

LEASE AGREEMENT
THEOPHALIS MAY RESOURCE CENTER

STATE OF FLORIDA
COUNTY OF ESCAMBIA

THIS LEASE AGREEMENT (the “Lease”) is made and entered into to be effective as of September 1, 2021, by and between the City of Pensacola (the “City” or “Lessor”), a municipal corporation of the State of Florida whose principal offices are located at 222 W. Main Street, Pensacola, Florida 32502, and the Southern Youth Sports Association Inc. (the “Lessee”), a Florida not-for-profit corporation whose principal offices are located at 1320 W. Gregory Street, Pensacola, Florida 32502.

WHEREAS, the City owns the Theophalis May Resource Center at Legion Field located at 1301 West Gregory Street, Pensacola, Florida 32502 (such real property and building herein referred to as the “Center”); and

WHEREAS, City currently operates, manages, and promotes programs and activities in the City’s community centers and recreational facilities, for the benefit of the citizens of Pensacola, including programs and activities for youth and seniors, and the provision of meeting space for City public activities including but not limited to town hall meetings, neighborhood association meetings and other public meetings, and City athletics and after school programming (collectively such City public activities herein referred to as “Public Activity”); and

WHEREAS, Lessee operates a targeted youth development program (“Program”) as further described in Section 2 below; and

WHEREAS, Lessee represents and warrants to City that Lessee is organized exclusively for charitable and educational purposes and to foster national or international amateur athletic competition within the meaning of 501(c)(3) of the Internal Revenue Code; and

WHEREAS, City and Lessee previously entered into a License Agreement dated January 1, 2018, for permission to access the Center, and such Agreement and all renewals are replaced with this Lease; and

WHEREAS, City and Lessee desires that through this Lease, such Program be continued to be conducted at the Center, in addition to, and as an enhancement of the City’s programs and activities at the Center;

WHEREAS, Lessee seeks City license to enter the Center owned by the City for the purpose of operating the Program during the Program Times to the exclusion of any conflicting Public Activity via **a twenty five (25) year lease agreement**; and

WHEREAS, Lessee intends to expand the footprint of the Center **with the addition of a**

new gymnasium to be constructed west of the current gymnasium ("Improvements"), at their own expense via fundraising efforts, and in partnership with the City, and with this 25-year lease conditional on this proposed capital addition.

NOW THEREFORE, in consideration of the mutual covenants and terms and conditions herein contained, the parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein as a material part of this Agreement.
2. **Use of Premises.** City hereby grants, subject to the terms and conditions of this Agreement, Lessee exclusive use of the Center during the hours of program operation, for the purpose of operating a Program for the long-term targeted outcome of providing youth with a nurturing and safe environment, conducting activities to maximize their educational, physical, financial and emotional capacity, while decreasing juvenile delinquency, reducing juvenile substance abuse, reducing teen pregnancy, reducing school dropout and increasing the number of children participating in youth development activities. Activities shall include both recreational and competitive level basketball, volleyball, cheerleading, dance, R.E.A.D (Reading Educational and Development) program designed to help children learn to effectively read and speak, academic tutoring, summer camps, some travel, and after school programs. Lessee may register students and evaluate academics and behavior, including staff evaluations, report cards, conduct slips and skills evaluations done by coaches.

Hours of Program Operation: Program will be conducted during the afternoon to evening hours of 2:00 p.m. to 8:30 p.m. weekly on Monday through Friday, and from 8:00 a.m. to 5:00 p.m. on the days of Saturday and Sunday, year-round, with the exception of the summer dates June 1 through August 18, during which summer dates the Lessee shall conduct summer Program activities during the time from 8:00 a.m. to 8:30 p.m. for the entire week Monday through Sunday. However, all such conduct and scheduling shall be modified by Lessee to fully accommodate any Public Activity upon written notice ten (10) business days prior to scheduled date.

Conditions of Use: The Lessee agrees that certain conditions must be met and information provided prior to the assumption of any activities as a requirement of the lease. Lessee agrees to provide the following information to the City's Parks and Recreation Department:

- A list of all staff, coaches of any sort, referees, volunteers, and board members, and updated with any changes as they occur throughout the term of the Lease
- Annually, a recent copy of the Level 1 background screening results on all of the above listed persons per F.S. 943.0438, including but not limited to internet sexual offender registry and criminal background checks through an acceptable standard third-party vendor
- A copy of Southern Youth Sports Association's constitution, by-laws, and standard operating procedures
- A copy of written disciplinary guidelines for athletic participants, parents, and/or event attendees

