

Memorandum of Understanding

This is a **Memorandum of Understanding** (the “MOU”), dated as of Aug. 16, 2016 (the “Effective Date”), between The Health Trust (“Heath Trust”), a California public benefit corporation, and **Milpitas Unified School District** (“Collaborator”), a California public school district.

Background

The mission of Health Trust is to lead the Silicon Valley community to advance wellness. Health Trust and Collaborator wish to work together on a project (the “Project”) as described in **Exhibit A** (“Project Plan”) and on the basis set out in this MOU.

Health Trust and Collaborator agree as follows:

1. Project

1.1 Objectives and Activities. Project objectives and activities, and Health Trust’s and Collaborator’s respective Project responsibilities, are set out in the Project Plan. Health Trust and Collaborator will each carry out such responsibilities in accordance with this MOU.

1.2 Project Contacts. Health Trust and Collaborator will each appoint one individual to act as principal contact person and to coordinate activities in connection with the Project. The initial appointees are identified in the Project Plan. Health Trust and Collaborator will notify each other in writing if the contact person specified in the Project Plan changes at any point during the Project.

1.3 Funding. Health Trust and Collaborator will each be responsible for acquiring and maintaining funding for their respective Project activities, unless otherwise specified in the Project Plan.

1.4 Reporting. Health Trust and Collaborator will each provide each other with reports about Project activities as may be described in the Project Plan.

1.5 Responsibility for Own Actions. Health Trust and Collaborator will each have sole responsibility for the planning, management, and implementation of its own activities relating to Project execution, including managing its Project budget, hiring, assigning, and managing employees, independent contractors, and volunteers, and paying expenses.

1.6 Contracts with Other Parties. Health Trust and Collaborator may each be required to enter into contracts with third parties in order to carry out its respective Project responsibilities. These contracts will be the sole responsibility of the party entering into the contract. Neither Health Trust nor Collaborator assumes any liability for or guarantees the performance of the other in conjunction with any of these contracts.

2. Communications and Records

2.1 Project Evaluation and Data. Each of Health Trust and Collaborator may collect, analyze, and disseminate data about the Project to evaluate its effectiveness, comply with external reporting obligations, and carry out its communication activities. Each will cooperate with the other in these efforts by providing the other with the reports, if any, contemplated by the Project Plan, and such other information as the other may reasonably request.

2.2 Confidentiality. In working together on the Project, Health Trust and Collaborator may share non-public information ("Confidential Information") with one another, including any client data and information about financial, funding and other matters. Health Trust and Collaborator will each use the other party's Confidential Information only in connection with activities under this MOU and will keep this information confidential. "Confidential Information" means any and all non-public information regarding Health Trust or Collaborator, including information regarding strategies, personnel, financial position, and funders. Confidential Information does not include information that (i) is or becomes generally available to the public other than as a result of a disclosure by the receiving party; (ii) was already known by the receiving party; or (iii) is independently developed by the receiving party. All Confidential Information furnished under this MOU is and will remain the property of the furnishing party. This Section 2.2 does not preclude Health Trust from publishing reports under Section 2.1.

2.3 Recordkeeping. Health Trust and Collaborator will each maintain records relating to its Project responsibilities for a period of three (3) years after termination of the Project. Health Trust and Collaborator will each reasonably cooperate with one another in providing information relating to its activities under this MOU in connection with any financial or tax audit, or similar matter, in which the other is engaged.

2.4 Use of Trademarks and Logos. Neither Health Trust nor Collaborator will use each other's trademarks or logo in any promotional materials, or in any website, press release, or public communication, without obtaining the other's prior written consent.

2.5 Organizational Developments. Health Trust and Collaborator will each notify the other promptly of: (i) any changes in its management team or key personnel responsible for carrying out its activities relating to operation of the Project; (ii) any material adverse changes in the amount or source of financial support that it has secured to fund the Project; or (iii) any other development that has or could materially affect its ability to carry out the Project.

3. Intellectual Property

3.1 Mutual Licenses. In carrying out the Project, Health Trust and Collaborator may share proprietary know-how, methodologies, documents and other materials. Health Trust and Collaborator grant to each other a royalty-free, non-exclusive, non-transferable, non-sublicenseable, and revocable license to use such intellectual property and materials for the sole purpose of carrying out the Project. For clarity, Health Trust and Collaborator each owns, and will continue to own, all right, title and interest, including all copyright and trademark rights, in and to its own intellectual property and materials. It is further understood and agreed that each party retains all rights, title, and interest in and to any materials it exclusively creates for the Project.

