

DONATION AND NAMING RIGHTS AGREEMENT

This Donation and Naming Rights Agreement ("Agreement") is effective and made this _____ day of _____, 2020, by and among the CITY OF RIVERSIDE ("City"), a California charter city and municipal corporation, RIVERSIDE COMMUNITY SERVICES FOUNDATION ("Foundation"), a California not-for-profit foundation, and SMART RIVERSIDE ("Donor"), a not-for-profit corporation, referred to individually as "Party" and collectively as "Parties." This Agreement conveys the wishes of the Donor regarding the gift to be made to the Foundation, specifically, to the YOUTH INNOVATION CENTER ("YIC"), a community center operated by the City.

A. The City owns and operates that certain real property and facilities currently known as the YIC, located at 9595 Miller St, Riverside, California 92504 ("Facility").

B. The Facility consists of the following amenities ("Amenity"), in part, computer lab, multipurpose room A and B, classroom, informal classroom, recording studio, film studio, garden, amphitheater, lounge, conference room, and other such amenities.

C. Donor desires to support the Foundation and the YIC through the donation of funds ("Donation") and in exchange for the donation, the City agrees to name and identify an Amenity after the Donor.

D. The Parties desire to enter into the Agreement pursuant to which the City will grant the Donor the exclusive naming rights with respect to the Amenity commonly referred to as the "Learning Loft" in return for certain benefit and donations to the Foundation, set forth below.

NOW THEREFORE, in consideration of the foregoing premises and mutual covenants herein contained, the City, Foundation and Donor agree upon the following terms, conditions and restrictions:

ARTICLE 1. TERM

1.1 Term. This Agreement shall continue in perpetuity unless otherwise terminated as provided for herein.

1.2 Termination for Default. In the event of a default, the provisions of Article 7 shall apply.

1.3 YIC Operation. This Agreement will automatically terminate should the City (or an entity, board, commission, or other organization controlled by the City) no longer own the YIC. Notwithstanding the above, should the City sell or otherwise convey the YIC, any such conveyance will require the Name on the Amenity to remain.

ARTICLE 2. NAMING AND MARKETING

2.1 Name of Amenities. Donor, in support of the YIC's programs and mission and as an incentive to others, desires to commit to the Donation. The Parties agree that the Amenity shall be named the "SmartRiverside Idea Hub" ("Name"). The Amenity will continue to be so named in perpetuity, or until the Agreement is terminated in accordance with the provisions of this Agreement. Such naming rights are exclusive to the Donor. The terms of this Agreement shall be officially announced by the Foundation on or about October 6, 2020.

2.2 City References to Amenity. Except as provided herein, during the Term of this Agreement, the City and Foundation, when referring to the Amenity, shall make commercially reasonable efforts to use the Name and no other. The City and Foundation will make commercially reasonable efforts to ensure that the Amenity is referred to by its Name and shall cooperate with the Donor's efforts to do the same. The Name shall appear on external and internal signage on the building as well as on other materials or objects that refer to the Amenity, including promotional materials. Isolated or inadvertent references that fail to include the correct or entire Name shall not be deemed a violation of this Agreement.

2.3 Marketing/Publicity. Donor and its Board of Directors agree to the City and the Foundation's use of their names, images and likenesses which may appear in photograph, videotape and/or audiotape form for the purposes of publicizing their donation with the hopes of encouraging others to support the Foundation and the YIC. Donor and its Board of Directors further agree that each of their photo, video, audio, or film likeness may be used by the City and/or the Foundation for any legitimate purpose including, but not limited to educational, advertising and promotional materials whereby it may be viewed or used on or off the site of the YIC.

ARTICLE 3. NAMING RIGHTS FEES

3.1 Base Fee. Donor agrees to pay the Foundation a lump sum payment of Fifty Thousand Dollars (\$50,000) ("Fund") for the rights granted hereunder. All such Funds shall, once paid, shall become the property of the Foundation and Donor has no rights to the same.

