

USER AGREEMENT

THIS USER AGREEMENT (“Agreement”) is made and entered effective as of the date set forth on the City’s signature page, between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **MIKE QUINTANA, SR. d/b/a SLOAN’S LAKE BOXING CLUB**, 6910 Coors Court, Arvada, CO 80004-1165 (“User”).

RECITALS

WHEREAS, the City is the owner of a certain facility known as the Sloan’s Lake Gun Club Building located in the southwest corner of Sloan’s Lake Park, a designated City park; and

WHEREAS, Mike Quintana, Sr., as operator of the Sloan’s Lake Boxing Club, is actively involved in the promotion and operation of amateur boxing programs in accordance with the rules set forth by USA Boxing; and

WHEREAS, the Manager of the City’s Department of Parks and Recreation (the “Manager”) finds and determines that an appropriate use of the Sloan’s Lake Gun Club Building is the amateur boxing program for Denver youth sponsored by Mike Quintana, Sr.;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. **OCCUPANCY AND USE OF BUILDING**: The City does hereby authorize the User to use and occupy the Sloan’s Lake Gun Club Building located in the southwest corner of Sloan’s Lake Park (the “Building”), subject to the terms and conditions of this Agreement. Nothing in this Agreement is intended, nor shall it be construed, to create or grant a lease or other property interest in the Building or Sloan’s Lake Park. Furthermore, nothing in this Agreement grants a concession license under section 2.4.4(C) of the City Charter. The use and occupancy of the Building is strictly contingent upon the User faithfully and consistently providing an amateur boxing program for Denver youth in the Building. The User agrees not to use the Building, or permit the use of the Building, for any purpose prohibited by or contrary to the laws of the United States, the State of Colorado, the City’s Charter or ordinances, or the rules and regulations of the Department of Parks and Recreation (the “Department”). The User shall not use the Building, or permit the use of the Building, in any manner that results in waste of or damage to the Building or that causes a nuisance.

2. **DURATION**: The term of the Agreement is from June 1, 2013, through May 31, 2015, subject to termination as provided in paragraph 7.

13-0426

3. **OBLIGATIONS OF USER:**

A. **In General:** In consideration of the City authorizing the use and occupancy of the Building for an amateur boxing program for Denver youth, the User agrees, and hereby obligates himself, to manage, operate, maintain, and repair the Building; to provide adequate staffing for its amateur boxing program and for the management, operation, maintenance, and repair of the Building; and to perform such other related work as may be desirable to the parties, in accordance with this Agreement. In addition, the User agrees to engage in only USA Boxing-sanctioned amateur boxing events and to comply with USA Boxing rules and requirements.

B. **Improvements:** No improvements to the Building shall be undertaken, nor any of the costs pertaining to such improvements incurred, without prior written approval by the Manager. All improvements shall be governed and controlled by such limitations and provisions as may be required as conditions to the Manager's approval and all applicable laws. All improvements, including permanently attached fixtures, to the Building are the property of the City and shall not be removed or replaced without the prior written approval by the Manager.

C. **Operation:**

1) *Operating Times:* The User agrees that the Building shall be open to the general public at all times during which the Building is operated and used for training in amateur boxing and at such other times that the Department may use the building for its recreation programs, subject to availability. The User shall insure that no competitive boxing is allowed in the Building. The hours of such use and operation shall be designated by the User. All operating times so designated must receive the prior written approval of the Manager.

2) *Availability and Usage:* No admission fees shall be charged by the User for access into or use of the Building. The Building shall be available at no charge for scheduling and use by the Department for its recreation programs, subject to availability.

3) *Utilities:* The User shall promptly pay all bills for gas and electric utilities used in the operation and maintenance of the Building and for all telephone service in the Building, and shall provide for the day-to-day maintenance of said utilities. The City will be responsible for water service costs.

4) *Staffing:* The User shall assure that the Building and its amateur boxing program is appropriately supervised, staffed, and maintained, and that first-aid trained

and CPR-certified staff, along with adequate first aid supplies, are present on site at all times that training or other amateur boxing activities are occurring. Upon request by the Department, background checks on all employees or other staff retained by the User shall be conducted, at the User's sole expense, through the Colorado Bureau of Investigation or such other reliable source of information on criminal histories as acceptable to the Department. Copies of said background checks shall be provided to the Department, at no cost to the Department. The City reserves the right to require the User to remove from the Building any employee or other staff who has a criminal history deemed unacceptable by the Manager.