3.2 Funder Requirements. Health Trust and Collaborator may each enter into grant or other funding agreements that require it to share Project data with or license Project materials to the funder. Health Trust and Collaborator will advise the other about any such requirements, and, to the extent necessary to comply with such requirements, and subject to Section 2.2, grants to the other royalty-free licenses to provide data and materials to such funders.

4. Insurance and Indemnification

4.1 Insurance. Unless otherwise specified in the Project Plan, Health Trust and Collaborator will each carry or obtain the insurance reasonably required to insure against the risks arising from its activities related to the Project. Each party will furnish evidence of such coverage upon reasonable request of the other party.

4.2 Indemnification of Collaborator. Health Trust will defend, indemnify and hold Collaborator and Collaborator's directors, officers, employees, agents, and assigns (collectively, "Collaborator Parties") harmless against all claims, liabilities, losses, damages, and expenses, including reasonable attorney's fees and expenses, resulting from (i) Health Trust's performance of activities under or breach of this MOU; or (ii) any claims by employees, volunteers, clients, subcontractors, suppliers, creditors, tax authorities, or other persons in a relationship with Health Trust. Health Trust will have no obligation to indemnify Collaborator to the extent the liability is caused by Collaborator's negligence or willful misconduct.

4.3 Indemnification of Health Trust. Collaborator will defend, indemnify and hold Health Trust and Health Trust's directors, officers, employees, agents, and assigns (collectively, "Health Trust Parties") harmless against all third party claims, liabilities, losses, damages, and expenses, including reasonable attorney's fees and expenses, resulting from (i) Collaborator's performance of activities under or breach of this MOU; or (ii) any claims by employees, volunteers, clients, subcontractors, suppliers, creditors, tax authorities, or other persons in a relationship with Collaborator. Collaborator will have no obligation to indemnify Health Trust to the extent the liability is caused by Health Trust's negligence or willful misconduct.

5. Termination

5.1 Expiration. This MOU will automatically renew on each anniversary of the Effective Date unless either party provides, thirty (30) days prior to the date of renewal, written notice to the other party that it does not wish to renew the MOU.

5.2 Mutual Agreement. This MOU may be terminated by a writing signed by both Health Trust and Collaborator that states their intent to terminate this MOU and the date upon which such termination will take effect.

5.3 Termination on Notice. Either Health Trust or Collaborator may on its own terminate the Project and this MOU by providing written notice of that decision to the other. Such a termination will be effective thirty (30) days after delivery of the notice by the terminating organization.

5.4 Termination for Breach. If either party materially breaches any of its obligations under this MOU, the non-breaching party may provide the breaching party with written notice of the breach. If the breaching party fails to cure the breach within fifteen (15) days after receipt of such notice, the non-breaching party may terminate this MOU upon delivery to the breaching party of a written notice to that effect, with the termination effective upon delivery of such notice to the breaching party. The non-breaching party may in its reasonable discretion determine whether the breach has been cured.

5.5 Effect of Termination. Upon the expiration or termination of this MOU, Health Trust and Collaborator will promptly cease any use of any of the other's materials, names, logos, and other marks, except as permitted under Section 3.2. If the MOU terminates, Health Trust and Collaborator will cooperate in transition activities and will use reasonable efforts to minimize interruption and any adverse impacts of the termination. Sections 2.2, 2.3, 3, 4.2, 4.3, 5.5, and 6 will survive the expiration or termination of this MOU.

6. General Provisions

6.1 Entire Agreement; Amendment. This MOU, together with the Project Plan and any other exhibits, describes Health Trust's and Collaborator's entire agreement, represents the final, complete and exclusive statement of Health Trust and Collaborator, and supersedes all prior or contemporaneous communications between Health Trust and Collaborator, whether oral or written, relating to the Project. If there are any inconsistencies between the Project Plan or other Project documents or communications and this MOU, this MOU will control. This MOU may be

amended only as stated in a written document signed by both Health Trust and Collaborator that states that it is an amendment to this MOU.

6.2 Severability. If any provision in this Agreement is held invalid or unenforceable, the other provisions will remain enforceable, and the invalid or unenforceable provision will be considered modified so that it is valid and enforceable to the maximum extent permitted by law.

