

LEASE AGREEMENT

This agreement is entered into on the ____ day of _____, 2020, between Iron County, a political subdivision of the State of Utah, hereinafter referred to as COUNTY; and Southern Utah Youth and Enthusiasts Together for Ice (YETI), hereinafter referred to as YETI, a Utah Not-For-Profit Corporation, hereinafter referred to as YETI.

WHEREAS, COUNTY owns and operates the Woods Ranch Recreation Area, located approximately 12 miles east of Cedar City, Utah, along SR 14. This County property consists of approximately 44 acres of land upon which COUNTY has made a substantial investment constructing baseball backstops, pavilions, picnic tables, restroom facilities, parking lots, fishing pond, etc.; and

WHEREAS, on the Northern edge of the Woods Ranch, there is natural meadow approximately 520 feet by 390 feet. This meadow slopes gently to the west and down the canyon and consists primarily of natural grasses and wildflowers. Two baseball/softball backstops are on the Southwest and Southeast corners of the meadow; and

WHEREAS, YETI is a Not-For-Profit Corporation with a stated mission to allow families and friends to gather while participating in healthy, invigorating, and family oriented activities revolving around ice sports which include public ice skating, figure skating, hockey, etc.; and

WHEREAS, YETI possesses the equipment necessary to construct and maintain an ice rink; and

WHEREAS, YETI represents to COUNTY that YETI has obtained the necessary

authorization to use water from a source on the Woods Ranch Recreation Area.

WHEREAS, YETI has asked COUNTY to enter into an agreement whereby YETI may, on a trial, temporary, and seasonal basis, locate an ice rink on COUNTY property; and

WHEREAS, it is the express intent of COUNTY and YETI that this agreement supersedes all prior written or oral agreements related to the lease of COUNTY property.

NOW THEREFORE, COUNTY and YETI agree that adequate consideration exists to support the formation of this lease agreement. COUNTY and YETI enter this agreement with the intent of documenting the lease of COUNTY property and setting forth each party's responsibilities.

ARTICLE I.

LEASED PROPERTY AND CONDITIONS.

1. The property to be leased to YETI pursuant to the terms and conditions of this lease shall consist of a temporary and seasonal area where YETI will locate a naturally frozen ice rink and all other material associated with the ice rink.
 - A. On a temporary and seasonal basis COUNTY leases to YETI an area in the meadow approximately 200 feet west of the paved east entrance to the Woods Ranch Recreation Area for the purpose of placing an ice rink. The leased area will include a dimension of 90 feet by 190 feet, which includes a 70 feet x 170 feet ice rink with 10 feet on either side for spectator seating. This area is depicted in Exhibit A attached hereto and incorporated herein by reference. The area permitted to be used for the ice rink is reflected on the attached Exhibit A.
 - B. COUNTY equipment and employees will attempt to level the ground below

where the ice rink will be located. This will only occur if COUNTY equipment and employees are available. Other than this ground work, This agreement contemplates YETI's enters this lease use of COUNTY property ~~in an~~ "as is" ~~condition~~ and without further development cost to COUNTY.

- C. Access for delivery of equipment and supplies necessary to operate the YETI will be through the two existing paved driveways from SR 14 one the west and east side of the meadow. Disturbance to the naturally occurring meadow will be kept to the absolute minimum possible. Entrance to the meadow will be from the south meadow. Prior placing any structure or water upon the ground, YETI will spread a seed mix of naturally occurring grasses and wildflowers on the ground on any disturbed area and every area upon which seating or the ice rink will be placed.
- D. By entering this lease COUNTY is not limiting its own use or access to the leased property, nor the public's right to use and access the property and paved driveways and parking lots. YETI understands the Woods Ranch Recreation Area is public property and is used by members of the public during all seasons of the year. YETI's use of the property is not exclusive and YETI must share use of the road, parking lot, and meadow with COUNTY's operations and the public.
- C. Access for users of the ice rink, spectators, volunteers, and all YETI personnel shall be via either of the paved driveways coming off SR 14 to the parking lot which is South of the meadow. All users, spectators, volunteers, and YETI personnel shall be required to park in the parking area South of the meadow.

Parking is not permitted on the driveways. Parking is also prohibited along SR 14.

