

**SUBLEASE AGREEMENT**

**Between**

**CITY OF LIVONIA  
(LESSOR)**

**and**

**LIVONIA PUBLIC SCHOOLS SCHOOL DISTRICT  
(LESSEE)**

**TABLE OF CONTENTS**

Sublease Agreement Between  
City of Livonia (Lessor)  
and  
Livonia Public Schools School District (Lessee)

	<u>Page</u>
1. Sublease .....	1
2. Term .....	1
3. Consideration .....	1
4. Request to Extend or Renew Sublease .....	2
5. Occupancy.....	2
6. Right to Terminate Sublease .....	4
7. Taxes and Assessments .....	4
8. Utilities.....	4
9. Custodial Service.....	5
10. Nonexclusive Use Purpose .....	5
11. Compliance with the Law.....	6
12. Waste .....	6
13. Nuisance .....	7
14. Fixtures.....	7
15. Alterations.....	8
16. Repairs .....	9
17. Assignment and Subletting.....	9
18. Bankruptcy of Lessee .....	9

19.	Liens.....	10
20.	Exemption of Lessor from Liability.....	10
21.	Liability Insurance.....	11
22.	Hold Harmless.....	13
23.	Notice.....	15
24.	Default.....	16
25.	Damage or Destruction.....	17
26.	Right to Inspect and Post Notices.....	19
27.	Surrender.....	19
28.	Holding Over.....	20
29.	Survival Clause.....	20
30.	Parking.....	20
31.	Operations.....	21
32.	Advertising.....	22
33.	Non-Discrimination.....	22
34.	Entire Agreement.....	22
35.	Severability.....	22
36.	Time -- Joint and Several Liability.....	23
37.	Binding Effect -- Choice of Law.....	23
38.	Sign.....	23
39.	Authority.....	24
	Miscellaneous Provisions.....	24

## SUBLEASE AGREEMENT

THIS SUBLEASE, made this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF LIVONIA, the Lessor (hereinafter referred to as "Lessor"), and LIVONIA PUBLIC SCHOOLS SCHOOL DISTRICT, the Lessee (hereinafter referred to as "Lessee"),

WITNESSETH:

1. SUBLEASE. The Lessor, in consideration of the covenants and agreements to be performed and the full, faithful and strict performance thereof, does hereby nonexclusively Sublease unto the Lessee the following described premises situated in the City of Livonia, Wayne County, Michigan (hereinafter referred to as "Premises"), to wit:

(See Exhibit A Attached Hereto and Incorporated Herein by Reference)

2. TERM. The term of this Sublease shall be for a period of one (1) year, commencing on July 1, 2016, and terminating on June 30, 2017, unless otherwise terminated, extended or renewed as hereinafter provided.

3. CONSIDERATION. The Lessee agrees that the consideration for this Sublease is the full, faithful and strict performance of each and every one of the terms, conditions and obligations set forth herein by Lessee, and payment of equal monthly installments of rent, with any accrued but unpaid installment or portion of an installment being due upon signature of this Agreement, and subsequent installments being due on the first of each month thereafter. The annual rent shall be \$ 66,271.00, and these rental payments shall, in addition to Lessee's compliance herewith and continued good

will toward Lessor and cooperation with Lessor in matters involving Lessee and Lessor, constitute the consideration for this sublease.

4. REQUEST TO EXTEND OR RENEW SUBLEASE. If the Lessee is current in all its obligations to the Lessor and has otherwise performed as required hereunder, it may seek to extend or renew this Sublease Agreement by sending written notice to Lessor no later than ninety (90) days in advance of the expiration of this Sublease Agreement of its desire to extend. Lessor may refuse to extend or renew the Sublease for any reason. If Lessee requests an extension of this Sublease Agreement and Lessor concurs, the annual rental rate applicable for the first year of such extension is \$68,922.00. In the event Lessee seeks more than a one-year extension, the Lessor will advise Lessee of the annual rental rate applicable during each subsequent year of such extension. In either event, the first monthly installment of rent for the extension shall be due on July 1, 2017. Any renewal or extension of this Agreement shall be subject to all the terms, conditions and obligations specified herein as well as any terms which may hereafter be specified as applicable to the extended or renewed term.

