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Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Sondra Aguilera, Chief Academic Officer
Gina Hill, Assistant Principal, Central Academic Recovery (CAR) Team

Meeting Date June 5, 2024

Subject Memorandum of Understanding: Outward Bound California SF

Ask of the Board Approve the attached Memorandum of Understanding between Outward Bound California SF (OBCA) and OUSD

Background This MOU was created for the Central Academic Recovery (CAR) team’s annual Summer Healing & Academics 4 Kids (HACK) 2024 EAST & WEST credit recovery program to enhance our SEL focus.

Discussion Summer HACK 2024 credit recovery program focuses on current 9th & 10th graders who are credit deficient in most frequently failed courses such as Algebra 1 and English 1. The CAR team, created in response to COVID, creates holistic learning experiences for OUSD youth to help them re-engage in school. The partnership between CAR & OBCA will provide students and staff the opportunity to engage in a challenging ropes course to promote healthy risk taking, exposure to the outdoors, and positive relationships.

Fiscal Impact The cost for this experiential field trip in the amount of \$8,025.00 with a program fee of \$2,407.52, for a total amount not to exceed \$10,700.00.

Attachment(s)

- Memorandum of Understanding



OUTWARD BOUND CALIFORNIA

Program Agreement

This Program Agreement (hereinafter "Agreement") is made and entered into as of 4/12/2024 and valid until June 30, 2024 by and between **Outward Bound California**, a not-for-profit corporation having its principal place of business at 548 Market St PMB 68876, San Francisco, California 94104-5401 (hereinafter "**OBCA**" or "Outward Bound") and **Oakland Unified School District**, having its principal place of business at , 1011 Union Street, Site 946, Oakland, CA 94607, (hereinafter "**Client**"), (each a "Party" and collectively hereinafter the "Parties"). The Parties agree to be bound to the terms and conditions as follows:

Program Goals and Objectives

Outward Bound California programs engage students with their peers in a structured, intentional setting. Students build self-confidence, compassion and an awareness of their community and beyond. Outward Bound California strives for students to gain a greater willingness to challenge themselves emotionally, physically and, ultimately, to become positive leaders in their communities. With a crew of peers, participants will work as a team to achieve goals and explore belonging, physical confidence, reflection, and courage that translate to far reaching areas of their lives.

Organizational Roles and Responsibilities

Outward Bound:

Outreach Manager: works closely with the Client Administrator to schedule programs, discuss costs, schedule, contract building and program booking

Eli Fox, Outreach Manager

Email (preferred): efox@obca.org

Phone: (415) 316-0577

Program Manager: serves as the primary liaison between Outward Bound and the Client for program-specific information including: curriculum collaboration, participant pre-course meetings, itinerary, course descriptions and program-specific questions.

This person also serves as the primary liaison between Outward Bound and the Client and participants for enrollment processes including: application materials, packing lists, medical forms, liability forms, medical screening, and student rosters

Xander Tartter

Bay Area Program Manager

Email (preferred): xtartter@obca.org

Phone: (646) 247-4757

Fax: (866) 404-1510

Client:

Client Administrator: serves as the primary liaison between Outward Bound and the Client for all administrative aspects of the Client relationship including: annual program scheduling, student projections, costs, budgeting and reporting.

Client Administrator: Gina Hill

Contact Email and Phone: gina.hill@ousd.org 510-290-5639

Client Lead: serves as the primary liaison between Outward Bound and the Client for all program and participant-specific aspects of the Client relationship including: recruitment, managing the student enrollment process (outlined below) and overseeing all student-specific needs. The lead will be responsible for upholding mutually agreed upon deadlines, following up with individual students, collecting and organizing student paperwork and ensuring that the Client upholds its contractual obligations in regards to student participation. Most often, the lead will participate in the course as well.

Client Lead: Gina Hill

Contact Email and Phone: gina.hill@ousd.org 510-290-5639

Emergency Contact: is available at all times in case of an emergency while on course. The Emergency Contact is authorized to make decisions related to logistics and finances in the case of an emergency and takes the lead on logistical needs should an early evacuation occur. This role may be held by the Client Administrator or Lead, assuming they are not actively participating on the course at the time.

Emergency Contact: Gina Hill

Email: gina.hill@ousd.org

Phone: _____

Cell Phone (required): 510-290-5639

Program Specifications

Any program and/or activity specific provisions requiring the compliance of OBCA and/or the Client are outlined in one or more Program Specifications Sheet(s) attached hereto upon execution and incorporated herein by reference.

