of the matters to be discussed. SUBRECIPIENT understands and agrees that CITY representatives shall be afforded access to all of the Board of Directors' meetings.

Minutes of all meetings of SUBRECIPIENT's governing body shall be available to CITY within thirty (30) days after Board approval.

16. INSURANCE

- A. SUBRECIPIENT shall observe sound business practices with respect to providing such bonding and insurance as would provide adequate coverage for services offered under this Agreement.
- B. The premises on and in which the activities described in Attachment A are conducted, and the employees conducting these activities, shall be covered by premise liability insurance, com-

monly referred to as "Owner/Tenant" coverage **with CITY named as an additional insured**. Upon request of SUBRECIPIENT, CITY may, at its sole discretion, approve alternate insurance coverage arrangements.

- C. SUBRECIPIENT will comply with applicable workers' compensation statutes and will obtain employers' liability coverage where available and other appropriate liability coverage for program participants, if applicable.
- D. SUBRECIPIENT will maintain adequate and continuous liability insurance on all vehicles owned, leased or operated by SUBRECIPIENT. All employees of SUBRECIPIENT who are required to drive a vehicle in the normal scope and course of their employment must possess a valid Texas driver's license and automobile liability insurance. Evidence of the employee's current possession of a valid license and insurance must be maintained on a current basis in SUBRECIPIENT's files.
- E. Actual losses not covered by insurance as required by this Section are not allowable costs under this Agreement, and remain the sole responsibility of SUBRECIPIENT.
- F. The policy or policies of insurance shall contain a clause which requires that CITY and SUBRECIPIENT be notified in writing of any cancellation of change in the policy at least 30 days prior to such change or cancellation.

17.

CIVIL RIGHTS / EQUAL OPPORTUNITY

- A. SUBRECIPIENT shall comply with all applicable equal employment opportunity and affirmative action laws or regulations. The SUBRECIPIENT shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, gender, age or disability. The SUBRECIPIENT will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- B. The SUBRECIPIENT agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title 1 of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063 and Executive Order 11246 as amended by Executive Orders 11375 and 12086.
- C. SUBRECIPIENT will furnish all information and reports requested by the CITY, and will permit access to its books, records, and accounts for purposes of investigation to ascertain compliance with local, state and Federal rules and regulations.
- D. In the event of SUBRECIPIENT's non-compliance with the non-discrimination requirements, CITY may cancel or terminate the Agreement in whole or in part, and SUBRECIPIENT may be barred from further contracts with CITY.

18.
PERSONNEL POLICIES

Personnel policies shall be established by SUBRECIPIENT and shall be available for examination. Such personnel policies shall:

- A. Be no more liberal than CITY's personnel policies, procedures, and practices, including policies with respect to employment, salary and wage rates, working hours and holidays, fringe benefits, vacation and sick leave privileges, and travel; and
- B. Be in writing and shall be approved by the governing body of SUBRECIPIENT and by CITY.

19.
CONFLICT OF INTEREST

- A. SUBRECIPIENT covenants that neither it nor any member of its governing body presently has any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. SUBRECIPIENT further covenants that in the performance of this Agreement, no person having such interest shall be employed or appointed as a member of its governing body.
- B. SUBRECIPIENT further covenants that no member of its governing body or its staff, contractors or employees shall possess any interest in or use his position for a purpose that is or gives the appearance of being motivated by desire for private gain for himself/herself, or others, particularly those with which he/she has family, business, or other ties.
- C. No officer, member, or employee of CITY and no member of its governing body who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this Agreement shall participate in any decision relating to the Agreement which affects his or her personal interest or the interest in any corporation, partnership, or association in which he or she has a direct or indirect interest.

20.
NEPOTISM

SUBRECIPIENT shall not employ in any paid capacity any person who is a member of the immediate family of any person who is currently employed by SUBRECIPIENT, or is a member of SUBRECIPIENT's governing board. The term "member of immediate family" includes: wife, husband, son, daughter, mother, father, brother, sister, in-laws, aunt, uncle, nephew, niece, step-parent, step-child, half-brother and half-sister.

21.
POLITICAL OR SECTARIAN ACTIVITY

- A. Neither the funds advanced pursuant to this Agreement, nor any personnel who may be employed by the SUBRECIPIENT with funds advanced pursuant to this Agreement shall be in

any way or to any extent engaged in any conduct or political activity in contravention of Chapter 15 of Title 5 of the United States Code.