- Notification within 12 hours of any accident or incident involving medical, ambulatory staff, or public safety personnel and a copy of any incident report
- Schedules and any subsequent updates of schedules for season end and start dates, practices, games, and tournaments of Lighthouse and any governing sanction body of the applicable sport

3. **Term.** This Agreement shall commence upon the date above and shall expire on December 31, 2046. Lessee is required to provide funding, construction design documents, and a timeline for substantial completion of Improvements to the Lessor within twelve (12) months of the execution of this Lease.
4. **Renewal.** Upon written request of the Lessee, this lease may be extended for an additional twenty-five (25) years beyond its initial term. Lessee must notify the Lessor at least six (6) months prior to the expiration of the initial terms of any intention to renew. Renewal of this lease will not be unreasonably withheld by the Lessor.
5. **Termination.** Lessor may terminate this Agreement at any time for any of the voidable events of Section 23 of the Lease by providing sixty (60) days written notice to Lessee of its intent to terminate the Lease. Lessee shall immediately cease use of and vacate the Center by the end of the notice period.
6. **Lease Payment.** Lessee shall pay to City the total amount of one hundred dollars (\$100.00) annually in advance, no later than October 1 of each year throughout the term of this Lease.
7. **Construction of Improvements and Construction Plans.** Lessee shall submit design plans and specifications for the Improvements to the Center to the Mayor or Mayor's designee for all improvements that will exceed the amount of \$10,000.00. Once the Lessee has received written approval from the Mayor or his designee, the Lessee may commence with the improvement. Lessee shall be fully responsible for the cost and development of the Improvements to the Center at Lessee's sole cost and expense, pursuant to the terms and conditions of this Lease Agreement.
8. **Title to Improvements.** Title to Improvements that shall be placed upon the Property by Lessee shall vest to Lessor upon the completion of the Improvements, and Lessee acknowledges that it shall have no right to remove such fixed or permanent Improvements from the Property.
9. **Lessee's Acknowledgements and Representations.** Lessee represents to and covenants with Lessor that the representations made by it are true and correct and that Lessee shall use the Center only for such purposes as described. Lessee acknowledges its use of the premises is subject to all existing covenants, conditions, reservations, contracts, leases, licenses, easements, encumbrances, restrictions, and rights-of-way with respect to the Center, whether or not of record.

10. **No Mortgages or Encumbrances.** Lessee shall not mortgage, encumber, or allow any liens to be placed against the Center or its leasehold interest therein.
11. **No Transfer or Assignment.** Lessee shall not transfer or assign this Lease without prior written approval of Lessor. Any attempt to transfer or assign this Lease without Lessor approval shall automatically terminate the Lease.
12. **Permits and Regulations.** Lessee shall be responsible for securing any required approvals, permits and authorizations from any federal, state, or local agencies and shall comply with all applicable laws and regulations, including City laws, rules, regulations, and policies.
13. **No Interference.** Lessee shall not interfere with the normal operation and activities of the City at the Center, and Lessee shall conduct Lessee's activities at the Center to minimize damage to the Center and inconvenience to the City, and the City's agents, employees, and invitees.
14. **Repair and Restoration.** All expenditures for improvements and maintenance repairs and construction in the amount of \$10,000.00 or more shall receive prior written approval from the Mayor or his designee.

If Lessee, or Lessee's agents or contractors cause any damage at the Center, or to City's infrastructure, building, improvements, equipment, or other property (collectively "Property"), Lessee shall notify City immediately within one (1) business day of the event of damage. Lessee shall immediately repair and restore the Center and all Property to the Property's original condition. Lessee shall provide to City the plan and schedule for repair for City consent. Lessee shall complete the repair and restoration to the satisfaction of the City as required hereunder in no less than ten (10) days of the date of any City notice to Lessee regarding such repair or restoration, or within such time as deemed necessary in the sole discretion of the City Director of Parks and Recreation. Failure of the Lessee to complete timely repair or restoration of Property to the satisfaction of the City as required may result, in the City's sole discretion, in the termination of the Lease. Without limiting other options of remedy available to the City in its sole discretion, City may repair and restore without restriction by Lessee and further Lessee shall reimburse City for all costs and expenses associated therewith.

15. **Organizational Documents.** Prior to execution of this Agreement, Lessee shall provide to City a copy of Lessee's incorporating documents and a list of its current Board of Directors.
16. **Center Maintenance.** Other than as applies to damage as provided above, the Parties agree that all necessary grounds and structure maintenance and upkeep of the Center will be carried out year-round by the City and the City will pay all water, gas, electric, telephone, sewage, garbage disposal, janitorial, and other utility bills related to the Center.

