

ANN ARBOR ROWING CLUB/BANDEMER PARK LEASE

THIS Lease is made and entered into this _____ day of _____, 2017, between the City of Ann Arbor, a Michigan municipal corporation, with offices at 301 E. Huron St., Ann Arbor, Michigan 48107-8647, (City) and the Ann Arbor Rowing Club (AARC), a Michigan non-profit organization, whose mailing address is P.O. Box 3128, Ann Arbor, Michigan 48106, hereafter referred to as the "AARC."

Recitals:

The City owns, operates and maintains certain public parkland designed as Bandemer Park located in the City of Ann Arbor, hereafter referred to as the "Park;"

The City has the authority to lease the Park, or a portion thereof together with the facilities in the Park and to grant rights and privileges with respect thereto; and

Ann Arbor Rowing Club (AARC), a Michigan nonprofit organization, with the mission to provide and promote a safe, affordable and educational rowing experience for the residents of Ann Arbor and the surrounding area, desires to lease from the City a certain portion of the Park for its programming;

The City is willing to lease the parkland and its facilities to AARC to support such programming;

Terms:

The parties agree to the following terms and conditions:

ARTICLE I

1.1 Premises

The City agrees to lease to AARC subject to the terms, conditions, covenants and provisions herein a certain identified portion of public parkland located in Bandemer Park, City of Ann Arbor, The leased space shall be approximately as described on the attached Exhibit A and as shown in the drawing attached as Exhibit B (the "Premises"). The address of the Premises is 1325 Lakeshore Drive, Ann Arbor, MI 48104.

The City makes no warranties or representations about the condition, fitness or safety of the Premises, or any part thereof, and AARC accepts the same "as is" on the comment date hereof.

1.2 Use of Premises

AARC has the right, subject to the terms, conditions, and covenants set forth herein, to use the Premises for the storage and maintenance of rowing equipment. Storage of boats shall be limited to the inside of the boathouse and to outside areas designated by the City as shown in Exhibit B. The Boat Storage Facility located on the Premises is approximately 120'0" in length and 44'0" in width, 1 story pole-barn style boathouse.

The AARC also has the right, subject to the terms, conditions and covenants set forth herein, to use the City-supplied storage shed to house gas cans, life jackets, rescue bags and oars, and other rowing related equipment. Storage of all items shall be limited to the inside of the storage shed and all items shall be properly stored to eliminate the possibility of harmful circumstances, such as spilled gasoline, in accordance with standards set forth by the Michigan Occupational Safety and Health Administration (MIOSHA). The dimensions of the concrete pre-cast storage shed are 10'6" by 8'0".

Parking is permitted for vehicles in designated areas adjacent to the Premises, as identified in Exhibit B. Said parking will be available for use by AARC and any sublessees of AARC. Additional parking for a special event will require AARC to obtain a Park Use Permit from Parks and Recreation Services. Bike parking shall be in designated areas. AARC shall endeavor to limit its or its sublessors use of parking space to those identified in Exhibit B; provided, however, that the parties understand and acknowledge that there may be infrequent occasions where, for a limited period of time, parking needs may exceed those spaces allocated to AARC.

AARC will not use the Premises for any other purpose without the prior written consent of the City. All usage of the Premises by AARC shall conform to Chapter 39 (Park Rules and Regulations) of the Ann Arbor City Code and shall conform its use to all State and local permitting requirements for the Huron River. No uses shall be permitted that will violate any federal or state, law, municipal ordinance, or regulation. In accordance with the authority granted the Community Services Area Administrator under section 3:3 of Chapter 39 of the City Code as evidence by his signature affixed to this lease, AARC may enter and remain within Bandemer Park and the Premises for the use of the Premises and the park outside the normal hours of operation of the park.

AARC shall, during the term of this Lease have the right to use in common with others such public roads, ways and areas at the Park that are necessary for ingress and egress to and from the Premises subject to all other terms and conditions of this Lease, and any rules or regulations for the Park as may be established from time to time by the City.

