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## **City Council Financing Authority Housing Authority Public Financing Authority Redevelopment Agency Successor Agency**

**915 I Street, 1<sup>st</sup> Floor, Sacramento**

*Published by the Office of the City Clerk*

*(916) 808-7200*

## **CHARTER OFFICERS**

Mindy Cuppy, City Clerk

Susana Alcala Wood, City Attorney

Jorge Oseguera, City Auditor

Howard Chan, City Manager

John Colville, City Treasurer

## **SUPPLEMENTAL MATERIAL**

**Description:** Attached is supplemental material received after publishing the agenda the replacement of attachment 3 to Consent Item 2. The attached staff report and attachment replace the original staff report in its entirety.

**For the Meeting of:** Tuesday, June 27, 2023, at 5:00 p.m.

**Agenda Item:** **Consent Item 2**

**2 Approving George Sim Community Center Lease with Gateway Community Charters**

**File ID:** 2023-00761

**Location:** 6207 Logan Street Sacramento CA 95824, District 6, Represented by Vice Mayor Guerra

**Recommendation:** Adopt a **Resolution:** 1) finding that it is in the best interest of the City to lease rooms 300, 400 and 900 of the George Sim Community Center Located at 6207 Logan Street to Gateway Community Charter School Inc. without competitive bidding; 2) approving the Lease Agreement with Gateway Community Charters at a rate of \$6,000 a month for an initial 3 year term with options to renew for up to a maximum 10 year term; and 3) authorizing the City Manager or his designee to execute the Lease Agreement.

**Contact:** Jackie Beecham, Director, (916) 808-1041, [jbeecham@cityofsacramento.org](mailto:jbeecham@cityofsacramento.org), Department of Youth, Parks, & Community Enrichment; Anthony Munoz, Recreation Manger, (916) 808-5762, [amunoz@cityofsacramento.org](mailto:amunoz@cityofsacramento.org), Department of Youth, Parks, & Community Enrichment

City of Sacramento  
**City Council - 5PM Report**  
915 I Street Sacramento, CA 95814  
www.cityofsacramento.org

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6/27/2023

**Consent Item 2.**

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**Contact:** Jackie Beecham, Director, (916) 808-1041, jbeecham@cityofsacramento.org, Department of Youth, Parks, & Community Enrichment; Anthony Munoz, Recreation Manger, (916) 808-5762, amunoz@cityofsacramento.org, Department of Youth, Parks, & Community Enrichment

**Presenter:** None

**Attachments:**

- 1-Description/Analysis
- 2-Resolution
- 3-Lease Agreement

**Description/Analysis**

**Issue Detail:** The Department of Youth, Parks & Community Enrichment is requesting to lease rooms 300,400, and 900 of the George Sim Community Center (located at 6207 Logan Street) to a non-profit Charter School. Staff is recommending that this lease be approved without competitive bidding, pursuant to City Code section 3.68.110, as it is in the best interest of the City.

George Sim Community Center has been operated by the City to provide a place for the residents in the neighborhood to gather for social events, to participate in recreational and enrichment programs targeted at youth and senior groups, and as a safe place for rest and relaxation and use of the recreational equipment and facilities located at the Center by the public at no cost or by payment of minimal user fees.

Gateway Community Charters, Inc. is an independent non-profit agency that operates the Sacramento Academic & Vocational Academy (SAVA), a program authorized by Sacramento City Unified School District.

SAVA -works with disenfranchised youth throughout Sacramento by providing a robust offering of Career Technical Education (CTE) classes as part of their charter school program authorized by the Sacramento City Unified School District.

Gateway Community Charter would like to continue to lease space at George Sim Community Center. Gateway Community Charter has had a longstanding partnership with the City of Sacramento and has leased space out of the George Sim Community Center to run their school program since November 2011. This has been a beneficial partnership for all parties including SAVA students, the school, the local community and the City. It is the mission of the Sacramento Academic and Vocational Academy to provide high quality curriculum, instructional support, career exploration, and preparation for students in our community.

