

**PARK CITY COUNCIL MEETING  
SUMMIT COUNTY, UTAH  
JANUARY 16, 1997**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, January 16, 1997.

**A G E N D A**

**Regular Meeting - To be held in Work Session Room - Main Level**

**Special Time: 4:30 p.m.**

**I ROLL CALL**

**II PUBLIC INPUT**

**III COMMUNICATIONS FROM COUNCIL AND STAFF**

**IV NEW BUSINESS**

Settlement of litigation - Hoyt

**V OLD BUSINESS**

Authorization to staff to enter into a training center agreement with U.S. Skiing at the Park City Racquet Club

**VI ADJOURNMENT**

Posted: 1/13/97



**PARK CITY COUNCIL MEETING  
SUMMIT COUNTY, UTAH  
JANUARY 16, 1997**

**I ROLL CALL**

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 4:30 p.m. at the Marsac Municipal Building on Thursday, January 16, 1997. Members in attendance were Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; Hope Bleecker, Transportation Director; Tommy Youngblood, Enforcement Officer; Eric DeHaan, City Engineer; Lloyd Evans, Assistant Chief of Police; Myles Rademan, Public Affairs Director; Mark Harrington, Assistant City Attorney; and Jodi Hoffman, City Attorney.

**II PUBLIC INPUT**

The Mayor invited the public to comment on any matter not scheduled on the agenda. Hearing none, the public input session was closed.

**III COMMUNICATIONS FROM COUNCIL AND STAFF**

Council comments - Roger Harlan reported that last night the Parks and Recreation Board reviewed the three finalists for the RFP for the recreation facility study. Mr. Harlan asked Lani Furr of the Board to explain its recommendation. Ms. Furr relayed that the Board chose on the team of Barker, Rinker, and Seacat of Denver for the project because of its rapport with the Board and each other. It was felt that they would do a good job in soliciting information from the community. One of the partners, Jeff Winston, worked on the recreation master plan in 1981 and even though the team is out-of-town, it has a beneficial background of the demographics Park City. Ken Boward who will join the group is an expert on ice sheets.

Paul Sincock noted that he received a letter on parking from Gary Weiss. He added that he received a complaint about valets leaving early on Saturday night; he believed the situation is being remedied. Mr. Sincock also received a complaint about construction activity, particularly on the weekends. He expressed his appreciation for staff's work on the retreat packet reports as they were very helpful. Chuck Klingenstein added that there were problems last year with valet parking, and there still seems to be start-up problems this year. Hope Bleecker, Transportation Director, stated that she will be on-site this weekend and has met with management of Aampco today. Regardless of any operation selected, there are problems that need to be worked out. She added that Brian Anderson was also on site the last two weekends. Mr. Klingenstein hoped that staff would not have to monitor the valet operation. Ms. Bleecker felt that it will take a little time with staff and explained that there is a myriad of situations that occur and unfortunately there will be unhappy people. Shauna Kerr offered Council's assistance as it authorized the program. Ms. Bleecker felt that this is an important policy direction for Council, but staff would not have made the recommendation to implement a valet parking program if it didn't feel it would work.

Chuck Klingenstein stated that he tried to contact Gary Weiss about his letter on parking problems, but Mr. Weiss was unavailable. He added that City Recorder Jan Scott discussed some options in alleviating construction parking impacts that staff is exploring. The City Manager stated that Mr. Weiss was accurate on some points and among the things that staff is concerned about is construction parking, but it is not a simple matter. Staff has discussed simply charging for parking spaces per day with a mirror hanger. Mr. Ross explained that the first iteration of the letter was received several weeks ago, and there were two responses by staff. He was not sure why the Council received another letter. Mr. Klingenstein encouraged the Council to consider limiting construction in this part of town as part of the General Plan. In response to a question from Shauna Kerr, Tommy Youngblood explained that the cinder blocks stacked in Swede Alley are materials for the Charlie Wintzer Building on Main Street next to Expanding Heart. Ms. Kerr suggested that the bricks be hauled off to a permanent storage area and brought back on site when needed. Even though this seems severe, Ms. Kerr emphasized that parking is expensive to provide. Paul Sincock felt that it is possible to have a system in place by next summer.

