

FISCAL SPONSORSHIP AGREEMENT

This FISCAL SPONSORSHIP AGREEMENT (the “Agreement”) is made by and between FAMILIES IN ACTION FOR QUALITY EDUCATION, a California nonprofit public benefit corporation (“FIA”) and CONTRA COSTA COUNTY CHARTER COALITION, an unincorporated association (“5C”).

RECITALS

A. FIA was formed for charitable and educational purposes that include to develop family leadership and advocacy capacity for access to quality charter public schools. FIA is tax exempt pursuant to Internal Revenue Code (“IRC”) Section 501(c)(3) as a public charity described in IRC Section 170(b)(1)(A)(vi).

B. 5C is currently an unincorporated association, that includes the signatories to this Agreement identified below, who plan to incorporate 5C as a California nonprofit public benefit corporation for charitable and educational purposes and seek tax-exemption pursuant to Internal Revenue Code (“IRC”) Section 501(c)(3) as a public charity described in IRC Section 170(b)(1)(A)(vi).

C. Since Spring 2020, the Executive Sponsoring Committee of 5C (“ESC”) has convened to plan a project known as the Contra Costa County Charter Coalition (the “Project”). The Project furthers FIA’s charitable and educational purposes by working to bring attention to educational disparities affecting communities of color in Contra Costa County, California, and working to increase access to quality schools, including charter schools for Contra Costa County public school students. The Project achieves the goals of FIA and 5C by providing for a dedicated team of employees led by an Executive Director who will assume a variety of tasks, including but not limited to, identifying barriers to the equal education of students of color, providing one-on-one support and guidance to families, acting as a liaison between charter schools in the Contra Costa area and students of color, raising funds and spending them consistent with the charitable purpose of the Project, and working in concert with the 5C school leaders, families and educators.

D. ESC has determined that, while pursuing incorporation and tax-exemption for 5C, it is in the best interests for the Project to be fiscally sponsored by FIA, a separate and independent nonprofit organization, pursuant to the terms and conditions set forth in this Agreement. To be “fiscally sponsored by FIA” means that FIA will provide operational support for funds raised by the 5Cs including school contributions and grants.

E. FIA agrees to fiscally sponsor and to leverage its infrastructure to operate the Project pursuant to the terms and conditions set forth in this Agreement.

F. ESC is responsible for the recruitment and selection of an Executive Director (“ED”) for 5C, who will be hired through FIA and employed by Execustaff. Once hired, the ED will assume responsibility to transition the operation of the Project from FIA to 5C.

NOW, THEREFORE, the parties hereby agree as follows:

1. Term and Termination of Agreement. FIA shall assume and serve as fiscal sponsor of the Project beginning July 15, 2022 at 11:59 PM (“Fiscal Sponsorship Date”). The Agreement and FIA’s fiscal sponsorship of the Project will terminate on June 30, 2023, or upon receipt of an IRS determination letter granting tax-exempt status to 5C, whichever is sooner. Upon receipt of the IRS determination letter, 5C shall be eligible to receive all assets and other property identified for the Project that are retained by FIA pursuant to this Agreement.

2. Operations and Fiscal Sponsorship. As of the Fiscal Sponsorship Date, FIA shall assume all operations of the Project, including but not limited to the following:

- a. Operation of all programs, communications, and all other activities related to the Project, except as otherwise provided in this Agreement. FIA shall enter into contracts and obligations on behalf of the Project, including but not limited to leases of any real or personal property, maintenance or service contracts, fundraising agreements, grant agreements, grant awards and grants in progress, Facebook or other social media accounts, and any agreements with consultants.
- b. All fundraising and management of funds related to the Project, including accepting or otherwise receiving funds, such grants, tax-deductible donations and other revenues, and property from donors, processing and acknowledgment of donations, accounts payable and receivable, and the disbursement of funds (including grants). All gifts, grant agreements, donations or other commitments of funds or property from donors under to this Agreement shall be executed by FIA. FIA may, in its sole and absolute discretion, accept or reject any gifts, grant agreements, donations or other commitments of funds or property.
- c. FIA shall place all gifts, grants, donations, contributions, and other funds or property accepted by FIA for the purposes of the Project into a separate account to be restricted for the benefit of the Project, as that mission may be defined by 5C from time to time with the approval of FIA (the “Restricted Funds”). FIA shall act as the guardian of the Restricted Funds, retaining complete discretion and control as to the use of the funds and other property consistent with the purpose of the Project. The parties agree that all Restricted Funds, including the fair market value of all property received pursuant to this Agreement, shall be reported as the revenue of FIA, for both tax purposes and for purposes of FIA’s financial statements.
- d. FIA shall maintain records of all deposits into and payments from the Restricted Funds, including the funds maintained in the separate account and any property received for the Project, and FIA shall document the release of all Restricted Funds to charitable and education programs of the Project that further the charitable and educational purposes of FIA and the Project. FIA shall make such records available for review by 5C, upon request.