17. **Accounting**. Lessor agrees revenue and income derived from the activities of the Lessee are the exclusive property of the Lessee, provided however, Lessee shall use or cause such revenue and income derived in furtherance of at the Program at the Center. The Lessee shall provide a full accounting of all revenue and expenses to the City annually to the satisfaction of the City for verification.
18. **Equipment**. Lessee shall provide to City annually an inventory of equipment and personal property stored at the Center by the Lessee. Lessee acknowledges and agrees any Lessee equipment or personal property not removed from the Center within ten (10) days after termination or expiration of the Agreement shall become the property of the City.
19. **Emergency Use of Facilities**. Lessee acknowledges and agrees that, in the event of City emergency or disaster or in preparation of such an event, Lessee shall cease its Program and vacate the Center for the duration, as determined necessary by the Mayor of the City for the City's emergency utilization of the Center. City shall make all reasonable efforts to allow Lessor to return and resume use of Center.
20. **Indemnification and Hold Harmless Agreement in Favor of Lessor**. Lessee shall defend and indemnify Lessor, and save it harmless from any and all claims, suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury, or property damage in accordance with Exhibit B during the term of this Lease or any renewal or extension hereof.
21. **Insurance Required**. Lessee shall maintain insurance and provide Lessor with certificates in accordance with Exhibit B during the life of this Lease Agreement as may be applicable under the circumstances. Lessor shall have the right to make reasonable increases to the minimum required limits of liability on Exhibit B during the term of this Lease or any renewal or extension hereof. Lessee shall be responsible for all deductibles and self-insured retentions under its insurance policies.
22. **No Discrimination**. Lessee agrees that it will not discriminate upon the basis of race, color, religion, national origin, sex, pregnancy, age, disability or handicap, familial status, marital status or any other legally protected class in the construction, subleasing, use, occupancy, or operation of the Property, or in the improvements to be erected thereon and that each contract, or agreement with respect thereto shall specifically contain the following provision:

“Equal Opportunity Provision”

A. In the operation of the property, neither the Lessee nor any contractor or manager employed by Lessee shall discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, pregnancy, age, disability or handicap, familial status, marital status or any other legally protected class, and they shall take affirmative action to ensure that applicants are employed, and that

employees are treated during employment without regard to their race, color, religion, national origin, sex, pregnancy, age, disability or handicap, familial status, marital status or any other legally protected class. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by Lessee setting forth the provisions of this Equal Opportunity Clause, and to cause any contractor, subcontractor or manager to do likewise.

B. The Lessee and any contractor or manager shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, sex, pregnancy, age, disability or handicap, familial status, marital status or any other legally protected class. They shall send to each labor union or representative of workers with which they, or any of them, have a collective bargaining agreement or other contract or understanding, a notice, to be provided by Lessee, advising the labor union or workers' representative of their commitments under this Equal Opportunity Clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

23. Enforcement of Lease, Forfeiture Default, Remedies, Nonwaiver. Lessor may enforce the performance of this Lease in any manner provided by law, and this Lease shall be void upon the following events:

A. If Lessee shall desert or vacate the Property;

B. If default shall be made by Lessee in the payment of the Lease payments as specified in this Lease;

C. If Lessee shall file a petition of bankruptcy, or make an assignment for the benefit of creditors, or be adjudicated a bankrupt, or take advantage of any insolvency act.

D. If default shall be made by Lessee in the performance of any of the terms or conditions of this Lease.

E. If Lessee shall fail to comply with any of the statutes, ordinances, rules or regulations of any governmental body governing or regulating Lessee's business.

Lessor shall notify Lessee of any such default and of Lessor's intention to declare this Lease terminated which notice Lessor shall make in writing. Unless Lessee shall have removed or cured the default within (10) days if a monetary default or to maintain insurance as required by this Agreement or within thirty (30) days if a nonmonetary default, from the date of Lessor's notice of intention to declare the Lease terminated, this Lease shall come to an end as if the date established by notice from Lessor to Lessee, Lessor's agent or attorney shall have the right, without further notice or demand, to re-enter and remove Lessee and Lessee's property from the Property

without being deemed guilty of any trespass.

The failure of Lessor to insist, in any one or more instances, on a strict performance of any of the terms or conditions of this Lease, or to exercise any option set forth in this Lease, shall not be construed as a future waiver or a relinquishment of the provision or option, but it shall continue and remain in full force and effect. The receipt by Lessor of rent, with knowledge of the breach of any term or condition hereof, shall not be deemed a waiver of the breach and no waiver by Lessor of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Lessor.