5. OCCUPANCY. Lessee acknowledges and agrees that while this Sublease grants to it the right to use and occupy the Premises subject to the terms and conditions hereof and for the purpose or use specified herein, it shall at all times permit Lessor and its employees, agents, electors and volunteers to use the adjacent property and any overlapping appurtenances without restriction or obstruction. In addition, Lessee and Lessor shall annually establish coordinated schedules setting forth the dates when Lessor may use and occupy the Premises. In the event any disagreement arises about Lessor's use of the property or there is any failure to set such a

coordinated schedule, Lessor's Superintendent of Parks and Recreation shall be the final authority on Lessor's use of the Premises, but shall provide Lessee with not less than (thirty) 30 days' notice of Lessor's use of the Premises. Furthermore, Lessee and Lessor understand and agree that Lessor may program the Premises for parties and other events during any time when the Premises are not scheduled for use by Lessee. If such an event is scheduled, Lessor will staff such event with Lessee's gymnastics personnel, paid at non-overtime rates of pay applicable to comparable part-time employees of Lessor, subject to the availability and willingness of Lessee's employees to be so employed at such rates of pay. Lessee's equipment on the Premises shall be available for use by Lessor and its participants without charge whenever Lessor uses the Premises, provided that Lessor pays for any damage to Lessee's equipment arising out of Lessor's use, and that Lessor's insurance coverage shall be primary during such use. All such use shall be for the purpose stated herein for Lessee's use of the Premises and **LESSEE MAKES NO AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES THAT COULD CONCEIVABLY PERTAIN TO OR COVER SUCH USE OF SAID EQUIPMENT INCLUDING BUT NOT LIMITED TO ALL EXPRESS AND IMPLIED WARRANTIES, AND ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANT ABILITY.** Lessee shall provide schedules of its intended use of the Premises to Lessor's Superintendent of Parks and Recreation or equivalent. Neither Lessee nor Lessor shall further sublease the Premises.

6. RIGHT TO TERMINATE SUBLEASE. At any time prior to the expiration of this Agreement or any extended or renewed term hereof, Lessor or Lessee may terminate this Sublease by giving Lessee or Lessor (as the case may be) ninety (90) days notice of termination and by completing any performances and obligations then due through to the actual date of termination or as may herein survive any termination hereof.

7. TAXES AND ASSESSMENTS. Lessor shall use its best efforts to maintain the current tax exempt status for the Premises. However, should a possessory interest tax or any other personal property or real property tax or assessment of whatever kind be assessed against the Lessor or the Premises (whether such tax relates to the Premises only, or to the Premises and any or all of the balance of the Livonia Community Recreation Center) as a result of this Sublease of the Premises or hereafter during the Sublease term, the Lessee agrees to and shall pay all such taxes and assessments and charges apportioned to or applicable to the Premises prior to the date of delinquency thereof and give written notice of each such payment to the Lessor within five (5) days after such payment is made. Lessee may contest the validity or amount of such taxes or assessments, but shall hold Lessor harmless with respect to any such contest.

8. UTILITIES. Lessor shall provide heat, air conditioning, electricity, and telephone service to the Premises, subject to the following rules. First, telephone services shall consist of two telephones in the Gymnastics Office shown on Exhibit A, which are -- and shall remain -- the property of Lessor. Lessee understands and agrees that all telephones on the Premises will be restricted to local calls. Second, heat and air

conditioning shall be provided to the Premises as part of the overall provision of heat to the Livonia Community Recreation Center. No particular level of heat or air conditioning is guaranteed, but Lessor shall not unreasonably discriminate against the Premises in the provision of heat or air conditioning to the non-aquatic portions of the Livonia Community Recreation Center. Electricity shall be provided through wall outlets currently in place in the Premises. Lessee shall make no excessive or unreasonable use of same. Lessee shall abide by Lessor's Informational Technology Policy.

9. CUSTODIAL SERVICE. Lessor shall have complete unimpeded access to the Premises to permit Lessor to clean same at all reasonable times. But Lessee shall be solely responsible for maintaining the Premises in conformity with the law, any purpose stated herein and in conformity with any and all terms and conditions herein and shall, upon the termination hereof, return the Premises to Lessor in at least the same condition as existed at the commencement of this Sublease, normal wear and tear and improvements, if in accordance with the terms hereof, excepted. In addition, Lessee shall regularly maintain the Premises in a safe and kept condition.

10. NONEXCLUSIVE USE PURPOSE. The Premises described herein shall be nonexclusively used by Lessee as provided herein only for the following purpose and for no other purpose without the prior written consent of Lessor: The purpose for which this Sublease was granted and is intended is use of the Premises by Lessee as a gymnastics training, exhibition, competition and educational facility.