AARC acknowledges that the Michigan Rowing Association, (MRA), and rowing

programs affiliated with Huron High School and Pioneer High School, are long-term users of Bandemer Park. AARC further acknowledges and agrees that there will or may be areas of shared use with the above named rowing programs within the park grounds (i.e. space between the boathouses) or park infrastructure (i.e. boat dock(s)). AARC and City agree to engage in further discussions regarding the rights and obligations of shared use spaces and if necessary, memorialize any additional terms and conditions relative to the shared use in an addendum to this lease.

Nothing in this Lease shall, or shall be construed to, limit in any way the right and authority of the City of Ann Arbor to exercise its proprietary or governmental powers in any way over the Park or the Premises.

1.3 Term, Early Termination, Periodic Review

The term of this Lease is from July 1, 2017 to June 30, 2032, unless terminated earlier by both parties or as otherwise provided in Article IV.

AARC acknowledges and agrees that the Lease and all of its rights under the Lease shall be deemed terminated effective on the termination date; provided, however, that the following obligations of AARC shall not be released and shall survive termination of the Lease: (i) AARC's obligation to return the Premises in good operating condition and state of repair, ordinary wear and tear excepted; (ii) AARC's obligations under paragraph 1.2 of the Lease (hazardous substances); (iii) AARC's obligations under Article III of the Lease which arise on or prior to the termination date (personal injury claims), (iv) AARC's obligation to pay the rent under the Lease thru the termination date. Until the termination date of the lease, the City and AARC shall continue to perform their respective duties and obligations under the Lease. Nothing herein waives or releases any of the City's rights and remedies in the event of any default of AARC under the Lease arising prior to the termination date of the Lease.

Representatives of the AARC and the City will meet between January 1 and April 1 each year to review the documents to be provided by the AARC to the City, as required by this Lease, as well as to discuss any issues that have arisen during the previous year, including, but not limited to: general use of the Argo impoundment, improvements to the area, and general operations and opportunities for cooperation in the use of Argo Pond. If the City or AARC believe that a modification of one or more provisions of this lease is necessary or would be desirable in order to better effectuate the purpose of the lease in connection with the mandatory periodic review process, that party shall provide written notice to the other party of the request to modify such provision(s) and shall state in the notice whether a modification is necessary or desirable. Any modification must be approved by the governing bodies of the City and AARC as an amendment to this lease.

1.4 Rent

In consideration of the AARC's use of the Premises and preferential use of the Boat Dock Area, the AARC will pay to the City during the Lease term an annual rental fee of \$5,850.00. Rent shall be due and payable not later than the first day of September of each year during the term of the Lease. However, AARC shall be permitted to defer 11/12 of the term's rent, payable in monthly installments of 1/12 of the term's rent (\$487.50 per month). If the monthly installment option is chosen, the AARC shall pay the City the deferred monthly rental payment one month in advance, on the first day of each month. Failure to make any of the deferred payments before the 15th of the month, for whatever reason, shall eliminate AARC's right to deferred payments. Any further payments and all of the term's rent shall immediately come due and be payable.

Rental payments shall be deposited by the City in the Bandemer Fund for the purpose of improvements and maintenance at Bandemer Park and Argo Dam. 50% of payments shall be designated for Bandemer Park improvements and maintenance and 50% shall be for Argo Dam maintenance. Fund balance as of July 1, 2017, accrued under the expiring lease, shall be allocated solely for Bandemer Park improvements. AARC may, in connection with the mandatory periodic review in paragraph 1.3 submit proposal(s) for the use of the then current available fund balance in the Bandemer Fund for beneficial improvements for the Premises or Park users. Construction of such improvements and/or implementation of an AARC proposal shall be at the discretion of the City.

