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OAKLAND UNIFIED  
SCHOOL DISTRICT

Community Schools, Thriving Students

# Memo

To Board of Education  
 From Chief James Williams, Chief of Police  
 Board Meeting Date May 8, 2013  
 Subject **FINANCIAL SPONSORSHIP AGREEMENT BETWEEN MARCUS A. FOSTER EDUCATIONAL INSTITUTE AND THE OAKLAND UNIFIED SCHOOL DISTRICT**

**Action Requested** Ratification of Agreement with Marcus A. Foster Educational Institute to serve as fiscal agent for Camp TRUST

**Background** Camp T.R.U.S.T (Together Reaching Unity through Service and Teamwork) Summer Program ("Camp TRUST" or "Project") is an Oakland Schools Police Department ("OSPD") summer program that is committed to working with the community to bridge the gap between the residents and the OSPD, by nurturing and fostering campers with a sense of social responsibility, and providing a safe place for them to learn, grow, and play. Camp TRUST is a 501(c)(3) and requires an entity to serve as the fiscal agent for funds donated to support the summer program.

**Discussion** Marcus A. Foster Educational Institute is partnering with OSPD to be a fiscal sponsor of the Camp TRUST Project. The term of the Agreement is May 1, 2013 through June 30, 2016; there are no direct costs to the District. Marcus Foster will charge a seven (7%) percent fiscal sponsorship administrative fee for services rendered based on donations to the program. This fee will be invoiced on a quarterly basis to the Project.

**Recommendation** Ratification of Agreement with Marcus A. Foster Educational Institute to serve as fiscal agent for Camp TRUST

**Fiscal Impact** No cost to the District; 7% administrative fee charged to Camp Trust based on donations to the Project.

**Attachments**

- Agreement

**FISCAL SPONSORSHIP AGREEMENT BETWEEN  
MARCUS A. FOSTER EDUCATIONAL INSTITUTE AND  
OAKLAND UNIFIED SCHOOL DISTRICT**  
(Camp T.R.U.S.T (Together Reaching Unity through Service and Teamwork) Summer  
Program ("Camp TRUST"))

This Fiscal Sponsorship Agreement ("Agreement") is made effective this 1st day of May 2013, at Oakland, California between **Marcus A. Foster Educational Institute**, a California nonprofit public benefit corporation ("Institute") located in Oakland, California, qualified as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code ("IRC") and as exempt from state income tax under California Revenue and Tax Code Section 23701d and classified as a public charity under IRC Sections 509(a)(1) and 170(b)(1)(A)(vi) and the **Oakland Unified School District** ("District") (referred to collectively herein as "the Parties"). The District appointed James Williams as Project Director.

**RECITALS**

WHEREAS, the Institute has served as the education fund for the public schools in the City of Oakland, State of California ("Oakland Public Schools" or "Oakland Unified School District") for over a quarter of a century and continues to be committed to nurturing promising practices in the classroom through small grants to teachers, promoting students' achievement with post-secondary scholarships, introducing innovative approaches to learning through pilot programs and special projects, and serving as fiscal sponsor for projects that serve Oakland Public Schools and students.

WHEREAS, Camp T.R.U.S.T (Together Reaching Unity through Service and Teamwork) Summer Program ("Camp TRUST" or "Project") is an Oakland Schools Police Department ("OSPD") program that is committed to working with the community to bridge the gap between the residents and the OSPD, by nurturing and fostering campers with a sense of social responsibility, and providing a safe place for them to learn, grow, and play.

WHEREAS, the Project furthers the Institute's charitable purpose.

WHEREAS, the Institute and the District agree that the Institute should be the fiscal sponsor of the Project and the Project should be a project of the Institute.