11. COMPLIANCE WITH THE LAW. As used herein, the Law means each and every Federal, State and local law, statute, act, rule, regulation, or ordinance and all Lessor policies, practices and procedures, past, present and future, including the



Livonia Community Recreation Center House Rules and Lessor's emergency evacuation procedures. Lessee shall comply and conform to the Law throughout the entire term of this Sublease and any extensions or renewals thereof, provided, however, that Lessee shall not be required to make any structural changes to the Premises or any modification or addition to any utility systems, unless such required changes are occasioned by or on account of the specific use specified herein, in which case Lessee shall bear the cost of any such changes.

12. WASTE. Lessee agrees that in using the Premises, Lessee will not commit any waste or suffer any waste to be committed upon the Premises or any property of Lessor used in connection herewith. Lessee will be responsible for all damages to the Premises incurred during the term of this Sublease agreement, and shall pay the cost of repairing any such damages in addition to the rental amounts due hereunder, except that Lessor shall pay for any damages which Lessor acknowledges a) to have occurred during Lessor's use of the Premises, or b) to have been caused by any agent or employee of Lessor. Additionally, Lessee shall agree to work in conjunction with and accept any waste management/recycling policy imposed upon the Premises by any applicable authority. Lessee shall be responsible for placing waste materials in receptacles provided by Lessor for the purpose and for cooperating with Lessor's efforts to handle waste generated by Lessee or its use and occupancy of the Premises.

13. NUISANCE. Lessee agrees that in using the leased Premises Lessee shall not commit or suffer the commitment or existence of any nuisance as defined by the Law, Lessee's immunity to any liability therefor notwithstanding, or any other act or

thing which might or would reasonably be construed to disturb the quiet enjoyment of any occupant of adjacent and/or nearby property or of Lessor's occupation of the balance of the Livonia Community Recreation Center. Nor will Lessee commit or suffer the commitment of such uses of the Premises and those properties that may be used in connection therewith, if any.

14. FIXTURES. Lessee shall provide all gymnastics equipment for the Premises, and shall be solely responsible for the maintenance of same, but Lessee may only install in or on the Premises such fixtures as Lessor has approved, in advance and in writing, and which are otherwise consistent with the use specified and permitted herein. Upon the termination of this Sublease, Lessee shall remove all said fixtures installed in or about the Premises if required to do so by Lessor and at no cost to Lessor and immediately upon demand or, at the option of Lessor, same may become and remain the property of Lessor at no cost to Lessor. Any removal of such fixtures, whether by Lessor or Lessee, shall be effectuated solely at the expense of Lessee and in a manner satisfactory to Lessor and without injury or damage to the Premises, and Lessee covenants to repair immediately, at Lessee's expense, any injury or damage caused by such removal.

15. ALTERATIONS. Lessee agrees that it will not paint the Premises or make or cause to be made, any alterations, additions or improvements upon said Premises without the written consent of Lessor first had and as a condition to said consent, Lessee shall show and present to the Lessor plans and specifications of said proposed alterations, additions or improvements. Lessor may, as a condition to giving consent thereto, require Lessee to post bond with Lessor in a sum equal to the estimated cost of

said alterations, additions, or improvements securing the Lessor against loss, claims or liens by reason of the installation thereof. But Lessor may not condition its approval upon Lessee's use of Lessor's employees or contractors in making such alterations, additions or improvements. All alterations, additions or improvements to said Premises shall be done in a workmanlike manner and shall remain for the benefit of the Lessor and shall not be removed unless otherwise provided herein or expressly agreed in writing by Lessor and same shall be presumed to become an integral part of said Premises. Upon any termination of this Sublease, any alterations, additions, or improvements theretofore made by Lessee with or without the consent of Lessor, which in the sole opinion of the Lessor, tend to detract from the usability of said Premises, shall, upon written notice by Lessor, be removed by Lessee and said Premises shall be restored at the expense of Lessee to the condition it was, prior to said alterations, additions, or improvements, reasonable wear and tear excepted. Lessee shall obtain all governmental permits or approvals necessary and required by the Law for any such alterations, additions, or improvements.

16. REPAIRS. Except as provided in paragraph 12 above, Lessor shall be responsible for maintaining the Premises in good condition and repair throughout the term of this Sublease. Lessor's responsibility under this paragraph does not extend to Lessee's equipment, the repair and maintenance of which shall be the sole responsibility of Lessee. Lessee shall also, at the request of Lessor, move its equipment as necessary to facilitate Lessor's repair and maintenance activities on the Premises.

