

AMENDATORY LEASE AND AGREEMENT

THIS AMENDATORY LEASE AND AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, hereinafter referred to as the “City”, and **MILE HIGH MONTESSORI EARLY LEARNING CENTERS**, formerly known as Mile High Child Care Association, a Colorado not-for-profit corporation, whose address is 3801 Martin Luther King, Denver, Colorado 80205 (the "Lessee"), collectively “the parties”.

RECITALS:

WHEREAS, the City Leased certain real property and improvements located at 2851 Tremont Place, Denver, Colorado, known as the Edna Oliver Child Development Center (the “Property”) to the Lessee by a Lease and Agreement dated January 16, 2003, to operate a child care center (the “Agreement”); and

WHEREAS, the parties now desire to amend the Agreement to reflect that the Lessee has changed its name yet retained all rights, obligations, and liabilities in the Agreement as the successor in interest; and

NOW, THEREFORE, the parties agree as follows:

1. Mile High Montessori Early Learning Centers agrees to be bound by and perform the Agreement in accordance with the conditions of the Agreement. Mile High Montessori Early Learning Centers hereby assumes all obligations and liabilities of, and all claims against Mile High Child Care Association, under the Agreement as if Mile High Montessori Early Learning Centers was the original party to the Agreement.

2. Mile High Montessori Early Learning Centers, ratifies all previous actions taken by Mile High Child Care Association, with respect to the Agreement, with the same force and effect as if the action had been taken by Mile High Montessori Early Learning Centers.

3. The City recognizes Mile High Montessori Early Learning Centers, as Mile High Child Care Association’ successor in interest in and to the Agreement and consents to the assignment of the Agreement, if applicable, from Mile High Child Care

Association, as if Mile High Montessori Early Learning Centers was the original party to the Agreement.

4. All obligations and actions performed by the City to Mile High Child Care Association, under the Agreement shall be considered to have discharged the City's obligations under those parts of the Agreement.

5. The Parties hereby acknowledge that the Lessee previously referred to herein as Mile High Child Care Association shall now be referred to as Mile High Montessori Early Learning Centers, and further the parties hereby agree to assign and transfer all responsibilities and obligations of Mile High Child Care Association to Mile High Montessori Early Learning Centers. As such, the term "Lessee" shall henceforth, refer to Mile High Montessori Early Learning Centers.

6. Article 2 of the Agreement, entitled "**TERM**", is hereby amended to read as follows:

"2. **TERM**: The term of this Lease and Agreement is from July 1, 2002, until June 30, 2017, unless terminated pursuant to the terms of the Lease and Agreement."

7. Article 11 of the Agreement, entitled "**INDEMNITY**", is amended to read as follows:

"11. **DEFENSE & INDEMNIFICATION**:

A. Lessee hereby agrees to defend, indemnify, reimburse, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the Lessee's use or occupancy of the Leased Premises ("Claims"), unless and until such Claims have been specifically determined by the trier of fact to be due to the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Lessee or its subcontractors either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

B. Lessee's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Lessee's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

C. Lessee will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Lessee under the terms of this indemnification obligation. The Lessee shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

E. This defense and indemnification obligation shall survive the expiration or termination of this Agreement."

8. Article 26 of the Agreement, entitled "**NOTICES**", is amended to read as follows:

"26. **NOTICES**: All Notices required to be given to the Lessee hereunder shall be given by certified or registered mail, addressed to the Lessee at the address provided above: all notices required to be given to the City hereunder shall be given by certified or registered mail, addressed to Director, Division of Real Estate, 201 W. Colfax Avenue, 10th Floor, Denver, Colorado 80202. Either of the parties may designate, in writing, from time to time, substitute addresses or persons in connection with the said notices."

9. A new Article 34, entitled "**ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS**", is added to the Lease and reads as follows:

34. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Lessee consents to the use of electronic signatures by the City. The Lease, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Lease solely because it is in electronic form or because an electronic record was used in its

formation. The Parties agree not to object to the admissibility of the Lease in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.”

10. As herein amended, the Agreement is affirmed and ratified in each and every particular.

11. This Amendatory Lease and Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

12. This Amendatory Lease and Amendment may be executed in counterparts, each of which is an original and constitute the same instrument.

END

SIGNATURE PAGES FOLLOW THIS PAGE

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: FINAN-RC15016-01

Contractor Name: Mile High Montessori

By: Pamela Harris

Name: Pamela Harris
(please print)

Title: President / CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

