



## **LICENSE AGREEMENT**

This License Agreement (“Agreement”), made and entered into as of the date of the last signature placed hereon below, by and between the City of Republic, Missouri, a municipal corporation duly organized and existing under the laws of the State of Missouri (hereinafter “the City”) and Lester E. Cox Medical Centers, a Missouri not-for-profit corporation (hereinafter “Licensee”).

### **WITNESSETH:**

**WHEREAS**, the City is the owner of record of real property located at 711 E. Miller Road within the corporate limits of the City, upon which the City’s Community Center is located (the “Premises”); and

**WHEREAS**, Licensee desires to make use of part of the Premises for the purpose of operating a fitness center inside of the Community Center; and

**WHEREAS**, the City is in agreement that the Premises may be used by Licensee during the term specified herein subject to the following terms and conditions.

**NOW THEREFORE**, it is hereby agreed by and between the parties as follows:

**1. Grant of License.** Subject to the covenants and conditions of this Agreement, the City hereby grants to Licensee a license to use the approximately 10,350 square feet of space as depicted on **Exhibit A**, attached hereto and incorporated herein by reference, to include use of the fitness area, locker rooms, restrooms, and shared space to include the basketball courts, indoor track, emergency exits, and family changing room(s), for the term specified herein below.

**2. Term.** The term of this Agreement shall be for a period of three (3) years, commencing on November 30, 2024 (the “Effective Date”), and ending on November 30, 2027 (the “Termination Date”).

**3. Fees.** In consideration of the license herein granted, Licensee agrees to pay to City the total sum of Three Hundred Fifty Eight Thousand Two Hundred Thirteen Dollars and Forty One Cents (\$358,213.41) in three (3) separate payments of One Hundred Nineteen Thousand Four Hundred Four Dollars and Forty Seven Cents (\$119,404.47), each of which shall be remitted to the City by no later than December 1<sup>st</sup> of the year to which such payment applies, for the duration of this Agreement.

**4. Permitted Uses of Premises.** During the term of Agreement, or any duly executed renewal or extension thereof, Licensee agrees and represents that it will:

- I. Only use the Premises for the following purposes:
  - a) Providing exercise instruction by a qualified (degreed and/or certified) staff member or authorized agent, and
  - b) Providing exercise programs and personalized fitness and health-related services, and
  - c) Providing fitness and health education, provided said education is appropriately adapted to the age of the individual(s) receiving the service.

- II. Clean and maintain the equipment necessary to provide services to the members of Licensee's programs.
- III. Provide qualified staff necessary to maintain the facility.
- IV. Maintain the Premises in clean and good condition, and keep all improvements on the Premises in working condition, to the satisfaction of the City.

**5. Payment of Utilities.** At no cost to Licensee, the City shall provide water and sewer utility service to the Premises and the City shall be responsible for any and all additional utility expenses associated with the operation of the Premises. The City shall further maintain, at no cost to Licensee, the infrastructure to the Premises (including, without limitation, the lighting, heating, air conditioning, sewage facilities including free flow to the main sewer line, and all electrical wiring).

**6. Equipment and other Tangible Items.** Licensee shall be solely responsible for providing all equipment, furnishings, signage and any special finishes (floor, wall, ceiling, etc.) associated with Licensee's use of the Premises under this Agreement.

**7. Limitations.** Licensee shall not undertake to alter, deface or destroy any improvement, or portion thereof, presently existing on the Premises; nor shall Licensee undertake to construct any new or additional improvement(s) on the Premises without first obtaining the written consent of the City.

**8. Unlawful Purposes.** Licensee shall not maintain or permit any nuisance to occur on the Premises or use or permit the use of the Premises for any unlawful or improper purpose.

**9. Acceptance by Licensee.** Licensee accepts the Premises, including any facilities or improvements thereon, in its present condition. Licensee warrants and represents to the City that Licensee has inspected the Premises and is leasing the Premises based upon Licensee's inspection, and not as the result of any representations made by the City or its agents as to the condition of the Premises.

**10. Indemnification and Required Insurance.**

- I. Licensee shall indemnify and hold harmless the City from any claims, liabilities, losses, damages, or expenses of any kind resulting from Licensee's use of the Premises, including, but not necessarily limited to:
  - a) Any injury or damage to a person or to property occurring while in or on the Premises when such injury or damage is caused by Licensee (whether Licensee's employees or agents); and
  - b) Any injury or damage to a person or to property in or on the Premises when such injury or damage is caused by Licensee's equipment, including Licensee's use(s) of such equipment, Licensee's maintenance (or failure to maintain) such equipment, or otherwise.
  - c) Any failure by Licensee to perform or comply with the provisions of this Agreement or the requirements of any duly authorized governmental agency or political subdivision; and
  - d) Any failure by Licensee to pay any obligation incurred by Licensee related to the use of the Premises.