5) *Participants*: The User shall be solely responsible for monitoring and controlling the conduct of all participants in the amateur boxing program ("Participants"). All Participants will be required to be a member of USA Boxing, which includes injury insurance in the amount of Twenty-Five Thousand Dollars (\$25,000.00). Any criminal activity (including fighting or acts of violence not sanctioned by the rules of amateur boxing), misconduct that causes or nearly causes bodily injury or property damage, physical or verbal threats, possession of weapons, harassing or bullying activity, sexual overtures or acts, sexually suggestive behavior, the persistent use of profanity, possession of alcohol beverages of any kind or illegal drugs and drug paraphernalia, and other conduct disruptive to the operation of the amateur boxing program or the public's use and enjoyment of the Building shall be automatic grounds for ejecting the offending Participant from the Building. If appropriate, the Denver Police shall be contacted. A written log of all such inappropriate conduct and the action of the User taken in response shall be maintained and made available to the Department upon request.

6) *Equipment and Materials*: The User shall provide such equipment and materials as necessary and appropriate for the operation, maintenance, and repair of the Building and for its amateur boxing program. Equipment and materials put in or about the Building at the User's sole expense, including any fixtures temporarily affixed to the Building and easily removable without damage to the Building, shall remain the property of the User.

D. Maintenance and Repair: Except as expressly provided in paragraph 4 below, the User agrees that it shall be his responsibility to keep and maintain the Building in good physical and working condition. The User shall provide, at his own expense, for all cleaning and sanitation for the Building, including without limitation all janitorial services, window washing, floor and wall cleaning, restroom cleaning, and replacement of restroom

supplies. All garbage and trash shall be regularly removed from the Building and properly disposed of, and the Building shall be maintained free of rodents and pests. The grounds within fifty (50) feet of the Building shall be daily policed for litter. The User shall, at his own expense, maintain, repair, or replace any of the following damaged or broken items: 1) windows and window frames; 2) doors and door frames; 3) handles and locks; 4) cabinets and counters; 5) carpet and other flooring; 6) paints and stains; 7) woodwork, drywall, and plastering; 8) plumbing items, including sinks, toilets, urinals, and associated above-floor or below-ceiling pipes and drains; 9) light switches, plugs, and lighting; 10) ceiling tiles; 11) all built-in or attached electrical fans; 12) drinking fountains; 13) telephones and other communication devices; and 14) similar items. Replacements shall be of at least equal quality and functionality as the replaced items were when they were new. The User shall be responsible for any repairs or replacements of Structural Features or Systems, as defined in paragraph 4 below, that are damaged or broken by the willful or negligent actions of the User or his employees, servants, Users, invitees, suppliers and agents, including the failure to properly monitor or supervise the use of the Building for an amateur boxing program that result in such damage. Such repairs or replacements shall be performed by the User within a reasonable time period specified in a written notice from the City and in accordance with subparagraph 3.B. above.

E. City Access & Use: The User acknowledges and agrees that the City shall have a right of entry on and in the Building for any purpose necessary, incidental to or in connection with the City's rights and obligations in the User Agreement, or in the exercise of the City's governmental functions, or for the purpose of making any inspection the City deems necessary for health and safety purposes and for the protection of the City's asset. The City will make a reasonable effort to notify User of any impending entry and to coordinate such entry so as to minimize any disruption to the operation of the User's boxing programs. The User agrees not to take any action to prevent or hinder authorized City employees or agents from entering at any time, with or without advance notice, upon the Building for inspection or other valid purposes. Furthermore, the City shall have the right to enter the Building, with advance notice, to evaluate and plan for future uses of the Building.

4. OBLIGATIONS OF THE CITY:

A. Structural Elements: Subject to the availability of appropriated funds, the City will maintain and repair existing structural elements of the Building, including roof, walls,

floors, driveways, parking lots, fences, and similar or related features (“Structural Elements”). The City may, at its sole discretion, improve, expand, or replace said Structural Elements.

