

**LEASE AGREEMENT BETWEEN THE CITY OF RAPID CITY
AND RAPID CITY YOUTH BOXING, INC.**

For and in consideration of the mutual promises and agreements contained herein, the City of Rapid City (City), a municipal corporation, agrees to lease to Rapid City Youth Boxing, Inc. (Tenant) a corporation of the State of South Dakota, a specified area to operate a boxing club, subject to the following terms and conditions:

1. Consideration. The City hereby leases to Tenant the below described premises for the sum of One Dollar (\$1.00) per year and other good and valuable consideration, including but not limited to, maintenance of general grounds, construction of incidental improvements, administration of a boxing program open to the citizens of the City, and responsibility for all utility bills. Said sum is payable to the City of Rapid City on or before the first day of January of each succeeding year.

2. Term. The term of this agreement is from January 1, 2013, to June 30, 2018. This lease may be terminated by either party giving notice of its intent to terminate said lease on or before May 15th of any year, which termination will be effective as of June 30th immediately following unless otherwise stated.

3. Premises. The premises leased by the City to Tenant are described as follows:

TENANT:

A portion of Tract 29, Rapid City Greenway Tracts, Section 6, Township One North (T1N), Range Eight East (R8E), Black Hills Meridian, Rapid City, Pennington County, South Dakota; commonly known as 200 E. Main North Street.

4. Surrender of Premises. Tenant agrees to surrender the premises, or a part thereof, in the event it is necessary for expansion or utilization of public park facilities and

Tenant further agree to abandon the premises, or a part thereof, in the event the demand is made by the United States government. Tenant further agrees to abandon the premises, or a part thereof, whenever ordered to do so by a court of law or whenever the City is ordered to terminate said agreement by an order of any court.

5. Use. Tenant shall have priority use of the premises during the lease period, subject to the terms of this lease, for the purpose of operating a boxing club. Tenant agrees that the City may use the premises when the same is not required for use by Tenant, and such use by the City shall be consistent with the normal usage of said premises.

6. Use by Others. Lessee agrees to allow other persons or organizations to use the premises, subject to item #5 above and reasonable terms and conditions. City and Lessee agree that Lessee will have the opportunity to review proposals for activities at the facility at least one year in advance, or before the schedule for the following season is complete. If other persons or organizations use the premises, Lessee may be compensated for use of the facility and/or offered the opportunity to work on the event and earn compensation for their program. Both parties agree that Lessee or its designee shall participate in the local organizing committee that is charged with reviewing and fully considering any proposals for use of the facilities by others.

7. Maintenance. Tenant agrees to maintain said premises under the authority of the Parks and Recreation Director or his designee. Tenant agrees to repair or replace any property damaged by Boxing Club members or invitees which occurs while the premises are in use by Tenant. Tenant agrees to be responsible for policing the premises and to pick up and make ready for city collection of all trash, recyclables, debris, and

waste material of every nature (including mowing of weeds), resulting from the use of the premises by Tenant, its participants or any of its invitees. Tenant agrees to provide trash and recycling receptacles for use at the premises. Tenant also agrees to place all collected trash, recyclables, debris, and waste in a designated location for removal by the City of Rapid City. Lessee agrees to promote and encourage recycling throughout the premises.

The City of Rapid City, at its own expense, agrees to provide routine maintenance to the structure itself, permanent fixtures, and infrastructure, including but not limited to repair or replacement of HVAC systems; repair of water, sewer, storm sewer and other utility lines; and maintenance of parking lots. The City of Rapid City will undertake the aforementioned repairs at its expense only to the extent that the repair or replacement is not due to damage caused by the negligence or intentional acts of Tenant or its invitees.

8. Mowing. Tenant shall mow the grass areas around the boxing facility on a substantially weekly basis. The Parks Division Manager can mow the area at the rate of twenty-five dollars (\$25.00) per hour for each person and machine used, provided that the Parks Division Manager: (1) determines the need for mowing; (2) gives Tenant three days notice of his intent to do so if Tenant fails to mow; and (4) determines he has the available manpower and equipment. Should the Parks Division Manager not have the available manpower and equipment, he can arrange for a private contractor to mow at the expense of Tenant.

9. Construction. Tenant shall have the right to construct at its own expense accessory and customarily incidental improvements with prior approval of the plans by the Director of Parks and Recreation or his designee. Construction and other improvements

shall be in conformity with the regulatory codes of the City and subject to the advance approval of the Director of Parks and Recreation or his designee. Any permanent improvements or fixtures constructed by Tenant on the leased premises shall be considered the property of the City.

10. Expense. The City of Rapid City shall assume no expenses as a result of this lease or any of the operations of Tenant. Tenant agrees to pay its own administration expenses, including but not limited to, lights and electricity, grounds crew, office supplies, miscellaneous equipment, and secretarial fees. Tenant agrees that the electric utilities will be metered in the name of and billed directly to Tenant and that all expenses incurred by it shall be paid within thirty (30) days of due date.

11. Public Accounting. Tenant agrees to make a public accounting of its financial transactions within sixty (60) days after the close of its operating year. Such accounting shall be in the form of a report of income and expenses and a balance sheet of its assets and liabilities, which report shall be available for public inspection at the City Finance Office.

12. Termination. If Tenant shall dissolve or if it shall abandon the use of the premises for one season, this lease shall be terminated and Tenant shall have no further rights hereunder. Further, if Tenant shall default in its compliance with any term or covenant hereunder, and notice has been delivered to the tenants and the issue has not been cured within 60 days, this Lease may be terminated at the option of the City.

