

**FISCAL SPONSORSHIP AGREEMENT**  
between  
**THE ACTION COUNCIL OF MONTEREY COUNTY, INC.**  
And  
**Monterey County, Department of Social Services**  
**Family and Children Services**

This is an agreement between THE ACTION COUNCIL OF MONTEREY COUNTY, INC. ("ACTION Council"), and Monterey County, Department of Social Services; Family and Children Services ("FCS").

**Recitals**

This agreement is made with respect to the following facts:

A. The ACTION Council is a Non-profit organization whose mission is to create private/public partnerships to enhance existing human services to and address unmet needs of the most vulnerable Monterey County residents. The ACTION Council has obtained tax-exempt status under Internal Revenue Code Sec. 501(c)(3) and under California Revenue and Taxation Code Sec. 23701d.

B. The purpose of Monterey County, Department of Social Services; Family and Children Services is to receive and respond to reports of Child Abuse and or Neglect. Upon determination, they may provide services voluntarily or through court action to ensure the safety of the children and to preserve the family unit.

C. The ACTION Council and FCS have determined that the missions of their respective organizations are compatible, and have therefore entered into this agreement.

**Covenants**

Now, therefore, the parties agree as follows:

1. Restricted Fund / Variance Power ACTION Council will receive and manage funds for FCS Project ("Best Friends Fund") in conformity with this agreement. Beginning on the effective date, ACTION Council shall place all gifts, grants, contributions, and other revenues received by ACTION Council for the purposes of the Project into a restricted fund to be used for the sole benefit of the Project's mission as that mission may be defined by FCS's Advisory Committee from time to time with the approval of ACTION Council. ACTION Council retains the unilateral right to spend such funds so as to accomplish the purposes of the Project as nearly as possible within ACTION Council's sole judgment, subject to any donor-imposed restrictions, as to purpose, on the charitable use of such assets. The parties agree that all money and the fair market value of all property, in the restricted fund be reported as the income of ACTION Council, for both tax purposes and for purposes of ACTION Council's financial statements. It is the intent of the parties that this Agreement be interpreted to provide ACTION Council with variance powers necessary to enable it to treat the restricted fund as Action Council's asset in accordance with Statement No. 136 issued by the Financial Accounting Standards Board, while this Agreement is in effect.

2. All funds donated to FCS with the understanding that the donations may be tax deductible, shall be transferred directly and promptly to the ACTION Council. Donors shall give funds directly to ACTION Council and shall indicate that such funds are designated for FCS shall transfer donated funds it receives to

ACTION Council and shall indicate that such funds are designated for FCS. ACTION Council will deposit all funds so designated in the account to be maintained hereunder for Best Friends Fund, and will manage and disburse all such funds in accordance with this agreement.

3. ACTION Council shall maintain an account, called the Best Friends Fund Account ("the Account"), and will deposit all money received for the Best Friends Fund into the Account. ACTION Council shall maintain separate records so as to provide a clear accounting for all deposits into the Account, all withdrawals from the Account, investments, if any, on behalf of FCS, and all income and expenses incurred in connection with said investments and said Account, in accordance with generally accepted bookkeeping and accounting practices. The moneys in said Account may be commingled with other moneys managed by ACTION Council. ACTION Council may invest said moneys, separately or together with moneys held on behalf of ACTION Council or any other party, in any kind of investment maintained by reasonably prudent persons who are entrusted with managing money belonging to others, provided that ACTION Council will invest money belonging to FCS only in investments from which the money can be withdrawn with no more than a week's notice, unless other arrangements are made pursuant to ACTION Council Investment Policy. All interest, dividends, and other income earned on FCS's money held or invested by Action Council shall accrue to the benefit of FCS, except for interest earned on any money held in ACTION Council's general checking account.

4. FCS may solicit gifts, contributions, and grants to ACTION Council, to be designated for FCS's choice of funding source, to be approached for such solicitations and the text of these fund-raising materials to be used in connection with such solicitations, and any agreements made with funding sources or pledges made by funding sources that include a commitment of a funding source to pay money to ACTION Council for FCS, are subject to ACTION Council's prior written approval. The cost of any reports or other compliance measure required by such funding source shall be borne by the FCS.

5. At any time, FCS may withdraw funds from the Account, up to the remaining balance in the Account, which funds shall be used exclusively for the purposes of Best Friends Fund. ACTION Council and FCS will establish mutually acceptable procedures whereby FCS may request and ACTION Council may approve and execute withdrawals from the Account. The parties hereto will from time to time designate individuals who will have authority with regard to such requests, approvals, and execution.

6. ACTION Council may deduct and pay to itself, from all new funds received by ACTION Council for FCS, an administrative fee, yearly and at the time the new funds are first received by ACTION Council. The administrative fee shall be a yearly assessment of \$1200.00, 8% of the amount of the new non-governmental funds and 10% of all new governmental funds received after the date of this agreement. "New funds received" include donations given to ACTION Council for FCS and money transferred by the ACTION Council for FCS. "New funds received" do not include funds that have been withdrawn in anticipation of being used and are thereafter returned to ACTION Council without having been used. Interest, dividends, and other earnings received by ACTION Council on investments for FCS will not be subject to the administrative fee.

7. No later than 60 days after the close of ACTION Council's fiscal year, ACTION Council shall provide an accounting to FCS, giving a complete accounting for all transactions relating to FCS during ACTION Council's just concluded fiscal year, showing all receipts, expenditures, income, withdrawals, administrative fees, investments, account balances, and other pertinent information.