B. Systems: Subject to the availability of appropriated funds, the City will maintain and repair existing heating and air conditioning, water, sewer, drainage, electrical, plumbing, natural gas, fire protection, and telephone systems, including associated tubes, ducts, pipes, lines, mains, wires, conduits, boxes, grates, valves, meters, and associated equipment and appurtenances (“Systems”) located at or in the Building. The City may, at its sole discretion, improve, expand, or replace said Systems.

C. Inspection and Repair: The City or its contractors and agents shall have the right to enter into or on the Building at all reasonable times to inspect the Building and/or take such actions as may, in the opinion of the City, be deemed necessary or advisable to perform such work as provided in subparagraphs A and B of this paragraph 4. Except for emergency situations, the City will make every reasonable effort to timely notify the User of any pending work and to coordinate such work so as to minimize any disruption to the User’s activities.

5. COMPENSATION: No monetary compensation or other consideration other than as expressly stated in this Agreement is expected or required by either party to this Agreement.

6. RELATIONSHIP: It is understood and agreed that the status of the User shall be that of an independent person contracting for the use of the Building. It is not intended, nor shall it be construed, that the User or his volunteers, agents, or subcontractors are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code or for any purpose whatsoever. The User is responsible for the operational management, errors and omissions of the User’s volunteers, agents and contractors. Without limiting the foregoing, the User understands and acknowledges that the User and his volunteers, agents and contractors: a) are not entitled to workers’ compensation benefits through the City; b) are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the User or some other entity besides the City; and c) are obligated to pay federal and state taxes on any monies earned by working for the User. Furthermore, it is understood and agreed that nothing in this Agreement is intended, or shall be construed, to constitute a joint venture or an agency relationship between the parties.

7. **TERMINATION:**

A. **Mutual Rights:** Both the City and the User shall have the unilateral right to terminate this Agreement, without cause, upon ninety (90) days written notice to other party. At any time, upon written and mutual consent of the City and the User, the Agreement may be terminated. The Manager may unilaterally terminate the Agreement in the event that the Building or any part thereof is destroyed or substantially damaged as a result of a casualty that renders the Building wholly or substantially unusable in the opinion of the Manager.

B. **Discretionary Termination by the City:** If any one or more of the following events occurs, then the Manager of Parks and Recreation or her designated representative (the "Manager") may, at the Manager's option, immediately terminate this Agreement, with cause, upon written notice to the User:

- 1) The User becomes insolvent, files for bankruptcy, is adjudged bankrupt, or becomes disqualified for sponsoring or engaging in amateur boxing;
- 2) The User's interests in this Agreement are transferred to or devolve upon, by operation of law or otherwise, any other person, firm, corporation, or other entity by or in connection with any bankruptcy, insolvency, or other proceeding, judicial or administrative;
- 3) The User fails to undertake its obligations under this Agreement within thirty (30) days of the effective date of this Agreement;
- 4) There is substantial evidence that it has been or will be impossible for the User to continue its amateur boxing program for a period of ninety (90) days or more;
- 5) The User fails to remove any employee or staff working at the Building after the City has requested that said employee or staff be removed due to the criminal history of said person or any criminal activity engaged in by said person or after the User is aware of such criminal history or criminal activity and fails to report it to the City;
- 6) The User has made an assignment or transfer of, or subcontracts, its responsibilities and obligations under this Agreement without obtaining the Manager's permission; or
- 7) The User fails to obtain, renew, or maintain the insurance coverage specified in paragraph 10 below or fails to comply with paragraph 14 below.

C. **Non-Performance & Cure:** In the event the User fails to perform or, improperly performs, any of its responsibilities or obligations under this Agreement ("Non-

Performance") and provided the Non-Performance is not a basis for discretionary termination under paragraph 7.B. above, then the following provisions shall be applicable:

1) The Department shall provide the User with a notice of Non-Performance which shall set forth specifically the Non-Performance. The User shall have seven (7) calendar days from the date of receipt of such notice, except as provided below, within which to correct the Non-Performance. Should the User cure the Non-Performance within the seven (7) calendar day period, it shall notify the Department in writing of such cure. Notwithstanding the foregoing, the User agrees that it will undertake all good-faith measures to cure the Non-Performance as promptly as commercially practicable. In the event the Non-Performance is not cured within such seven (7) calendar day period, the Manager may, at the Manager's option, terminate this Agreement, with cause, by sending written notice of termination, including a date by which the Building will be vacated by the User, to the User at the most currently provided address for the User, which notice shall be deemed given when mailed.

