**Lease Guidelines**

**Academy Board Due Diligence**

1. Identify the current owner of the real property (the “Landlord”) that the Academy Board proposes to lease. If the Landlord is not an individual, identify all individual owners, shareholders, members, etc., as well as the Landlord’s directors and officers.
   1. Disclose any familial, business, or other relationships between Academy Board members, Academy employees, and employees and owners of the Academy’s Educational Service Provider (ESP), if any.
2. Identify whether the lease agreement transaction involves a related party. Related parties include the ESP, ESP owners, ESP employees, parent, subsidiary or affiliates of the ESP. Academy Board Members, entities owned by the Academy Board members or their families are prohibited from having any ownership interest in the property.
3. Identify all known conflicts of interest that the Landlord’s owners, directors, or officers may have in regard to Academy Board members, administrators, and employees associated with the Academy, as well as other vendors contracting with the Academy. Conflict of interests include, but are not limited to, familial and/or business relationships.
4. ID the type of property the Landlord owns—if it is a church, parochial school, or other religious institution, Academy Board will have to take appropriate steps to ensure separation of Church and State.
5. Notify the CSO of any proposed agreement to rent real property before the parties sign the proposed agreement. Provide a copy of the proposed agreement/lease to the CSO for review.
6. Is the facility in close proximity to an existing GVSU Charter School (be sure to obtain GVSU CSO approval if the answer is yes)?

**Questions to Consider Before Approval**

1. Will other tenants occupy the physical plant? If so, identify who those other tenants will be as well as their relationship to the Landlord, the ESP, and the Board Members.
2. What will be the anticipated total costs of using the physical plant during the proposed lease term? What is the cost per square foot for the physical plant?
3. Do the proposed lease terms provide for a fair market value for the Academy?
   1. Suggestions for determining fair market value:
      1. Colliers International Market Report
      2. Area chamber of commerce reports
      3. CB Richard Ellis Market Index
      4. Charter School Facilities Report from a National Survey of Charter Schools, prepared by Charter Friends National Network
      5. Independent appraisal
      6. Market analysis by independent real estate professional
      7. Analysis of comparable properties by independent real estate processional
4. Would it be beneficial to purchase the property rather than lease the property?
5. What condition is the property in? Look at the interior and exterior walls, restrooms, technology infrastructure, HVAC, etc.
6. Is there adequate acreage for subsequent expansion of the building, if necessary?
7. Does the Landlord lease the building? If so, obtain a copy of the underlying lease and review it with legal counsel.
8. Has Academy Board legal counsel reviewed and advised on the negotiation of the lease agreement?
   1. Obtain independent legal counsel who does not represent the Landlord or the Landlord’s owners, directors, officers, or employees
   2. Lease Agreement must be arms-length, negotiated between an informed Academy Board and the Landlord.
9. All Academy Board members should have an opportunity to review the proposed lease and review Academy Board legal counsels opinion on the lease.
10. Lease provisions:
    1. Does the lease clearly state its terms?
    2. Does the lease explain the disposition of pre-paid rent and security deposits upon termination of the lease agreement?
    3. Does the lease clearly state the total amount the Academy must pay to the Landlord each month? Is there an automatic rent increase by month or by year that the Academy should be aware of?
    4. Does the lease clearly state which parties are responsible for utilities, taxes, maintenance, snow removal, repairs, and any other costs associated with the building?
    5. Does the Academy have to pay a security deposit? Does the Lease clarify whether the Landlord must repay that security deposit to the Academy at the end of the lease agreement term?
    6. Does the lease dictate who’s obligated to investigate, clean, remove, remediate, or otherwise deal with hazardous material present at the site prior to the Academy occupying the site?
    7. The lease must not interfere with the Academy Board’s exercise of its statutory, contractual, and fiduciary responsibilities governing the operation of the Academy. No provision in the lease shall prohibit the Academy from acting as an independent, self-governing public body, or allow public decisions to be made other than in compliance with the Open Meetings Act.
    8. Does the lease restrict the Academy Board from waiving its governmental immunity?
    9. Does the lease dictate who owns fixtures purchased with Academy funds?
    10. Does the lease indemnify board members for damages or litigation caused by the condition of the physical plant, if those damages or litigation are caused by the Landlord’s use or prior use of hazardous material at the physical plant?
    11. Does the lease include an option for the Academy to purchase the physical plant or a right of first refusal to purchase the physical plant?
    12. Does the lease contain an insurance coverage provision? Amounts should be consistent with MUSIC Insurance requirements and the amounts required by the charter contract.
    13. Does the lease terminate upon termination of the ESP Agreement?
    14. If the academy makes improvements or purchases fixtures for the facility, does the lease agreement allow the Academy to recoup those investments if the Lease is terminated by the Landlord prior to the conclusion of the lease term?
11. Approve the lease agreement by formal vote at a public meeting.

\*\* Be sure to consult with Academy Board Legal Counsel for any questions or challenges related to leasing and/or purchasing.