Program Agreement Conditions

Based on the Client's Services as described in the program specifications, the Parties agree as follows:

1. OBJECTIVES OF Outward Bound California: OBCA will provide a program consistent with the terms outlined and specified in this Agreement
2. OBLIGATIONS OF CLIENT: Client will comply with the terms outlined and specified in this Agreement.
3. Term. OBCA will provide the Services during the dates of Services as stated in the program specifications of this Agreement.
4. Independent Client : Outward Bound and the Client hereby agree and acknowledge that both are independent parties and not acting as agents, employees, or franchises of each other. Neither party has any authority to, and will not create or assume any obligation, express or implied, on behalf of the other. OB shall be responsible for all taxes and payments concerning OB, its employees and representatives and the Client shall be responsible for all taxes and payments concerning the Client, its employees and representatives.
5. Payment: Client will pay OBCA in the manner described in the Program Specifications. Client shall not pay and shall not be liable to OBCA for any costs or expenses paid or incurred by OBCA not described in this Agreement and/or the Program Specifications attached hereto.
6. Limit of Liability.
Other than as provided in this Agreement, Client's financial obligations under this Agreement shall be

limited to the compensation described in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall OUSD be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of, or in connection with, this Agreement for the Services performed in connection with this Agreement.

7. Indemnification.

- a. Client agrees to indemnify, defend, and hold harmless OBCA, Outward Bound, Inc. and its chartered Schools, and their respective Governing Boards, agents, representatives, officers, consultants, employees, trustees, and volunteers (“OBCA Indemnified Parties”) for and from any and all claims, demands, losses, damages, actions, and lawsuits asserted by any third-party that arise from its performance of this Agreement by the Client and/or any of its owners, employees, agents, and/or representatives. Client shall, to the fullest extent permitted by California law, defend OBCA Indemnified Parties at Client’s own expense, including attorneys’ fees and costs, and OBCA shall have the right to accept or reject any legal representation that Client proposes to defend OBCA Indemnified Parties. This paragraph survives beyond the term of this Agreement.
- b. OBCA shall indemnify, defend and hold harmless Client, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (“OUSD Indemnified Parties”) from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of OBCA’s performance of this Agreement. OBCA also agrees to hold harmless, indemnify, and defend OUSD Indemnified Parties from any and all claims or losses incurred by any supplier or subcontractor furnishing work, services, or materials to OBCA arising out of the performance of this Agreement. OBCA shall, to the fullest extent permitted by California law, defend OUSD Indemnified Parties at OBCA’s own expense, including attorneys’ fees and costs, and Client shall have the right to accept or reject any legal representation that OBCA proposes to defend OUSD Indemnified Parties. This paragraph survives beyond the term of this Agreement.

8. Insurance.

a. Client agrees, at its sole cost and expense, to maintain in place during the entire term of this Agreement the following insurance coverages with the following requirements:

- i. Commercial General Liability Insurance (“CGL”) with minimum limits of One Million Dollars (\$1,000,000) per occurrence.
- ii. Client shall provide and deliver to OBCA, at least ten (10) days prior to the first date of Services, a Certificate of Insurance evidencing the coverages required herein and *Outward Bound California, Outward Bound, Inc, dba Outward Bound USA, including its Chartered entities*” as additional insureds.
- iii. Workers Compensation Insurance as required by the appropriate state’s law. Client shall provide and deliver to OBCA, at least ten (10) days prior to the first date of Services, a Certificate of Insurance evidencing the insurance required herein.
- iv. These Certificates of Insurance shall further provide that the coverages provided thereunder may not be reduced or cancelled without fifteen (15) days prior written notice delivered OBCA.

b. OBCA agrees, at its sole cost and expense, to maintain in place during the entire term of this Agreement the following insurance coverages with the following requirements:

- i. Commercial General Liability Insurance. OBCA shall maintain Commercial General Liability Insurance, including automobile coverage, with limits of at least one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) aggregate, sexual misconduct, harassment, bodily injury and property damage. Coverage for corporal punishment, sexual misconduct, and harassment may either be provided through General Liability Insurance or Professional Liability Insurance. The coverage shall be primary as to Client and shall name Client as an additional insured with the additional insured endorsement provided to Client within 15 days of effective date of this Agreement (and within 15 days of each new policy year thereafter during the Term). Evidence of insurance shall be attached to this Agreement or otherwise provided to Client upon request. Endorsement of Client as an additional insured shall not affect Client’s rights to any claim, demand, suit or judgment made, brought or recovered against OBCA. The policy shall protect OBCA and Client in the same manner as though each

were separately issued. Nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest were named as an insured.