17. ASSIGNMENT AND SUBLETTING. Lessee shall not assign this Sublease nor transfer, mortgage, pledge, hypothecate or encumber this Sublease nor sublet the Premises or any interest therein without the prior written consent of Lessor first had and obtained. A consent by Lessor to one assignment or subletting shall not be deemed to be consent to any subsequent assignment or subletting. An assignment or subletting without the written consent of the Lessor or an assignment or subletting by operation of law shall be void and shall, at the option of Lessor, terminate this Sublease without notice to or further recourse by Lessee.

18. BANKRUPTCY OF LESSEE. Should Lessee make an assignment for the benefit of creditors or be adjudged by a court or tribunal of competent jurisdiction as bankrupt under the Law including the Bankruptcy Act of the United States as it now exists or may hereafter be amended, this Sublease and all rights, privileges and benefits of the Lessee under this Sublease shall, at Lessor's option, terminate and not become part of the estate subject to such assignment or administration in bankruptcy.

19. LIENS. Lessee agrees to pay promptly, and to hold harmless the Lessor, for all labor done or materials furnished to, work or repairs, maintenance, improvements, alterations, or additions done for or by Lessee in connection with the Premises, including any costs or actual attorney fees incurred by Lessor as a result thereof, and to keep and hold the Premises free, clear and harmless of and from any and all liens that could arise by reason of any such things.

20. EXEMPTION OF LESSOR FROM LIABILITY. Lessor shall not be liable for any injury or damage to Lessee, its employees, invitees, volunteers, agents, or contractors or any other person in or about the Premises caused by or resulting from fire, steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures of the same, whether the said damage or injury results from conditions arising upon the Premises or upon other portions of the property of which the Premises are a part, or from other sources or places and regardless of whether the cause of such damage or injury or the means of repairing same is inaccessible to Lessee. Lessee is, and shall remain, responsible for staffing, equipping, and operating the Premises, and any and all liability resulting from the staffing, equipping, and operation of the Premises shall be solely and exclusively the liability of Lessee, with the sole exception that Lessor shall be responsible for any acts of personnel employed by Lessor for events programmed by Lessor as set forth in paragraph 5 of this Sublease agreement. Lessee shall, however, remain liable for any damages occurring during such an event to the extent they arise out of either unsafe equipment on the Premises or an unsafe installation determined to be the fault of Lessee.

21. LIABILITY INSURANCE. Lessee shall purchase from and maintain at all times hereunder and for the duration hereof, in a company or companies licensed to sell insurance in Michigan with an A+ A.M. Best rating, or equivalent, such primary insurance as will protect Lessee, and which names Lessor and the Premises as additional or co-insureds, for or from the kinds of claims set forth below which may arise

out of or result from Lessee's operations under and performances pursuant to or default of this Agreement and for which Lessee may be legally liable:

- a) claims under workers compensation, disability benefit and other similar employee benefit acts which are applicable to the operations to be performed or maintenance and occupancy of the Premises;
- b) claims for damages because of bodily injury, occupational sickness or disease, or death of Lessee's employees;
- c) claims for damages because of bodily injury, sickness or disease, or death of any person other than Lessee's employees;
- d) claims for damages insured by usual personal injury liability coverage which are sustained (i) by a person as a result of an act or offense directly or indirectly related to employment of such person by Lessee, or (ii) by another person;
- e) claims for damages, other than to the Premises itself, because of theft of or injury to or destruction of tangible property, including loss of use resulting therefrom;
- f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- g) claims based upon interference, vandalism, defamation, the Constitution or laws of the United States or Michigan and gross negligence.

The insurance required shall be written for the greater of limits not less than the limits of liability specified or required by the law OR primary coverage of \$5,000,000.00 per occurrence on an occurrence basis or in the amount of said limit on a

claims-made basis, provided that if the latter form (claims-made) is procured and/or maintained in compliance herewith, it be maintained for a period of no less than four (4) years subsequent to any termination hereof. In this regard, this provision shall survive any termination hereof or end hereto. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of this Agreement until the date herein specified that coverage is no longer required.

Lessee shall provide Lessor with proof of such coverage and/or a copy of the applicable certificate or certificates upon demand.

Lessee warrants and represents that it has furnished its insurer or insurers for the coverages required hereunder with a copy of this Agreement and that no exclusions will bar coverages for the kinds of claims delineated above and for which coverage is herein required. In addition, the parties hereto agree that to the extent any waivers of subrogation made herein, if any, are prohibited by or would adversely compromise the coverages applicable or available to any party hereunder, same are hereby waived with respect to the particular coverage in question or, if necessary, deemed void or voidable by any party hereto without further action in relation thereto.