If this portion of the Community Center was competitively bid through a Request for Proposals, and not awarded to Gateway Community Center, Gateway Charter would have insufficient time to find relocate its program, causing a disruption in services the Charter School provides to the community and students. To prevent the potential loss of the community benefits provided by the SAVA and its technical education program, and given the limited portion of the facility to be leased, it is not in the City's best interest to use a competitive bid process based solely on the basis of the amount of rent to be paid to the City.

Gateway Community Charters, Inc. will use rooms 300,400 and 900 of the George Sim Community Center for its events and programs and is willing to assume responsibility for maintenance of that portion of the Community Center in consideration for CITY only charging Gateway Community Charter a portion of CITY's utility and service costs.

Under the proposed lease, Gateway Community Charters, Inc. will have the exclusive right to occupy, use and manage Room 300, 400 and 900, including use of the adjacent parking lot, at the rate of \$6,000 per month to reimburse the City's facility costs, including costs of water, sewer, garbage, electricity, and gas services (collectively "Utilities") and a portion of facility maintenance costs provided for the Center. This amount is based on the City's average annual cost for utilities/repairs for the Center prorated for the size of the Premises and/or its separate meter(s).

Gateway Charter's operations will benefit the community at large by operating its community-based charter school from 9 a.m. to 4:30 p.m., Monday through Thursday.

**Policy Considerations:** City Council approval is required to enter into a lease of City-owned real property pursuant to Chapter 3.68 of the City Code. Compliance with the Surplus Land Act (Gov. Code § 54220 et seq.) is not required as the proposed lease is not considered the

“disposition of surplus land.” Pursuant to the guidelines adopted by the California Department of Housing and Community Development (HCD), leases under which no development or demolition will occur do not fall within the definition of “disposition of surplus land.” (HCD Surplus Land Act Guidelines, § 102(h)(1).)

**Economic Impacts:** None.

**Environmental Considerations: California Environmental Quality Act (CEQA):** In accordance with Section 1530 of the CEQA Guidelines, this action is exempt from environmental review because it’s an existing building and the Charter School use is consistent with the prior use of the building. There is sufficient parking at the George Sim Community Center complex to accommodate the Charter School operation.

**Sustainability:** No Applicable.

**Commission/Committee Action:** None.

**Rationale for Recommendation:** Staff recommends approval of the lease, as it is in the best interest of the CITY to lease rooms 300, 400 and 900 of the George Sim Community Center Located at 6207 Logan Street to Gateway Community Charter School Inc. without competitive bidding. Gateway Community Charter has had a longstanding partnership with the City and has leased space out of the George Sim Community Center to run their school program since November 2011. This has been a beneficial partnership for all parties including SAVA students, the school, the local community and the City.

**Financial Considerations:** The proposed action is to lease the building at a rate of \$6,000 a month to cover a portion of utility and maintenance cost of the Community Center.

**Local Business Enterprise (LBE):** Not applicable.

## **RESOLUTION NO. 2023-**

### **Adopted by the Sacramento City Council**

June 27, 2023

#### **APPROVING GEORGE SIM COMMUNITY LEASE WITH GATEWAY COMMUNITY CHARTERS**

#### **BACKGROUND**

- A. City Council approval is required to enter into a lease of City-owned real property pursuant to Chapter 3.68 of the City Code. Compliance with the Surplus Land Act (Gov. Code § 54220 et seq.) is not required as the proposed lease is not considered the “disposition of surplus land.” Pursuant to the guidelines adopted by the California Department of Housing and Community Development (HCD), leases under which no development or demolition will occur do not fall within the definition of “disposition of surplus land.” (HCD Surplus Land Act Guidelines, § 102(h)(1).)
- B. The Department of Youth, Parks and Community Enrichment is requesting to lease rooms 300,400, and 900 of the George Sim Community Center (located at 6207 Logan Street) to a non-profit Charter School. Staff is recommending that this lease be approved without competitive bidding, pursuant to City Code section 3.68.110, as it is in the best interest of the City.
- C. George Sim Community Center has been operated by the City to provide a place for the residents in the neighborhood to gather for social events, to participate in recreational and enrichment programs targeted at youth and senior groups, and as a safe place for rest and relaxation and use of the recreational equipment and facilities located at the Center by the public at no cost or by payment of minimal user fees.
- D. Gateway Community Charters, Inc. is an independent non-profit agency that operates the Sacramento Academic & Vocational Academy (SAVA), a program authorized by Sacramento City Unified School District.
- E. Gateway Community Charter would like to continue to lease space at George Sim Community Center. Gateway Community Charter has had a longstanding partnership with the City of Sacramento and has leased space out of the George Sim Community Center to run their school program since November 2011. This has been a beneficial partnership for all parties including SAVA students, the school, the local community and the City. It is the mission of the Sacramento Academic and Vocational Academy to provide high quality curriculum, instructional support, career exploration, and preparation for students in our community.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL  
RESOLVES AS FOLLOWS:**