The Mayor discussed a problem on lower Main Street where the basement was pumped and the water froze on the sidewalk creating icy conditions for pedestrians. City Engineer Eric DeHaan added that staff is contemplating running a storm drain on the west side of Main Street to catch the flow. There are applications for buildings with basements above this location, and the same problem would occur there. The Mayor suggested prohibiting basements on this side of Main Street since the infrastructure is not in place to handle the excess water and Chuck Klingenstein felt diverting the water should be the responsibility of the property owner. Mr. DeHaan clarified that the current code allows property owners to discharge roof and sump pump drains into the public way. The Mayor discussed a complaint from guests at the Galleria who had their cars towed from Swede Alley because of snow hauling efforts. Lloyd Evans indicated that the parking in Swede Alley is prohibited after 2 a.m., and they were violating the parking code as well. Chuck Klingenstein suggested a hand-out with parking information being distributed to guests. Hope Bleecker discussed her department's efforts in producing a brochure. The Mayor added that the lights at the Winter Sports Park will be monitored.

Shauna Kerr asked when the ice cream truck vending approval will be granted. Mark Harrington felt it would occur sometime in February. Ms. Kerr stated that Flagstaff annexation was determined a top priority at the retreat and although she voted for its status, felt that the project is something that will be taken care of one way or another. She felt that priorities send a message to the community of what the Council's focus will be and didn't believe that development and annexation is necessarily the focus of Council this year. Ms. Kerr suggested moving up relations with the Counties in the top priority category and move Flagstaff down into the next level of work products. The Council agreed and supported that change. She felt that there is a good opportunity in working with the Counties to accomplish other mutual tasks. Ms. Kerr reported that the new school will be named the Ecker Hill Middle School.

Hugh Daniels reported that he received calls from residents on Main Street who are confused about what levels to park in the China Bridge Parking Structure when valet parking is in operation. He was contacted by Rebecca Champion about the installation of a traffic signal on SR224. Eric DeHaan explained that he also spoke with Rebecca Champion and relayed that UDOT will be reevaluating the traffic counts during Presidents Week. He added that the incident in Salt Lake prompting the immediate installation of a traffic signal is different than SR224 because that location had already received a warrant from UDOT. Island Outpost will also have to widen Thaynes Canyon Drive so that the signal can be accommodated, which is one of the many steps in anticipation of its installation.

Myles Rademan asked how the Main Street Merchants Association should be informed of Council's intentions with regard to traffic circulation in the area. The Mayor felt that the Association probably would not be upset about the four way stop signs at Heber and Main Street. However, limiting the window of the delivery truck times and Main Street to one-way are significant considerations, and Mr. Rademan felt it important to bring up these issues at the Association meeting in February. Chuck Klingenstein volunteered to contact Joe Tesch, President of the Main Street Merchants Association, to schedule these topics at an upcoming meeting.

#### IV NEW BUSINESS

Settlement of litigation - Hoyt - See following staff report. The City Attorney explained that there is an opportunity to settle this personal injury claim. Staff feels it is a reasonable offer and Ms. Hoffman recommended authorization. Shauna Kerr, "I move approval of the settlement of litigation with Skyler Hoyt". Roger Harlan seconded. Motion carried unanimously.

#### V OLD BUSINESS

Authorization to staff to enter into a training center agreement with U.S. Skiing at the Park City Racquet Club - See staff report. Mark Harrington, Assistant City Attorney, explained that concerns were raised by Council about the terms of the lease agreement at its last meeting. He felt that the terms are fair and that the City will benefit from the arrangement. Mr. Harrington indicated that he feels comfortable recommending the lease to Council. In response to a question from Roger Harlan, Mr. Harrington explained that the City has a one year period of first right of refusal after the two year lease term has expired. Paul Sincock noted that he researched this matter and \$100,000 worth of fitness equipment may only have a residual value of \$10,000 two years later. If the City bought the equipment, it would be financing \$50,000. He calculated the donated use to the athletes and U.S. Skiing staff at \$630 a month in value and if swimming was added, the value is \$1,200 per month or \$14,000 a year. He emphasized that this is an excellent financial deal for the City and can support the lease. Bill Gorton of U.S. Skiing added that the City will benefit from charging the public and revenues are estimated at \$30,000 a year. Chuck Klingenstein complimented staff and U.S. Skiing on arriving at the revised contract. He believed that this will provide an opportunity for

the City to gain experience with fitness equipment. In response to a question from Hugh Daniels, Mr. Gorton explained that the individual providing training will only be charging \$50 per hour.