- B. The SUBRECIPIENT is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities, lobbying, political patronage or nepotism activities.
- C. The SUBRECIPIENT agrees that none of the funds or services provided directly or indirectly under this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate for public office, or for publicity, lobbying and/or propaganda purposes designed to support or defeat pending legislation. Employees of the SUBRECIPIENT connected with any activity that is funded in whole or in part by funds provided to SUBRECIPIENT under this Agreement may not under the term of this Agreement:
 - 1. use their official position or influence to affect the outcome of an election or nomination.
 - 2. solicit contributions for political purposes; or
 - 3. take an active part in political management or in political campaigns.

SUBRECIPIENT hereby agrees to sign a Certification Regarding Lobbying included herein as Attachment "F" and if necessary, the Disclosure of Lobbying Activities provided by the CITY.

22. PUBLICITY

- A. Where such action is appropriate, SUBRECIPIENT shall publicize the activities conducted by SUBRECIPIENT under this Agreement. In any news release, sign, brochure, or other advertising medium, disseminating information prepared or distributed by or for SUBRECIPIENT, the advertising medium shall state that the U.S. Department of Housing and Urban Development's Community Development Block Grant Program funding through the City of Denton has made the project possible.
- B. All published material and written reports submitted under this project must be originally developed material unless otherwise specifically provided in this Agreement. When material not originally developed is included in a report, the report shall identify the source in the body of the report or by footnote. This provision is applicable when the material is in a verbatim or extensive paraphrase format.

All published material submitted under this project shall include the following reference on the front cover or title page:

This document is prepared in accordance with the City of Denton's Community Development Block Grant Program, with funding received from the United States Department of Housing and Urban Development.

- C. All reports, documents, studies, charts, schedules, or other appended documentation to any proposal, content of basic proposal, or contracts and any responses, inquiries, correspondence and related material submitted by SUBRECIPIENT shall become the property of CITY upon receipt.

23.

CHANGES AND AMENDMENTS

- A. Any alterations, additions, or deletions to the terms of this Agreement shall be by written amendment executed by both parties, except when the terms of this Agreement expressly provide that another method shall be used.
- B. SUBRECIPIENT may not make transfers between or among approved line items within budget categories set forth in Attachment B without prior written approval of CITY. SUBRECIPIENT shall request, in writing, the budget revision in a form prescribed by CITY, and such request for revision shall not increase the total monetary obligation of CITY under this Agreement. In addition, budget revisions cannot significantly change the nature, intent, or scope of the program funded under this Agreement.
- C. SUBRECIPIENT will submit revised budget and program information, whenever the level of funding for SUBRECIPIENT or the program(s) described herein is altered according to the total levels contained in any portion of Attachment B.
- D. It is understood and agreed by the parties hereto that changes in the State, Federal or local laws or regulations pursuant hereto may occur during the term of this Agreement. Any such modifications are to be automatically incorporated into this Agreement without written amendment hereto, and shall become a part of the Agreement on the effective date specified by the law or regulation.
- E. CITY may, from time to time during the term of the Agreement, request changes in Attachment A, which may include an increase or decreased in the amount of SUBRECIPIENT's compensation. Such changes shall be incorporated in a written amendment hereto, as provided in Subsection A of this Section.
- F. Any alterations, deletion, or additions to the Contract Budget Detail incorporated in Attachment B shall require the prior written approval of CITY.
- G. SUBRECIPIENT agrees to notify CITY of any proposed change in physical location for work performed under this Agreement at least 30 calendar days in advance of the change.
- H. SUBRECIPIENT shall notify CITY of any changes in personnel or governing board composition.
- I. It is expressly understood that neither the performance of Attachment A for any program contracted hereunder nor the transfer of funds between or among said programs will be permitted.

24.

SUSPENSION OF FUNDING

Upon determination by CITY of SUBRECIPIENT's failure to timely and properly perform each of the requirements, time conditions and duties provided herein, CITY, without limiting any rights it may otherwise have, may, at its discretion, and upon ten working days written no-

tice to SUBRECIPIENT, withhold further payments to SUBRECIPIENT. Such notice may be given by mail to the Executive Officer and the Board of Directors of SUBRECIPIENT. The notice shall set forth the default or failure alleged, and the action required for cure.