24. **Notices.** All notices required hereunder shall be in writing and shall be addressed as follows:

City:

City Administrator
City of Pensacola
P. O. Box 12910
Pensacola, Florida 32521

with a copy to:

City Director of Parks and Recreation
City of Pensacola
P. O. Box 12910
Pensacola, Florida 32521

Lessee:

Tammie May
Southern Youth Sports Association Inc.
1320 West Gregory Street
Pensacola, Florida 32502

or to such other address as either party may indicate in a written notice to the other. All notices and communications given under this Agreement shall be deemed to have been duly given and received: (i) upon personal delivery, or (ii) as of the third business day after mailing by United States certified mail, return receipt requested, postage prepaid, addressed as set forth above.

25. **Provisions Binding.** The terms and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto, including sublessees, and their successors, respectively.
26. **Amendment.** This Lease may not be altered, changed, or amended except by an instrument in writing and signed by the parties hereto.
27. **Severability.** If any provisions of this Lease shall be declared in contravention of law or void as against public policy, such provisions shall be considered severable and the remaining provisions of this Lease shall continue in full force and effect.

28. **Paragraph Headings**. The paragraph headings in this Lease are intended for convenience only and shall not be taken into consideration in any construction or interpretation of this Lease or any of its provisions.
27. **Entire Agreement**. This instrument constitutes in the entire agreement between Lessor and Lessee on the subject of this Lease, and all prior to contemporaneous oral or written agreements, or representation of any nature with reference to the subject matter of this Lease are canceled and superseded by the provisions of this Lease.
28. **Waiver**. Failure on the part of Lessor to complain of any action or non-action on the part of Lessee, no matter how long it may continue, shall not be deemed to be a waiver by Lessor of any of its rights under this Lease. Further, it is covenanted and agreed that no waiver at any time of any of the provisions of this Lease by Lessor shall be construed as a waiver at any subsequent time of the same provisions. The consent or approval by Lessor to or of any action by Lessee requiring Lessor's consent or approval shall not be deemed to waiver or render unnecessary Lessor's consent or approval to or of any subsequent similar act by Lessee.
29. **Time of the Essence**. Time is of the essence of each and every provision, covenant and condition of this Lease on the part of Lessor and Lessee to be done and performed.
30. **Governing Law**. This Lease is subject to and shall be governed by the laws of the State of Florida.
31. **Venue**. Venue for any claim, action or proceeding arising out of the Lease shall be Escambia County, Florida.
32. **Assignment**. Lessee shall not assign this Lease without prior written approval by Lessor.
33. **Subletting**. Lessee may not sublet any portions of the Property without prior written approval from Lessor.

[The rest of page left intentionally blank.]

EXECUTED in multiple original copies to be effective as of the day and year first above written.

CITY OF PENSACOLA
A municipal corporation, Lessor

By: _____
Grover C. Robinson, IV
Mayor

Attest:

Ericka L. Burnett, City Clerk

Witnesses:

Signature

Print

Signature

Print

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Grover C. Robinson, IV, the Mayor of the City of Pensacola, a municipal corporation, for and on behalf of the City, and who is personally known to me.

GIVEN under my hand and official seal this _____ day of _____, 2021.

NOTARY PUBLIC

Name

[Type or print Name]
My Commission Expires:

Legal in form and valid as drawn:

Charles V. Peppler, City Attorney

Southern Youth Sports Association, Inc.

Attest:

By: _____
Lumon J. May, President

Secretary

Witnesses:

Signature

Print

Signature

Print

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by the President of Southern Youth Sports Association Inc., a Florida not for profit corporation, for and on behalf of the corporation and who is personally known to me or has produced _____ as identification.

GIVEN under my hand and official seal this _____ day of _____, 2021.

NOTARY PUBLIC

Name

[Type or print Name]
My Commission Expires:

Attachment "A"

PUBLIC RECORDS: Contractor shall comply with Chapter 119, Florida Statutes. Specifically, Contractor shall:

- A. Keep and maintain public records required by the City to perform the service.
- B. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if Contractor does not transfer the records to the City.
- D. Upon completion of the Contract, transfer, at no cost, to the City, all public records in possession of Contractor or keep and maintain public records required by the City to perform the service. If Contractor transfers all public records to the City upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request of the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

Failure by Contractor to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Contract by the City.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

THE OFFICE OF THE CITY CLERK, (850) 435-1715

PUBLICRECORDS@CITYOFPENSACOLA.COM

222 WEST MAIN STREET, PENSACOLA, FL 32502

INSURANCE AND INDEMNIFICATION
EXHIBIT B

GENERAL

The term City, as is used in this section, is defined to mean the City of Pensacola, itself, any subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents.