Chuck Klingenstein, "I move to approval to authorize Recreation Services to enter into a formal two year agreement with U.S. Skiing". Shauna Kerr seconded. Motion unanimously carried.

## VI ADJOURNMENT

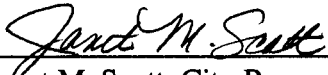
With no further business, the meeting of the City Council was adjourned.

\* \* \* \* \*

The meeting for which these minutes were prepared was noticed by posting 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott



  
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Janet M. Scott, City Recorder



## Staff Report

**DATE:** January 10, 1997  
**DEPARTMENT:** Legal  
**AUTHOR:** Mark Harrington  
**TITLE:** Cross-Training Facility  
**TYPE OF ITEM:** Request to Enter Into a Formal Agreement with U.S. Skiing

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### **SUMMARY RECOMMENDATIONS:**

Authorize the Recreation Services Department to enter into a formal two-year agreement with U.S. Skiing. The Racquet Club would become the Official Training Facility for U.S. Skiing in return for use of fitness equipment.

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### **DESCRIPTION:**

#### **A. Topic:**

An Agreement with U.S. Skiing to use fitness equipment in exchange for athlete and coach access to the Racquet Club.

#### **B. Background:**

At the Council's last meeting, both the Council and citizens raised several concerns regarding the Agreement proposed by the Recreation Department and U.S. Skiing. In response to those concerns and specifically in consultation with Council member Hugh Daniels and the Ski Team's legal counsel, staff recommends the following changes to the Agreement:

### **I. CHANGES**

**1. Paragraphs 1.2 and 2.4 - Term, Option of First Refusal.** U.S. Skiing has agreed to an unconditional 2 year term, regardless of whether it builds and moves into its new facility during that time. The original Agreement let U.S. Skiing out at any time the new facility was complete. The changes bind U.S. Skiing to a minimum 2 year term by removing any reference to the new facility. Additionally, changes in 2.4 give the City an option of first refusal on the equipment (for donation, lease or purchase). That means at the end of the two year term, U.S. Skiing cannot donate, lease or sell the equipment to any other entity without first making the offer to the City.

**2. Paragraphs 2.2 and 3.7 - Service for Service Exchange (Staff Access Issue).** To address the issue of U.S. Skiing staff access to the Racquet Club, staff has negotiated a solution that hopefully addresses all the concerns raised at the meeting. In the original proposal, U.S. Skiing committed to providing an unquantified amount of "cooperation and assistance" to the City's Recreation Department in developing programs and information. The City gave almost complete Racquet Club access to U.S. Skiing staff.

To secure scaled-down access for their staff, U.S. Skiing agrees to provide a minimum 100 hours of service per year to the City, including "training" of staff on the equipment. In exchange, the Racquet Club will credit U.S. Skiing \$50 for each hour of service provided. This credit can only be used for the purchase of staff punch cards which would entitle U.S. Skiing staff to use the Fitness Center (their equipment), free swim (does not include classes nor masters), drop-in gym or aerobics. No access to racquet ball courts or tennis courts is included. U.S. Skiing will not be entitled to a refund for any unused portion of the credit. However, it may increase its credit by working more hours. Each punch card may be purchased at the same rate as city employees participating in the City's wellness program (currently \$25 which includes wellness fee) and has 20 punches.

Putting their staff on par with City staff seems fair, given the contribution of the equipment and the training service being provided. U.S. Skiing views this deal as a substantial compromise since it feels its employees should be able to use its equipment on an unlimited basis and the City is receiving a benefit from the free "lease." The number of punches for the minimum hours of service promised is 4000, which would allow about half U.S. Skiing's staff access approximately three times per week. Finance staff would oversee the accounting to ensure compliance.

**3. Paragraph 2.5 - Updates.** U.S. Skiing must update the athlete and staff lists monthly, as requested by Council.

**4. Paragraph 3.1 - Improvements.** The City must agree to any changes requested by U.S. Skiing. Prior language was as "directed."

**5. Paragraph 3.4 - Dryland Camps.** New language limits these to four 3-hour blocks per month and provides the Racquet Club staff with flexibility in scheduling.