The period of such suspension shall be of such duration as is appropriate to accomplish corrective action, but in no event shall it exceed 30 calendar days. At the end of the suspension period, if CITY determines the default or deficiency has been satisfied, SUBRECIPIENT may be restored to full compliance status and paid all eligible funds withheld or impounded during the suspension period. If however, CITY determines that SUBRECIPIENT has not come into compliance, the provisions of Section 26 may be effectuated.

25. TERMINATION

- A. CITY may terminate this Agreement for cause under any of the following reasons or for other reasons not specifically enumerated in this paragraph:
- (1) SUBRECIPIENT's failure to attain compliance during any prescribed period of suspension as provided in Section 24.
 - (2) SUBRECIPIENT's failure to materially comply with any of the terms of this Agreement.
 - (3) SUBRECIPIENT's violation of covenants, agreements or guarantees of this Agreement.
 - (4) Termination or reduction of funding by the United States Department of Housing and Urban Development.
 - (5) Finding by CITY that SUBRECIPIENT:
 - (a) is in such unsatisfactory financial condition as to endanger performance under this Agreement;
 - (b) has allocated inventory to this Agreement substantially exceeding reasonable requirements;
 - (c) is delinquent in payment of taxes, or of costs of performance of this Agreement in the ordinary course of business.
 - (6) Appointment of a trustee, receiver or liquidator for all or substantial part of SUBRECIPIENT's property, or institution of bankruptcy, reorganization, rearrangement of or liquidation proceedings by or against SUBRECIPIENT.
 - (7) SUBRECIPIENT's inability to conform to changes required by Federal, State and local laws or regulations as provided in Section 4, and Section 2 of this Agreement.
 - (8) The commission of an act of bankruptcy.

- (9) SUBRECIPIENT's violation of any law or regulation to which SUBRECIPIENT is bound or shall be bound under the terms of the Agreement.

CITY shall promptly notify SUBRECIPIENT in writing of the decision to terminate and the effective date of termination. Simultaneous notice of pending termination maybe made to other funding source specified in Attachment B.

- B. CITY may terminate this Agreement for convenience at any time. If CITY terminates this Agreement for convenience, SUBRECIPIENT will be paid an amount not to exceed the total of accrued expenditures as of the effective date of termination. In no event will this compensation exceed an amount which bears the same ratio to the total compensation as the services actually performed bears to the total services of SUBRECIPIENT covered by the Agreement, less payments previously made.
- C. SUBRECIPIENT may terminate this Agreement in whole or in part by written notice to CITY, if a termination of outside funding occurs upon which SUBRECIPIENT depends for performance hereunder. SUBRECIPIENT may opt, within the limitations of this Agreement, to seek an alternative funding source, with the approval of CITY, provided the termination by the outside funding source was not occasioned by a breach of contract as defined herein or as defined in a contract between SUBRECIPIENT and the funding source in question.

SUBRECIPIENT may terminate this Agreement upon the dissolution of SUBRECIPIENT's organization not occasioned by a breach of this Agreement.

- D. Upon receipt of notice to terminate, SUBRECIPIENT shall cancel, withdraw or otherwise terminate any outstanding orders or subcontracts, which relate to the performance of this Agreement. CITY shall not be liable to SUBRECIPIENT or SUBRECIPIENT's creditors for any expenses, encumbrances or obligations whatsoever incurred after the termination date listed on the notice to terminate referred to in this paragraph.
- E. Notwithstanding any exercise by CITY of its right of suspension or termination, SUBRECIPIENT shall not be relieved of liability to CITY for damages sustained by CITY by virtue of any breach of the Agreement by SUBRECIPIENT, and CITY may withhold any reimbursement to SUBRECIPIENT until such time as the exact amount of damages due to CITY from SUBRECIPIENT is agreed upon or otherwise determined.

26.

NOTIFICATION OF ACTION BROUGHT

In the event that any claim, demand, suit or other action is made or brought by any person(s), firm, corporation or other entity against SUBRECIPIENT, SUBRECIPIENT shall give written notice thereof to CITY within two working days after being notified of such claim, demand, suit or other action. Such notice shall state the date and hour of notification of any such claim, demand, suit or other action; the names and addresses of the person(s), firm, corporation or other entity making such claim, or that instituted or threatened to institute any type of action or proceeding; the basis of such claim, action or proceeding; and the name of any person(s) against whom such claim is being made or threatened. Such written notice shall be delivered either personally or by mail.

27.