Section 1. It is in the best interest of the City to lease rooms 300, 400 and 900 of the George Sim Community Center Located at 6207 Logan Street to Gateway Community Charter School Inc. without competitive bidding to ensure the City retains the community benefits derived from the SAVA technical education program.

Section 2. The Lease Agreement with Gateway Community Charters is approved at a rate of \$6,000 a month for an initial 3-year term with options to renew for up to a maximum 10-year term.

Section 3. The City Manager or his designee is authorized to execute the Lease Agreement.

**MEMORANDUM OF UNDERSTANDING  
AND LEASE OF A PORTION OF THE GEORGE SIM COMMUNITY CENTER**

This MEMORANDUM OF UNDERSTANDING AND LEASE AGREEMENT ("Agreement") is made and entered into as of July 1, 2023 ("Effective Date") by and between the CITY OF SACRAMENTO, a municipal corporation ("CITY"), and the Gateway Community Charters a California non-profit corporation ("ORGANIZATION"), with regard to the possession, use, operation and maintenance of a portion of the George Sim Community Center/Clubhouse ("Center").

**RECITALS**

A. George Sim Community Center has been operated by CITY to provide a place for the residents in the neighborhood to gather for social events, to participate in recreational and enrichment programs targeted at youth and senior groups, and as a safe place for rest and relaxation and use of the recreational equipment and facilities located at the Center by the public at no cost or by payment of minimal user fees.

B. ORGANIZATION is a charter school program that offers technical and educational programs, including the operation of Sacramento Academic & Vocational Academy (SAVA), a program authorized by the Sacramento City Unified School District to provide career technical education classes.

C. ORGANIZATION desires to use a portion of the Center for its charter school program and is willing to assume responsibility for maintenance of that portion of the Center in consideration for CITY only charging ORGANIZATION a portion of CITY's utility and service costs for that use.

D. ORGANIZATION understands that the Center is a public facility paid for by the CITY taxpayers and that it is the CITY's desire that the Center be used in a manner that benefits the community.

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual commitments as hereinafter set forth, the Parties agree as follows:

**AGREEMENT**

1. TERM

The term of this Agreement shall begin effective July 1, 2023, and shall continue for three years, until June 30, 2026. The parties shall have the option to extend the lease from year to year until June 30, 2033, unless sooner terminated by either Party by providing at least thirty (30) days advance written notice to the other Party in the manner specified in Section 5 and specifying the date of termination. If LESSEE shall for any reason holdover beyond the maximum ten-year term with LESSOR's consent (express or implied), such holding over shall not be a renewal of this Lease but shall be a month-to-month tenancy subject to the terms and conditions of this Lease or subject to such other terms as LESSOR may specify.

## 2. CENTER USE AND OPERATIONS

CITY hereby grants to ORGANIZATION the exclusive right to occupy, use and manage Room 300, 400 and 900 at the Center (the "Premises"), which includes use of the adjacent parking lot, if any, at no rental cost except for reimbursement or assumption of CITY's facility costs, as long as ORGANIZATION complies with its obligations as set forth herein. ORGANIZATION agrees that in consideration for the CITY's agreement not to charge rent, ORGANIZATION shall use the Center in a manner which benefits the community at large as described below:

- A. Programs - The ORGANIZATION's proposed programming for use of the Premises is as follows:

Operation of community-based charter school.