- ii. Workers' Compensation Insurance. OBCA shall procure and maintain, at all times during the Term of this Agreement, Workers' Compensation Insurance in conformance with the laws of the State of California (including, but not limited to, Labor Code section 3700) and Federal laws when applicable. Employers' Liability Insurance shall not be less than one million dollars (\$1,000,000) per accident or disease.

9. Testing and Screening

- a. Tuberculosis Screening. OBCA shall ensure that all OBCA individuals who work with students (regardless of the length of time) have submitted to a tuberculosis risk assessment as required by Education Code section 49406 within the prior 60 days. If tuberculosis risk factors were identified for an OBCA individual, that OBCA individual must submit to an intradermal or other approved tuberculosis examination to determine if that OBCA individual is free of infectious tuberculosis. If the results of the examination are positive, OBCA shall obtain an x-ray of the lungs. OBCA, at its discretion, may choose to submit a OBCA individual to the examination instead of the risk assessment.
- b. Fingerprinting/Criminal Background Investigation. For all OBCA individuals providing the Services, OBCA shall ensure completion of fingerprinting and criminal background investigation and shall request and regularly review subsequent arrest records. OBCA confirms that no OBCA individuals providing the Services has been convicted of a felony, as that term is defined in Education Code section 45122.1. OBCA shall provide the results of the investigations and subsequent arrest notifications to Client. For purposes of this subparagraph, OBCA shall use either California Department of Justice or Be A Mentor, Inc.

10. Outward Bound's Intellectual Property. The Client acknowledges that in OBCA providing its Services herein, Client may gain or be provided with access to and use of Outward Bound's intellectual property owned by Outward Bound, Inc., ("OBUSA"). Client acknowledges and agrees that OBUSA exclusively owns and retains ownership of all right, title, interest, and proprietary rights in all Outward Bound trademarks, copyrighted materials, and any other intellectual property and materials, including but not limited to Outward Bound's name, logo/mark, products, images, published works, educational, technical, and safety materials and methodologies, and any other materials that OBUSA considers to be its intellectual property (collectively "OB IP"). Client agrees that OB IP remains the sole and exclusive property of OBUSA, and that this Agreement does not confer or provide a right or a license of any type of nature for the use of OB IP by the Client and/or any of its owners, employees, agents, Subcontractor, and/or representatives. Client acknowledges and agrees that it has no rights or claims of rights to OB IP or the use of OB IP. This paragraph survives beyond the term of this Agreement.

11. Confidentiality and Data Privacy.

- a. Client may share information with OBCA pursuant to this Agreement in order to further the purposes thereof. OBCA and OBCA individuals shall maintain the confidentiality of all information received in the course of performing the Services, provided such information is (i) marked or identified as "confidential" or "privileged," or (ii) reasonably understood to be confidential or privileged.
- b. OBCA understands that student data is confidential. OBCA or OBCA individuals may only access or receive identifiable student data, other than directory information, in connection with this Agreement only after OBCA and Client execute the Client Data Sharing Agreement. Notwithstanding Section 7 (Indemnification), should OBCA or OBCA individuals access or receive identifiable student data, other than directory information, without first executing such an agreement, OBCA shall be solely liable for any and all claims or losses resulting from OBCA's access or receipt of such data.
- c. All confidentiality requirements, including those set forth in the separate data sharing agreement, extend beyond the termination of this Agreement.

12. Child Protection. Each Party understands that the other Party has a zero-tolerance policy for incidents of child abuse and neglect.

13. Termination.

a. At any time, for its own convenience and without cause, either Party may terminate this Agreement in whole or in part by giving the other Party written notice. Termination will be effective on the date of receipt of the notice.

b. Either Party may terminate this Agreement by giving written notice of its intention to terminate for cause to the other Party. Written notice shall contain the reasons for such intention to terminate, which shall include (i) material violation of this Agreement or (ii) if either Party is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency.

c. Due to Unforeseen Emergency or Acts of God, notwithstanding any other language of this Agreement, if there is an unforeseen emergency or an Act of God during the Term that would prohibit or limit, at the sole discretion of Client, the ability of OBCA to perform the Services, Client may terminate this Agreement upon seven (7) days prior written notice to OBCA.

