

## **MEMORANDUM OF UNDERSTANDING**

### **BETWEEN THE DOUGLAS COUNTY SCHOOL DISTRICT RE-1 AND THE LEMAN CLASSICAL SCHOOL**

**THIS MEMORANDUM OF UNDERSTANDING (“MOU”)** is made and entered into on the date of execution by both parties as noted below by and between **DOUGLAS COUNTY SCHOOL DISTRICT RE-1 (“DCSD”)**, a public school district duly organized and validly existing under the laws of the State of Colorado, and **THE LEMAN CLASSICAL SCHOOL (“LEMAN”)**, a nonprofit corporation organized and existing under the laws of the State of Colorado, related to DCSD’s operation of center-based programs at LEMAN’s Bayou Gulch Campus (**“LEMAN BG CAMPUS”**). DCSD and LEMAN, and their respective successors and assigns, may be referred to collectively herein as the “Parties” and individually as a “Party.”

### **RECITALS**

**WHEREAS**, DCSD is the fee simple owner of real property located in Douglas County and more particularly described as Tract A, Cielo Subdivision Filing 1, which was dedicated to DCSD for school purposes (“Dedicated School Site”); and

**WHEREAS**, LEMAN is an authorized charter school of DCSD and, pursuant to that certain charter school contract dated April 24, 2023 (the “Charter Contract”), is entitled to operate a PK-8 charter school within the boundaries of DCSD; and

**WHEREAS**, pursuant to that certain Site Lease dated February 1<sup>st</sup>, 2023 (the “Site Lease”), DCSD leased a portion of the Dedicated School Site to The Leman Academy of Excellence – Douglas County, Colorado, Inc., a nonprofit corporation organized and existing under the laws of the State of Colorado (the “Charter Corporation”), solely for the purpose of subletting it to LEMAN for the construction and operation of its Bayou Gulch Campus (the “LEMAN BG CAMPUS”); and

**WHEREAS**, in lieu of making rental and operating expense payments under the Site Lease, the Charter Corporation agreed to construct or cause LEMAN to construct the Center-Based Program Improvements (as defined in the Site Lease) and to allow and cause LEMAN to allow DCSD to operate at no cost therein (except as otherwise agreed), pursuant to a sublease, license, memorandum of understanding, or other acceptable form of agreement, one or more center-based programs for students with disabilities during the term of the Site Lease; and

**WHEREAS**, pursuant to Section 5(a) of the Site Lease, the Parties desire to enter into this MOU for the operation of two center-based programs in the Center-Based Program Improvements (the “DCSD Center-Based Programs”).

**NOW, THEREFORE, THE PARTIES AGREE** as follows, including to the following duties and obligations noted below:

**1. DCSD and LEMAN Responsibilities**

- a. **DCSD and LEMAN shall collaborate** to support the educational programs provided by each Party at the LEMAN BG CAMPUS, including but not limited to:
  - i. Identification of training necessary for LEMAN teachers and staff requisite to the successful implementation of the DCSD Center-Based Programs;
  - ii. Determination of appropriate safety and security measures for the school building and surrounding property with the understanding that DCSD teachers and staff working at the LEMAN BG CAMPUS school facility will follow LEMAN safety and security protocols;
  - iii. Utilization of equipment and educational resources with the permission and prior approval of the Party owning the equipment and/or educational resources;
  - iv. Determination of the school calendar and hours of attendance for students enrolled in LEMAN and placed in the DCSD Center-Based Programs and bus pick-up and drop-off schedules with the understanding that DCSD teachers and staff will follow the school calendar and daily bell schedule implemented at the LEMAN BG CAMPUS school facility;
  - v. Determination of the need for renovation of any physical plant space associated with the DCSD Center-Based Programs with the understanding that the Parties will cooperate in good faith to reasonably allocate costs associated with any needed renovations.
  