INDEMNIFICATION

- A. It is expressly understood and agreed by both parties hereto that CITY is contracting with SUBRECIPIENT as an independent SUBRECIPIENT and that as such, SUBRECIPIENT shall save and hold CITY, its officers, agents and employees harmless from all liability of any nature or kind, including costs and expenses for, or on account of, any claims, audit exceptions, demands, suits or damages of any character whatsoever resulting in whole or in part from the performance or omission of any employee, agent or representative of SUBRECIPIENT.**
- B. SUBRECIPIENT agrees to provide the defense for, and to indemnify and hold harmless CITY its agents, employees, or SUBRECIPIENTs from any and all claims, suits, causes of action, demands, damages, losses, attorney fees, expenses, and liability arising out of the use of these contracted funds and program administration and implementation except to the extent caused by the willful act or omission of CITY, its agents, employees, or SUBRECIPIENTs.**

28.

RELIGIOUS ACTIVITIES AND FAITH-BASED ORGANIZATIONS

- A. The SUBRECIPIENT will provide all services under this Agreement in a manner that is exclusively non-religious in nature and scope. There shall be no religious services, proselytizing, instruction or any other religious preference, influence or discrimination in connection with providing the services hereunder.**
- B. As stated in 24 CFR Part 5.109, no organization will be prohibited from participating in activities funded through the CITY's Community Development Block Grant program including programs that make funds available through contracts, grants or cooperative agreements. SUBRECIPIENT shall not discriminate against any organization on the basis of the organization's religious character or affiliation.**

29.

MISCELLANEOUS

- A. SUBRECIPIENT shall not transfer, pledge or otherwise assign this Agreement or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company or other financial institution without the prior written approval of CITY.**
- B. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect and continue to conform to the original intent of both parties hereto.**
- C. In no event shall any payment to SUBRECIPIENT hereunder, or any other act or failure of CITY to insist in any one or more instances upon the terms and conditions of this Agreement constitute or be construed in any way to be a waiver by CITY of any breach of covenant or default which may then or subsequently be committed by SUBRECIPIENT. Neither shall such**

payment, act, or omission in any manner impair or prejudice any right, power, privilege, or remedy available to CITY to enforce its rights hereunder, which rights, powers, privileges, or remedies are always specifically preserved. No representative or agent of CITY may waive the effect of this provision.

- D. This Agreement, together with referenced attachments, constitutes the entire agreement between the parties hereto, and any prior agreement, assertion, statement, understanding or other commitment antecedent to this Agreement, whether written or oral, shall have no force or effect whatsoever; nor shall an agreement, assertion, statement, understanding, or other commitment occurring during the term of this Agreement, or subsequent thereto, have any legal force or effect whatsoever, unless properly executed in writing, and if appropriate, recorded as an amendment of this Agreement.
- E. In the event any disagreement or dispute should arise between the parties hereto pertaining to the interpretation or meaning of any part of this Agreement or its governing rules, codes, laws, ordinances or regulations, CITY as the party ultimately responsible to HUD for matters of compliance, will have the final authority to render or to secure an interpretation.
- F. For purposes of this Agreement, all official communications and notices among the parties shall be deemed made if sent postage paid to the parties and address set forth below:

TO CITY:

City Manager
City of Denton
215 E. McKinney
Denton, Texas 76201

TO SUBRECIPIENT:

Executive Director
Fred Moore Day Nursery School
821 Cross Timber St.
Denton Texas 76205

- G. This Agreement shall be interpreted in accordance with the laws of the State of Texas and venue of any litigation concerning this Agreement shall be in a court competent jurisdiction sitting in Denton County, Texas.

IN WITNESS OF WHICH this Agreement has been executed on this the 15 day of September, 2015.

CITY OF DENTON

BY: 

GEORGE C. CAMPBELL
CITY MANAGER

ATTEST:

JENNIFER WALTERS, CITY SECRETARY

BY: Jennifer Walters

APPROVED AS TO LEGAL FORM:

ANITA BURGESS, CITY ATTORNEY

BY: Anita Burgess

FRED MOORE DAY NURSERY SCHOOL

BY: Margaret B. Bays
MARGARET B. BAYS
PRESIDENT, BOARD OF DIRECTORS

ATTEST:

BY: Wendy McGee
WENDY MCGEE
EXECUTIVE DIRECTOR

ATTACHMENT "A" SCOPE OF SERVICES

Description of Facility Improvements

The project will consist of improvements to the "activity room," including restroom plumbing, ceramic tile installation, sink, toilets and door installation, painting of gym walls and installation of gym floor. The project will also include installation of outdoor commercial playground equipment.