14. Compliance with laws. Each party represents and warrants that it will comply with all applicable laws, ordinances, regulations, and other governmental requirements applicable to its respective businesses and to the provision and receipt of services and/or goods pursuant to this Agreement.

15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

16. Venue. Any lawsuit, in law or equity, arising from or related to this Agreement or the breach thereof must be filed in the state court of general jurisdiction in Alameda County, in the State of California.

17. Integration of Terms. This Agreement supersedes all prior and contemporaneous communications, understandings and agreements of or between the parties hereto with respect to the subject matter hereof and contains the entire agreement between the parties hereto with respect to the transaction contemplated herein.

18. Severability of Terms. The terms of this Agreement are severable, and the invalidity of any term shall not affect the validity of any other term.

19. Amendments. This Agreement may be amended, modified or superseded, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed by the parties hereto or, in the case of a waiver, by the party waiving compliance.

20. Enforcement. The failure of any party at any time or times to require performance of any provision of this Agreement shall in no manner affect the right to enforce that provision or any other provision hereof at any time thereafter.

21. Assignment. This Agreement shall be binding upon and inure to the benefit of only the parties hereto and neither party may assign any of its rights or obligations hereunder without the consent of the other.

22. Counterparts and Copies. This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but all of which when taken together shall constitute but one agreement. The Parties further agree that copies of this Agreement, and all documents referenced herein, shall have the same force and effect as originals.

23. Warranties. Outward Bound and Client hereby represent and warrant to each other that each party has full power and authority to enter into and perform this Agreement, without violating the terms of any other contract by doing so, and that the person signing this Agreement on such party's behalf has been duly authorized and empowered to enter into this Agreement.

24. Notices. Any Notice provided for herein shall be in writing and shall be deemed to have been given when received by personal delivery, electronic mail or United States certified mail, return receipt requested, addressed as follows:

If to Outward Bound the named Outreach Manager or Assigned Program Manager.

If to Client Site/Dept: Legal Department

Address: 1011 Union Street, Site 946

City, ST Zip: Oakland, CA 94607

Phone: 510-879-5060

Email: ousdlegal@ousd.org

Notice of a change in name and/or address by either party to the information referenced above shall be in writing and provided in accordance with the provisions of this Notices section.

- 25. FORCE MAJEURE: No damages or payments including any cancellation fees shall be due and/or payable for a failure of performance occurring due to Acts of God, war, terrorist acts, government regulation or order, including any such order arising from COVID-19 or other pandemic, disaster, or strikes, any of which makes performance impossible.
- 26. Attestation. Each person signing this Agreement acknowledges and attests that they have read and understand the terms, and conditions set forth above, and agree that the party on whose behalf they are signing shall be bound to all said terms without reservation.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

Outward Bound	Client
OB School Name: Outward Bound California	Client Name: Oakland Unified School District
Date: 5/2/24	
Printed Name and Title: Sean Altman, Associate Program Director	Printed Name and Title: Benjamin Davis, President Board of Education
Signature: 	Signature:  Date: 6/6/2024
	Printed Name and title: Kyla Johnson-Trammell, Superintendent
	Signature:  Date: 6/6/2024
	<i>Approved as to form by OUSD Legal Department</i>
	Name: <u>Roxanne De La Rocha</u> Signature: 
	Date: 5/1/24



PROGRAM SPECIFICATIONS

The Specifications provided herein are in addition to the contractual obligations of the parties outlined in the Program Agreement, dated **4/122024** between Outward Bound Inc, Outward Bound California, and **Oakland Unified School District** (hereinafter "Agreement").

Applicable payment terms:

For purposes of this contract, the total Not-To-Exceed costs of this program shall be **\$10,700.00** total.

1. A total of **\$8,025.00** is to be paid by the client
2. Nonrefundable 30% deposit on full program fee, **\$2,407.52** is due within thirty (30) days of signing of the contract
3. Payment in full due within thirty (30) days after the first day of course. For multiple courses, the fee balance for each course (less the deposit paid) is due within thirty (30) days after the first day of that course.