- b. **LEMAN shall:**
  - i. Construct or cause the Charter Corporation to construct the Center-Based Program Improvements in accordance with the Site Lease.
  - ii. Upon completion of the Center-Based Program Improvements, allow DCSD exclusive use of the Center-Based Program Improvements for the operation of the DCSD Center-Based Programs.
  - iii. Allow students placed in the DCSD Center-Based Programs to participate in LEMAN's general education programs with peers in the same age group for varying amounts of time consistent with the students' IEPs and in accordance with applicable law;
  - iv. Comply with the requirements of the IEPs for students placed in the DCSD Center-Based Programs enrolled at LEMAN;

- v. Comply with state and federal laws, including but not limited to IDEA, related to the delivery of educational services to students placed in the DCSD Center-Based Program at LEMAN;
- vi. Comply with state and federal laws, including but not limited to IDEA, regarding discipline of students with disabilities and inclusion of positive behavioral interventions in its discipline procedures;
- vii. Enroll special education students placed in the DCSD Center-Based Programs in LEMAN;
- viii. Allow DCSD employees access to the Center-Based Program Improvements on, over, and across the LEMAN BG CAMPUS.
- ix. Allow DCSD Center-Based Program staff and service providers to use all common areas located on and within the LEMAN BG CAMPUS, including the parking lot, hallways, and faculty restroom facilities and lounges, without payment of fees;
- x. Provide input to DCSD administration regarding the performance of DCSD Center-Based Programs staff for purposes of evaluation and discipline, as appropriate;
- xi. Provide input, as appropriate, on the hiring of DCSD Center-Based Programs staff;
- xii. Require LEMAN administrator and staff attendance and participation in IEP meetings for students enrolled in LEMAN and placed in the DCSD Center-Based Programs, as appropriate and necessary;
- xiii. Require LEMAN administrator and staff attendance and participation in training and professional development to support the implementation of IEPs for students enrolled in LEMAN and placed in the DCSD Center-Based Programs, as determined appropriate and necessary by DCSD.

c. **DCSD shall:**

- i. Provide all materials and equipment necessary to implement the special education programs and related services delivered to students placed in the DCSD Center-Based Programs (so long as DCSD gets an appropriate allocation of PPR to cover costs for such materials and equipment);
- ii. Hire and evaluate all teachers and staff responsible to implement the special education programming delivered in the DCSD Center-Based Programs;
- iii. Hire and evaluate all professionals and staff who provide related services to students placed in the DCSD Center-Based Programs;
- iv. Provide and manage all self-contained special education programming

delivered in the DCSD Center-Based Programs;

- v. Support, as appropriate, the delivery of general education instruction and other educational experiences provided by LEMAN teachers and staff to students placed in the DCSD Center-Based Programs, including making training opportunities available to LEMAN staff;
- vi. Designate a DCSD special education administrator who shall oversee the DCSD Center-Based Programs and who shall be responsible to oversee compliance with implementation of student IEPs and supervise teachers and staff delivering special education instruction and related services;
- vii. Designate a DCSD special education administrator who shall communicate with a designated LEMAN administrator regarding the following tasks so that students placed in the DCSD Center-Based Programs successfully participate in LEMAN's general education classes and experiences:
  - 1. Communicate with LEMAN staff regarding components of student IEPs and Behavior Intervention Plans;
  - 2. Provide appropriate training to LEMAN staff to support delivery of special education programs and related services to students in the DCSD Center-Based Programs;
  - 3. Communicate with parents of students placed in DCSD Center-Based Programs to assure a full understanding of LEMAN expectations for families who participate in LEMAN school activities and educational programs.
- viii. Provide transportation to the LEMAN BG CAMPUS for those students whose IEPs require transportation services to be provided;
- ix. Make good faith efforts to determine which special education students will be placed in the DCSD Center-Based Programs during the regular time period consistent with LEMAN's regular spring enrollment cycle.