6.3 Waiver. Any waiver under this Agreement must be in writing and signed by the party granting the waiver. Waiver of any breach or provision of this Agreement will not be considered a waiver of any later breach or of the right to enforce any provision of this Agreement.

6.4 Assignment. Neither party may assign its rights or delegate its duties under this Agreement to anyone else without the prior written consent of the other party.

6.5 No Third Party Beneficiaries. This MOU is for the exclusive benefit of Health Trust and Collaborator and not for the benefit of any third party, including any employee, affiliate, volunteer, client, or vendor of Collaborator or Health Trust.

6.6 Independence. Health Trust and Collaborator are and will remain independent contracting parties. The arrangements contemplated by this MOU do not create a partnership, joint venture, employment, fiduciary, or similar relationship for any purpose, either with either party or any of either party's volunteers or employees. Neither Health Trust nor Collaborator has the power or authority to bind or obligate the other to a third party or commitment in any manner. Any use of the term "partner" or comparable term in any communications is solely for convenience.

6.7 Non-Discrimination. No discrimination shall be made in the employment of persons involved in the Project because of race, religion, sex, age, national origin, ancestry, political affiliations, disability, medical condition, marital status, or sexual orientation.

6.8 Notices. Notices and consents under this MOU must be in writing and delivered by mail, hand delivery, fax, or e-mail to the contact persons set out in the Project Plan. These addresses may be changed by written notice to the other party. Notices given in the manner provided by this Section 6.8 will be considered given two business days after deposit in the mail, or immediately upon delivery by hand, fax or e-mail.

6.9 Governing Law. This Agreement is governed by California law. The parties consent to the exclusive jurisdiction of the state and federal courts of Santa Clara County, California.

6.10 Counterparts. This MOU may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and deemed to be one instrument. Transmission by fax or PDF of executed counterparts will constitute effective delivery.

Health Trust and Collaborator signed this MOU as of the Effective Date.

The Health Trust:

By: _____

Name: Keith Morales

Title: Program Manager, FRC Initiative

Milpitas Unified School District

Name of Collaborator

By: _____

Name: Cheryl Jordan

Title: Interim Superintendent

Exhibit A

Project Plan

Collaborator data and contact person

Collaborator name	Milpitas Unified School District
Collaborator address	1331 E. Calaveras Blvd.
Collaborator contact person	Name: Gerardo Lopez Fax: 408-635-2616 Email: glopez@musd.org

Health Trust data and contact person

Health Trust name	The Health Trust
Health Trust address	3180 Newberry Drive, Suite 200 San Jose, CA 95118
Health Trust contact person	Name: Fax: Email:

Project objectives and activities

Project name (if any)	Randall Family Resource Center
Project objective	Health and School Readiness
Project core activity	Prevention and Early Education
Project start date and expected completion date	Sept. 15, 2016
Project key performance measures	

Health Trust responsibilities

Health Trust activities	Family/Community Engagement, Parenting Workshops and Early Education programming at the Family Resource Center (FRC)
Health Trust deliverables	Research/Evidence Based Programming (i.e., Positive Parenting Program-Triple P, Opening Doors, SEEDS of Early Literacy, 24/7 Dad) and Health Promotion Programming (i.e., Oral Health Screenings/Education, Potter the Otter, Rethink Your Drink, Hearing/Vision Screenings). Provide developmental screenings of all children 0-5 served by FRC
Health Trust reporting	Copy of Reports to FIRST 5 will be provided to school principal at Randall Elem and to District Coordinator.

Special Health Trust insurance obligations	General Liability/Workers Compensation certificates provided to MUSD Administrators.
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Collaborator responsibilities

Collaborator activities	Provide appropriate sites for children's learning and Parent Education. Support Engagement, Outreach to services at FRC, collaborate with Health Trust in planning and coordinating community events as appropriate
Collaborator deliverables	<ul style="list-style-type: none"> • Furnish FRC (i.e., children's play equipment, parent learning equipment, administrative furniture & equipment, community resource area and parent meeting furniture provided). • Utilities and facilities provided by MUSD (phone, internet, alarm, custodial, etc.) • Purchase appropriate signage as approved by FIRST 5 (FRC building sign, interior FIRST 5 framed posters, bulletin board acrylic case-exterior, etc.) • Provide Desk Top CPU's for adult support (e.g., job search, housing, resources, etc.)
Collaborator reporting	N/A
Special Collaborator insurance obligations	General Liability