Checks should be made payable to "Outward Bound California" and Payment can be sent to:

Outward Bound California
PMB 68876
548 Market St
San Francisco, CA 94104

Applicable Termination Provisions:

OBCA reserves the right to cancel this program at any time should circumstances arise which make it impossible to conduct the program. All funds paid to date would be refunded. If a course must be cancelled and has already begun, the refund will reflect a prorated amount based on the days of course completed.

If the Client has to cancel this program including insufficient number of participants (less than 5 total above the age of 12) or COVID-19 outbreaks among client's population, the Client will be charged a percentage of the total amount of the contract. Low and/or insufficient participant numbers may affect future funding and program opportunities. Percentage will be based on the time between the cancellation date and the start of the program.

- 30+ days prior to course start date = 30% of contract tuition
- 29-15 days prior to course start date = 50% of contract tuition
- 0-14days prior to course start date = 100% of contract tuition

Asking to reschedule a course within the 30-day window will count as a cancellation. One day programs can be rescheduled only once and must be requested at least 14 days in advance of the original course date.

Medical Screening (Overnight Expeditions Only) and Liability Waiver Procedures

In order to participate in the program, participants must submit medical information (the extent depends on the length of course) and **be at least 12 years of age**. In some cases, participants may need to contact a physician for an exam or other follow up information to assess if they can participate safely. For participants under the age of 18, the parent/legal guardian must sign Youth Medical forms and Liability Release forms. OBCA reserves the right to reject any participant whose form is incomplete or not approvable upon review.

Important Dates:

1. Unless otherwise mutually agreed upon (email acceptable), all initial paperwork due for participants and participant rosters for program due from 1 weeks before date of one day programs.
2. Unless otherwise mutually agreed upon (email acceptable), all supplemental paperwork due for participants and 1 week before date of one day programs.
3. Medical screening completed. OBCA to supply final approved participant list 2 weeks before start of overnight programs and 2 days before date of one day programs.



OUTWARD BOUND
CALIFORNIA

Program Cost for Oakland Unified School District

Course: Oakland Unified School Distr - Insight Ropes Course - 06/03/2024

Course Code: XBU4-24134

Client Lead: Gina Hill

Date: 6/4/2024

Maximum Participants: 32

Locations: Bay Area

Liability Waivers Due: 5/24/2024

Course Costs

Total Tuition: \$2,675.00

TOTAL BALANCE DUE: \$2,006.25

Course: Oakland Unified School Distr - Insight Ropes Course - 06/04/2024

Course Code: XBU4-24135

Client Lead: Gina Hill

Date: 6/5/2024

Maximum Participants: 32

Locations: Bay Area

Liability Waivers Due: 5/24/2024

Course Costs

Total Tuition: \$2,675.00

TOTAL BALANCE DUE: \$2,006.25

Course: Oakland Unified School Distr - Insight Ropes Course - 06/05/2024

Course Code: XBU4-24136

Client Lead: Gina Hill

Date: 6/6/2024

Maximum Participants: 32

Locations: Bay Area

Liability Waivers Due: 5/24/2024

Course Costs

Total Tuition: \$2,675.00

TOTAL BALANCE DUE: \$2,006.25



OUTWARD BOUND CALIFORNIA

Course: Oakland Unified School Distr - Insight Ropes Course - 06/06/2024

Course Code: XBU4-24137

Client Lead: Gina Hill

Date: 6/7/2024

Maximum Participants: 32

Locations: Bay Area

Liability Waivers Due: 5/24/2024

Course Costs

Total Tuition: \$2,675.00

TOTAL BALANCE DUE: \$2,006.25

GRAND TOTAL: \$8,025.00

Deposit Due: \$2,407.52

Course costs: include instruction, materials, curriculum development, logistics (preparation and coordination), instructor training and supervision, on-site risk management, food for overnight programs, medical supplies, permits/lodging, group expedition equipment and gear. Transportation to and from course start and end is NOT included. Additionally, transportation costs associated with students departing course early are not included.

Ropes course timing: Ropes courses run from 9am-3pm. Courses can be shorter but OBCA may only be able to provide "low ropes" programming if that is the case.

Outward Bound	Client
OB School Name: Outward Bound California	Client Name: Oakland Unified School District
Date: 5/2/24	Date: 5/9/2024
Printed Name and Title: Sean Altman, Associate Program Director	Printed Name and Title: Sondra Aguilera, Chief Academic Officer
Signature: 	Signature: 

Approved as to form by OUSD Legal Department

Name: Roxanne De La Rocha

Signature: 

Date: 5/1/24