**AGREEMENT**

Now, therefore, for valuable consideration, receipt and adequacy of which are hereby acknowledged, the Institute and the District hereby agree as follows:

1. Funding of the Project/Scope of Work. The District may solicit gifts, contributions, grants, or other charitable donations to the Institute, earmarked for the purposes of the Project. The Program shall provide notice to the Institute about any

funding source(s) within 30 days of such funding source(s) being formally approached (e.g., through a written application) to provide goods or services to the Program. All grant agreements, pledges, or other written commitments with funding sources to support the Project shall be jointly executed by the Institute and Program, where such grant agreements, pledges or other written commitments require formal written agreement between the funding source(s) and the Program. All checks for charitable donations should be made payable jointly to the Institute and the Program as follows: "MFEF c/o Camp TRUST."

The Institute shall be responsible for the processing, acknowledgment, and depositing of all monies received for the Project, which shall be reported as the income of the Institute for both tax purposes and for purposes of the Institute's financial statements. The Institute will supply, on an annual basis, standard information required for IRC 501(c)(3) grant applications which the District may duplicate and use to apply for such grant applications. Additional information necessary to complete grant applications or satisfy the request of potential donors will be provided by the Institute upon written request of the authorized representative of the District to the Institute. Finally, the Institute shall, within 10 days of written request, provide to the District/Program a balance sheet reflecting credits, debits and a running balance of the Program's funds.

2. Project Budget. The District must submit an approved annual budget to the Institute and all revisions to the annual budget authorized by the Institute's Executive Director must be on file in the Institute's offices.

3. Project Financial Report. The Institute will furnish a quarterly report and a year-end report of the financial status of the Project detailing all income and expenses of the Project.

4. Project Annual Report. An annual report of the status of the Project must be presented to the Institute each year at the end of the Institute's fiscal year (the Institute's fiscal year runs from July 1 to June 30).

5. Advisory Committee. The Project shall have an advisory committee consisting of no fewer than three (3) persons who have no financial interest in the Project. The advisory committee shall be responsible for reviewing the activities of the Project and reviewing and approving the annual report of the status of the Project prior to its submission to the Institute.

6. Authorized Representative. The Project shall have an authorized representative, who may be the Director, for the Institute to contact in administering the Project.

7. Employees and Volunteers. Persons who are hired with grant funds received by the Institute to support/work on the Project, other than independent contractors as set forth in Paragraph 8 below, shall be employees of the Institute for the duration of the Project. The Institute shall be responsible for overseeing the activities of the Institute's employees and volunteers who perform work on or in relation to the Project. The

Institute's payroll tax withholding, worker's compensation insurance, unemployment benefits, and personnel policies apply to the Project's staff members who are the Institute's employees.

8. Independent Contractors. Contracts with independent contractors must be authorized and executed by the Institute. All such contracts must include a description of services to be performed and the independent contractor's fees must be provided for in the Project budget. All independent contractors must have worker's compensation insurance coverage. The Institute will issue checks to independent contractors from funds that are available from the Project to support the fees.

9. Administrative Fee. The Institute will charge a seven (7%) percent fiscal sponsorship administrative fee for services rendered. This fee will be determined based on the projected income and the amount of administrative support required. This fee will be invoiced on a quarterly basis to the Project and will be transferred to the Institute upon approval from the Project.

10. Payment of Project Expenses. The Institute shall pay all Project expenses directly. Provided that there are sufficient funds for the Project, the Institute will pay the Project expenses upon the written request of the authorized representative from the District. Check requests must be completed and submitted five (5) working days before the first (1<sup>st</sup>) and fifteenth (15<sup>th</sup>) of the month. All checks for the Project will be mailed by the Institute. In the event that the Project needs to pick up a check from the Institute, the Project shall notify the Institute two (2) days before the check is to be issued. If an individual, other than the authorized representative for the Project needs to pick up a check for another individual, he or she must have a signed authorization statement from the check payee and must sign a receipt of check form.

11. Insurance. Proof of insurance from the Oakland Unified School District will be required if the Project is to be funded in whole or in part by the Oakland Unified School District and involve students or teachers to implement the Project.

12. Requests for Information. The District, through its authorized representative, may request information about the Project budget, fund balances, check requests, issuance and pick up of checks, and other fiscal matters. All such requests must be in writing and may be made by mail, facsimile, or e-mail. All requests for clarification, meetings regarding the work of the Project or any other matter requiring special attention should be addressed to the Executive Director of the Institute. The Institute will respond promptly to the District's timely written request for information and assistance.