2) Notwithstanding the foregoing, if the Non-Performance cannot be cured through the exercise of reasonable diligence within the seven (7) calendar day period, then such period may be extended by the Manager, at the Manager's discretion, to a specific date as is reasonable to cure the Non-Performance, provided the User has proceeded and is continuing to proceed in a diligent and reasonable manner to cure, in the opinion of the Manager. The User shall, if the Non-Performance cannot be cured within the seven (7) calendar day time period through the exercise of reasonable diligence, so advise the Manager in writing as soon as reasonably possible and include in said writing a detailed listing of what measures that the User has undertaken to cure the Non-Performance and the User's best estimate of when and how such Non-Performance will be cured. The City reserves the right to reject any time extension if, in the opinion of the Manager, the User has not proceeded in a diligent and reasonable manner to cure or any further delays in curing the Non-Performance would substantially damage the City's interests under the Agreement. In the alternative, the Manager may, as a condition of approving any time extension for cure, specify, within reason, certain actions the User must undertake in order to cure or specify a shorter or longer cure period than that indicated in the User's writing. If a time extension is approved, the User shall advise the Manager in writing when and how the cure was accomplished and provide any required documentation of said cure.

D. Waiver: In no event shall any action or inaction by the City under this paragraph 7 constitute or be construed to be a waiver by the City of any breach or default which may then exist on the part of the User, and no assent, expressed or implied, to any breach of the Agreement by the User shall be deemed or taken to be a waiver of any other breach.

8. **EXAMINATION OF RECORDS; ANNUAL REPORT**: The User agrees that any duly authorized representative of the City, including the City Auditor, shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any books, documents, papers and records of the User, involving transactions related to this Agreement. The User shall, on or before May 1st of each year this Agreement is in effect, submit a written report to the Department which shall include a description of any improvements, repairs, or replacements, if any, made to the Building during the previous year as well as a description of the usage of the Building during that years which description shall include the number and percentage of usage by Denver residents, number of minority and disabled participants, number of low income participants who benefited through waived or reduced fees, and other useful information about the amateur boxing program conducted within the Building.

9. **REMEDIES & WAIVER**: The parties understand and agree that the rights of specific performance and to punitive or consequential damages have been expressly waived and released by both parties by this paragraph.

10. **INSURANCE**:

A. General Conditions: The User agrees and covenants to secure, at its own expense, at or before the time of execution of this Agreement, the following insurance covering all operations, activities, occupancies uses and services associated with the Building under this Agreement. The User shall keep the required insurance coverage in force at all times during the Term of this Agreement or any extension thereof. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. The User shall provide written notice of cancellation, non-renewal and any reduction in coverage to Denver Risk Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202 by certified mail, return receipt requested. Such written notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If any policy is in excess of a

deductible or self-insured retention, the City must be notified by the User. The User shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the User. The User shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

B. Proof of Insurance: The User shall provide a copy of this Agreement to its insurance agent or broker. The User certifies that the certificate of insurance attached as **Exhibit A** complies with all insurance requirements of this Agreement. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of the User's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require, and the User shall promptly provide, additional proof of insurance, including but not limited to policies and endorsements, at any time.

C. Additional Insureds: For Commercial General Liability and Business Auto Liability, the User's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

D. Waiver of Subrogation: For all coverages required under this Agreement, the User's insurer shall waive subrogation rights against the City.

E. Subcontractors and Subconsultants of Lessee: All subcontractors and subconsultants of the User (including independent contractors, suppliers or other entities providing goods or services to the User on the Leased Premises) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the User. The User shall include all such subcontractors and subconsultants as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. The User agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

F. Workers' Compensation/Employer's Liability Insurance: The User, an individual, is not required by law to carry worker's compensation or unemployment insurance coverage for himself. With that understanding, the parties recognize and agree that the User is an independent person who has only contracted for the use of the Building as provided in this

Agreement and is free from control and direction of the City in the pursuit of his occupation. It is understood and agreed by the parties that the User is not employed by nor works for the City with respect to any of the activities contemplated under this Agreement. The User hereby represents that he has not and will not hire or retain any employees or contract employees to work at the Building. Should the User hire any employees or contract employees, the User acknowledges and represents that the User shall be solely responsible for providing worker's compensation coverage and unemployment compensation coverage for such employees or contract employees to the extent required by law. In the event that the User should violate the representations made herein, the User shall indemnify and defend the City, as provided in Section 11 of this Agreement, with respect to any workers' compensation claims, unemployment compensation claims, or any other financial liabilities arising from the User's failure to comply with workers' compensation or unemployment compensation laws.