- B. Schedule - The ORGANIZATION's planned schedule when the Premises will be scheduled for use for ORGANIZATION's programs and events is as follows:

<u>Days of the Week</u>	<u>Hours</u>
Monday -Thursday	8:00am-4:30pm

- C. Notification- ORGANIZATION shall publish and post notices of the days and hours when the Premises is open to the public for ORGANIZATION's programs and events that are available to the public to participate in and attend. If ORGANIZATION changes its planned use and schedule for the Premises, ORGANIZATION shall notify CITY's Contract Manager specified in Section 3.H, below, so that the public is kept informed as to the days and hours when the Premises is open for ORGANIZATION's programs and events.

- D. Operations and Supervision

ORGANIZATION shall not use or allow any use of the Center that would constitute a nuisance by permitting or creating offensive odors, loud sounds, a dangerous or noxious trade or business, or an unlawful use. ORGANIZATION shall take all reasonable and appropriate actions to prevent any groups or members of the public from loitering or engaging in any nuisance or unlawful conduct in or about the Center. In no event shall ORGANIZATION or any of entity permitted to rent the Center be allowed to sell alcoholic beverages at the Center at any time without the CITY's prior written consent, which consent it may withhold in its sole and exclusive discretion.

- E. User Fees - ORGANIZATION may charge the public a user fee to participate in its education and technical programs and events at the Premises commensurate with the costs for providing such programs and events.

In no event shall ORGANIZATION impose a fee which would exceed the reasonable market value for the services received or is a pretext so as to limit use of the Premises by persons who are not members of the ORGANIZATION. CITY reserves the right to impose a monthly rental fee for ORGANIZATION's use and occupancy of the Premises if it determines, based on an



examination and audit of the ORGANIZATION's books and records as provided in Section 2.K, below, that the ORGANIZATION has received more than a ten percent (10%) annualized profit based on the amount of fees and revenues collected in comparison with the total amount of expenses incurred.

ORGANIZATION shall not sublet the Premises to any other individual or organization and shall not use the Premises for any purpose other than those set forth in section 2, above.

F. CITY Events - Intentionally omitted.

G. CITY Offices - Intentionally omitted.

H. Compliance with Laws; Nondiscrimination - In its occupancy and use of the Premises and rental of the Center as provided under this Agreement, ORGANIZATION shall comply with all applicable federal, state and local laws, regulations, and ordinances. If any failure by the ORGANIZATION to comply with such laws, regulations and ordinances results in any fine, penalty, cost or charge being assessed against CITY, ORGANIZATION shall reimburse and indemnify CITY for such cost.

ORGANIZATION shall not discriminate against any member of the public or community group on the ground of race, color, religion, sex, ancestry, national origin, age, disability, medical condition, marital status, or sexual orientation with regard to ORGANIZATION's occupancy, use and management of the Premises and the Center including, without limitation, any person who may wish to participate in the programs and events sponsored by ORGANIZATION at the Center.

ORGANIZATION is also prohibited from discriminating in the provision of employee benefits between employees with spouses and employees with domestic partners, and between the spouses and domestic partners of employees of ORGANIZATION.

I. Background Checks - With regard to any volunteers and employees of ORGANIZATION who are to perform services at the Center in a position having supervisory or disciplinary authority over any minor, ORGANIZATION shall first obtain a Department of Justice (DOJ) clearance for all such employees and volunteers. The ORGANIZATION must submit fingerprints of such persons in a manner authorized by the DOJ and that proof of such DOJ clearance must be provided to the CITY Contract Manager specified in Section 3.H, below, prior to any volunteers or employees working with minors at the Center. ORGANIZATION shall also provide to CITY a list of the names of its volunteers and employees who work at the Center and certify that those volunteers and employees have received a DOJ clearance. Any person who has been convicted of an offense listed in Public Resources Code Section 5164 shall be prohibited from working or performing services at the Center.

J. CITY Access - ORGANIZATION shall permit CITY and its employees and authorized agents to enter the Premises at all reasonable times during ORGANIZATION's usual hours of operation at the Premises or upon twenty-four (24) hours advance notice for the purpose of inspecting the Premises and determining compliance by ORGANIZATION with the requirements of this Agreement.