Work Statement Fred Moore Day Nursery School

In order to complete the agreed upon activity SUBRECIPIENT shall provide the following services from the improved facility:

Fred Moore Day Nursery School is a nonprofit childcare facility for low to moderate-income families. FMDNS will serve a minimum of 62 children ranging in age from six (6) weeks through five (5) years of age. Parents must be working, going to school full time or doing a combination of both to be eligible. In addition, parents will be required to volunteer at the childcare center. FMDNS will be open Monday through Friday from 6:30 am to 6:00 p.m.

FMDNS will provide the services listed below and meet all stated requirements:

- Provision of a safe, healthy environment that will meet the development needs of each child. Activities will be designed for each age group to meet the individual and group needs. The curriculum will include education, emphasizing learning skills, creative arts, motor skills, physical development, speech development, personal hygiene and manners.
- Provision of breakfast, lunch and an afternoon snack for each child. All meals will meet the USDA and Texas Department of Human Services Special Nutrition food requirements for children in childcare.
- Remain open for service from 6:30 am to 6:00 pm.
- Be licensed by the TX Department of Protective and Regulatory Services.
- Meet or exceed the TX Department of Human Services minimum standards for Day Care Centers.
- Must be a North Central Texas Childcare Services designated vendor.

ATTACHMENT "B" PROJECT BUDGET

Fred Moore Day Nursery School Improvements

Restroom (RR) Plumbing	\$21,000.00
RR Ceramic Tile (wall and floor)	\$ 8,115.00
RR Sink/Toilet Doors & Partition	\$ 2,317.50
Painting/Sealing Gym Walls	\$ 4,500.00
<u>Gym Floor Installation</u>	<u>\$31,980.00</u>
Activity Room Total	\$67,912.50

Commercial Playground Equipment	\$41,014.50
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TOTAL PROJECT BUDGET	\$108,927.00*
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Prior to the start of construction, if requested, Fred Moore Day Nursery School, shall provide the Community Development Division with a project budget and documentation of any additional funding sources and commitments.

*The "approximate cost" amounts listed above are estimates. Funding may be reallocated as needed to complete improvements listed above.

ATTACHMENT "C"

24 CFR § 570.505

The standards described in this section apply to real property within the recipient's control which was acquired or improved in whole or in part using CDBG funds in excess of \$25,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided.

(a) A recipient may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless the recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either:

(1) The new use of such property qualifies as meeting one of the national objectives in Section 570.208 and is not a building for the general conduct of government; or

(2) The requirements in paragraph (b) of this section are met.

(b) If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

(c) If the change of use occurs after closeout, the provisions governing income from the disposition of the real property in Section 570.504(b) (4) or (5), as applicable, shall apply to the use of funds reimbursed.

(d) Following the reimbursement of the CDBG program in accordance with paragraph (b) of this section, the property no longer will be subject to any CDBG requirements.

ATTACHMENT "D"

24 CFR § 570.503

(a) Before disbursing any CDBG funds to a subrecipient, the recipient shall sign a written agreement with the subrecipient. The agreement shall remain in effect during any period that the subrecipient has control over CDBG funds, including program income.

(b) At a minimum, the written agreement with the subrecipient shall include provisions concerning the following items:

(1) Statement of Work. The agreement shall include a description of the work to be performed, a schedule for completing the work, and a budget. These items shall be in sufficient detail to provide a sound basis for the recipient effectively to monitor performance under the agreement.

(2) Records and Reports. The recipient shall specify in the agreement the particular records the subrecipient must maintain and the particular reports the subrecipient must submit in order to assist the recipient in meeting its recordkeeping and reporting requirements.

(3) Program Income. The agreement shall include the program income requirements set forth in Section 570.504(c).

(4) Uniform Administrative Requirements. The agreement shall require the subrecipient to comply with applicable uniform administrative requirements, as described in Section 570.502.

(5) Other Program Requirements. The agreement shall require the subrecipient to carry out each activity in compliance with all Federal laws and regulations described in subpart K of these regulations, except that:

(i) The subrecipient does not assume the recipient's environmental responsibilities described at Section 570. 604; and

(ii) The subrecipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52.

(6) Conditions for Religious Organizations. Where applicable, the conditions prescribed by HUD for the use of CDBG funds by religious organizations shall be included in the agreement.