- E. This lease shall include limited access to the Woods Ranch Recreation Area during hours when the Woods Ranch Recreation Area is open to the public. The access may be limited by COUNTY. YETI has no authority to enter the property if COUNTY has closed the area to the public.
- F. It is anticipated that YETI will ~~need-require~~ electricity on the leased property to operate six LED lights to illuminate the ice rink during the evening hours. COUNTY and YETI anticipates the use of these lights will only slightly increase the electric bill COUNTY pays for the Woods Ranch Recreation Area. COUNTY agrees to cover this small additional expense. However, YETI is solely responsible for paying for any expense associated providing the necessary infrastructure to deliver electric power to the ice rink, and this ~~providing this area with electricity and~~ must be done in a manner approved by the Iron County Building Department.
- G. Currently County restroom facilities may remain open during the winter months. YETI is responsible to clean these restroom facilities at least weekly.
- H. YETI is responsible to ensure garbage is removed and placed in dumpsters, and that the leased property ~~etc~~ is otherwise kept in a clean and neat appearance.
- I. YETI understands the Woods Ranch Recreation Area can receive large amounts of snow, and COUNTY's ability to remove and plow the snow is limited due to other priorities issues. Additionally, YETI understands the area available for

parking becomes more limited during the winter months due to growing snow drifts created by the weather and snowplows. COUNTY makes no representations regarding the frequency or availability of COUNTY resources to remove snow from any area of the Woods Ranch Recreation Area.

J. Limitations on use of leased property shall include the following:

1. YETI may not charge any fee for any individual to use the ice rink.
2. Hours of operation for ice rink shall be limited to 7 a.m. to 10:30 p.m. Monday through Saturday. These operational hours shall apply to YETI staff maintenance activities for the rink as well as any use of the rink by any individuals.
3. At COUNTY's sole discretion, YETI may be required to erect netting around the south side of the YETI-ice rink to protect vehicles in the parking lot from being damaged by flying objects. This includes but is not limited to hockey pucks. The net must be of such a quality and height that is reasonably agreeable to COUNTY and YETI so that it is designed to protect the Woods Ranch Recreation Area. If COUNTY does require YETI to install netting COUNTY shall provide reasonable notice of such a requirement. If YETI fails to install the netting in a reasonable time COUNTY may require all operations to be suspended until such time as the netting is installed.
4. YETI agrees as a condition to this lease and to the use and occupancy of the leased property that YETI shall at all times use the lease property for the purpose of constructing, maintaining, operating, and disassembling an ice

rink. It is the purpose of this lease to foster and abet the public private partnership in favor of providing a temporary and seasonal location for an ice rink. Uses of the leased property that are not normally incidental to the operation of an ice rink are prohibited.

5. Prior to storing or using any hazardous materials on the leased property that are used to support the operation of the ice rink, YETI shall notify Iron County Outdoor Recreation Management Department regarding the type and quantity of hazardous material as well as information contained in the relevant material safety data sheets. COUNTY reserves the right to disallow the use or storage of any hazardous materials within the leased property.
6. YETI is responsible to provide onsite garbage cans for use during operational hours. YETI shall be responsible to monitor the leased property on at least a daily basis for trash and debris removal. YETI shall have access to COUNTY's large garbage cans located adjacent to the restroom facilities southwest of the ice rink location if the cans are not full. YETI is not permitted to use COUNTY trash cans if they are full, or if YETI's use of the cans will cause the cans to overflow.
7. YETI shall not permit any part of the leased property to be used for any unlawful purpose or for any purpose or use that may constitute a nuisance or fire hazard. YETI shall not allow the leased property or any part thereof to be used or occupied for any purpose in violation of any law, lawful order, rule or regulation concerning the operation of COUNTY's public parks and grounds.

ARTICLE II.

LEASE AMOUNT.

- A. COUNTY shall lease the space for the ice rink to YETI a monthly basis for \$1.00.
- B. In addition to the base lease amount YETI will be required to pay COUNTY the cost of electricity used by YETI for any lighting used for the ice rink.

ARTICLE III.

DURATION.

- A. The use of the ice rink must terminate by April 1, 2021, or when the ice on the ice rink melts, whichever is earlier. All ice rink equipment and material must be removed from the Woods Ranch Recreation Area within 30 days of the date on which use of the ice rink ends and no later than May 1, 2021, whichever is earlier.

ARTICLE IV.

LIABILITY AND INSURANCE REQUIREMENTS.

- A. YETI shall indemnify and hold harmless COUNTY, its elected and appointed officials, its employees, agents, and assigns from any and all injury to persons or property caused by the negligence in the operation of the ice rink, or any of the ice rink facilities located on the leased property. This is intended to include injury to persons and property of third parties as well as injury or damage to COUNTY's buildings, infrastructure, and surrounding improvements. The insurance must also reimburse COUNTY for the expenses of COUNTY to provide legal defense from claims against COUNTY. The insurance certificate shall include at a minimum one million dollars (\$1,000,000.00) of general liability coverage and property damage coverage.