K. Books and Records - All books, contracts, records, documents, and other related papers including, without limitation, financial records ("Books and Records") of the ORGANIZATION with respect to its occupancy, use and rental of the Center shall at all

times be maintained in reasonable condition for audit and shall be subject to examination by the City or its agents. The Books and Records of the operation of the Center by ORGANIZATION shall be kept in accordance with generally accepted accounting principles. ORGANIZATION shall provide City with access to the Premises and its Books and Records during reasonable hours for the purpose of reviewing ORGANIZATION's compliance with the terms of this Agreement.

- L. Reporting - ORGANIZATION shall provide the CITY Contract Manager, specified in Section 3.H, below, with a list of the names of its volunteers and employees who work at the Center and all other organizations which may also be permitted to use the Premises on a regular basis (i.e., excluding special event permit holders). ORGANIZATION shall also contact the CITY Contract Manager in the event of the discovery of any health or safety hazard, any incident of injury or illness, or any improper or illegal action of any person which occurs at the Center.

### 3. BUILDING UTILITIES, SERVICES AND MAINTENANCE

With the exception of structural or system defects and failures which render the Center inoperable or prevent its use as described herein, ORGANIZATION shall be responsible for payment of a portion of the costs of utilities, services, maintenance, and janitorial services for the Center related to its use of the Premises as follows:

- A. Utilities - ORGANIZATION shall pay CITY \$6,000 monthly for the costs of water, sewer, garbage, electricity, and gas services (collectively "Utilities"), as well as pest control, security alarm monitoring, Ansell system maintenance (if applicable), and fire extinguisher maintenance services (collectively "Building Services"), provided for the Center. This amount is based on CITY's average annual cost for utilities and building services for the Center prorated for the size of the Premises and/or its separate meter(s) of approximately \$72,000 ("Base Annual Rate").

If ORGANIZATION's use of the Premises results in a total average annual cost for Utilities which is at least 10% less than the Base Annual Rate, CITY will notify ORGANIZATION and adjust the monthly utility charge accordingly. If ORGANIZATION's use of the Premises results in a total average annual cost for Utilities which is at least 10% more than the Base Annual Rate, CITY shall notify ORGANIZATION, which may either agree to reduce its use of the Premises so as to lower the cost for utilities or pay the higher monthly utility charge.

If the rates for the Center Utilities are increased by the utility providers during the Term of this Agreement, CITY may adjust the monthly charge for Utilities accordingly after providing prior written notice to ORGANIZATION.

- B. Services - ORGANIZATION shall arrange for separate telephone service and computer Internet services for the Premises to be billed directly to ORGANIZATION. ORGANIZATION shall provide CITY Contract Manager, specified in Section 3.H, below, with copies of all of its existing service contracts for the Premises prior to ORGANIZATION's possession of the Premises under this Agreement, and within thirty (30) days after execution of any new service contracts for the Premises.

C. Maintenance - ORGANIZATION shall be solely responsible for maintenance, repair and replacement of the following systems, fixtures and components located within the Premises necessitated by the normal use and wear of the building and facilities, but excluding damages caused by vandalism:

- (1) Security Alarm System;
- (2) Lighting bulbs and fixtures;
- (3) All interior improvements including walls, ceiling tiles, flooring and window coverings, doors, and windows, including glass replacement;
- (4) Painting the interior of the Premises and graffiti removal;
- (5) Telephone and computer-related wires and systems; and
- (6) Minor plumbing (e.g., toilet malfunction) and incidental expenses.

ORGANIZATION shall first notify CITY Contract Manager, specified in Section 3.H, below, of the required maintenance work and the estimated costs of the repairs and ORGANIZATION's schedule for completion of the work. If ORGANIZATION fails or refuses to maintain, repair or replace any of the foregoing items in a manner reasonably satisfactory to CITY so that the systems remain operable and the Premises remain in good condition, CITY may elect to perform such maintenance and to make the necessary repairs or replacements on ORGANIZATION's behalf after providing prior written notice to ORGANIZATION. In such event, ORGANIZATION shall refund to CITY the cost of such work as "Maintenance Charges" within ten (10) days after receipt from CITY of an invoice specifying said work and its cost.