Lessor, at Lessee's sole and ultimate expense, may, at Lessor's option, fulfill Lessee's obligations hereunder in whole or in part to the extent Lessee is not fulfilling same and/or to remedy any failure on its part to fulfill same. Lessee shall pay any bill issued by Lessor pursuant hereto within thirty (30) days of its issuance.

If Lessee is insured differently than as specified herein and Lessor chooses to waive the minimum coverages and/or kind of coverages required hereunder, Lessor must do so in a writing to Lessee. The duration of coverage must, however, be throughout the term of this Sublease, at a minimum.

22. HOLD HARMLESS. Lessee's immunity from claims, if any, notwithstanding, Lessee agrees to hold harmless and defend the Lessor, its Council Members, officers, employees, volunteers and agents against all suits, actions, legal proceedings, claims (of any nature and kind including but not limited to those kinds listed in the insurance provisions hereof, whether or not waived), demands, and all damages, loss, costs, expense, taxes, penalties, fines, liens and actual attorney's fees incurred, caused by, arising from, or attributable, whether in whole or in part, directly or indirectly, to:

- a) Any negligent or willful or intentional or criminal acts or omissions of or a breach of contract or this Sublease by Lessee or its officials, commissioners, board members, employees, agents, attorneys, invitees, accountants or contractors and subcontractors;
- b) Any claims by any employees or former employees of Lessee or its agents or contractors or subcontractors, regarding any matter relating to their employment or relationship with Lessee;
- c) Any matter for which Lessor may be held strictly liable, but which is the result of, in whole or in part, the negligent or willful or sole acts or omissions of Lessee or its officials, commissioners, board members,



employees, agents, attorneys, accountants and/or contractors and subcontractors.

Lessor shall give Lessee prompt written notice of any claim or event known to it for or from which it believes it is entitled to be held harmless and/or defended pursuant to this paragraph, stating the nature and basis of said claims or events and the amounts thereof, to the extent known and possible, and in the case of any claim, action or proceeding brought by a third party, a copy of any claim, process or legal pleadings with respect thereto, promptly after any such documents are received by Lessor. Lessee shall, at its own and sole expense and to the extent permitted by the law, be entitled to participate in and, to the extent that it shall wish or be obligated, assume the defense of any such claim or proceeding. If Lessee elects to assume control of such defense or settlement, it shall conduct such defense or settlement in a manner reasonably satisfactory and effective to protect Lessor. No compromise or settlement shall be agreed to or made without Lessor's written consent, which shall not be unreasonably withheld. In the event no admission of Lessor culpability or wrongdoing is made as a part of a compromise or settlement proposed under or in connection with this part of this paragraph, there are no pending claims by a third party involved which remain or could be brought against Lessor after culmination of the compromise or settlement, and there is no contribution required of Lessor in said compromise or settlement, then Lessor will not withhold its consent.

- a) In any case, Lessor shall have the right to employ its own counsel for the purposes and enforcement of this paragraph and any related provisions and such counsel may participate in such action, but the fees and

expenses of such counsel shall be at the expense of Lessor, unless same are a subject of another provision herein or a required part of Lessee's duty to defend and hold Lessor harmless or Lessor shall have reasonably concluded that there may be a conflict of interest between Lessee and Lessor in the conduct of any such defense or settlement.

- b) If Lessee does not elect or refuses despite being obligated to assume the defense or settlement in a manner reasonably satisfactory to protect Lessor, Lessor may engage independent counsel to protect Lessor, to assume its or any needed defense and/or to contest, pay, settle or compromise any such claim on such terms and conditions as Lessor and its counsel may then determine, subject still to all obligations hereunder. The actual fees and disbursements of such counsel shall constitute amounts for which Lessor shall be held harmless hereunder irrespective of any negligence or other cause.

This Section shall survive any termination hereof or end hereto.