8. FCS shall provide to the ACTION Council on a semi-annual basis program progress reports describing the status or the direction on the use of the fund.

9. No funds received by FCS from the Action Council shall be used in any attempt to influence legislation within the meaning of IRS Sec. 501(c)(3) or any regulations thereunder, nor shall any such funds

be used for any political campaign on behalf of or in opposition to any candidate for public office, or for the private benefit of any person not within the scope of ACTION Council's purposes of FCS, or to induce or encourage any violation of law or public policy, or for any purposes that would place in jeopardy the ACTION Council's tax exempt status or the deductibility of gifts to the ACTION Council or FCS under the state or federal tax codes.

10. Each party will give to the other party written notice of the following events, immediately upon the happening of any such event:

(a) Any change in the party's tax-exempt status or in the deductibility of gifts to that party and;

(b) Any change in executive or key staff responsible for the activities of that party that are within the scope of this agreement.

11. Each party will indemnify, defend and hold the other party harmless including its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including, but not limited to, damages to property and injuries to or death of persons, court costs, and attorney's fees) occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the Provider's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of FCS "Provider's performance" includes Provider's action or inaction and the action or inaction of Provider's officers, employees, agents, and subcontractors.

12. This contract does not make either party an agent of the other, nor does it create an employment relationship between the parties. Neither does this contract create any relationship of agency, partnership, or joint venture between the parties hereto. Each party is an independent contractor as to the other.

13. Any tangible or intangible property, including but not limited to copyrights or other intellectual property created by FCS in connection with activities, within the scope of this agreement, shall remain an asset restricted for the purposes of FCS.

14. If ACTION Council believes that an activity proposed by FCS to be funded with moneys from the Account would jeopardize the ACTION Council's tax exempt status or the tax deductibility of gifts to the ACTION Council, the ACTION Council shall immediately give written notice to FCS of such belief. ACTION Council may thereafter withhold disbursement of any funds to FCS when such funds are proposed to be used for such purpose. ACTION Council and the FCS shall immediately meet and confer to determine whether such purpose would violate the terms of this agreement. If the parties are unable to reach an agreement resolving the dispute, the parties may agree to non-binding mediation, to non-binding or binding arbitration, or the parties may file an action in small claims, municipal or superior court to enforce the agreement. In such an action, no party shall be liable for damages to the other party beyond the actual economic damages sustained by the wrongfully injured party. Each party shall be responsible for their own attorney's fees in such an action. The parties shall share equally in the costs of any mediator or arbitrator hired to assist in resolving disputes.

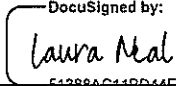
15. Responsible parties of FCS will abide by all ACTION Council fiscal sponsorship policies and procedures as well as all Action Council verbal or written directions and instructions.

16. With this agreement, all activities of FCS will fall under the scope of fiscally sponsored activities of the ACTION Council, to be paid for only by the ACTION Council with funds on account in the Best Friends Fund.

17. Termination. This Agreement shall terminate when the objectives of FCS can no longer reasonably be accomplished by ACTION Council. If the objectives of FCS can still be accomplished but either FCS or ACTION Council desires to terminate ACTION Council's fiscal sponsorship of FCS, the following understandings shall apply. Either ACTION Council or FCS may terminate this Agreement on 90 days' written notice to the other party, so long as another nonprofit organization acceptable to FCS is found that is tax-exempt under IRC Section 501(c)(3), is not classified as a private foundation under Section 509(a) (a Successor), and is willing and able to sponsor the Project. (As used in this Paragraph, the word "able" shall mean that the Successor has charitable purposes compatible with the purposes of FCS and has the financial and administrative capacity to competently manage Best Friends Fund. The balance of assets in ACTION Council's restricted fund for FCS, together with any other tangible and intangible assets held and liabilities incurred by ACTION Council in connection with FCS, shall be transferred to the Successor at the end of the notice period or any extension thereof, subject to the approval of any third parties that may be required. If the Advisory Committee has formed a new organization qualified to be a Successor as set forth in this Paragraph, such organization shall be eligible to receive all such assets and liabilities so long as it has received a determination letter from the Internal Revenue Service, indicating that such qualifications have been met, no later than the end of the notice period or any extension thereof. If no Successor is found, ACTION Council may dispose of FCS assets and liabilities in any manner consistent with applicable tax and charitable trust laws. Either party may terminate this Agreement, based upon a material breach of this Agreement by the other party, by giving 30 days' written notice to the other party, and any of FCS assets and liabilities shall be disposed of at the end of the notice period in a manner consistent with the provisions stated above in this Paragraph.

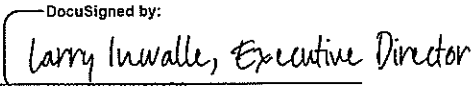
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Lori A. Medina, Director  
Monterey County Department of Social Services

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Date

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Laura Neal, Deputy Director  
Monterey County FCS

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Date

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Larry Imwalle, Executive Director  
Action Council of Monterey County

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Date

Approved as to Form

DocuSigned by:  
*Anne Breerton, County Counsel*

County Counsel

11/4/2020 | 3:48 PM PST

Date

Approved as to Financial Provisions

DocuSigned by:  
*Gary Giboney*

Auditor/Controller

11/4/2020 | 3:52 PM PST

Date