**6. Paragraph 3.5 - Coaches/Fees.** Coaches have been included with athletes in terms of access since they usually will be together. Per Council member Kerr's request, the fee for aerobics when class is full is now mandatory.

**7. Paragraph 3.6 - National Teams.** The language has been clarified to reference current U.S. national teams.

**8. Paragraph 3.11 - Qualified Staff.** A citizen requested that this section be changed to ensure trained staff monitor the Fitness Center.

## **II. OTHER CONCERNS**

1. Liability. As the Agreement is written, U.S. Skiing assumes and indemnifies the City for all liability arising from, or in connection with, any use of the Fitness Center by its athletes, coaches and staff, and any of its programs.

2. Flexibility in Access. Staff requests that the language giving staff flexibility to limit free athlete access to certain times remain. Use of this flexibility would only arise in the event there is a real problem, and customers are upset (i.e. a public relations problem exists). It is impossible to determine or predict the exact use of the facilities by athletes. U.S. Skiing has generously agreed to cooperate with staff in maintaining a workable environment and this language merely ensures a smooth running operation.

### **C. Department Review:**

This new Agreement has been reviewed by the Leisure Services Director, the Assistant City Attorney and the Finance Manager.

### **ALTERNATIVES:**

A. **Approve the Request:** The Racquet Club would enter into the Agreement to become the Official Training Facility for U.S. Skiing in return for use of fitness equipment.

B. **Deny the Request:** The Racquet Club would then need to purchase new equipment to run a fitness center; or seek a new lessee.

C. **Continue the Item:** This may cause U.S. Skiing to lose the equipment.

D. **Direct staff to make specific changes and approve the Request.**

### **SIGNIFICANT IMPACTS:**

See prior reports.

### **CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:**

See prior reports.

### **RECOMMENDATION:**

Authorize the Agreement in a form substantially the same as attached as "Attachment A" and as approved by the City Attorney's office. Redlined and clean copies are attached.

# Attachment "A"

## TRAINING CENTER AGREEMENT

This Agreement is made and entered into this \_\_\_\_\_ day of January, 1997, by and between United States Skiing whose principle offices are located at 1500 Kearns Blvd., Building F, P.O. Box 100, Park City, Utah 84060, and Park City Municipal Corporation ("PCMC"), located at 445 Marsac Avenue, P.O. Box 1480, Park City, Utah 84060.

### Recitals

A. U.S. Skiing is the National Governing Body for the sports of skiing and snowboarding in the United States of America. It is recognized by the United States Olympic Committee ("USOC") and International Ski Federation ("FIS") as the sole sanctioning and governing body for Olympic-eligible and FIS-eligible skiing and snowboarding in the United States.

B. PCMC operates a public racquet club located at 1200 E. Little Kate Road in Park City, Utah ("Racquet Club").

C. U.S. Skiing and PCMC desire to create a high caliber ski and snowboard athletic training facility (hereinafter "the Fitness Center") to be located within the Racquet Club premises for the use, enjoyment and benefit of the general public, U.S. Skiing, its affiliates, employees, coaches and athletes.

NOW, THEREFORE, for and in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

### 1. Term and Termination.

1.1 The initial term of this Agreement shall be a period of two (2) years from the effective date hereof.

1.2 ~~PCMC shall have the first right to negotiate an additional 2 year extension. Either party shall have the right automatically to extend this Agreement for an additional two years by providing written notice of such extension not more than 180 days nor less than 30 days prior to the expiration of the primary term set forth above.~~

~~1.3 This Agreement is executed in contemplation of the completion of a new U.S. Skiing facility by sponsor(s) and/or benefactor(s) of U.S. Skiing during the next three (3) years. The parties understand and agree that this Agreement shall automatically terminate, subject to the rights of PCMC in paragraph 2.4 below, at such time as that facility is completed and U.S. Skiing actually moves into that facility. Although the parties desire to maintain a relationship following that move and the resulting termination of~~

~~this Agreement, the parties understand and agree that the nature and terms of any such relationship shall not be governed in any way by this Agreement, but shall be determined by the parties at that time.~~