23. NOTICE. Any reference to notice hereunder means written notice and same shall be effectuated by sending same via Certified, U.S. Mail, Return Receipt Requested, and receipt of same shall be the date the mailing is received and/or accepted or first refused if finally refused. Notice to Lessor shall be to, unless notified by it of any new address:

City Attorney  
City of Livonia, Department of Law  
33000 Civic Center Drive  
Livonia, MI 48154

Notice to Lessee shall be to, unless notified by it of any new address:

Director of Administrative Services  
Livonia Public Schools School District  
15125 Farmington Road  
Livonia, MI 48154

24. DEFAULT. The word "default" as used herein shall include, but not be limited to, the breach of any clause, term, agreement, covenant or condition, contained in this Agreement. Default shall also mean the pre-term vacating of the Premises by Lessee in violation of paragraph 6 hereof. If Lessee should become in default under this Agreement, Lessor, at its option and upon thirty-one (31) days written notice:

- a) May terminate this Sublease and take possession of the Premises and recover from Lessee, in successive actions or a single action, all expenses and damages, including actual attorney fees incurred in the terminating and/or retaking of possession of the Premises and/or caused by the default, provided lessee shall not have cured its default within said thirty-one (31) day notice period; or
- b) Without terminating this Sublease, may:
  - (i) Sue at regular or irregular intervals and in successive suits, to recover for all damages and actual costs and attorney fees incurred by or as a result of the default or defaults and/or action taken to stop same or keep same from occurring or continuing;
  - (ii) Bring a single action to recover for same; and/or
  - (iii) Sue for general and special damages.

If Lessor should take possession of the Premises under the provisions of this paragraph or at the end of the term, Lessor may remove to any place of storage or

any dumping ground, at Lessee's risk and expense and without incurring any responsibility to Lessee for loss, damage or theft, all property in or about the Premises belonging to or in the custody of Lessee. These remedies provided in this paragraph are cumulative and may be exercised simultaneously with, in addition to, or independently of, any other remedies provided to Lessor by the law including the laws of the State of Michigan.

25. DAMAGE OR DESTRUCTION. Recognizing that Lessee is not required to carry insurance protecting against business interruption costs or damages, Lessor shall in no event be liable for any business interruption costs or damages resulting from the damage or destruction of the Premises or the facility of which the Premises are a part.

- a) Partial Damage - Insured. In the event improvements on the Premises or the facility of which the Premises are a part are damaged by a casualty which is covered under an insurance policy required to be maintained pursuant to this Sublease, then Lessee shall repair such damage as soon as reasonably possible and this Sublease shall continue in full force and effect.
- b) Partial Damage - Uninsured. In the event the improvements on the Premises or the facility of which the Premises are a part are damaged, except by a negligent or willful act or omission of Lessee, by any casualty not covered under an insurance policy required to be maintained pursuant to this Sublease, then Lessor may, at Lessor's option, either (1) repair such damage as soon as reasonably possible at Lessor's expense, in

which event this Sublease shall continue in full force and effect, subject to abatement of Lessee's obligation to pay rent during any period the Premises or the facility of which the Premises are a part are untenable due either to damage or repairs of same, unless this Sublease is terminable for some other reason; or (2) give written notice to Lessee within thirty (30) days after the date of occurrence of such damage of Lessor's intention to cancel and terminate this Sublease as of the date of the occurrence of the damage. In the event Lessor elects to terminate this Sublease pursuant to this paragraph, Lessee shall have the right within ten (10) days after receipt of the required notice to notify Lessor in writing of Lessee's intention to repair such damage at Lessee's expense, without reimbursement from Lessor, in which event this Sublease shall continue in full force and effect, and Lessee shall proceed to make such repairs as soon as reasonably possible. If Lessee does not give such notice within the ten (10) day period, this Sublease shall be cancelled and terminated as of the date of the occurrence of such damage with no further obligations on Lessee's part pursuant to this paragraph.

- c) Total Destruction. If the Premises or the facility of which the Premises are a part are totally destroyed during the term of this Sublease from any cause except by a negligent or willful act or omission of Lessee, whether or not covered by the insurance required under this Sublease (including any destruction required by any authorized public authority), this Sublease shall automatically terminate as of the date of such total destruction as in

b above. If such total destruction is by a negligent or willful act or omission of Lessee, Lessor shall have all rights and remedies specified herein and otherwise legally available, subparagraph b above or anything herein to the contrary, notwithstanding.

- d) Damage Near End of the Term. If the Premises or the facility of which the Premises are a part are partially destroyed or damaged during the last four (4) months of the term of this Sublease, Lessor may at Lessor's option cancel and terminate this Sublease as of the date of occurrence of such damage by giving written notice to Lessee of Lessor's election to do so within ten (10) days after the date of occurrence of such damage.

26. RIGHT TO INSPECT AND POST NOTICES. The Lessor or the Lessor's representatives or agents shall have the right to enter the Premises at all reasonable times during the term of this Sublease to inspect the same, or to post notices of non-responsibility for any work done or to be done therein or for any other lawful purpose, and shall have full access to the Premises in the event of any emergency.