G. Commercial General Liability: The User shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

H. Automobile Liability: The User shall ensure personal automobile insurance is in force with limits of \$100,000 bodily injury per person; \$300,000 bodily injury per accident; \$50,000 property damage for all vehicles used in performing services under this Agreement. The policy will include a business use endorsement. The User represents, as a material representation upon which the City is relying, that in accessing and using the Building under the Agreement, the User and his employees, contractors and volunteers use their own personal vehicles. The User shall ensure that any person operating a motor vehicle in accessing and using the Building under the Agreement shall keep in full force Personal Auto Liability coverage with minimum required limits.

I. Fire and Extended Coverage Insurance on all of the User's personal property located in or about the Building in the minimum amount of \$50,000.00.

J. Additional Provisions:

(1) For Commercial General Liability, the policy must provide the following:

(i) That the Agreement is an Insured Contract under the policy;

- (ii) Defense costs are outside the limits of liability;
 - (iii) A severability of interests, separation of insureds or cross liability provision;
 - (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City and County of Denver; and
 - (v) No exclusion for sexual abuse, molestation or sexual misconduct.
- (2) For claims-made coverage, the retroactive date must be on or

before the contract date or the first date when any goods or services were provided to the City, whichever is earlier.

(3) The User shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At the User's own expense, where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the User shall procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

11. DEFENSE & INDEMNIFICATION: A. The User hereby agrees to defend, indemnify, and hold harmless the City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("Claims"), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of the User or its sub-consultants or subcontractors either passive or active, irrespective of fault, including the City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City.

B. The User's duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether an action has been filed in court on the Claim. The User's duty to defend and indemnify the City shall arise even if the City is the only party sued and/or it is alleged that the City's negligence or willful misconduct was the sole cause of the alleged damages.

C. The User will defend any and all Claims which may be brought or threatened against the City and will pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and

investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of the City shall be in addition to any other legal remedies available to City and shall not be considered the City's exclusive remedy.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the User under the terms of this indemnification obligation. The User shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

E. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

12. **COLORADO GOVERNMENTAL IMMUNITY ACT:** The parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations (presently \$150,000 per person, \$600,000 per occurrence) and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101, *et seq.*, C.R.S.

13. **TAXES, CHARGES AND PENALTIES:** The User shall pay all federal, state, and local taxes, late charges and penalties applicable under this Agreement. The City shall not be liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts which the City may be required to pay under D.R.M.C. § 20-107 to § 20-115.

14. **LIENS AND OTHER ENCUMBRANCES:** The User shall not permit any mechanic's or materialman's liens or any other liens to be imposed and remain for more than ninety (90) days upon any City-owned property, or any part thereof, by reason of any worker labor performed or materials furnished by any person or legal entity to or on behalf of the User, either pursuant to C.R.S. § 38-26-107 or by any other authority. The User shall promptly pay when due all bills, debts and obligations incurred in connection with this Agreement and shall not permit the same to become delinquent. The User shall not permit any lien, mortgage, judgment, execution or adjudication of bankruptcy which will in any way impair the rights of the City under this Agreement or to the Building. The User's obligations set out in this paragraph shall survive the termination of this Agreement.

15. **HAZARDOUS SUBSTANCES:** The User shall not cause or permit any Hazardous Substance to be used, stored, generated, or disposed of on or in the Building by the User, the User's agents, employees, contractors, or invitees. If Hazardous Substances are used, stored, generated, or disposed of on or in the Building, or if the Building becomes contaminated