In addition to any rental payments made under this Agreement, AARC agrees as further consideration for the use of the Premises to do the following:

1. Provide the necessary administrative and supervisory services in order to offer a public rowing program. Details of program shall be shared with Parks and Recreation Services Manager or designee.
2. Submit for approval of the Parks and Recreation Services Manager or designee a schedule of anticipated rowing use for the year on an annual basis during the term of the Lease, including projected dates and times for routine and special events as well as a public rowing program. The schedule will be delivered to Parks and Recreation Services no later than April 1 of each year, commencing April 1, 2018.
3. Agree to submit a copy of its annual operating budget to the Parks and Recreation Services Manager upon request, within 30 days. Any proposed use of the Premises for fund raising activities must be approved, in writing, by the City.
4. Provide the Parks and Recreation Services Manager or designee, as requested, the most current and updated copies of all documents relating to Tenant's organization, including but not limited to bylaws, operating policies and procedures, rules and regulations (including weather policy, regulations regarding coaches, first aid, safety plan and others), membership roster, proof of insurance, sub-leases, and mission statement.

5. Upon written request from the City, provide copies of a guest, volunteer, or AARC members Participant Waiver and Release form.

1.5 Security Deposit

AARC will not be required to make a security deposit under the terms of this Lease.

1.6 Utilities

AARC will be responsible for the cost of all utilities servicing the Premises. If AARC desires telephone services at the Premise, they must arrange directly for payment of the utility company or supplier for AARC's use of such services. In the event AARC requires any addition or improvement to, or increase in the capacity of, any utility system currently servicing the Premises, AARC will have sole responsibility for paying the full cost of such addition, improvement or increase.

AARC's rights, privileges and obligations under this paragraph and Lease are subject to all existing utility and other easements in, on, under or above the Premises.

1.7 Limitation of City's Obligations regarding Utilities and Facilities

The City is not obligated to provide any utility services or facilities other than as specified herein, nor is the City obligated to increase the voltage or capacity of any utility service or facility existing on the effective date hereof. The City will not, under any circumstances, be liable to AARC or any person for any personal injury or property damage caused by any defect in or malfunctioning of any plumbing, heating, ventilating, sprinkler or air conditioning system, electrical wiring or insulation thereof, gas or steam pipes, or from the backing-up of any sewer pipe, or from the bursting, leaking or running of any tank, tub, washstand, toilet, or waste pipe, drain or any other pipe or tank in, on or about the Premises, or from the escape of steam or hot water from any boiler or radiator, or from any damage or injury caused by water being on or coming from the roof, stairs or walks, or any other place on or near the Premises.

1.8 Payments

All sums payable to the City by the AARC pursuant to the terms of this Lease are considered rent for all purposes hereunder. If AARC fails to pay any rent when the same is due, then AARC will pay, in addition to the full amount owed, a late payment charge equal to 1% of the amount due per month for each month, or part thereof that such sums have not been paid.

ARTICLE II

2.1 Maintenance and Repair of Premises

The City will provide, at its own expense, the following maintenance and repair services for the Premises:

1. Provide lawn mowing and other park maintenance as per usual practice in public parks in all areas adjacent to and surrounding the Premises not under the AARC's control or responsibility. Mowing shall occur consistent with the mowing schedule in place by the City's Field Operations. Trash refuse to be collected regularly at sites and in containers designated by the City.
2. Maintain all parking areas adjacent to the Premises, including paving, resurfacing and snow removal.
3. Maintain the vault toilet building, including cleaning and repair of facility.
4. Assist in maintenance of the dock when requested as work schedule permits.

The City has no responsibility to provide any maintenance, repair or other services other than as stated above. All City responsibilities are subject to the availability of funds.

The City has the right to enter upon the Premises at all reasonable hours for any purpose necessary, incidental to, or connected with its performance of any obligations under this Lease, including the inspection of the Premises, making repairs, or in the exercise of its governmental functions, or in the event of any emergency.

AARC will, at its own expense, maintain the Premises in a sanitary and slightly condition and in good repair, reasonable wear and tear excepted, by providing the following maintenance and repair services:

1. Repair, at AARC's cost, any and all damage caused to the Premises by its use and occupancy.
2. Maintain the grounds immediately surrounding the boathouse and storage facility free of bottles, papers, trash and other debris.
3. Maintain, in accordance with State and local regulations, clear and unobstructed access to the water and the boat dock.
4. Maintain the boathouse in clean and sanitary condition.