## **2. Selection and Enrollment of Students Placed in Center-Based Programs**

DCSD shall have full and exclusive authority to determine which students are placed in the DCSD Center-Based Programs. Those determinations will be made by the student's IEP team and, if determined appropriate by DCSD, such IEP Team may include LEMAN representative(s). The provisions contained in Section 5 of the Charter Contract between LEMAN and DCSD related to enrollment, selection methods for enrollment, timeline and procedure for enrollment shall not apply to placement of students in the DCSD Center-Based Programs. DCSD will make good faith efforts to make student placement determinations during LEMAN's spring regular enrollment cycle. Any student placed in the DCSD Center-Based Programs shall be enrolled as a LEMAN student.

### **3. Common Areas**

Common areas of the LEMAN BG CAMPUS school facility are all areas designated by LEMAN for common use by LEMAN staff and DCSD, its employees, students, licensees, invitees, and contractors (the “Common Areas”). LEMAN grants to DCSD, its employees, agents, licensees, invitees and contractors a non-exclusive license (the “Common Area License”) on, over, across, and through such Common Areas for ingress to and egress from the Center-Based Improvements for the operation of the DCSD Center-Based Programs. The Common Area License shall be effective for the term of this MOU. DCSD understands and agrees that it shall not use Common Areas for any type of storage (except as may be necessary to support technology for computer and communications equipment), or parking of trucks, trailers, or other vehicles without the advance notice to LEMAN; provided, however, that DCSD will have the right to park its vehicles from time to time for loading and unloading activities.

### **4. Per Pupil Revenue Related to Students Placed in Center-Based Programs at Leman’s School Facility**

- a. Unless otherwise agreed by the Parties through negotiations described in Section 3.b. below, DCSD shall provide funding to LEMAN for each student placed in the DCSD Center-Based Programs located at LEMAN BG CAMPUS and enrolled at LEMAN as if each such student were a general education student. All other funding received from federal, state or other funding sources, related to the education of these students identified for special education services, shall be maintained by DCSD.

Any state reimbursement for transportation of special needs students by the DCSD will be retained by the DCSD.

- b. Consistent with the Charter Contract between LEMAN and DCSD, on or before March 15 of each year of the Charter Agreement, LEMAN and DCSD will begin negotiations concerning funding for the ensuing fiscal year. At such time, LEMAN and DCSD shall determine PPR revenue to be allocated to LEMAN attributable to special education students placed in the center-based programs located at LEMAN’s BG CAMPUS. Such negotiations shall conclude no later than June 1. This revenue determination shall take into consideration the following factors:
  - the baseline allocation attributable to general education students attending LEMAN;
  - a deduction for DCSD costs related to staffing, equipping and providing materials for the center-based programs located at LEMAN’s BG CAMPUS;
  - a deduction for DCSD costs attributable to administering and supporting the center-based programs;
  - a deduction for DCSD costs attributable to transportation of special education students to and from the center-based programs consistent with student IEPs.

## **5. Insurance**

### **a. Insurance Coverage Generally**

LEMAN shall purchase insurance coverage which shall protect LEMAN and its Charter Board, LEMAN employees, LEMAN volunteers, and DCSD where appropriate, consisting of comprehensive general liability insurance, errors and omissions liability insurance (school entity liability insurance), and such other insurance as required by the Charter Contract between DCSD and LEMAN.

DCSD shall purchase and maintain adequate hazard and liability insurance for claims which may arise during its use of the suite of classrooms and spaces at the LEMAN BG CAMPUS school facility related to its center-based programs.

DCSD does not assume any obligation with respect to any director, employee, agent, parent, guardian, student or independent contractor of LEMAN.

### **b. Property Insurance**

LEMAN shall obtain and maintain property insurance which covers loss and damage to the entire school facility located on the LEMAN BG CAMPUS, including the suite of classrooms and spaces utilized for DCSD center-based programming.

DCSD shall secure and maintain insurance covering all of DCSD's real and personal property whether owned or leased.

### **c. Workers Compensation Insurance**

LEMAN and DCSD shall each maintain workers compensation insurance applicable to coverage of workers compensation claims brought by their respective employees as required by Colorado law.