2 **Obligations of U.S. Skiing.**

- 2.1 U.S. Skiing shall provide on loan to PCMC approximately thirty-eight (38) pieces of strength training equipment (hereinafter "the Equipment") subject to the provisions and restrictions set forth herein. U.S. Skiing shall retain sole ownership of such Equipment. A list of the Equipment is attached as "Exhibit A."
- 2.2 U.S. Skiing shall cause its Sports Science Department to provide a minimum of 100 hours per year of reasonable cooperation, training and assistance to the Racquet Club staff for the following purposes:
  - 2.2.1 Use of the Equipment and dDevelopment of fitness programs (such as the "Ski Fitness Program" already developed by the U.S. Ski Team) for the general public involving the Equipment and the Facility; and
  - 2.2.2 Providing information on fitness, nutrition, ski fitness tips, etc. for publication in the Racquet Club's regular publication, "Play Magazine," and for Racquet Club informational flyers.
- 2.3 U.S. Skiing shall cooperate with the Racquet Club staff to create opportunities for joint social functions with U.S. Ski Team athletes, staff and the public, including youth opportunities when U.S. Ski Team members are in the Park City area and are available for such functions. U.S. Skiing shall not be obligated to require the attendance of any U.S. Ski Team coaches or athletes, but shall use its best efforts to encourage their attendance at and participation in such functions.
- 2.4 Upon completion and occupancy of its new building termination of this Agreement, PCMC shall have an option of first refusal to either secure the donation, lease or purchase of the Equipment. U.S. Skiing shall not

Approved (initials): U.S. Skiing \_\_\_\_\_ PCMC \_\_\_\_\_

otherwise donate, lease or sell the Equipment without first giving PCMC thirty days written notice to exercise its option of first refusal herein. This option shall terminate one year after termination of this Agreement. If PCMC does not exercise the option granted herein, U.S. Skiing shall either move the Equipment from the Facility to its new building at its cost, or at its option, sell the Equipment to PCMC for a mutually agreeable price. The value of the Equipment shall be independently determined by a mutually agreed upon industry representative, such as a CAMSTAR sales representative.

- 2.5 U.S. Skiing shall provide to the Racquet Club staff on an annual basis a list identifying all current ~~U.S. Ski Team~~ athletes, coaches and staff eligible for free or special fee memberships pursuant to section 3 below. U.S. Skiing shall provide Racquet Club staff with a monthly update of the list as changes in team membership and employment occur.
- 2.6 U.S. Skiing shall provide to the Racquet Club a license, substantially in the form of Exhibit B attached hereto, to use the name and marks of the U.S. Ski Team.
- 2.7 U.S. Skiing and any of its athletes, coaches, staff or other eligible participant or program under paragraphs 3.5, 3.6, 3.7 and 3.8 below shall not interfere with any other patron of the Racquet Club, the access to other spaces within the building or obstruct parking for or the entrances to those other spaces in any way. PCMC shall have the right require U.S. Skiing to take reasonably necessary mitigation measures for any participant, program or activity that interferes with the normal day-to-day operations of the Racquet Club. If such measures are not complied with, PCMC may prohibit any such future programs or individual participation.
- 2.8 U.S. Skiing agrees not to discriminate against anyone on the basis of race, color, national origin, age, sex or disability in its hiring practices, services or operation of its programs hereunder.