Seasonal removal and resetting of the dock, and maintenance, in accordance with State and local regulations, of the boat dock. City may assist in dock maintenance, subject to the availability of funds.

If AARC fails to perform any obligation required by this paragraph within sixty (60) days after receiving written notice of such failure from the Parks and Recreation Services Manager or designee, or under circumstances where the obligation is of such character as to require more than 60 days to perform, the AARC fails within said sixty-day period to commence and thereafter proceed diligently to perform such obligation,

then in either of such events, the City may, at its option and in addition to its other remedies, perform such obligation. Any sum expended by the City in the performance of any such obligation will be additional rent for all purposes hereunder and will be due within 30 days after the date an invoice for such expenses is mailed to the AARC.

In the event AARC's failure to perform any obligation under this section adversely affects or endangers the health or safety of the public or the City's employees, and the Parks and Recreation Services Manager or designee so states in its aforesaid notice, the City may, but is not obligated to, perform such obligation at anytime after giving such notice and without waiting the expiration of said 60-day period.

If the City performs any of the AARC's obligations pursuant to the provisions of this section, the City will not be liable to the AARC for any loss resulting from such performance.

2.2 Maintenance of Park Roadways

The City will maintain all park roads providing access to the Premises in good and adequate condition, and will maintain free and uninterrupted access to the Premises at all times, acts of God and circumstances over which the City has no control excepted.

2.3 Improvements

For purposes of this Lease, the term "Improvement" includes all buildings and other structures located on the Premises, which in turn include, by way of illustration and not limitation, the Boat Storage Facility, fencing, grading, paving, and surfacing with stone or hard top; all underground wires, cables, pipes, conduits, tanks, and drains; and any other kinds of property, excluding trade fixtures that are so attached to any building or permanent structure on the Premises that they cannot be removed without causing material injury to the building or structure to which they are attached.

AARC may propose Improvements or site alterations in connection with any mandatory periodic review or at any other time during the lease by requesting a meeting with the Park Manager or designee.

2.3.1 Construction of Improvements. Prior to construction of any Improvements, AARC must submit for the City's approval all plan and specifications for such work. All work must be performed under and subject to City approved specifications.

Prior to construction of any Improvement, in addition to any permits or licenses required to satisfy City building, zoning or other local ordinances or regulations, AARC must submit to the Parks and Recreation Services Manager or designee, an application for a Construction or Alteration permit, pay any charges thereof, and obtain the Manager's approval of the permit.

Upon completion of the construction of any Improvement, AARC must furnish the City with a certified itemized account of the costs thereof, and a set of “as built” documents in hard copy format and on electronic media.

2.3.2 Construction Contracts/Other Records. Prior to commencement of construction of any approved fixed improvements or subsequent additions or alterations thereto, AARC must submit to the City a copy of the contract or contracts for such construction, which must include a requirement that the contractor provide performance and labor and material payment bonds in compliance with the City’s standard specifications for construction contracts. AARC may not enter into any contracts prior to the Parks and Recreation Services Manager’s approval of all of AARC’s plans and specifications. Any contract entered into by AARC and any warranties contained therein must be for the benefit of the City as well as the AARC, and such contract must contain a provision giving the City a direct right of action to enforce the provisions of the contract, including, without limitation, the right to recover damages for breach thereof by the contractor.

AARC must also furnish to the City copies of other records, including, but not limited to, receipts and timekeeping documents that the Parks and Recreation Services Manager may require to verify construction of any Improvements.

2.3.3 Certificate of Non-Lien and Cost. AARC agrees that it will not enter into any contract for the construction of, repair of or addition to any fixed improvement, or any part thereof, or for any work to be performed or materials to be furnished upon or to the Premises, or any part thereof, without first providing in such contract a disclosure that the Premises are owned by the City of Ann Arbor, Michigan, and that AARC is merely a lessee of the City, and further, that no lien, security interest or other encumbrance may be created or may arise against the Premises, except as otherwise provided herein. To this end, AARC agrees to defend and save harmless the City and the Premises from any lien, security interest or other encumbrance asserted or filed against the Premises.