- II. Licensee shall obtain, and maintain throughout the term of this Agreement, the following insurance(s) to cover its use of the Premises as well as any operations it performs or services it provides on or about the Premises, in the following particulars:
  - a) Workers' Compensation: Licensee shall maintain Employers Liability and Workers' Compensation Insurance for all persons it will employ or retain to perform or provide any service under this Agreement, which meets the minimum requirements under Missouri law; but, in no event shall be less than \$500,000 each employee and \$500,000 each accident.
  - b) Commercial General Liability: Licensee shall maintain Commercial General Liability coverage for personal and advertising injury, bodily injury including accidental death, and property damage, which may arise from performance of this Agreement in an aggregate amount of no less than \$3,370,137 each occurrence and \$505,520 each person. Said coverage may be provided by self-insured trust.

**11. Subleasing or Assignments.** Licensee shall not, without City's prior written consent, sublet, assign, or otherwise transfer any rights under this Agreement, including any right or interest in the Premises, or any existing or future improvement constructed or installed thereon. Any consent by the City for a specific sublease or assignment shall not be deemed consent for any other sublease or assignment. Any encumbrance, assignment, transfer, or sublease, whether voluntary or involuntary (by operation of law or otherwise), which occurs without the City's prior written consent, shall be void and shall be grounds for termination of this Agreement. In addition, Licensee shall not hunt or permit hunting on the Premises without the prior written consent of the City.

**12. Termination.**

- I. Termination Without Cause:
  - a) Licensee may terminate this Agreement without cause by providing the City with at least ninety (90) days' prior written notice of its intent to terminate. Such termination shall be effective upon the expiration of the 90-day notice period, unless otherwise agreed to by the Parties in writing.
  - b) The City may terminate this Agreement without cause at any time by providing Licensee with at least thirty (30) days' prior written notice of its intent to terminate. Such termination shall be effective upon the expiration of the 30-day notice period, unless otherwise agreed to by the Parties in writing.
- II. Termination for Cause:
  - a) Licensee may terminate this Agreement for cause by providing the City with at least sixty (60) days' prior written notice of its intent to terminate, stating the grounds for such termination. Licensee shall remain liable for all obligations under this Agreement through the effective date of termination.
  - b) The City expressly reserves the right to immediately terminate this Agreement and revoke the license granted to Licensee hereunder, for cause, within the discretion of City. Grounds for such termination and revocation shall include the following:

- i. A material breach of the terms of this Agreement.
- ii. Failure to comply with applicable local, state, or federal laws, regulations, or City Code provisions governing Licensee's use of the Premises.
- iii. Any action or inaction by Licensee that poses a risk to the health, safety, or welfare of the public, City staff, or other users of the City's facilities.
- iv. Negligence or willful misconduct by Licensee that results in damage to City property or facilities, or failure to adequately maintain and care for the Premises as required by this Agreement.
- v. Any instance of fraud, misrepresentation, or other intentional misstatement of facts by Licensee in connection its use of the Premises or otherwise relating to this Agreement.
- vi. Failure to maintain the required insurance coverage(s) as set forth in paragraph 10 of this Agreement.
- vii. If Licensee becomes insolvent, files for bankruptcy, or otherwise becomes financially incapable of fulfilling its obligations under this Agreement.

**13. Default and Remedies.** In the event: (a) Licensee fails to comply with any term, provision, condition, or covenant of this Agreement; (b) Licensee vacates the Premises without complying with the notice provisions set forth herein; (c) any petition is filed by or against Licensee under any section or chapter of the Federal Bankruptcy Act, as amended; (d) Licensee becomes insolvent; or (e) a receiver is appointed for any assets of Licensee; then, Licensee shall be in default of this Agreement.

Upon a default by Licensee, the City may give Licensee seven (7) calendar days' notice to cure the default, or take such other action as allowed by law, and, if not timely cured in the City's sole determination, may immediately terminate the Agreement without penalty to the City.

**14. Attorneys' Fees.** If the City is required to bring any action against Licensee to enforce the provisions of this Agreement, or to seek relief in connection with Licensee's unauthorized use(s) of the Premises or unremedied/unrepaired damage(s) to the Premises caused by Licensee, the City shall be entitled to recover its reasonable attorney's fees from Licensee, in addition to any other relief granted.