## **6. Term**

The term of this MOU will begin on its effective date and will continue for as long as DCSD authorizes LEMAN to operate programs at its school facility located on the LEMAN BG CAMPUS. This MOU can be renegotiated as both Parties mutually agree each spring, between March 1 and May 31, in preparation for the next school year.

## **7. Termination**

This MOU may be terminated by DCSD without cause at any time prior to its expiration upon a 365-day written notice provided to LEMAN; provided, however, that if DCSD terminates this MOU in the middle of an academic year, the Parties shall cooperate in good faith to complete all programming addressed in this MOU for such academic year, thereby minimizing educational disruption to students. In no event may LEMAN terminate this MOU.

## **8. Notice**

Any notice or the provision of written information required by this MOU shall be given via U.S. Mail or personal delivery to the following contacts, unless the Parties expressly agree to a substitute method on a case-by-case basis:

Notice to LEMAN:

Chief Executive Officer  
3300 East Sunrise Drive, Suite 150  
Tucson, AZ 85718  
Email: [operations@lemanacademy.org](mailto:operations@lemanacademy.org)  
[kdeterman@lemanacademy.org](mailto:kdeterman@lemanacademy.org)

Notice to DCSD:

Superintendent  
Director of Choice Programming  
620 Wilcox Street  
Castle Rock, CO 80104  
Email: [erin.kane@dcsdk12.org](mailto:erin.kane@dcsdk12.org)  
[gordon.mosher@dcsdk12.org](mailto:gordon.mosher@dcsdk12.org)

## **9. Modifications**

The provisions of this MOU may be modified, supplemented, or terminated only through the written agreement of both Parties. The Parties agree to make best efforts to negotiate any modifications related to school programming for a subsequent school year between March 1 and May 31 so there is adequate time for Parties to prepare for implementation.

## **10. Integration/Incorporation**

Together with the Site Lease and Charter Contract, this MOU constitutes the entire understanding between the Parties relating to the operation of the DCSD Center-Based Programs in the Center-Based Program Improvements and supersedes any and all prior agreements, arrangements, communications, or representations, whether oral or written. In the event of a conflict between the Site Lease and/or the Charter Contract and this MOU concerning the operation of the DCSD Center-Based Programs, this MOU shall control. For the avoidance of any doubt, the enrollment provisions in Section 5 of the Charter Contract shall not apply to placement of students in the DCSD Center-Based Programs and their contemporaneous enrollment at LEMAN.

## **11. Effective Date**

This Agreement shall be effective as of the date of signatures by the authorized officials for DCSD and LEMAN.

## **12. Assignment**

No Party shall assign this Agreement without the prior written consent of the other Party.

**13. Relationship of the Parties**

This Agreement does not create a partnership, joint venture or agency relationship between the Parties. Neither Party shall have any authority to bind the other Party to any agreement, understanding or other instrument, in any manner whatsoever.

**14. No Third-Party Beneficiaries**

Nothing in this Agreement shall be deemed to create any third-party benefits or beneficiaries, or create a right or cause of action for the enforcement of its terms, in any entity or person not a Party to this Agreement.

**15. Governing Law**

The laws of the State of Colorado shall govern the performance and interpretation of the Agreement. Venue for any dispute concerning the Agreement or to enforce any provision herein shall be exclusively in the federal court located in Colorado or the state court located in Douglas County, Colorado.

**16. Severability**

If any provision of this Agreement is ruled to be invalid or illegal, such ruling shall have no effect upon the remaining provisions, which shall be considered legally binding and given full effect.

**17. Counterparts**

This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes of executing this Agreement, facsimile or scanned signatures shall be as valid as the original.

**IN WITNESS WHEREOF**, the Parties have entered into and executed this MOU as of the date(s) written below.

**DOUGLAS COUNTY SCHOOL DISTRICT RE-1**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**LEMAN CLASSICAL SCHOOL**

By:  \_\_\_\_\_

Date: 01/19/2024