After completion of construction of any Improvements, AARC must, within 30 days following the close of the statutory mechanics lien period, submit to the City certificates by AARC and the construction contractor and its subcontractor that no liens, mechanics or otherwise, have been or are attached to such building or improvement, and that all charges and costs therefore have been paid in full.

2.4 AARC Trade Fixtures

For purposes of this Lease, the term “trade fixture” includes, but is not limited to, any sign, electrical or otherwise, used to identify or advertise AARC’s operations and all materials and equipment used in connection with such operations, whether or not such sign, materials or equipment are bolted or otherwise attached to any fixed improvement.

AARC may, at its own expense, install, maintain, operate and replace any and all trade fixtures and other personal property used in connection with AARC's operations, or use of the Premises; all such trade fixtures are and will remain the property of the AARC.

AARC must repair any damage to fixed improvements caused by the removal of trade fixtures by placing said fixed improvements in the same condition as when constructed or installed, normal wear and tear excepted.

2.5 Inspections by the City

The City has the right to periodically inspect the premises during the construction of any new, or addition to, or alteration of, any fixed improvement on the Premises, and AARC will reimburse the City for the reasonable cost, if any, thereof.

2.6 Damage to or Destruction of Premises

If the Premises are partially damaged or totally destroyed by fire, the elements, or other casualty, and are rendered untenable, the City may, at its option, terminate this Lease or repair and restore the Premises to a tenantable condition. Until the premises are restored to a tenantable condition, the rent payable under this Lease will be abated totally if the entire Premises are rendered untenable or, if less than 50% of the Premises are rendered untenable, the rent will be abated pro rata for the portion rendered untenable.

Notwithstanding the foregoing, if the Premises are damaged or destroyed as a result of negligence, omission or willful act of AARC, its agents, representatives, employees, guests or other invitees, then AARC will not receive any rental abatement and AARC, at its own expense, must repair and restore the Premises.

ARTICLE III

3.1 Indemnification

AARC will protect, defend and hold harmless the City and its officials, employees, agents and representatives from and against any and all liabilities, claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including AARC's own officers, members, affiliates, employees, agents, representatives, contractors, guests, and invitees, or for loss of or damage to property, arising or alleged to arise, either directly or indirectly, (a) out of or in connection with AARC's use or occupancy of the Premises, or

(b) out of or in connection with the acts or omissions of the AARC, its officers, members, affiliates, employees, agents, representatives, contractors, guests or other invitees where such acts or omissions occur on the Premises, or (c) out of or in connection with any acts or omissions of the AARC, its officers, members, affiliates, employees, agents, representatives, contractors, guests or other invitees where such acts of omissions occur elsewhere at the Park; provided, however, that the AARC will not be liable hereunder for any injury, death, damage or loss caused by the City's sole negligence, or by the joint negligence of the City and any person or entity other than the AARC, or (d) .out of or in connection with AARC's performance or non-performance of work in connection with AARC's obligations under Article I and II. AARC's indemnification shall extend to responsibility for any hazardous condition created or any injury that may occur to any person, for any damage that may occur to any property, as a result of any negligent or intentional act or omission of AARC, or any person or entity acting on behalf of AARC, in connection with its obligations under this lease.

3.2 Insurance

Subject to the conditions hereinafter set forth, AARC, at its own expense and in its own name, and in the City's name, as additional insured, as their respective interests may appear, must maintain and keep in force during the term of this lease the following policies of insurance, which must be written by an insurance company or companies licensed to conduct business in the State of Michigan:

- A. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 07 98. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements, including, but not limited to: Products and Completed Operations or Pollution. Further, the following minimum limits of liability are required:
 - \$1,000,000 Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined
 - \$1,000,000 Personal Injury
- B. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, equivalent to, as a minimum, Insurance Services Office form CA 00 01 07 97. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
- C. Participant Accident Insurance. The City of Ann Arbor shall be an additional insured.