ARTICLE V.

SUBLEASING AND ASSIGNMENTS.

- A. YETI shall not assign or sub-let any interest in the premises, without the prior written consent of COUNTY.
 - 1. YETI may not assign any of YETI's obligations or responsibilities under this agreement to another entity.

ARTICLE VI.

REMEDIES FOR DEFAULT.

- A. Failure to abide by the terms and conditions of this agreement shall constitute an act of default. The non-defaulting party shall be required to provide the party alleged to be in default written notice of the default. The written notice shall state the provision of the agreement that it is alleged the defaulting party has violated and the actions of the defaulting party that are alleged to have caused the default. This notice shall provide the alleged defaulting party 10 days to cure the default. If the party alleged to be in default requires additional time to cure the default, it may ask but it has to provide a reason why they need more time and a date by which the default will be cured. Providing notice of default and an opportunity to cure as required in this paragraph shall in no way be interpreted to restrict or limit COUNTY's other remedies for default.
- B. If YETI is in default after being given notice and an opportunity to cure as contained herein COUNTY, in addition to any other remedy available at law or equity, may restrict any further access to the leased property until the default is cured.
- C. YETI shall surrender the leased property to COUNTY in a condition that is free and clear

of all of YETI's seasonal improvements no later than May 1, 2021, or upon failure to cure a default where YETI has been given notice of the default and an opportunity to cure. Prior to April 1, 2021, YETI shall discontinue use of the ice rink, and conduct any necessary and appropriate maintenance activities so that the rink and other equipment used during the operation of the ice rink may be removed from COUNTY property. No bailment is created and COUNTY shall have no duty to protect YETI's property. If this agreement is terminated YETI shall have thirty (30) days to remove all of its equipment and infrastructure from COUNTY's property. Any equipment not removed shall be forfeited to COUNTY.

- D. This agreement shall not be interpreted to restrict or prohibit COUNTY or YETI from exercising any legal or equitable remedies they may have.

ARTICLE VII.

TERMINATION.

- A. In addition to the language contained under Article IX Remedies for Default, both YETI and COUNTY shall have the option to terminate the Lease after providing ten (10) days written notice to the other party, and upon such termination, this agreement shall be at an end. Termination by either YETI or COUNTY may be without cause. Both parties shall notify each other in writing of the intent to terminate. Once the ten (10) day period has ended, YETI shall have thirty (30) days to remove their property from COUNTY property.

ARTICLE XI.

MISCELLANEOUS PROVISIONS.

- A. This agreement is between YETI and COUNTY. It is not intended to create any interest on behalf of any third party. No third party or third-party group that may wish to use the YETI shall have any rights or remedies under this agreement.
- B. YETI, is not a COUNTY organization or department and is not entitled to the use of any COUNTY resources for the creation or maintenance of the ice rink. In no way is YETI to be considered agents or servants of COUNTY and COUNTY is not liable for YETI's actions or inactions. YETI agrees to obtain, and provide proof of holding, a one-million-dollar liability insurance policy. This policy must indemnify COUNTY from any and all actions and inactions of YETI, and must reimburse COUNTY for legal expense for COUNTY to defend itself from claims associated from the ice rink and YETI's use of the Woods Ranch Recreation Area
- C. YETI shall be required to purchase and display a sign in a conspicuous location so that customers entering the leased property will have an opportunity to read the sign. This sign may state the rules related to the YETI, but the sign shall clearly identify that the YETI is owned and operated by YETI and that YETI is an independent and a separate entity from COUNTY.
- D. YETI shall provide COUNTY with a contact list for its employees and volunteers. This contact list shall include working individual names, titles/responsibilities for YETI, phone numbers, and email addresses.
- E. COUNTY's failure to enforce one or more of the terms herein is not a waiver. No failure by COUNTY to insist upon the strict performance of any term, condition or covenant of this agreement or to exercise any right or remedy available on a breach of any condition

or covenant of this agreement, and no acceptance of full or partial rent or performance hereunder shall constitute a waiver of any such breach or any such term, condition or covenant. No term, condition or covenant of this agreement required to be performed by YETI, and no breach thereof, shall be waived, altered or modified, except by a written instrument executed by COUNTY. No waiver of any breach shall affect or alter any term, condition, or covenant of this agreement, and such term, condition, or covenant shall continue in full force and effect with respect to any other than existing or subsequent default or breach thereof, and any other or subsequent default or breach may be enforced by COUNTY as provided in this agreement.