3.2 Payment Schedule. In the alternative, Donor has the option to make payments annually. An initial payment of Twenty-Five Thousand Dollars (\$25,000) shall be paid no later than October 6, 2020]. The remaining Twenty-Five Thousand Dollars (\$25,000) shall be paid on or before June 30, 2021.

3.3 Late Payments. If the Donor fails to pay in a timely fashion, then a default will be deemed to have occurred.

ARTICLE 4. ACCOUNTS AND FUND USES

4.1 Account. Funds will be held in a separate account ("Account") from the Foundation's normal functioning accounts. Said Account will hold all naming rights gifts (with the exclusion of general donations, gifts in exchange for sponsorship tier benefits, and sponsorships of specific programs, events, and series).

4.2 Spending Policies. All funds in the Account will be held and allowed to accrue interest with funds drawn from the interest, not principal balance. The YIC will utilize funds as needed in accordance with this Agreement.

4.3 Permitted Use of the Funds. The Funds shall only be utilized for the following purposes:

(a) YIC programming expenses, supplies, and costs such as payment of services for the benefit of programming, speaker series, events, fairs, etc., that are services provided to the community under the YIC's mission statement.

(b) Scholarships for programming, events, memberships, and other services provided to the community under the YIC's mission statement.

(c) Non-benefited part time specialized instructor salaries.

(d) Such other like or similar uses or, in the case of potential closure of the YIC, to prevent such closure.

4.4 Unpermitted Use of the Funds. The Funds shall not be used, at any time, on any of the following:

(a) Salaries or expenses for the employees of the City.

(b) General Foundation expenses, which includes any salaries or expenses of employees.

ARTICLE 5. AMENITY USE

5.1 Use. The Amenity shall be used for all YIC programming, events, and related programming. The YIC shall utilize the Amenity in any capacity that further promotes the YIC's mission.

5.2 Group Use. The Amenity is open to the following groups:

(a) Private, corporate, and nonprofit groups, subject to the City's standard fees and policies, which may be amended from time to time.

(b) Educational groups, nonprofits, and partnering organizations free of charge at the discretion of the City if they are providing a service free of charge to the community.

ARTICLE 6. SIGNAGE/ LOGO PLACEMENT

6.1 Signage Specifications. Signage shall be designed by the City with approval by Donor. All signage shall be placed at a location or locations as agreed to by the Parties.

6.2 Signage Language. The room will be named with a brief description/dedication on a City approved naming plaque with the desired and agreed upon Name.

6.3 Logo Placement. The Donor's logo (if provided/in existence) shall be placed on the signage in an approved location as part of the overall design of the sign.

ARTICLE 7. DEFAULT; REMEDIES; TERMINATION

7.1 Default. A "Default" shall be deemed to have occurred hereunder if:

(a) The Donor misses any payment as required by this Agreement and fails to cure such breach within thirty (30) days after its receipt of written notice of default.

(b) The filing by or against the Donor of any petitions in bankruptcy if Donor is making annual payments, which will result in an immediate, incurable Default.

(c) The Donor breaches its obligations under Section 8.3, which will result in an immediate, incurable Default.

(d) Either party fails to perform or observe any other material term, covenant, condition or provision of this Agreement and the failure is not completely cured within thirty (30) days after written notice to the defaulting party; or, if such breach cannot be cured reasonably within such thirty (30) day period, the defaulting party fails to commence to cure such breach within thirty (30) days after written notice or fails to proceed diligently to cure such breach within a reasonable time period thereafter.

7.2 Remedies upon Default. Upon the Donor's Default, this Agreement will automatically terminate and the City may remove, cover/or replace all signage, written and other references to the Donor and/or the Name and shall not have to refund or return any previously made payments. Upon either the City's or the Foundation's Default other than as described in the following sentence, this Agreement and the parties' rights and obligations hereunder will remain in effect except that the Donor will be excused from the obligation to make any payments not theretofore made. Upon either the City's or the Foundation's Default under Section 2.1 or Section 2.2, this Agreement will automatically terminate and the Foundation will return all previously made payments to the Donor.