CITY shall be responsible for maintenance, repair and replacement of the following systems, fixtures and components within the Premises and the Center necessitated by the normal use and wear of the building and facilities:

- (1) Heating and air conditioning systems;
- (2) Roofing leaks and defects and weather proofing;
- (3) Plumbing and electrical pipes, wires, and systems inside the interior walls;  
Painting and caulking the exterior of the building if signs of paint deterioration exist;
- (4) Doors and door hardware including locks; and
- (5) Fencing and gates, parking lot pavement, and landscaping irrigation system and plantings.

ORGANIZATION shall contact the CITY Contract Manager, specified in Section 3.H, below, to report any problems with the Premises or the Center which requires maintenance by CITY. In addition, ORGANIZATION shall provide CITY with a

written report quarterly which describes all maintenance work undertaken by ORGANIZATION within the Premises during the prior period. At least once annually, the parties shall meet to inspect the Premises and review the building maintenance work performed by the parties.

- D. Janitorial - ORGANIZATION shall be solely responsible for arranging for custodial and janitorial services to maintain the Premises in a safe, sanitary, and neat condition. Such services shall include, without limitation, routine trash, and garbage removal, mopping and waxing floors, vacuuming carpets, dusting furniture and windowsills, washing windows, and cleaning drapes, upholstery, tables and chairs and other furniture and fixtures (collectively "Janitorial Services"). If any event of pest or vermin infestation is found in the Premises, ORGANIZATION shall immediately contact the City's contact specified in Section 3.H below. .
- E. Reporting - ORGANIZATION will report to the CITY Contract Manager, specified in Section 3.H, below, as soon as any of the following are observed:
- (1) Graffiti, vandalism, or other illegal activity in or around the Center and adjacent parking lot and park facilities;
  - (2) Exterior building or parking lot lighting is inoperable;
  - (3) Parking lot pavement cracking and uplifting presents a safety hazard;
  - (4) Roof leaks, electrical system default, plumbing system pipe ruptures, or if HVAC system becomes inoperable; and
  - (5) Any other problems which may pose a health or safety hazard.
- F. Suspension of Use - Whenever the condition of the Premises or the Center, and/or the exterior areas surrounding the building, could expose the public to safety or health hazards or could cause damage to their personal property, ORGANIZATION shall immediately discontinue use of the Premises and shall prevent public entry until the defects can be remediated and the threat of injury or damage to the public and property no longer exists. If CITY discovers such safety or hazardous conditions at or near the Premises or the Center, CITY shall have the right to order the Center immediately closed, including closure of the Premises, until such conditions are remedied or removed by ORGANIZATION and/or by CITY.
- G. CITY's Costs - Intentionally omitted.
- H. CITY Contract Manager - All notices and reports with CITY by ORGANIZATION as required under this Agreement shall be made or sent to:

Name: Amanda Roldan  
Phone: (916) 808-3560  
e-mail: [aroldan@cityofsacramento.org](mailto:aroldan@cityofsacramento.org)  
Address: City of Sacramento  
Youth, Parks & Community Enrichment  
915 I Street, 3rd Floor  
Sacramento, CA 95814

#### 4. IMPROVEMENTS, LIENS AND TAXES

ORGANIZATION shall not undertake any alterations or improvements to the Premises or the Center building and facilities, install signage, or remove any furniture, fixtures or equipment from the Premises or the Center without CITY's prior written consent. If CITY permits ORGANIZATION to undertake alterations or improvements to the Premises, upon expiration or earlier termination of this Agreement, those alterations or improvements which are affixed to the building shall become the property of CITY without any obligation to reimburse ORGANIZATION for said costs. ORGANIZATION shall not create waste, destroy, or modify any improvements or fixtures within the Premises except as approved by the CITY in advance in writing.