3. Within thirty (30) days from the end of 5C’s annual accounting period (once incorporated) or termination of this Agreement, FIA shall submit to 5C and the Project a full and complete report of the Restricted Funds Fee for Fiscal Sponsorship. For its fiscal sponsorship pursuant to this Agreement, FIA shall be paid an administrative fee equal to 5% of the Project budget through June 30, 2023 to pay for FIA’s costs of administering the Restricted Fund and operating the Project pursuant to this Agreement. An initial payment of \$10,000 is due by July 15, 2022, with the remainder due by January 1, 2023. FIA may deduct the 5% administrative fee directly from the Restricted Funds.

4. 5C’s Obligations. The individuals signing this Agreement on behalf of 5C, and the members of the ESC, are collectively and individually responsible for the following on behalf of 5C and the Project (and ultimately responsible for ensuring that the Executive Director (“ED”) for 5C achieves the following):

- a. Employment. ESC shall recruit and select an ED for 5C. FIA shall assist in this pursuit by hiring the ED selected by ESC, who will be employed by Execustaff, FIA’s Personnel Employment Organization. Once hired, the ED will be responsible for incorporating 5C and for effectuating 5C’s obligations pursuant to this Agreement. The ED will serve as hiring manager for any other Project staff hired through Execustaff.
- b. Federal EIN and Registration with CA Secretary of State. The ED shall incorporate 5C as a California nonprofit public benefit corporation with the California Secretary of State for charitable and

education purposes to operate the Project, with such purposes and Articles of Incorporation approved by FIA. The ED shall apply for a federal Employer Identification Number (EIN) for 5C. The parties expect that the ED shall file such Articles of Incorporation and EIN application within 30 days of being hired.

- c. Bank and Financial Accounts. The ED will establish bank or financial accounts for 5C to receive and hold gifts and grants donated for the purpose of supporting 5C and the Project. The ED shall notify FIA once such accounts are established, and shall regularly provide FIA copies of bank and financial statements and upon request from FIA. The parties expect that the ED shall open such account(s) within 60 days of being hired. The ED will work with FIA to ensure appropriate fiscal practices and controls are adopted for the management of 5C's fiscal accounts and property.
- d. Application for Tax-Exempt Status. The ED shall apply to the IRS for recognition of 5C's tax-exempt status pursuant to IRC Section 501(c)(3) as a public charity described in IRC Section 170(b)(1)(A)(vi) for the operation of the Project, and the ED shall keep FIA informed of the progress of such application. Upon receipt of the IRS determination letter that 5C is tax-exempt, the ED shall apply to the California Franchise Tax Board for state income tax-exemption. The parties expect that the ED shall apply for IRS tax-exempt status within 90 days of being hired.
- e. Other Assets. The ED will act in good faith to purchase and maintain assets on behalf of 5C (excluding real estate), whether tangible or intangible, that are related to the Project and purchase assets with 5C's funds. Such assets include:
 - i. Petty cash related to the Project;
 - ii. Computers, equipment and furniture, materials and supplies, inventory, correspondence, brochures, and all other tangible property; and
 - iii. Software installed on the computers in the Project, and digital information stored on such computers, and digital records of the finances and operations associated with the Project.
- f. All requests by 5C for payments or withdrawals from the Restricted Funds shall be accompanied with a description of how such funds will accomplish the charitable and educational purposes of 5C and the Project within and in furtherance of the charitable and educational purposes of FIA.
- g. 5C shall notify FIA immediately of any change in 5C's legal or tax status, or any change in 5C's officers, directors, executive or key staff responsible for achieving the purposes of this Agreement.
- h. 5C shall obtain general liability insurance and insurance coverage for directors and officer of the organization at appropriate minimum levels of coverage for an organization of 5C's size.