**15. Disclosure Obligations under Missouri Sunshine Law, § 610.010 et seq., RSMo.**

- I. The Parties recognize that the City is a governmental body subject to the open records provisions of the Missouri Sunshine Law (Chapter 610, RSMo.) ("Sunshine Law"). Any and all records generated in connection with this Agreement are open records subject to disclosure upon request for the same by any member of the public, unless expressly permitted to be closed or otherwise exempt from disclosure under the Sunshine Law.
- II. If a request under the Sunshine Law ("Sunshine Request") is presented to the City for records pertaining to this Agreement, the City shall notify Licensee of the Sunshine Request, and Licensee shall promptly identify and provide all documents being requested as soon as practicably possible so as to enable the City to timely respond to such request. Licensee is hereby advised and acknowledges that the City has

three business days to respond to the Sunshine Request; therefore, time is of the essence in responding to City's notice under this paragraph.

- III. Fees may be assessed for time, efforts and/or costs incurred in responding to Sunshine Requests or otherwise ensuring compliance with Sunshine Law requirements, but only to the extent such fees are expressly authorized by the Sunshine Law.
- IV. Any reports, data, or similar information given to, prepared or assembled by Licensee under this Agreement which the City requests be kept as confidential pursuant to an authorized exception under the Sunshine Law, shall be considered solely and entirely the property of the City and shall not be made available by Licensee to any individual or organization without the City's prior written approval.

**16. Notices.** Except as otherwise expressly provided by law, any notices required or permitted to be given in connection with this Agreement must be in writing, and shall be deemed sufficient when they are either: (a) personally delivered to the recipient at the address described below with a written receipt confirming delivery to the receiving party; or (b) mailed by certified United States Mail, postage pre-paid, return receipt requested; or (c) sent by a nationally recognized overnight courier (i.e., USPS, UPS, FedEx, etc.) with tracking and delivery information included.

To the City:                      City of Republic, Missouri  
Attn: City Clerk  
4221 S. Wilson's Creek Boulevard  
Republic, Missouri 65738

To Licensee:                      Lester E. Cox Medical Centers  
Attn: Property Manager  
3801 S. National Avenue  
Springfield, Missouri 65807

With a copy to:                      Lester E. Cox Medical Centers  
Attn: General Counsel  
3801 S. National Avenue  
Springfield, Missouri 65807

**17. Binding Effect and Non-Assignment.** This Agreement shall be binding upon and inure to the benefits of both Parties and their respective heirs, executors, administrators, successors, and assigns; provided, however, nothing in this paragraph shall be construed as the City's consent to any assignment of this Agreement or any interest herein by Licensee except as provided in Paragraph 11, above.

**18. Legal Requirements.** Licensee shall comply with all laws, orders, ordinances, and other public requirements now or hereafter affecting the Premises or the use thereof; and shall indemnify, defend, and hold the City harmless from expense or damage resulting from failure to do so, including attorney's fees and costs.

**19. Non-waiver.** The City's waiver of any breach of any provision of this Agreement shall not constitute a continuing waiver of any subsequent breach by Licensee of either the same or any other

provision hereof.

**20. Force Majeure Clause.** In the event City is prevented or delayed in the performance of any of its covenants or obligations under this Agreement by circumstances beyond its control (including but not limited to law changes, governmental regulations or prohibitions, etc.), such delay or non-performance shall not be deemed a default under this Agreement and shall be deemed waived and accepted by Licensee.

**21. Governing Law and Forum Selection.** The City and Licensee expressly and irrevocably agree that this Agreement shall be construed in accordance with and governed by the laws of the State of Missouri, with the venue and jurisdiction in the Circuit Court of Greene County, Missouri.

**22. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**23. Severability.** If any provision of this Agreement is or becomes illegal, unenforceable, or invalid, it shall not affect the enforceability or validity of any other provision in this Agreement

**24. Entire Agreement.** This Agreement constitutes the sole agreement between the Parties with regard to the subject matter herein and supersedes any and all prior understandings, negotiations, Agreements or agreements between the Parties relative thereto.

[The remainder of this page is intentionally left blank. Signatures follow on the next page.]

**IN WITNESS WHEREOF**, the Parties hereto have set their hands and seals on the day and year herein stated.

**GRANTOR**  
The City of Republic, Missouri

**By:** \_\_\_\_\_  
Kris Parks, Parks & Recreation Director

**Date:** \_\_\_\_\_

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**Attest:**

\_\_\_\_\_  
Laura Burbridge, City Clerk

**Date:** \_\_\_\_\_

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**Approved as to Form:**

\_\_\_\_\_  
Megan E. McCullough, City Attorney

**Date:** \_\_\_\_\_

**LICENSEE**  
Lester E. Cox Medical Centers

**By:** \_\_\_\_\_  
Matthew Turner, Vice President

**Date:** \_\_\_\_\_

**EXHIBIT A**