(7) Suspension and Termination. The agreement shall specify that, in accordance with 24 CFR 85.43, suspension or termination may occur if the subrecipient materially fails to comply with any term of the award, and that the award may be terminated for convenience in accordance with 24 CFR 85.44.

(8) Reversion of Assets. The agreement shall specify that upon its expiration the subrecipient shall transfer to the recipient any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. It shall also include provisions to the use of CDBG funds. It shall also include provisions designed to ensure that any real property under the subrecipient's control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 is either:

(i) Used to meet one of the national objectives in Section 570.208 until five years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the recipient; or

(ii) Disposed of in a manner that results in the recipient's being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. (Reimbursement is not required after the period of time specified in paragraph (b) (8) (1) of this section.)

ATTACHMENT "E"

24 CFR § 570.504

(a) Recording Program Income. The receipt and expenditure of program income as defined in Section 570.500(a) shall be recorded as part of the financial transactions of the grant program.

(b) Disposition of Program Income Received by Recipients.

(1) Program income received before grant closeout may be retained by the recipient if the income is treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds.

(2) If the recipient chooses to retain program income, that income shall affect withdrawals of grant funds from the U.S. Treasury as follows:

(i) Program income in the form of repayments to, or interest earned on, a revolving fund as defined in Section 570.500(b) shall be substantially disbursed from the fund before additional cash withdrawals are made from the U.S. Treasury for the same activity. (This rule does not prevent a lump sum disbursement to finance the rehabilitation of privately owned properties as provided for in Section 570.513.)

(ii) Substantially all other program income shall be disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury.

(3) Program income on hand at the time of closeout shall continue to be subject to the eligibility requirements in Subpart C and all other applicable provisions of this part until it is expended.

(4) Unless otherwise provided in any grant closeout agreement, and subject to the requirements of paragraph (b) (5) of this section, income received after closeout shall not be governed by the provisions of this part, except that, if at the time of closeout the recipient has another ongoing CDBG grant received directly from HUD, funds received after closeout shall be treated as program income of the ongoing grant program.

(5) If the recipient does not have another ongoing grant received directly from HUD at the time of closeout, income received after closeout from the disposition of real property or from loans outstanding at the time of closeout shall not be governed by the provisions of this part, except that such income shall be used for activities that meet one of the national objectives in Section 570.208 and the eligibility requirements described in Section 105 of the Act.

ATTACHMENT "F"

Certification Regarding Lobbying

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-ILL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this Certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of the certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, US Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Wendy McGee, Fred Moore Day Nursery School

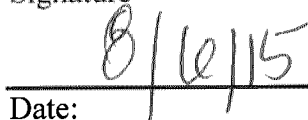
Grantee



Executive Director

Signature

Title



Date:

CITY OF DENTON
SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF DENTON
AND THE FRED MOORE DAY NURSERY SCHOOL

The City of Denton and Fred Moore Day Nursery School agree to amend the 2015 – 2016 Agreement executed on or about September 15, 2015 (herein the "Agreement".)

Section 3, City Obligation, B, Measure of Liability, (6) is hereby revised as follows:

Funding not expended within twenty-eight months of the initial contract approval will revert to the City of Denton CDBG budget for use on alternative projects.

All other provisions of the Agreement and First Amendment thereto, shall remain in full force and effect.

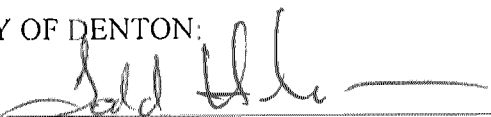
AGREED:

FRED MOORE DAY NURSERY SCHOOL

BY: 
DINORA PADILLA, EXECUTIVE DIRECTOR

DATE: 8.16.17

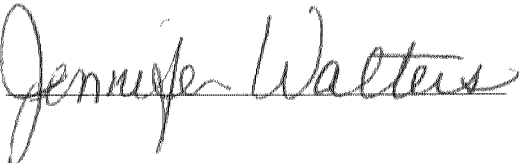
CITY OF DENTON:

BY: 
TODD HILEMAN, CITY MANAGER

DATE: 8/21/2017

ATTEST:

JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
AARON LEAL, INTERIM CITY ATTORNEY

BY: 

CITY OF DENTON
THIRD AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF DENTON
AND THE FRED MOORE DAY NURSERY SCHOOL

The City of Denton and Fred Moore Day Nursery School agree to amend the 2015 – 2016 Agreement executed on or about September 15, 2015, herein the "Agreement."