Coverage shall include all AARC activities, regular and special event. Further, the limits of liability shall be not less than the insurance limits established by the City for Park Use Permits.

- D. Worker's Disability Compensation Insurance. AARC will provide coverage in compliance with Section 115 of the Worker's Disability Compensation Act of 1969 (P.A. 1969, No. 317).

Insurance required under this Lease shall be considered primary, as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the AARC agrees to waive any right of recovery by its insurer against the City.

Any insurance provider of AARC shall be admitted and authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V." Insurance policies and certificates issued by non-admitted insurance companies are not acceptable unless approved in writing by the City.

Any insurance provided hereunder may be provided by a special policy arranged for this particular purpose or may be provided under a blanket policy that covers the property and obligations provided for herein as well as other property and obligations of the AARC.

Each policy required hereunder must provide for at least 30 days unconditional advance written notice to the City prior to any cancellation, termination or material modification of the policy or any part thereof in any manner adverse to the interests of the City.

Prior to occupancy of the Premises, AARC must deliver to Parks and Recreation Services a certified copy of each insurance policy required hereunder. If, at any time, any of the policies become unsatisfactory to the City as to form or substance, or if the companies issuing such policies become unsatisfactory to the City, AARC will promptly obtain new and satisfactory policies in replacement.

Compliance with this section is a continuing condition of AARC's enjoyment of the rights and privileges granted under this Lease. In the event AARC fails to maintain and keep in force insurance as hereinabove required, AARC will forthwith cease all operations from and at the Premises until such failure is completely remedied.

ARTICLE IV

4.1 Right to Terminate

This Lease may be terminated with the consent of both parties in a signed writing under terms and conditions to be negotiated by the parties.

4.2 Unilateral Termination for Material Breach.

The City may terminate this Lease if AARC is in material breach of any of its obligations herein. It is provided, however, that before the City may terminate this lease for the material breach of AARC, the City must provide written notice to AARC of the breach and provide it with ninety (90) days following receipt of the notice in which to cure any such breach, except that the period to cure shall be thirty (30) days following receipt of notice in which to cure a breach with respect to non-payment of rent.

A violation by AARC of any obligation described in Article I, II, or III shall be deemed a material breach of the AARC's obligations hereunder; upon such breach, the City may, at its option, and in addition to any other remedy available to the City, cancel this Lease and terminate all rights of the AARC hereunder by giving the AARC in writing notice of the election of the City to cancel the Lease.

4.3 City's Right to Re-enter Premises and Option to Cancel Lease and Re-Let

The City, in addition to other rights or remedies it may have, has the immediate right of re-entry and may remove all persons and property from the Premises and store such property in a public warehouse or elsewhere at AARC's expense upon occurrence of any of the following: (a) AARC becomes bankrupt or insolvent, or (b) AARC abandons the Premises for more than 30 days, excluding days between November 1 – March 30 of each year.

If the City elects to re-enter the Premises as herein provided, or takes possession thereof pursuant to legal proceedings or any notice provided for by law, it may cancel this Lease and may re-let said Premises or any part thereof for such term or terms which the City in its sole discretion may deem advisable.

4.4 City's Waiver of Breach

One or more waivers of any covenant or condition by the City will not be construed as a waiver of a subsequent breach of the same covenant or condition, and the approval by the City of any act by the AARC requiring the City's approval will not be deemed to waive or render unnecessary the City's approval of any subsequent similar act by the AARC.

4.5 AARC's Right to Terminate

Notwithstanding any other provision of this Lease, the AARC has the right to terminate this Lease upon the occurrence of the City's breach of any provision of this Lease and failure to remedy such breach within 60 days after receipt of notice thereof

from the AARC.