COVERAGE

Insurance shall be issued by an insurer whose business reputation, financial stability and claims payment reputation is satisfactory to the City, for the City's protection only. Unless otherwise agreed, the amounts, form and type of insurance shall conform to the following minimum requirements.

Worker's Compensation

The Lessee shall purchase and maintain Worker's Compensation Insurance Coverage for all Workers' Compensation as legally required. Additionally, the policy, or separately obtained policy, must include Employers Liability Coverage of at least \$100,000 each person – accident, \$100,000 each person – disease, \$500,000 aggregate – disease.

If Lessee qualifies as exempt by the Florida Department of Workers Compensation, a certificate of exemption is acceptable for this requirement.

Commercial General Liability Coverage

The Lessee shall purchase coverage on forms no more restrictive than the latest editions of the Commercial General Liability filed by the Insurance Services Office. **The City of Pensacola shall be an Additional Insured** and such coverage shall be at least as broad as that provided to the Named Insured under the policy for the terms and conditions of this Contract. The City shall not be considered liable for premium payment, entitled to any premium return or dividend and shall not be considered a member of any mutual or reciprocal company. Minimum limits of \$1,000,000 per occurrence for liability must be provided. If the required limits of liability afforded should become impaired by reason of any claim, then the Lessee agrees to have such limits of \$1,000,000 per occurrence, reinstated under the policy.

Commercial General Liability coverage must be provided, including bodily injury and property damage liability for premises, operations, products and completed operations (including pollution related claims), independent lessees, and property damage resulting from, collapse or

underground (c,u) exposures. The coverage shall be written on occurrence-type basis.

CERTIFICATES OF INSURANCE

Required insurance shall be documented in the Certificates of Insurance which provide that the City shall be notified at least thirty (30) days in advance of cancellation, non-renewal or adverse change or restriction in coverage. **The City shall be named as an Additional Insured** and this contract shall be listed. If required by the City, the Lessee shall furnish copies of the Lessee's insurance policies, forms, endorsements, jackets and other items forming a part of, or relating to such policies. Certificates shall be on the "Certificate of Insurance" form equal to, as determined by the City, an ACORD 25. **Any wording in a Certificate which would make notification of cancellation, adverse change or restriction in coverage to the City an option shall be deleted or crossed out by the insurance carrier or the insurance carrier's agent or employee.** If on an ACORD 25 or similar form, the words "endeavor to" and "but failure..." shall be deleted so that the sentence ends with the word "left" or signed endorsements for the cancellation clauses MUST accompany Certificate(s) of Insurance. The Lessee shall replace any canceled, adversely changed, restricted or non-renewed policies with the new policies acceptable to the City and shall file with the City, Certificate of Insurance under the new policies prior to the effective date of such cancellation, adverse change or restriction. If any policy is not timely replaced, in a manner acceptable to the City, the Lessee shall, upon instructions of the City, cease all operations under the Contract until directed by the City in writing, to resume operations.

INSURANCE OF THE LESSEE PRIMARY

The Lessee required coverage shall be considered primary, and all other insurance shall be considered as excess, over and above the Lessee's coverage. The Lessee's policies of coverage will be considered primary as relates to all provisions of the contract.

LOSS CONTROL AND SAFETY

The Lessee shall retain control over its employees, agents, servants, as well as control over its invitees, and its activities on and about the subject premises and the manner in which such activities shall be undertaken and to that end, the Lessee shall not be deemed to be an agent of the City. Precaution shall be exercised at all times by the Lessee for the protection of all persons, including employees and property. The Lessee shall make special effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.

HOLD HARMLESS

The Lessee shall indemnify and hold harmless the City of Pensacola, its officers and employees, from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Lessee and persons employed or utilized by the Lessee in the performance of this contract. The Lessee's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

PAY ON BEHALF OF THE CITY

The Lessee agrees to pay on behalf of the City, as well as provide a legal defense for the City, both of which will be done only if and when requested by the City, for all claims as described in the Hold Harmless paragraph. Such payment on the behalf of the City shall be in addition to any and all other legal remedies available to the City and shall not be considered to be the City's exclusive remedy.

GOVERNING LAW AND VENUE

This Contract is governed and construed in accordance with laws of the State of Florida. The law of the State of Florida shall be the law applied in the resolution of any claim, actions or proceedings arising out of the Contract. Venue for any claim, actions or proceedings arising out of this Contract shall be Escambia County, Florida.