27. SURRENDER. Lessee shall peacefully give up and surrender to Lessor the Premises and every part thereof upon the termination or upon the expiration of the term of this Sublease in as good a condition and repair as reasonable use and wear thereof will permit and damage by force majeure excepted as provided in paragraph 25 hereof.

The voluntary or other surrender of this Sublease by Lessee, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of the Lessor,

terminate all or any existing subleases or subtenancies, or may, at the option of Lessor, operate as an assignment to it of any or all subleases or subtenancies.

28. HOLDING OVER. If Lessee does not vacate and surrender the Premises at the termination or on the expiration of the term of this Sublease, Lessee agrees that any hold over is without Lessor's permission and that the acceptance of any sum or further consideration or benefit thereafter received by Lessor hereunder does not constitute a waiver of any of Lessor's rights under this agreement or right to pursue any and all remedies otherwise legally available and said sum or sums shall not be considered and Lessee hereby agrees that same does/do not constitute liquidated damages.

29. SURVIVAL CLAUSE. All clauses, terms, covenants and conditions contained in this Agreement and running to the benefit of the Lessor survive any default, hold over or termination of this Agreement and in no way effect Lessor's rights under this Agreement, unless otherwise specifically stated. That some provisions herein contain specific survival language shall not be construed to mean that other provisions with no such language do not survive.

30. PARKING. No reserved parking is provided as part of this Sublease and any desired parking on Lessor's property or the Premises in connection with this Sublease or the use contemplated hereunder, if not otherwise covered herein, must be the subject of a separate, written agreement or letter of understanding between, agreed to and signed by Lessee and Lessor which specifically details all aspects of planned and/or installed parking areas or facilities.

31. OPERATIONS. Lessee shall at all times be responsible for operating the Premises, except during events programmed by Lessor as set forth in paragraph 5 of this Sublease agreement. Lessee shall be responsible for opening and closing the Premises to the public. Registration for Lessee's programs shall take place in the gymnastics office, or otherwise on the Premises, unless the registration takes place off site, or unless Lessee rents other facilities within the Livonia Community Recreation Center, (e.g., party rooms, gyms, multi-purpose rooms) from Lessor at Lessor's regular rental rates for such facilities. Lessee shall at all times operate its programs on the Premises in compliance with the terms of the Clean Michigan Initiative Recreation Bond Program Development Project Agreement between Lessor and the Michigan Department of Natural Resources, as amended, a copy of which is attached hereto as Exhibit B, including its provisions governing non-resident participation and fees. Lessee, and its agents, employees, board members, volunteers, invitees, and other participants or spectators of Lessee's programs on the Premises must comply fully with Livonia Community Recreation Center House Rules, and it is Lessee's obligation to assure that all such individuals are aware of, and abide by, said rules. Specifically, and without limiting the generality of the foregoing, Lessee must inform all participants and spectators that they must have a Recreation Center pass in order to use any portion of the Livonia Community Recreation Center other than the Premises, and that they will be required to purchase a pass – and pay any penalty imposed by Lessor – if they are determined to have used Livonia Community Recreation Center Facilities other than the Premises. Moreover, Lessee must provide its program participants with activity cards bearing bar-coding readable by Lessor's scanning equipment.



It is understood that the Livonia Community Recreation Center will shut down for one week during the course of the year for cleaning and miscellaneous repairs. It is further understood that during the annual shut-down Lessor and Lessee will cooperate in assuring that the purposes of the shut-down are not undermined by Lessee's activities in the Premises, and that Lessor's activities relating to the shut-down will not prevent Lessee from performing necessary functions in the Premises. If there is any irreconcilable conflict between Lessor's and Lessee's activities during the shut-down, Lessor's activities will take precedence.

32. ADVERTISING. No advertising may be displayed or communicated or conducted on the Premises without the prior, written consent of Lessor and in no event shall said consent be given for the purpose of advertising or promoting, directly or indirectly, alcohol, tobacco, firearms, drugs, religion or political candidates, causes or parties.

33. NON-DISCRIMINATION. Lessee shall not discriminate, directly or indirectly, against anyone on account of any reason or attribute prohibited by the United States or Michigan Constitution, the Law, or any promulgated Lessor policy.

34. ENTIRE AGREEMENT. This instrument constitutes the entire agreement between the Lessor and Lessee relative to the Premises, and this Agreement may be altered, amended, or revoked only by an instrument in writing signed by both Lessor and Lessee, unless otherwise indicated herein. Lessor and Lessee hereby agree that all prior contemporaneous oral agreements between and among themselves and their agents or representatives relative to the leasing of the Premises are merged in or revoked by this Agreement.