3. **Obligations of PCMC.**

Approved (initials): U.S. Skiing \_\_\_\_\_ PCMC \_\_\_\_\_

- 3.1 PCMC shall provide a room for the Fitness Center consisting of finished space at the Racquet Club as shown on "Exhibit C" for the placement and use of the Equipment. PCMC shall, at its cost, make any reasonably necessary improvements to the Fitness Center ~~directed as mutually agreed by PCMC~~ and by the United States Olympic Committee or U.S. Skiing fitness expert to render the facility reasonably suitable for the purposes contemplated in this Agreement. Improvements shall be limited to cosmetic and other similar improvements such as new paint or wall coverings, flooring, electrical outlets, etc.
- 3.2 PCMC shall pay or reimburse the cost of moving the Equipment from Colorado Springs, Colorado to the Facility. U.S. Skiing shall secure a moving truck (at such reduced cost as it is able to negotiate) through Hoggan Health Industries.
- 3.3 The Racquet Club staff shall create fitness programs incorporating the Equipment, and offer such programs to the general public at rates to be determined by PCMC.
- 3.4 PCMC shall cooperate with U.S. Skiing in the scheduling of dryland training camps for U.S. Skiing coaches and athletes, and shall ensure that the Fitness Center and Equipment are reserved to the exclusive use of U.S. Skiing coaches and athletes during such times, ~~not to exceed four 3-hour blocks per month and subject to availability, operational hours and scheduled classes.~~ The parties understand and agree that such dryland training camps may occasionally necessitate the closure of the Fitness Center to the general public. PCMC shall not levy any charges for use of the Fitness Center against U.S. Skiing or any of its coaches or athletes in connection with such dryland training camps, unless otherwise agreed.
- 3.5 PCMC will provide free membership to each U.S. Ski Team athlete ~~and coach~~ which shall include access to the Fitness Center, pools, aerobics classes (a fee ~~may will~~ be charged if such classes are full but the instructor is willing to accept more participants), ~~racquetball courts~~, gymnasium, and locker rooms, subject to availability, operational hours and scheduled classes. Tennis/~~racquetball~~ courts and programs are not included. PCMC may give

Approved (initials): U.S. Skiing \_\_\_\_\_ PCMC \_\_\_\_\_

priority to regular customers in classes or programs offered to a limited number of participants. PCMC shall provide photo identification membership cards to each such athlete certified as eligible for such privileges by U.S. Skiing. Memberships shall expire with the termination of team membership or this Agreement, whichever occurs first.

- 3.6 PCMC shall provide free memberships to the Fitness Center and locker rooms (only), subject to availability, operational hours and scheduled classes, to all U.S. national team members of Winter National Governing Bodies, as recognized by the United States Olympic Committee (currently Bobsledding, Luge, Speed Skating, Figure Skating, Curling, Biathlon and Ice Hockey). To the extent crowding occurs, as determined by PCMC, PCMC may limit free access of team members to specific hours of operation. PCMC may give priority to regular customers in classes or programs offered to a limited number of participants. Memberships shall expire with the termination of team membership or this Agreement, whichever occurs first.

- 3.7 PCMC shall provide U.S. Skiing a credit of \$50 per hour for each hour of training services provided in Paragraph 2.2 above. Such credit may only be drawn on by U.S. Skiing for the purchase of Staff Punch cards for its staff (individual only, not family members) at the same rate as PCMC employees participating in the PCMC "Wellness Program" (Currently, each punchcard shall contain 20 punches and cost \$25). ~~offer drop-in access, punch cards and memberships to all U.S. Skiing for disbursement to coaches and staff certified as eligible by U.S. Skiing. for the normal "locals" rates an annual fee of \$25.00. Coach and Staff memberships Punchcards shall entitle their holders to use of the Fitness Center, free-swimpools, aerobics classes (a fee will may be charged if such classes are full but the instructor is willing to accept more participants); racquetball courts, drop-in gymnasium and locker rooms, subject to availability, operational hours and scheduled classes. Tennis courts and programs are not included. To the extent crowding occurs, as determined by PCMC, PCMC may limit free access of members to specific hours of operation. One punch shall entitle the holder to use: 1) any combination of the Fitness Center, drop-in gym or free swim; OR 2) one aerobics session. PCMC may give priority to regular customers in classes or programs offered to a limited number of participants. Memberships shall expire with the~~

Approved (initials): U.S. Skiing \_\_\_\_\_ PCMC \_\_\_\_\_

~~termination of employment or this Agreement, whichever occurs first. Racquet Club staff shall maintain a monthly accounting of the value of service provided by U.S. Skiing under paragraph 2.2. and Punchcard uses by U.S. Skiing, and make such information available to the PCMC Finance Department and U.S. Skiing.~~