ARTICLE 8. MISCELLANEOUS

8.1 Amendment, Modification or Alteration. No amendment, modification or alteration of the terms of this Agreement shall be binding unless in writing, dated subsequent to the date hereon and duly executed by the parties herein.

8.2 Notices. All notices required to be given under this Agreement shall be given by certified or registered mail or overnight courier, addressed to the proper party to the following addresses, or at such other address as may be subsequently given pursuant to this section and shall be deemed given when deposited in the Mail, postage prepaid:

If to the City: City of Riverside
Attn: Adolfo Cruz
Parks, Recreation & Community Services
3900 Main Street
Riverside, CA 92522

If to the Foundation: Riverside Community Services Foundation
Attn: President
6927 Magnolia Avenue
Riverside, CA 92506

If to the Donor: SmartRiverside
Attn: Executive Director
3900 Main Street
Riverside, CA 92502

8.3 Morals Clause. Donor hereby agrees to adhere to the following Morals Clause:

(a) Donor shall refrain from all conduct that would bring them into public disrepute. Such behavior includes (but is not limited to):

Actions that might reasonably be considered immoral, deceptive, scandalous or obscene that would cause the Donor to become the subject of a scandal, such would negatively affect, injure, tarnish, damage or otherwise negatively affect the reputation and goodwill associated with the marketability of the YIC and Facility or image;

(i) Actions resulting in criminal charges being brought for misdemeanor or moral turpitude that is punishable by a prison term of at least six (6) months or a felony (regardless of the length of prison term associated with such offense).

(b) Any violation of this section shall be a default under this Agreement.

8.4 Non-Discrimination. During the Parties' performance of this Agreement, the Parties shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, genetic information, gender, gender identity, gender expression, or sexual orientation, military and veteran status, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, the Parties agree to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

8.5 Representation and Warranties of Foundation. Foundation represents and warrants to Donor that: (i) it is a duly formed non-profit California corporation in good standing; (ii) is a tax-exempt organization under Section 501(c)3 of the Internal Revenue Code, classified

as a public charity and eligible for charitable tax deductions under Section 170(b)(1)(A)(ii) as an educational organization; (iii) until the Donation is paid to Foundation, Foundation agrees to inform Donor immediately of material alterations in Foundation's organization, structure, or any change either threatened or actual, which may adversely affect their tax exempt status as represented herein, or make untrue or incorrect any of the representations or warranties in this Agreement; (iv) Foundations' rights and obligations under this Agreement, including Foundation's right to receive the Donation, may not be assigned, transferred or hypothecated by them to a successor organization which qualifies for tax-exempt status under Section 501(c)3 of the Internal Revenue Code; and (v) all representations and warranties made by Foundation herein shall be deemed to be continuing.

8.6 Representations and Warranties of Donors. Donor represents and warrants to the City and Foundation that: (i) it is duly authorized to enter into this Agreement; (ii) Donor entering into this Agreement will not violate any provisions of any agreements or instruments to which they are subject; (iii) the terms of this Agreement are binding on their respective successors in interest, representatives, assigns, heirs, administrators, or executors; and (iv) all representations and warranties made by Donor herein shall be deemed to be continuing.

[SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, this Agreement is executed by the Parties as of this _____ day of _____, 2020, in Riverside, California.

CITY OF RIVERSIDE,
a California charter city and municipal
corporation

By: _____
City Manager

ATTESTED TO:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Chief Assistant City Attorney

RIVERSIDE COMMUNITY SERVICES
FOUNDATION,
a California not-for-profit corporation

By: _____
Name: Deborah Macias
Its: President

By: _____
Name: Jessica Ochoa
Its: Secretary

SMART RIVERSIDE,
a California not-for-profit corporation

By: _____
Name: William F. [Signature]
Its: Chair

By: George Hoanzl
Name: George Hoanzl
Its: Treasurer