5. Use of Funds for Charitable and Educational Purposes. All of the funds and other property received by FIA pursuant to this Agreement shall be devoted to the charitable and educational purposes of 5C and the Project within and in furtherance of the charitable and educational purposes of FIA. Expenditures for any attempt to influence legislation within the meaning of IRC Section 501(c)(3) shall be subject to limitations imposed by FIA. FIA shall not use any portion of the funds or property to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to induce or encourage violations of law or public policy, to cause any private inurement or improper private benefit to occur, nor to take any other action inconsistent with IRC Section 501(c)(3). FIA shall maintain the restricted fund in a manner that does not provide any donor, or a person appointed or designated by any donor, advisory privileges concerning the distribution or investment of the restricted funds by reason of the donor's status as a donor, or in any other manner that would deem the restricted fund to be a taxable donor-advised fund under IRC Section 4966. In the event that 5C does not incorporate or receive tax-exempt status as described in this Agreement, FIA shall retain the funds and other property received pursuant to this

Agreement.

6. Withdrawal/Non-Permissive Use of Funds. FIA retains the right, if 5C breaches this Agreement or if 5C's conduct related to the Restricted Fund jeopardizes FIA's legal or tax-exempt status, to withhold, withdraw or demand immediate return of any funds or other property, and to spend such funds or other property so as to accomplish its charitable and educational purposes within FIA's sole judgment. 5C retains the right to withdraw from this Agreement if FIA breaches the Agreement, including by failing to exercise due care in the management of the property and funds of the Project.

7. Relationship of Parties. Nothing in this Agreement shall constitute establishing 5C as an agent or legal representative of FIA for any purpose whatsoever, except as specifically and to the extent set forth herein. This Agreement shall not be deemed to create any relationship of agency, partnership, or joint venture between the parties hereto, and 5C shall make no representations of such to anyone. Neither party is an employee, employer, or joint employer of the other. The relationship between FIA and 5C is only as expressly stated in this Agreement.

8. Intellectual Property. Any tangible or intangible intellectual property, including copyrights, that is shared, obtained or created by FIA as part of this Agreement shall remain the property of FIA.

9. Indemnification. 5C, including the individuals signing this Agreement on behalf of 5C and the ESC, hereby irrevocably and unconditionally agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless FIA, 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 5C, its employees or agents, related to this Agreement, in requesting, expending or applying the funds provided under this Agreement, except to the extent that such claims, liabilities, losses or expenses arise from or in connection with a negligent act or omission of FIA, its officers, directors, trustees, employees or agents.

10. Notice. All notices, requests, offers, or demands, given to or by the parties under this Agreement shall be in writing and shall be deemed to have been duly given on the date of delivery, if emailed, faxed or personally served on the party to whom notice is to be given, or seventy-two (72) hours after mailing by United States mail first class.

11. Miscellaneous.

- a. The parties acknowledge and agree that the term "the Project" and the term "5C" may be used interchangeably throughout this Agreement. In general, the term "the Project" refers to the charitable and educational activities that will be performed by 5C, and the term "5C" refers to individuals signing below and, upon incorporation, to the entity formed by such individuals.
- b. 5C shall not assign this Agreement, any interest in this Agreement or its rights or obligations under this Agreement without the express prior written consent of FIA. Subject to the foregoing, this Agreement shall be binding on, and shall inure to the benefit of, the parties and their respective permitted successors and assigns.
- c. This Agreement constitutes the only agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter herein. This Agreement may not be amended or modified, except in a writing signed by all parties to this Agreement.
- d. No waiver of any provision of this Agreement shall constitute, or be deemed to constitute, a waiver of any other provision, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

- e. Each provision of this Agreement shall be separately enforceable, and the invalidity of one provision shall not affect the validity or enforceability of any other provision.
- f. This Agreement is entered into solely for the benefit of the parties hereto and no term, provision or covenant hereunder shall confer or be deemed to confer any benefit on any third party.
- g. This Agreement shall be interpreted and construed in accordance with the laws of the State of California applicable to contracts to be performed entirely within the state, without regard to choice of law principles thereof.
- h. If any provision of this Agreement is invalid or contravenes applicable law, such provision shall be deemed not to be part of this Agreement and shall not affect the validity or enforceability of its remaining provisions.
- i. Each undersigned represents and warrants by its signature that each has the power, authority, and right to bind their respective parties to each of the terms of this Agreement.
- j. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. A faxed, scanned, .pdf, electronically executed (e.g., DocuSign) or other electronic copy of the fully executed original version of this Agreement shall have the same legal effect as an executed original for all purposes.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

On behalf of FAMILIES IN ACTION FOR QUALITY EDUCATION, a California nonprofit public benefit corporation

Signature: _____ Date: _____

Printed Name: Kimi Kean

Title: Chief Executive Officer

On behalf of _____ (Charter School/Network)

Signature: _____ Date: _____

Printed Name: _____

Title: _____

[The signatories for 5C are provided on the following page.]

CONTRA COSTA COUNTY CHARTER COALITION,
an unincorporated association

By:
Date:

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