Section 3, City Obligation, B, Measure of Liability, (6) is hereby revised as follows:

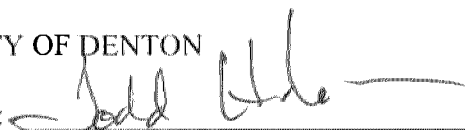
Funding not expended on or before June 1, 2018, will revert to the City of Denton CDBG budget for use on alternative projects.

All other provisions of the Agreement and First Amendment hereto not amended herein shall remain in full force and effect.

AGREED:
FRED MOORE DAY NURSERY SCHOOL

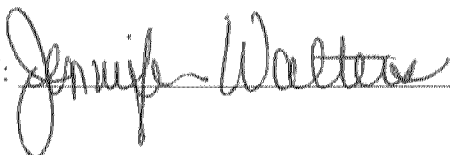
BY: 
DINORA PADILLA, EXECUTIVE DIRECTOR

DATE: 11.7.17

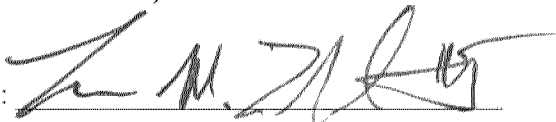
CITY OF DENTON
BY: 
TODD HILEMAN, CITY MANAGER

DATE: November 10, 2017

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY: 

**CITY OF DENTON
FOURTH AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF DENTON
AND THE FRED MOORE DAY NURSERY SCHOOL**

The City of Denton and Fred Moore Day Nursery School agree to amend the 2015 – 2016 Agreement executed on or about September 15, 2015, herein the "Agreement".

Section 3, City Obligation, B, Measure of Liability, (6) is hereby revised as follows:

Funding not expended on or before August 31, 2018, will revert to the City of Denton CDBG budget for use on alternative projects.

All other provisions of the Agreement and First Amendment thereto not amended herein shall remain in full force and effect.

AGREED:
FRED MOORE DAY NURSERY SCHOOL

By: 
DINORA PADILLA, EXECUTIVE DIRECTOR

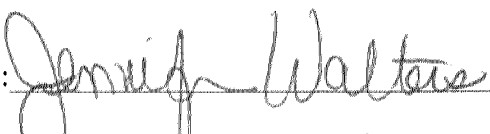
DATE: 6/26/18

CITY OF DENTON

BY: 
TODD HILEMAN
CITY MANAGER

DATE: June 27, 2018

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM;
AARON LEAL, CITY ATTORNEY

BY: 

CITY OF DENTON
FIFTH AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF DENTON
AND THE FRED MOORE DAY NURSERY SCHOOL

The City of Denton and Fred Moore Day Nursery School agree to amend the 2015 - 2016 Agreement executed on or about September 15, 2015, (herein the "Agreement").

Section 3, City Obligation, B, Measure of Liability, (6) is hereby revised as follows:

Funding not expended on or before December 31, 2018, will revert to the City of Denton CDBG budget for use on alternative projects.

Attachment B, Budget, is hereby revised as follows:

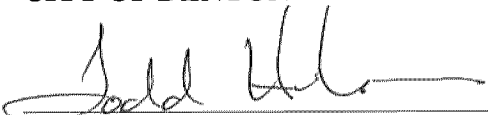
Improvement	Cost
Commercial Playground Equipment, Surfacing (Infant/Toddler 2 -5) and Playground Fencing.	\$108,927.00

FRED MOORE DAY NURSERY SCHOOL

BY: 
DINORA PADILLA, EXECUTIVE DIRECTOR

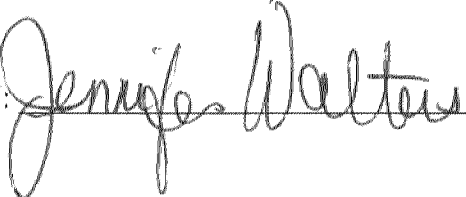
DATE: 10-4-2018

CITY OF DENTON


TODD HILEMAN, CITY MANAGER

DATE: 10-5-2018

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: 

THIS AGREEMENT HAS BEEN
BOTH REVIEWED AND APPROVED
as to financial and operational
obligations and business terms.

Balla L. Rn

Signature

Community Dev Mgr

Title

Community Dev

Department

Date Signed: 10/5/18

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY: A. M. Leal