13. Liability. Tenant agrees that the City shall be held harmless from any and all liability arising from any operation or use under this lease of the described premises by it or its agents or employees or any other person using the premises. Tenant further agrees

to defend the City against any and all claims arising from the operation or use under this lease of the described premises by Rapid City Youth Boxing, Inc. or its agents or employees or any other person using the premises. Tenant agrees to purchase and maintain bodily injury and property damage insurance for each occurrence of injury or damage in the minimum amount of One Million Dollars (\$1,000,000) with participant's injury liability of at least Five Hundred Thousand Dollars (\$500,000). The City shall be named an additional insured in said policy or policies and Tenant shall furnish to the City evidence of insurance by a certificate of insurance of required coverage.

14. Assignment or Subletting. This lease shall not be assigned, nor the premises sublet, by Tenant except on written consent and approval of the City.

15. Concession, Advertising, and Naming Rights. Tenant shall have the right to operate concessions for the sale of beverages, food, programs, and other items usually sold in this type of facility. Tenant shall have the right to sell advertising space on the inside of the facility and all revenue derived from concessions and advertising shall belong to Tenant.

The City retains all naming rights for the facilities and premises; the concessions and advertising rights granted herein to Tenant shall not abrogate the City's authority to sell naming rights to the facilities and premises which are the subject of this Lease, and to retain all revenues therefrom. It is agreed that naming of facilities and premises shall be consistent with USA Boxing requirements.

16. City Authority. All matters pertaining to the terms of this lease shall be subject to the powers of the City Council and its designated authorized agents consistent with the laws of the State of South Dakota.

17. Change of Contacts and Officers. Tenant agrees to notify the Director of Parks and Recreation of any changes in the officers of Tenant within thirty (30) days after said change. Attached to and incorporated by reference into the terms of this agreement are the names and addresses of the current office holders of Rapid City Youth Boxing, Inc.

18. Non-Discrimination. Tenant shall not on the grounds of race, color, sex, creed, religion, ancestry, national origin or disability discriminate or permit discrimination against any person or group of persons in any manner prohibited by local, state, or federal laws. Tenant further agrees to comply with any requirements made to enforce the foregoing which may be required of or by the City.

19. Relationship Between the Parties. This lease does not create any employee/employer relationship between the City of Rapid City and Tenant, its agents or employees. Nothing contained in this Lease is intended to create a partnership or joint venture between Tenant and the City of Rapid City. No agent of Tenant shall be the agent of the City, and Tenant covenants that it will not take any action in the name of, or by holding itself out as the agent of, the City of Rapid City.

20. Integration. The parties agree that this Lease Agreement constitutes the entire understanding between them and that there are no other oral or collateral leases or understandings of any kind or character except those contained herein.

21. Savings Clause. Should any of portions of this Lease be declared void, the remainder of the Lease shall remain in full force and effect.

22. Choice of Law. This Lease shall be governed by the laws of the State of South Dakota and any action to enforce the terms of this Lease shall be venued in the 7th Judicial Circuit, Pennington County, South Dakota.

23. Time of Essence. Time is of the essence of this Lease.

24. Notices. All notices given hereunder shall be made by hand delivery or certified mail, return receipt requested, to the parties at the following addresses:

Director of Parks and Recreation
515 West Boulevard
Rapid City, SD 57701

Chairman, Rapid City Youth Boxing, Inc.
200 E. Main North Street
Rapid City, SD 57701

25. Condition of Premises; No Warranties; Release. The taking of possession of the premises by Tenant shall be conclusive evidence that Tenant (i) accepts the premises as suitable for the purposes for which same are leased; (ii) accepts the premises and each and every part and appurtenance thereof as being in a good and satisfactory condition, and (iii) waives any defects in the premises and its appurtenances. IT IS UNDERSTOOD AND AGREED THAT THE PREMISES ARE BEING LEASED HEREUNDER “**AS IS,**” WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, BY THE CITY OF RAPID CITY. The City has not made (except as expressly set forth herein) any representations or warranties of any kind or character whatsoever, express or implied, with respect to the premises, its condition (including without limitation any representation or warranty regarding suitability, habitability, quality of construction, workmanship, merchantability, or fitness for a particular purpose), environmental condition or compliance with environmental or other applicable laws, and Tenant acknowledges that it is entering

into this Lease without relying upon any such statement or representation or warranty. The City of Rapid City shall not be liable, and Tenant hereby releases the City, for (i) injury or damage which may be sustained by Tenant, or any invitee or their property, caused by or resulting from the state of repair of the premises; (ii) injury or damage from fire, steam, electricity, gas, water or rain which may leak or flow from or into any part of the premises; or (iii) the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures of the premises.

Dated this _____ day of _____, 2013.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer
(SEAL)

State of South Dakota)
 SS.
County of Pennington)

On this the _____ day of _____, 2013 before me, the undersigned officer, personally appeared Sam Kooiker and Pauline Sumption, who acknowledged themselves to be the Mayor and Finance Officer, respectively, of the City of Rapid City, a municipal corporation, and that they as such Mayor and Finance Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Rapid City by themselves as Mayor and Finance Officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public, South Dakota

My Commission Expires:
(SEAL)

Rapid City Youth Boxing, Inc.

By _____
Its _____

State of South Dakota)
 SS.
County of Pennington)

On this the _____ day of _____, 2013, before me, the undersigned officer, personally appeared _____ who acknowledged himself to be the _____ of Rapid City Youth Boxing, Inc., and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing his name as _____ of Rapid City Youth Boxing, Inc.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public, South Dakota

My Commission Expires:

(SEAL)