in any manner due to the actions or inactions of the User, the User shall indemnify and hold harmless the City from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the premises, damages caused by loss or restriction of rentable or usable space, or any damages caused by adverse impact on marketing of the space, and any and all sums paid for settlement of claims, attorneys' fees, consultant, and expert fees) arising during or after the Term of the Agreement and arising as a result of those actions or inactions by the User. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision. Without limitation of the foregoing, if the User causes or permits the presence of any Hazardous Substance on or in the Building and that results in contamination, the User shall promptly, at its sole expense, take any and all necessary actions to return the Building to the condition existing prior to the presence of any such Hazardous Substance on the premises. The User shall first obtain City's approval for any such remedial action. As used herein, "Hazardous Substance" means any substance that is toxic, ignitable, reactive, or corrosive and that is regulated by any local government, the State of Colorado, or the United States Government. "Hazardous Substance" includes any and all material or substances that are defined as "hazardous waste", "hazardous materials", "extremely hazardous waste", or a "hazardous substance" pursuant to state, federal, or local governmental law. "Hazardous Substance" includes but is not restricted to asbestos, asbestos-containing materials, and asbestos-contaminated soils, special wastes, polychlorinated biphenyls (PCBs), any petroleum products, natural gas, radioactive source material, pesticides, any hazardous waste as defined at 42 U.S.C. § 6903(5) of the Solid Waste Disposal Act, any hazardous substance as defined at 42 U.S.C. § 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act, chemical substance as defined at 15 U.S.C. § 2602(2) of the Toxic Substances Control Act, and state statute counterparts to these federal statutes, any guidelines issued and rules or regulations promulgated pursuant to federal or state statutes, and any other applicable federal or state statute.

16. **ASSIGNMENT; SUBCONTRACT:** The User covenants and agrees that it will not assign, transfer, or subcontract its rights and obligations hereunder without first obtaining the written consent of the Manager. Any attempts by the User to assign, transfer, or subcontract its rights or obligations hereunder without such prior written consent of the Manager may, at the

option of said Manager, terminate this Agreement and all rights of the User hereunder. Such consent may be granted or denied at the sole and absolute discretion of said Manager.

17. **NO THIRD PARTY BENEFICIARY:** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the User, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on this Agreement. It is the express intention of the City and the User that any person other than the City or the User receiving benefits under this Agreement shall be deemed to be an incidental beneficiary only.

18. **NO AUTHORITY TO BIND CITY TO CONTRACTS:** The User has no authority to bind the City on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City, as required by Charter and ordinance.

19. **AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS:** This Agreement is intended as the complete integration of all understandings between the parties. No prior contemporaneous or subsequent addition, deletion, or other amendment hereto shall have any force or effect, unless embodied herein in writing, and executed in the same manner as this Agreement.

20. **SEVERABILITY:** The parties agree that if any provision of this Agreement or any portion thereof is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity of the remaining portions or provisions shall not be affected.

21. **CONFLICT OF INTEREST:** The parties agree that no employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and the User further agrees not to hire or contract for services any employee or officer of the City which would be in violation of the Denver Revised Municipal Code, Chapter 2, Article IV, Code of Ethics, or Denver City Charter §§ 1.2.8, 1.2.9, and 1.2.12.

The User agrees that it will not engage in any transaction, activity or conduct which would result in a conflict of interest under this Agreement. The User represents that he has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the User by placing the User's own interests, or the interests of any party with whom the User has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, shall

determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict exists after it has given the User written notice which describes the conflict. The User shall have eliminate or cure the conflict of interest in a manner which is acceptable to the City within the time and process set forth in paragraph 7.C. above.

22. NOTICES: Written notices required or allowed under this Agreement shall be made by certified or registered mail, return receipt requested:

By the User to: Manager of Parks and Recreation
City and County of Denver
201 West Colfax Avenue, Dept. 601
Denver, Colorado 80202

By the City to: Mike Quintana, Sr.
6910 Coors Court
Arvada, CO 80004-1165

Changes in notification addresses by either party can be made by written notice.

23. DISPUTES: All disputes of whatsoever nature between the City and the User regarding this Agreement shall be resolved by administrative hearings pursuant to the procedure established by Denver Revised Municipal Code, § 56-106(b), *et seq.* For the purposes of that procedure, the City official rendering a final determination shall be the Manager.

24. GOVERNING LAW; VENUE: This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, and the Charter and Revised Municipal Code of the City and County of Denver, and the ordinances, regulations and Executive Orders enacted and/or promulgated pursuant thereto, including any amendments. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

25. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of this Agreement, the User agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the User further agrees to insert the foregoing provision in all subcontracts hereunder.

