

Board Office Use: Legislative File Info.	
File ID Number	15-1057
Introduction Date	6/10/15
Enactment Number	15-0943
Enactment Date	6-10-15



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Jacqueline Minor, General Counsel

Board Meeting Date June 10, 2015

Subject **APPROVAL OF THE FISCAL SPONSORSHIP AGREEMENT BETWEEN MARCUS A. FOSTER EDUCATIONAL INSTITUTE AND OAKLAND UNIFIED SCHOOL DISTRICT (OUSD SCHOOL PRODUCE MARKETS)**

Action Requested Approval of the Fiscal Sponsorship Agreement between Marcus A. Foster Educational Institute and Oakland Unified School District from September 1, 2015 – August 31, 2016.

Background
A one paragraph explanation of the the MOU.

The Agreement merges the terms of the prior Fiscal Sponsorship Agreement (Enactment No. 13-2068) and Amendment (Enactment No. 14-0869). This Agreement also extends the Fiscal Sponsorship for an additional year and alters terms related to conducting background checks and tuberculosis screening.

Discussion
One paragraph summary of the MOU.

The Marcus A. Foster Educational Institute ("Institute") currently employs community members to staff school-based produce markets and to serve as nutrition coaches ("Salad Bowl Champions"). The program reflects the District's commitment to bring fresh, affordable and locally grown produce to the Oakland community to foster healthier eating habits. This Agreement renews and extends the program for another year (to August 31, 2016). The Institute now agrees to be responsible for background checks and tuberculosis screening as set forth in the California Education Code.

Recommendation Approval of the Fiscal Sponsorship Agreement between Marcus A. Foster Educational Institute and Oakland Unified School District from September 1, 2015 – August 31, 2016.

Fiscal Impact No additional costs are anticipated. Funding is provided by participating school sites.

Attachments

- Fiscal Sponsorship Agreement
- Parent Market Manager Job Description
- Salad Bar Champion Overview 2014

**FISCAL SPONSORSHIP AGREEMENT BETWEEN
MARCUS A. FOSTER EDUCATIONAL INSTITUTE AND
OAKLAND UNIFIED SCHOOL DISTRICT
(OUSD School Produce Markets))**

This Fiscal Sponsorship Agreement (“Agreement”) is made effective this 1st day of September 2015, 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 Jennifer LeBarre 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 40 years 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, the OUSD School Produce Markets is a District Nutrition Services program that is committed to bringing fresh, affordable and locally grown produce to the Oakland community to foster healthier eating habits (the “Project”).

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

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

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 OUSD School Produce Markets."

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. Grant funds will be deposited and available at the time of payroll and requested vendor payments. 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 to the District 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 by the Project Director each year no later than 45 days after June 30th.

5. Advisory Committee. The Project shall consider establishing an advisory committee consisting of no fewer than three (3) persons who have no financial interest in the Project. If established, 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 (hereinafter, "Market Managers" job description attached as "**Attachment A**" or "Salad Champions" job description attached as "**Attachment B**"), 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.

Each Market Manager and Salad Champion shall have an employee file on file at MFEF and will be expected to comply with the processes and requirements outlined in the MFEF Employee Handbook, including submitting completed time sheets to an on-site supervisor for approval before submission to MFEF for payroll processing.

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 ten (10%) 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 as per the project budget.

10. Fingerprint/Background Checks – All produce market employees shall be fingerprinted in accordance with California Education Code section 45125 (a) and have their fingerprints sent to the Department of Justice (“DOJ”) and FBI for background clearance. The Institute shall certify to Project Director that no Project employee or volunteer has been convicted of a violent or serious felony.

11. Tuberculosis Testing – All produce market employees shall not be employed by Marcus Foster's Produce Market unless the person has submitted to a tuberculosis risk assessment pursuant to California Education Code section 49406. The produce market employee shall incur all fees associated with tuberculosis testing.

12. Fingerprinting and TB Testing Vendor –The Institute shall be responsible for compliance with Education Code sections 45125 (background clearance) and 49406 (tuberculosis testing) with regards to Market Managers and Salad Champions. The District shall reimburse the Institute for costs associated with fingerprinting and background clearance.

13. 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 (1st) and fifteenth (15th) 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.

14. 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.

15. 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.

16. 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.

17. Duration/Termination. The term of this Agreement shall be from September 1, 2015 to August 30, 2016; however, this Agreement may terminate if 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.

18. 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.

19. Non-Discrimination. In implementing this Agreement, there shall be no discrimination against anyone engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age. The Institute agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and OUSD policy. The Institute shall not engage in unlawful discrimination in employment on the basis of actual or perceived; race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation.


20. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion. The Institute certifies that it is 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 it does not appear on the Excluded Parties List. (<https://www.sam.gov/>).

21. 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.

22. 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:  Date: 5/13/15
Alicia Dixon, Executive Director

By: ~~_____~~ Date: ~~_____~~
~~Board Officer~~
Print Name: _____


OK SWE

OAKLAND UNIFIED SCHOOL DISTRICT

 Date: 6-10-15
James Harris
President, Board of Education

 Date: 6-10-15
Antwan Wilson, Superintendent

Approved as to form:

 for Date: 5/14/15
Jacqueline P. Minor, Esq., General Counsel
Oakland Unified School District

File ID Number: 15-1097
Introduction Date: 6-10-15
Enactment Number: 15-0943
Enactment Date: 6-10-15
By:

Attachment A



Oakland Unified School District | Nutrition Services Department

Parent Market Manager Job Description

Qualifications:

- Strong oral and written communication skills and the ability to work with a diverse parent, student, and school staff population.
- Strong work ethic and ability to work well both independently and as part of a team; strong sense of personal responsibility; strong organizational skills, detail orientation, and punctuality.
- Interest in health and nutrition, and ability to confidently advocate for healthy choices.
- Basic accounting and math skills, including the ability to handle cash safely and appropriately.
- Ability to stand for up to 4 hours at a time, to work outside in all weather, and to lift up to 40 pounds unassisted.

Responsibilities:

- Attend all mandatory trainings and meetings for the Oakland Fresh School Produce Market Program.
- Set up the produce market on the school campus on a weekly basis including receiving orders and checking for product quality; setting up the canopy, folding tables, baskets, and other supplies; arranging fruits and vegetables for sale; trimming fruits and vegetables of yellowed leaves and other damage as needed; filling out price cards; and posting promotional materials.
- Recruit, train, and supervise parent volunteers in all aspects of market operation with the support of the School Site Liaison.
- Distribute parent volunteer gift certificates, staying within school budget.
- Operate the market weekly including greeting customers, weighing and pricing produce, making sales, filling out a market worksheet, and preparing samples.
- Maintain a clean and sanitary market environment and follow all food safety protocols including setting up and using a hand washing station; washing all fruit for samples; wearing gloves to prepare samples; washing cutting boards, knives, etc. for preparing samples; serving samples with tongs or toothpicks; keeping all food at least 6 inches off the ground; and storing produce properly in refrigeration.
- Close down the market weekly including weighing and/or counting all left over produce, packing produce away for cold storage, filling out a market worksheet, counting money and filling out a report income form, deposit slip, and deposit bag.



- Complete weekly accounting and ordering forms online at www.schoolproducemarkets.com including a weekly market order, report sales and inventory form, and a report income form. All forms must be completed and submitted electronically according to weekly program deadlines.
- Follow all money handling protocols including counting money out of site at closing, keeping the cash box out of site during the market, transferring large bills to the money belt regularly, and locking away the market deposit nightly.
- Work with School Site Liaison and Principal to establish a system at the school site for securing market money, laptop (provided by Nutrition Services), and supplies.
- Make cash deposits of market income weekly to OUSD Nutrition Services at 900 High Street.
- Work with the School Site Liaison to promote the market through outreach plan, cooking demonstrations, distributing market flyers, making announcements about the market, and other marketing and promotional strategies as needed.
- Work with the School Site Liaison to photocopy and distribute "Student Buyer Cards" for the market to teachers and staff.
- Maintain and repair supplies for the market as needed and report any damaged or missing supplies to Nutrition Services.

Attachment B



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Salad Bar Champion Overview 2014

Alameda County Public Health Department Nutrition Services and OUSD Nutrition Services are offering an innovative nutrition education program in your cafeteria – Salad Bar Champions.

1-2 salad bar volunteers per site are trained at your school on ways to encourage students to eat more fruit and vegetables

A \$100 monthly stipend is available for February to May to be paid at the end of the school year. Must be present at the entire lunch period for at least 4 days each month.

TB test and fingerprinting/background check prior to working with students

Schools with salad bars and no cooking kitchen only.

Goals:

Speed up student time through the salad bar

Increase consumption of fresh fruits and vegetables

Less food waste

Provide support and training to your school volunteers on salad bar etiquette, sanitation and good nutrition

Encourage community involvement at your schools

Healthier students and community.

Questions? Call Joyce Peters, Nutrition Services, 299.9458