35. SEVERABILITY. If any term or provision of this Sublease shall, to any extent, be determined by any court or tribunal or quasi judicial or administrative body of competent jurisdiction to be invalid or unenforceable, then, at Lessor's sole option, with notice of the exercise thereof to Lessee, the remainder of this Sublease shall not be affected thereby, and each term and provision of this Sublease shall be valid and enforceable to the fullest extent permitted by law or this Agreement shall be terminated.

36. TIME -- JOINT AND SEVERAL LIABILITY. Time is of the essence with respect to this Sublease and each and every provision hereof, except as to the condition relating to the delivery of possession of the Premises to Lessee. All the terms, covenants and conditions contained in this Sublease to be performed by either party, if such party shall consist of more than one person or organization, shall be deemed to be joint and several, and all rights and remedies of the parties shall be cumulative and non-exclusive of any other right and remedy at law or in equity.

37. BINDING EFFECT -- CHOICE OF LAW. The parties hereto agree that all provisions hereof are to be construed as both covenants and conditions as though the words imparting such covenants and conditions were used in each separate paragraph hereof, subject to any provisions hereof restricting assignment or subletting by Lessee all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns. This Sublease shall be governed by the laws of the State of Michigan.

38. SIGN. Upon occupancy of the Premises, Lessee shall, but only if requested by Lessor and not otherwise, erect signs acceptable to Lessor but at

Lessee's sole expense, sufficient to identify Lessee's use and occupancy of the Premises.

39. AUTHORITY. Each individual executing this Sublease on behalf of Lessee or Lessor represents and warrants that he/she is duly authorized to execute and deliver this Sublease on behalf of said Lessee or Lessor in accordance with a duly adopted resolution of Lessor's or Lessee's Board of Directors, Council, Board of Education, or equivalent or in accordance with applicable By-Laws, Charter provisions or the law governing the execution of documents by Lessee or Lessor, as the case may be. Each such party represents that this Sublease is binding upon Lessee or Lessor in accordance with its terms. Lessee shall, within thirty (30) days after execution of this Sublease, deliver to Lessor a certified copy of the resolution of Lessee's Board or Council or equivalent authorizing or ratifying the execution of this Sublease.

#### **MISCELLANEOUS PROVISIONS**

40. Lessee agrees to accept at and hereby designates for acceptance of any service of process initiated by Lessor the address designated in the notice provision above.

41. Lessee shall not record this Sublease nor any notice thereof in any place where same may be recorded, the law to the contrary notwithstanding, and any such recordation or attempted recordation by Lessee or anyone on its behalf shall cause the immediate and irrevocable termination of this Sublease without notice to or recourse by Lessee.

42. Lessee may not block, in any way, access to any doorway gained through or by traversing, the Premises without the prior, written consent of Lessor.

43. The order of the provisions herein has no independent significance nor any relation to the importance of any provision in and of itself or in relation to any other provision.

44. Lessor makes no warranties or representations, express or implied, of any nature or kind including that the Premises is fit, safe or usable for the purpose and/or use intended and/or identified herein and Lessee's sole and exclusive remedy for any inability to use the property as intended and/or identified herein shall be to terminate this Agreement as provided herein without any further recourse.

IN THE PRESENCE OF:

CITY OF LIVONIA

\_\_\_\_\_

By: \_\_\_\_\_  
Dennis K. Wright, Mayor

\_\_\_\_\_

By: \_\_\_\_\_  
Susan N. Nash, City Clerk

APPROVED AS TO FORM:  
Department of Law

Pursuant to Council Resolution \_\_\_\_\_  
Adopted by the City Council on \_\_\_\_\_

By: \_\_\_\_\_  
Date: \_\_\_\_\_

IN THE PRESENCE OF:

LIVONIA PUBLIC SCHOOLS

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

MEF/bks revised 4/20/16

P:\Agreements\rec center\lps-gym2016

## **EXHIBIT A**

The Premises is limited to the portions of the Livonia Community Recreation Center denominated on the attached drawing as

1. Gymnastics 1400
2. Gymnastics storage 1401
3. Gymnastics office 1403
4. Gymnastics entry 1404

The Premises do not include the electrical room identified as 1402 on the attached drawing, the area identified as “gymnastic viewing 1006” on the attached drawing, or any portion of the Livonia Community Recreation Center not listed in 1-4 above. The gymnastic viewing area will be available for spectators of activities occurring on the Premises, but the City of Livonia reserves the exclusive right to program and operate this area.