26. **PREVAILING WAGES; LIVING WAGES:** The User or the User's contractors may be subject to the payment of prevailing wages pursuant to D.R.M.C. § 20-76 and/or living wages pursuant to D.R.M.C. § 20-80, depending upon the nature of their work. By executing this Agreement, the User covenants that the User is familiar with these Code sections and is prepared to pay or cause to be paid prevailing wages or living wages, if any, required by the scope of work of the User or the User's contractor's employees and comply with all reporting requirements established by ordinance.

27. **USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** The User shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City barring the User from City facilities or participating in City operations.

29. **OPEN RECORDS:** The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, *et seq.*, 7B C.R.S. (2003), and that in the event of a request to the City for disclosure of such information, the City shall advise the User of such request in order to give the User the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the User agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same. The User further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the User's intervention to protect and assert its claim of privilege against disclosure under this Article including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

29. **LEGAL AUTHORITY:** The User assures and guarantees that it possesses the legal authority to enter into this Agreement. The City shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of the User to enter into this Agreement.

30. **NO CONSTRUCTION AGAINST DRAFTING PARTY:** Each of the parties acknowledge that each of them and their respective counsel have had the opportunity to review this Agreement and that this Agreement shall not be construed against any party merely because this Agreement or any of its provisions, have been prepared by a particular party.

31. **SURVIVAL OF CERTAIN PROVISIONS:** The parties understand and agree that all terms and conditions of this Agreement, together with the exhibits and attachments hereto, which, by reasonable implication, contemplate continued performance or compliance beyond the termination of this Agreement (by expiration of the term or otherwise), shall survive such termination and shall continue to be enforceable as provided herein. Without limiting the generality of the foregoing, the User's obligations for the provision of insurance and to indemnify the City shall survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

32. **PARAGRAPH HEADINGS:** The captions and headings set forth herein are for convenience of reference only, and shall not be construed so as to define or limit the terms and provisions hereof.

33. **CITY EXECUTION OF AGREEMENT:** This Agreement is expressly subject to, and shall not be or become effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver.

34. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** The User consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[REMAINDER OF PAGE DELIBERATELY LEFT BLANK.]

Contract Control Number: PARKS-201310532-00

Contractor Name: Mike Quintana Sr d/b/a Sloan's Lake Boxing Club

By: _____

Name: Michael R. Quintana
(please print)

Title: President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



Contract Control Number: PARKS-201310532-00

Contractor Name: Mike Quintana Sr d/b/a Sloan's Lake Boxing Club

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

DOUGLAS J. FRIEDNASH, Attorney
for the City and County of Denver

By _____

By _____

By _____





157533

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/11/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Commercial Lines - (719) 592-1177 Wells Fargo Insurance Services USA, Inc. 5755 Mark Dabling Blvd., Suite 300 Colorado Springs, CO 80919-2228	CONTACT NAME: Andrea Wright PHONE (A/C, No, Ext): 800-332-9256 E-MAIL ADDRESS: andrea.wright@wellsfargo.com	FAX (A/C, No): 877-405-9032
	INSURER(S) AFFORDING COVERAGE	
INSURED United States Amateur Boxing, Inc. dba USA Boxing One Olympic Plaza Colorado Springs CO 80909	INSURER A: Philadelphia Indemnity Insurance Company	NAIC # 18058
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 5911387**REVISION NUMBER:** See below

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY		PHPK956964	01/01/2013	01/01/2014	EACH OCCURRENCE	\$ 1000000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					BODILY INJURY (Per person)	\$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE	\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A				WC STATUTORY LIMITS	OTHER
						E.L. EACH ACCIDENT	\$
						E.L. DISEASE - EA EMPLOYEE	\$
						E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Named Insured Includes Sloans Lake Boxing Club

The certificate holder is an Additional Insured with respect to liability arising out of the negligence of the Named Insured as per endorsement: Additional Insured - Certificate Holders (Form PI-AM-002). Coverage applies to sanctioned activities and for supervised club approved practice and training of USA Boxing member athletes for USA Boxing sanctioned events.

Coverage is excluded for ANY martial arts or kick-boxing activities, regardless of whether they are part of a USA Boxing sanctioned activity or club activity.

CERTIFICATE HOLDER**CANCELLATION**

The City and County of Denver, Department of Parks and Recreation #602
 201 W. Colfax Ave
 Denver, CO 80202

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE