

LEASE AGREEMENT
MALCOLM YONGE GYMNASIUM

STATE OF FLORIDA
COUNTY OF ESCAMBIA

THIS LEASE AGREEMENT (the “Lease”) is made and entered into to be effective as of the ____ day of _____ 2021, by and between the City of Pensacola, a municipal corporation of the State of Florida whose principal offices are located at 222 W. Main Street, Pensacola, Florida 32502 (the “City” or “Lessor”) and the Lighthouse Private Christian Academy Inc. (the “Lessee”), a Florida not-for-profit corporation whose principal offices are located at 5613 Gulf Breeze Parkway, Gulf Breeze, Florida 32563.

1. STATEMENT OF PURPOSE

Lessor owns certain real property in the City of Pensacola having a postal address of 900 East Jackson Street, more particularly described on Exhibit A attached hereto and incorporated by reference and known as the Malcolm Yonge Gymnasium (the “Property”). Lessee intends to use the Property for school functions such as basketball and volleyball practices and games, physical education classes, and other school recreational and educational activities.

2. PREMISES LEASED

Lessor hereby leases to Lessee the Property subject to the terms, provisions, and conditions of this Lease.

3. TERM

The term of this Lease shall be for a period of twenty (20) years commencing on the date and year first above written.

4. RENEWAL

Upon written request of the Lessee, this lease may be extended for an additional ten (10) year renewal period beyond its initial term. Lessee must notify the Lessor at least six (6) months prior to the expiration of the initial term and the expiration of any subsequent renewals. Renewal of this lease will not be unreasonably withheld by the Lessor.

5. TERMINATION FOR CONVENIENCE

Lessor may terminate this Lease Agreement for convenience at any time upon providing Lessee with written notice of its intent to terminate the Lease delivered three-hundred and sixty-five (365) calendar days in advance of the effective date of termination.

6. LEASE PAYMENTS

Lessee shall pay to the City lease payments of one-hundred dollars (\$100) annually for the duration of the lease.

Lessee shall expend a minimum of twenty-five thousand dollars (\$25,000) annually each year in capital improvements and/or repairs to the Property. Capital repairs that exceed the twenty-five thousand dollar (\$25,000) annual commitment may carry over into the next year as credit towards that year's \$25,000 commitment. Lessee shall provide all receipts of repairs by September 30, each year. All capital repairs and improvements must be conducted as detailed in Section 10.

A. Triple Net Lease

The parties agree that this is a triple net lease, and that the Lessee is responsible for all expenses such as capital expenses, general maintenance expenses (including landscaping), insurance, utilities, and any applicable taxes.

7. USE OF PREMISES

The Property shall be used by Lessee solely for the purposes as stated within Paragraph 1, and any other uses must be approved by the City. Lessee also agrees to coordinate with the City of Pensacola Parks and Recreation Department for scheduled use of the property for other City-sponsored recreational programs, which may include, but are not limited to summer basketball camps, summer volleyball camps, senior pickle ball and senior volleyball. During the summer and school vacations as appear in the school's annual calendar the City shall have priority use of the facility upon a minimum of four (4) weeks advance notice to the school for use during those school break periods. Each party shall exert best efforts to coordinate events or programs with each other in order to maximum potential use of the facility.

8. 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:

1. A list of all staff, coaches, assistant coaches, referees, volunteers, and board members, and update with any changes as they occur annually.
2. Provide upon request a recent copy of the Level 1 background screening results on all of the above listed persons per F.S. 943.0438.
3. Provide a copy of Lighthouse Private Christian Academy's constitution, by-laws, and standard operating procedures annually.
4. Notification within 12 hours of any accident or incident involving medical, ambulatory staff or public safety personnel and a copy of any incident report.
5. Notification within 12 hours of any damage to the building.
6. 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 should be provided quarterly.

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 Property only for such purposes as described.

10. CONSTRUCTION AND TITLE TO IMPROVEMENTS

In the event Lessee proposes to make any substantial change in excess of \$5000 in or to the improvements erected on the Property, such changes shall require Lessor’s written approval which shall not be unreasonably withheld. Lessor shall furnish written approval or disapproval of such proposed changes within sixty (60) days of submission of said changes by Lessee. Any capital improvements or repairs over \$5,000 require the written approval for the Mayor or his designee.

Lessor reserves the right in its sole discretion to prioritize the necessity of all capital repairs and substantial improvements to the Property. Lessee agrees that their lease payment contributions are not considered as vestment or assertion of priority in any capital improvements or repairs.

Title to Buildings and Improvements that are on and shall be placed upon the Property by Lessee shall vest to the Lessor upon the expiration or termination of this lease. Lessee acknowledges that it shall have no right to remove such fixed or permanent buildings or improvements from the Property without the express written consent of the Lessor upon request by the Lessee.

11. INSPECTION AND ACCESS TO PROPERTY

During the term of the Lease and any renewal or extension hereof, Lessee shall permit the representatives of Lessor access to the Property at anytime in response to an emergency or to inspect for safety purposes and/or mitigation of damages, and for annual and other type of inspections with reasonable notice to the lessee. An inspection shall occur at least once per year by a representative of the City to document improvements and the condition of the property.

12. COVENANTS AND RESTRICTIONS

Lessor and Lessee agree that the following restrictions shall be binding on Lessee and any authorized sublessees to whom the Lessor has consented:

- A. That the Property shall be devoted only to the uses specified in this Lease or as approved in writing by Lessor.
- B. That the Lessee will maintain the exterior appearance (including landscaping) suitable to the area and the Property’s uses.
- C. That the Lessee shall maintain the interior of the Property in good working order and shall not allow the Property to deteriorate excepting normal wear and tear from permitted use.

- D. That the Lessee shall be solely responsible for all internal and external maintenance of the structure, all janitorial services required, and landscape maintenance of the Property and its improvements.

13. NO MORTGAGES OR ENCUMBRANCES

Lessee shall not mortgage, encumber, or allow any liens to be placed against the Property or its leasehold interest therein.

14. LESSOR'S WARRANTIES

Lessor warrants that Lessee may use and have the quiet enjoyment of the Property for its intended use, that Lessor has the right to enter into this Lease, and Lessee's possession will be superior to the assertions of third parties claiming title superior to Lessor (including lien claims).

15. 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.

16. 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.

17. 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.

18. AD VALOREM TAXES AND UTILITIES

Lessee shall pay any and all ad valorem taxes, or other taxes that may be levied against the Property, commencing as of the effective date hereof. Lessee shall pay all utilities for the Property.

19. WASTE

Lessee shall maintain the Property in a good, safe, and substantial condition and shall use all reasonable precaution to prevent waste, damage, or injury to the Property.

20. DAMAGE

Lessee shall repair, replace, and maintain the Property in a good, safe, and substantial condition and shall use all reasonable precaution to prevent waste, damage or injury to the Property. In the event of damage to or destruction of any improvements hereafter constructed on the Property by fire, windstorm, water, or any other cause whatsoever, Lessee shall, within a reasonable time, repair or rebuild such structures so as to place the same in as good and tenable condition as they were before the event causing such damage or destruction; failure to do so shall constitute a breach of this Lease.

21. 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 ten (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.

22. NOTICES

All notices provided in this Lease shall be deemed sufficient when sent by U.S. Certified Mail, Return Receipt Requested, postage prepaid, to the following address:

Lessor: The City of Pensacola
 c/o City Administrator
 City Hall
 222 West Main Street
 Pensacola, Florida 32502

Lessee: Lighthouse Private Christian Academy, Inc.
 Attn: President
 625 North 9th Avenue
 Pensacola, Florida 32501

23. 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.

24. AMENDMENT

This Lease may not be altered, changed, or amended except by an instrument in writing, signed by the parties hereto.

25. 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.

26. 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 waive 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.

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:

City Attorney's Office

Lighthouse Private Christian Academy, Inc.

Attest:

By: _____
Joanna Johannes, 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 Lighthouse Private Christian Academy 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:

EXHIBIT A

Parcel Description of Real Property for Lease – 900 East Jackson Street

A parcel of land in Escambia County, Florida being more particularly described as follows:

South 7.57 feet of Lots 1 thru 4 and West 27 feet of Lot 5 and East 13 feet of Lot 5 and all Lots 6 thru 20, Block 82, New City Tract, according to the Map of the City of Pensacola, copyrighted by Thomas C. Watson in 1906, less Official Records Book 4905, Page 355.

This lease is for the real property and improvements (the gym).

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.

EXHIBIT "C"

PUBLIC RECORDS: Provider shall comply with Chapter 119, Florida Statutes. Specifically, Provider 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 Provider 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 Provider or keep and maintain public records required by the City to perform the service. If Provider transfers all public records to the City upon completion of the Contract, Provider shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Provider keeps and maintains public records upon completion of the Contract, Provider 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 Provider to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Contract by the City.

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

**THE OFFICE OF THE CITY CLERK, (850) 435-1715
PUBLICRECORDS@CITYOFPENSACOLA.COM
222 WEST MAIN STREET, PENSACOLA, FL 32502**