4.6 Taxes

The AARC is responsible for and must pay before delinquency all taxes lawfully assessed during the term of this Lease against any leasehold interest or personal property of any kind, owned by or placed in, upon or about the Premises by the AARC; provided, however, the AARC will not be in default of this section pending the outcome of any legal proceedings instituted to determine the validity of such taxes.

4.7 Notice by AARC

The AARC will give immediate notice to the City in case of fire or accidents on the Premises.

4.8 Compliance with Laws, Rules and Regulations

The AARC and any assignees and sublessees must comply with all rules and regulations adopted by the City with respect to the use and enjoyment of its parks, including, but not limited to, ramp areas, and all applicable federal and state laws and regulations. AARC must include in each of its sublessees, if any, a provision requiring the sublessee's similar compliance.

4.9 Covenant Against Discrimination

The AARC for itself, its assignees and sublessees, as a part of the consideration hereof, covenants and agrees that no person will be excluded from participation in, denied the benefits of, or will otherwise be subjected to discrimination in the use of said Premises and agrees to comply with the nondiscrimination and affirmative action provisions of Chapter 112 of the Ann Arbor City Code.

4.10 Signs

AARC may not erect or install any exterior signs in the Park, including the Premises, without the previous written consent of the Parks and Recreation Services Manager or designee. All exterior signs must comply with Chapter 61 of the Ann Arbor City Code (Signs and Outdoor Advertising). The appearance of all exterior signs must be maintained in good state of repair.

4.11 Assignment and Subletting

AARC is hereby granted the authority to sublet the Premises, or any portion thereof, only to the following organizations with prior written consent of the Parks and Recreation Services Manager or designee: rowing program(s) affiliated with Huron High School, Pioneer High School, and Skyline High School or an organization(s) representing or providing rowing program(s) for their respective high school. Any sublease agreement must contain a provision indemnifying and insuring

the City as specified in Article III of this lease. AARC may require a fee for rental of the Premises; however, any sublease rental fees received by AARC shall not exceed the amount AARC pays annually to the City. Sublessees may not sublet to other organizations or individuals.

ARTICLE V

5.1 Notices

All notices, demands or other writings required or provided for under this Lease shall be sent by personal delivery or by first class mail, postage prepaid, to the address stated in this agreement or such other address as either party may designate by prior written notice to the other. Notice shall be considered delivered under this agreement when personally delivered to the Parks and Recreation Manager or designee or placed in the U.S. mail, postage prepaid, to the City, in care of the Parks and Recreation Services Manager.

5.2 Choice of Law

This Lease will be construed and enforced according to the laws of the State of Michigan. By executing this Lease, the AARC and the City agree to venue in a court of appropriate jurisdiction sitting within Washtenaw County for purposes of any action arising under this Lease.

5.3 Severability

Whenever possible, each provision of this Lease will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Lease or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Lease or the application of the provision to other parties or other circumstances.

5.4 Entire Agreement.

This Lease sets forth all the covenants, promises, conditions, and understandings between the City and the AARC concerning the Premises and AARC's use thereof. No alteration, amendment, change, or addition to this Lease is binding upon the City unless it is in writing and signed by each party hereto.

FOR ANN ARBOR ROWING CLUB

By _____

Its President

By _____

Its Secretary

FOR THE CITY OF ANN ARBOR

By _____

Christopher Taylor, Mayor

By _____

Jacqueline Beaudry, City Clerk

Approved as to Substance:

By _____

Howard Lazarus, City Administrator

By _____

Derek Delacourt,
Community Services Area Administrator

Approved as to Form and Content:

By _____

Stephen K. Postema, City Attorney

EXHIBIT A DESCRIPTION

The western face of the boathouse (“Boat Storage Facility”) located 10’0” east of and parallel to the west property line of South Bandemer Park and the south face of the Boat Storage Facility located such that its southern face is in alignment with the south face of two existing metal buildings currently located in South Bandemer Park, and to the area outside the boathouse

A storage shed, supplied and installed by the City, located parallel to and east of the existing path and south of the existing dry hydrant,

**EXHIBIT B
MAP**