- F. COUNTY shall have the right to enter upon the leased property to examine the leased property to maintain any COUNTY infrastructure thereon. COUNTY may access the leased property to abate any nuisances or hazardous conditions on the leased property. If COUNTY has to abate a nuisance or hazardous condition on the leased property COUNTY shall have the right to bill YETI for such services and YETI shall have the obligation to pay said bill.
- G. YETI represents that it has examined the leased property and accepts the leased property in as is condition without any representation or warranty, express or implied in fact or by law, by COUNTY as to the title, nature, condition or usability of the property for the purpose set forth herein.
- H. YETI shall maintain all appropriate licensing and permits as well as collecting and paying all appropriate sales and use taxes. ~~This includes, but is not limited to, obtaining a COUNTY business license, obtaining a state tax I.D. number, and paying to the State of~~

~~Utah all applicable sales and use taxes.~~

- I. COUNTY shall not be responsible for any washouts, subsidence, avulsion, or settling of the premises, nor for any injury caused thereby to YETI's property or any person occupying the property. COUNTY shall not be obligated to replace, refill, or improve any part of the leased premises during YETI's occupancy, in the event of such washouts, subsidence, avulsion, or settling of the property.
- J. No destruction or damage to any structure or improvement on the leased property, or that affects access to or use of the property, by an act of God, acts of terror, civil unrest, military action, vandalism, by fire, rain, snow, ice, windstorm, earthquake, aircraft accident, or any other casualty or action shall entitle YETI to surrender possession of the leased property, to terminate this lease, to violate any of its provisions, or to cause any rebate or abatement in rent when due or thereafter.
- K. Conditioned upon YETI's paying the rent provided herein and performing and fulfilling all covenants, agreements, terms, duties, responsibilities, and conditions contained in this lease agreement, YETI shall have and may enjoy the leased premises.
- L. This agreement shall not be modified, altered, or changed in any way whatsoever unless in writing and signed by COUNTY and YETI.
- M. Any notice required to be given by this agreement shall be deemed to have been sent and received if sent via regular first class mail, postage prepaid, or by email to the following:

IRON COUNTY
IRON COUNTY COMMISSION
PO BOX 429
PAROWAN, UT 84761

YETI

- N. All disputes resulting in legal action shall be governed by the laws of the State of Utah. Jurisdiction shall be vested in the District Courts in and for the State of Utah. Venue is vested in the 5th Judicial District Court in and for Iron County, State of Utah or in any other successor district court of competent jurisdiction.
- O. In the event any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision contained herein, provided the invalidity of such covenant, condition or provision does not materially prejudice either COUNTY or YETI in its respective rights and obligations contained in the valid covenants, conditions, and provisions of this agreement.
- P. COUNTY has constructed improvements upon the leased property including, but not limited to: partially paved parking lot and driveways, gravelled surfaces; restroom facilities; picnic tables; fencing. The use of COUNTY revenue from any source is at the sole discretion of COUNTY. Use of future COUNTY revenue from any source is at the sole discretion of COUNTY in compliance with COUNTY ordinance and State Statute. Nothing in this agreement shall be interpreted to prohibit or require COUNTY to expend funds or use equipment to support the ice rink.
- Q. This is an integrated agreement. No prior or subsequent written or oral representations from COUNTY or YETI shall be deemed to modify this agreement, modifications shall only be allowed as contained herein. This agreement shall be interpreted on the four corners of the agreement.
- R. This agreement has been provided to YETI and COUNTY and both parties have been

provided ample opportunity to review and contribute to the agreement. This is a negotiated agreement and it shall not be interpreted against the author due to the fact that the author wrote the agreement.

- S. Each person signing this agreement represents that they have done everything necessary to be able to bind each entity to the provisions contained herein.

COUNTY's SIGNATURE PAGE.

Dated this ___ day of _____, 2020.

PAUL COZZENS
CHAIR, IRON COUNTY COMMISSION

[SEAL]
ATTEST:

JON WITAKER
IRON COUNTY CLERK

STATE OF UTAH)
 :ss.
COUNTY OF IRON)

This is to certify that on the ___ day of _____, 2020, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared Paul Cozzens, known to me to be the Chair of the Iron County Commission, and Jon Wittaker, known to me to be the Iron County Clerk, and acknowledged to me that she the said Paul Cozzens and he the said Jon Wittaker executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

NOTARY PUBLIC

YETI's SIGNATURE PAGE.

Dated this _____ day of _____, 2020.

STATE OF UTAH)
 :ss.
COUNTY OF IRON)

On this _____ day of _____, 2020, personally appeared before me
_____ who duly acknowledged to me that she signed the above and foregoing
document.

NOTARY PUBLIC