ORGANIZATION shall pay in full all persons and entities who perform labor or provide materials for the work to be performed by ORGANIZATION at the Premises and shall not permit or suffer any mechanics' or materialmen's liens of any kind or nature to be enforced against CITY's property for such work or materials. ORGANIZATION shall indemnify and hold harmless CITY from and against any and all liens, claims, demands, costs, or expenses of whatsoever nature in any way connected with or arising from such work done, labor performed, or materials furnished.

ORGANIZATION shall be obligated to pay any possessory interest tax levied or assessed by the County Assessor on ORGANIZATION's possessory interest in the Premises under this Agreement.

#### 5. NOTICE

Any communication, other than notices and reports to CITY Contract Manager, as required during the term of this Agreement shall be deemed given when placed in the United States Mail, postage prepaid, and addressed as follows:

CITY:  
Anthony Munoz, Recreation Manager  
City of Sacramento  
Youth, Parks & Community Enrichment  
915 I Street, 5<sup>th</sup> Floor Sacramento, CA 95814  
Phone: (916) 808-6251

ORGANIZATION:  
Sergey Terebkov, Director of School, Parent and Governmental Relations  
Gateway Community Charters  
5112 Arnold Avenue, Suite A  
McClellan, CA 95652

Any Party who desires to change its address for notice may do so by giving notice as described above.

6. NO JOINT VENTURE

It is understood and agreed that each Party is an independent government agency or corporation, and that this Agreement shall not create a relationship between CITY and ORGANIZATION or its individual members of employer-employee, joint venture, partnership, or any other relationship of association. Except as expressly provided in this Agreement or as the Parties may specify in writing, neither Party shall have authority, express or implied, to act on behalf of the other Party in any capacity whatsoever as an agent.

7. INDEPENDENT CONTRACTORS

Each Party may assign volunteers and employees or contract with third parties to perform services for the Premises and the Center to meet their respective obligations under this Agreement at their exclusive discretion and the services of such assigned volunteers, employees and third parties shall be at the sole expense of that Party. The assigned personnel of each Party shall not be entitled to any benefits payable to employees of the other Party. This Agreement is for the sole benefit of the Parties hereto and no other person or entity shall be entitled to rely upon or receive any benefit from this Agreement or any term hereof.

8. INSURANCE

During the Term of this Agreement, ORGANIZATION shall, at its sole cost and expense, maintain in full force and effect to following insurance coverages:

- A. Commercial General Liability Insurance providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, and premises owned, leased, or used by the ORGANIZATION with limits not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide contractual liability, and products and completed operations coverage.
- B. Automobile Liability Insurance providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the ORGANIZATION at the Center.

No automobile liability insurance shall be required if ORGANIZATION completes the following certification:

"I certify that a motor vehicle will not be used in the performance of any work or services under this agreement." \_\_\_\_\_(ORGANIZATION initials)

- C. Workers Compensation Insurance with statutory limits and Employer's Liability Insurance with limits of not less than one million dollars (\$1,000,000). The Worker's Compensation policy shall include a waiver of subrogation in favor of the CITY. No Workers' Compensation insurance shall be required if ORGANIZATION completes the following certification:

"I certify that my business has no employees, and that I do not employ anyone. I am exempt from the legal requirements to provide Workers' Compensation insurance."  
\_\_\_\_\_(ORGANIZATION initials)

- D. Additional Insured - The CITY, its officials, employees, volunteers, and agents shall be covered by the policy terms or endorsement as additional insureds on the General Liability and Automobile Liability insurance policies, which policies shall be placed with an insurer with a Bests' rating of not less than A.V.
- E. Miscellaneous Insurance Provisions - CITY will be provided with thirty (30) days written notice of cancellation of any policy or material change in the policy language or terms. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to CITY, its officials, employees, or volunteers. The Coverage shall state that ORGANIZATION's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. The ORGANIZATION's insurance coverage shall be primary insurance as respects the CITY and any insurance or self-insurance maintained by the CITY shall be in excess of the ORGANIZATION's insurance and shall not contribute with it.