13. No Attempt to Influence Legislation. The Project is not to be used in any attempt to influence legislation within the meaning of Internal Revenue Code Section 501(c)(3). No agreement, oral or written, to that effect has been made between the Institute and the Project.

14. Indemnification. The District shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the Institute, its officers, directors, trustees, employees and agents, from and against any and all claims, liabilities, losses and expenses (including reasonable attorneys' fees) directly, indirectly, wholly or partially arising from or in connection with any act or omission of the Oakland Unified School District, its employees or agents, in carrying out the Project, except to the extent such claims, liabilities, losses or expenses arise from or in connection with any act or omission of Institute, its officers, directors, trustees, employees or agents. The Institute shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the District, its officers, directors, trustees, employees and agents, from and against any and all claims, liabilities, losses and expenses (including reasonable attorneys' fees) directly, indirectly, wholly or partially arising from or in connection with any act or omission of the Institute, its employees or agents, in serving as fiscal sponsor for the Project, except to the extent such claims, liabilities, losses or expenses arise from or in connection with any act or omission of Oakland Unified School District, its officers, directors, trustees, employees or agents.

15. Duration/Termination. This Agreement is valid for three (3) years from the effective date. This Agreement shall terminate when the Institute can no longer reasonably accomplish the Project's objectives. If the Project's objectives can still be accomplished, but either the Institute or the District desires to terminate the Agreement, the following understandings shall apply. Either the Institute or the Project may terminate this Agreement on sixty (60) days' written notice to the other Party. If the District would like to become a separate nonprofit organization which is tax exempt under IRC Section 501(c)(3), and is not classified as private foundation under Section 509(a) ("New Organization"), the District's authorized representative shall notify the Institute immediately and the Institute shall cooperate with the District to transfer the Project to the New Organization.

17. Mediation. Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. The Parties shall endeavor to resolve claims, disputes, and other matters in question between them by mediation. The Parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Oakland, Alameda County, California, unless another location is mutually agreed on. Written agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

18. Attorney's Fees. In the event of any controversy, claim, or dispute between the parties arising out of or related to this Agreement, or the alleged breach thereof, the prevailing party shall, in addition to any other relief, be entitled to recover its reasonable attorneys' fees and costs of sustaining its position.

19. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: CONTRACTOR certifies to the best of his/her/its knowledge and belief, that it and its principals: Are not presently debarred, suspended, proposed for debarment,


declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List. (<https://www.sam.gov/>).

19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to agreements made and to be enforced entirely within such State.

20. Final Agreement. This Agreement shall supersede any prior oral or written understandings or communications between the Parties and constitutes the entire agreement of the Parties with respect to the subject matter hereof. This Agreement may not be amended or modified, except in a writing signed by both Parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Fiscal Sponsorship Agreement effective on the date first written above.

MARCUS A. FOSTER EDUCATIONAL INSTITUTE

By:   
Alicia Dixon, Executive Director

Date: 4/25/13

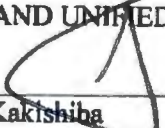
By: 

Date: 4/26/13

Print Name: George Zamora

Its: Vice President  
Board Officer

OAKLAND UNIFIED SCHOOL DISTRICT

  
David Kakishiba  
President, Board of Education

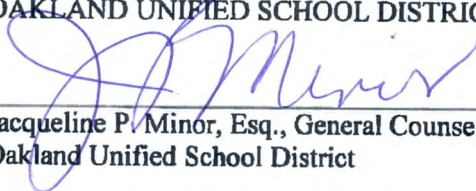
Date: 5/9/13

  
Edgar Rakestraw, Jr.  
Board Secretary

Date: 5/9/13

Approved as to form:

OAKLAND UNIFIED SCHOOL DISTRICT

  
Jacqueline P. Minor, Esq., General Counsel  
Oakland Unified School District

Date: 4/26/2013

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Introduction Date: 5/8/13  
Enactment Number: 13-0763  
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By: 