

**FACILITY USE AGREEMENT BETWEEN THE CITY OF NORTH OGDEN
AND
SPECIAL OLYMPICS UTAH FOR THE
POLAR PLUNGE EVENT**

This Facility Use Agreement ("Agreement") is entered into as of this ____ day of _____, 2017, between the North Ogden City, Utah, a Utah municipal corporation ("CITY"), and Special Olympics Utah, Inc., a non-profit corporation ("SO Utah"). CITY and SO Utah are hereinafter collectively referred to as the "PARTIES."

RECITALS

WHEREAS, CITY owns and operates a pool facility, known as the "North Shore Pool" located at _____; and

WHEREAS, SO Utah provides Olympic-style sports and competition to individuals with intellectual disabilities, who may also have physical disabilities, and their services help the families, guardians and care providers; and

WHEREAS, SO Utah is a non-profit organization and generates funding through donations and other fund-raising activities, which activities include, but are not limited to, an annual wintertime event known as the "Polar Plunge;" and

WHEREAS, SO Utah desires to use the City Pool to hold its Polar Plunge which is scheduled for Saturday, January 21, 2017; and

WHEREAS, CITY has agreed to allow SO Utah to use the City Pool for its 2016 Polar Plunge in accordance with the terms set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and considerations as more fully set forth herein, SO Utah and CITY hereby agree as follows:

AGREEMENT

1. Recitals. The foregoing recitals are incorporated herein by reference.
2. City Pool Usage. CITY agrees to allow SO Utah to use the City Pool for a 2017 Polar Plunge activity at no charge on Saturday, January 21, 2017, from 8:00 am to Noon pm. CITY shall be under no obligation to provide any lifeguard, law enforcement, concession, or other services for the Polar Plunge.
3. SPECIAL OLYMPICS' obligations. In exchange for CITY allowing SO UTAH to use the City Pool, SO UTAH agrees to secure cold water rescue and other necessary safety supervision services for the Polar Plunge event. CITY recognizes that SO Utah may ask North [Ogden City FireView Fire Department](#) to provide the cold water rescue.

4. Indemnity and Liability. SO UTAH shall hold harmless and indemnify CITY, and its employees and agents, against any and all loss, liability, damage, claim, cost, charge, demand, or expense (including any direct, indirect or consequential loss, liability, damage, claim, cost, charge, demand, or expense, including attorney's fees) for injury or death to persons, including employees of the CITY, and damage to property, including property of the CITY, arising out of this Agreement, except as may result from the sole negligence or willful misconduct of CITY, and its employees and agents.
5. Insurance. SO UTAH shall have, maintain, and keep in effect during the life of this Agreement, such general liability and property damage insurance necessary to protect itself and CITY, from all claims and legal costs for bodily injury or personal injury, including accidental death and property damage claims arising from operations under this Agreement. CITY shall be named as additional primary insured without offset against its existing insurance. SO UTAH shall provide to CITY a copy of its Insurance Endorsement evidencing the provisions outlined in this section. The minimum general liability and property damage liability shall be as follows:
 - a. Comprehensive general liability insurance for injuries, including accidental death, to any one person in any one occurrence in an amount not less than \$703,000 Dollars.
 - b. Comprehensive general liability insurance for injuries, including accidental death, to two or more persons in any one occurrence in an amount not less than \$2,407,700 Dollars.
 - c. Broad form property damage insurance in an amount not less than \$281,300 Dollars.
6. Binding Effect. All of the provisions of this Agreement shall inure to the benefit of and be binding upon the PARTIES hereto and their respective successors, heirs, representatives, officers, agents, employees, members, assigns, and receivers.
7. Integration. This Agreement contains all the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements or previous agreements between the PARTIES, whether oral or written with respect to the subject matter. Any amendments hereto must be in writing and signed by the respective PARTIES.
8. Severability. If any part or provision of this Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific provision determined to be unconstitutional, invalid or unenforceable.
9. Survival. It is expressly agreed that the terms, covenants and conditions of this Agreement shall survive any legal act or conveyance required under this Agreement.

10. Headings. The section and other headings in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.
11. Governing Law and Venue. This Agreement is entered into under and pursuant to and is to be construed and enforceable in accordance with the laws of the State of Utah.
12. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and together shall constitute one and the same agreement.
13. Authority of PARTIES. The PARTIES executing this Agreement hereby warrant and represent that they are duly authorized to do so in the capacity stated and that this Agreement constitutes a valid and binding agreement.

IN WITNESS WHEREOF, the PARTIES have executed this Agreement the day and year first above written.

| NORTH OGDEN CITY: _____ UTAH SPECIAL OLYMPICS

| Jonathan T. Pike Brent R. Taylor, Mayor _____ By: _____
Its: _____

ATTEST:

APPROVED AS TO FORM:

| S. Annette Spendlove, CITY Recorder
Attorney

Jonathan Call, City-CITY

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