#### 9. INDEMNITY

ORGANIZATION, on its own behalf and behalf of each of its members agrees to fully indemnify, defend, and save harmless, CITY, its officers, employees and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties and expenses of every type and description, including, but not limited to, any fees and/or costs reasonable incurred by the CITY's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities arise out of or are in any way connected with ORGANIZATION's performance of its rights and obligations under this Agreement, whether or not such Liabilities are caused in part by CITY, its officers, employees and volunteers; provided that the foregoing indemnity does not apply to Liabilities arising from the sole negligence or willful misconduct of CITY, its officers, employees, or volunteers. This indemnity provision shall survive the termination of this Agreement.

#### 10. RELEASE FROM LIABILITY

ORGANIZATION, on its own behalf and on behalf of each of its officers, members, employees and volunteers, releases from liability and waives the right to sue CITY, its officers, employees, and volunteers for any claim for any injury, illness, death, or property damage that ORGANIZATION, or any of its officers, members, employees or volunteers may suffer or which may result from its use of the Premises and the Center and performance of its obligations under this Agreement, wherever or however such loss may occur.

ORGANIZATION, on its own behalf and on behalf of each of its officers, members, employees, and volunteers, hereby waives any and all rights or benefits that it may have under Section 1542 of the Civil Code of the State of California, which provides:

**"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO,  
EXIST IN HIS OR HER**

**FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."**

ORGANIZATION and each of its officers, members, employees, and volunteers acknowledges that it understands the effect of this waiver pursuant to Civil Code Section 1542, and that it has been provided the opportunity to confer with its counsel with regard to the effect of this release.

**11. NON-WAIVER**

Waiver of any breach of, or default under, this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

**12. DISPUTES**

The Parties shall attempt to resolve any disputes they may have in good faith, beginning with the representatives listed in Section 5. Should they be unable reach resolution, they shall refer the dispute to the chairs of their respective governing boards, who may appoint a designee, to meet in an attempt to resolve the dispute. Should they be unable to reach resolution, they shall refer the dispute to non-binding mediation before a mutually agreeable mediator. If the Parties are unable to agree upon the mediator, the Parties will request appointment of a mediator by the American Arbitration Association. Each Party shall pay its own costs and be responsible to pay one-half of the mediator's costs. If a Party is not satisfied with the result of the mediation process, it then may file suit in a court of competent jurisdiction in Sacramento County.

**13. ASSIGNMENT PROHIBITED**

ORGANIZATION may not assign any right or obligation pursuant to this Agreement. However, ORGANIZATION may contract with other community groups to undertake some of ORGANIZATION's obligations herein; however, ORGANIZATION shall remain liable to CITY for the actions and omissions of such other groups. Any attempt or purported assignment of any right or obligation of ORGANIZATION with the intent of releasing ORGANIZATION from its obligations to CITY pursuant to this Agreement shall be void and of no effect.

**14. ENTIRE AGREEMENT; MODIFICATION**

The Parties have each carefully reviewed this Agreement and have agreed to each term herein. No ambiguity shall be construed against either Party. This Agreement contains all of the terms and conditions as agreed upon by the Parties and supersedes any and all oral or written communications by and between the Parties. No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing and signed by the Parties. In the event of a conflict between this Agreement and any other contract or understanding executed by the Parties subsequent to the commencement of this Agreement, the terms of this Agreement shall prevail and be controlling unless such other contract expressly provides to the contrary.



15. AUTHORITY

Each of the signatories to this Agreement represents that he/she is authorized to sign the Agreement on behalf of such Party and that all approvals, resolutions and consents which must be obtained to bind such Party have been obtained that no further approvals, acts or consents are required to bind such Party to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

**CITY OF SACRAMENTO,**

a municipal corporation

By: \_\_\_\_\_

Jackie Beecham, Director  
Youth, Parks & Community Enrichment Dept.

For: Howard Chan, City Manager

**ORGANIZATION,**

a California non-profit corporation

By: \_\_\_\_\_

Name: Sergey Terebkov  
Title: Director of School, Parent and Governmental Relations

Approved As To Form:

By \_\_\_\_\_

Senior Deputy City Attorney

ATTEST By:

By \_\_\_\_\_

City Clerk