- 3.8 The Racquet Club staff and U.S. Skiing will create opportunities for the U.S. youth developmental programs affiliated with the Winter National Governing Bodies, as recognized by the United States Olympic Committee, to use the Fitness Center, gymnasium, pools and locker rooms at the Racquet Club for an annual fee of \$175 per participant. Use must be under the supervision of the participant's coaches. Access times will be negotiated quarterly with the Racquet Club staff. ~~The U.S. Skiing Olympic Committee~~ shall provide PCMC an annual list of eligible programs. Memberships shall expire with the termination of team membership or this Agreement, whichever occurs first.
- 3.9 PCMC shall not make any reference to the United States Olympic Committee or utilize any Olympic marks, symbols or terminology in any of its publicity, promotion, advertising and marketing materials for the Racquet Club, unless otherwise authorized to do so.
- 3.10 PCMC may, but shall not be obligated to, add additional pieces of exercise equipment to the Equipment located within the Fitness Center, ~~subject to space availability and to any restrictions on availability or use of the facility set forth herein.~~
- 3.11 PCMC shall provide qualified staff members to supervise the Fitness Center and the use of the Equipment during its operational hours. If platform equipment is included among the Equipment, the Racquet Club staff shall ensure such is used only by members of the U.S. Ski and Snowboard Teams under the supervision of a U.S. Skiing coach or trainer, and not by members of the general public.
- 3.12 PCMC shall provide daily janitorial service for the Fitness Center, and regular maintenance service for the Equipment.

Approved (initials): U.S. Skiing \_\_\_\_\_ PCMC \_\_\_\_\_

4. **Insurance and Indemnity.**

- 4.1 U.S. Skiing shall indemnify and hold PCMC and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against PCMC arising out of, in connection with, or incident to the use of the Fitness Center by any of its athletes, coaches, staff or other eligible participant or program under paragraphs 3.5, 3.6, 3.7 and 3.8 above and/or U.S. Skiing's defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the PCMC, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of U.S. Skiing; and provided further, that nothing herein shall require U.S. Skiing to hold harmless or defend PCMC, its agents, employees and/or officers from any claims arising from an intentional tort or the sole negligence of PCMC, its agents, employees, and/or officers. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement. U.S. Skiing shall, at its expense, carry a policy of general liability insurance, including professional liability, in an amount of at least One Million Dollars (\$1,000,000) per person and Two Million Dollars (\$2,000,000.00) per incident or occurrence. ~~Tenant~~ U.S. Skiing shall also provide Workers Compensation Insurance as per the State of Utah required limits. A certificate of insurance stating that PCMC shall receive thirty (30) days written notice of cancellation shall be provided to PCMC on or before the effective date of this Agreement, and maintained continuously during the term of the ~~lease~~ Agreement.
- 4.2 PCMC shall be responsible for the Equipment while it is in PCMC's possession. PCMC shall maintain appropriate property insurance to cover any loss or damage to the equipment caused by fire or other disaster. PCMC shall not be liable for normal wear and tear of the Equipment nor any damage caused by the negligence of U.S. Skiing or any eligible participant or program

Approved (initials): U.S. Skiing \_\_\_\_\_ PCMC \_\_\_\_\_

conducted pursuant to paragraphs 3.5, 3.6, 3.7 or 3.8 above. If the damage or destruction to the Racquet Club shall be so extensive as to require the substantial rebuilding, the effect of which may require removal of U.S. Skiing's operations from the premises, either PCMC or U.S. Skiing may elect to terminate this Agreement by written notice to the other within thirty (30) days after occurrence of such damage or destruction.

**5. Miscellaneous Provisions**

- 5.1 No waiver or failure to act with respect to any breach of this agreement shall be deemed a waiver with respect to any subsequent breach, regardless of its similarity to a previous breach.
- 5.2 Neither party may assign or transfer any part of this Agreement to any third party without the other party's prior written approval.
- 5.3 Without limiting the foregoing, for purposes of any obligation in connection with this Agreement, U.S. Skiing shall not be deemed to be a partner, joint venturer or agent of PCMC or any third party.
- 5.4 This Agreement may be executed in counterparts, and photostatic and facsimile copies of executed signature pages shall be fully binding.

**PARK CITY MUNICIPAL CORPORATION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved (initials): U.S. Skiing \_\_\_\_\_ PCMC \_\_\_\_\_

Attest:

City Recorder: \_\_\_\_\_

Approved as to Form:

City Attorney: \_\_\_\_\_

**UNITED STATES SKIING**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CORPORATE ACKNOWLEDGMENT**

STATE OF UTAH                    )  
                                          : ss.  
COUNTY OF SUMMIT            )

On this \_\_\_\_ day of \_\_\_\_\_, 199\_, personally appeared before me \_\_\_\_\_, who being duly sworn, did say that he/she is the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged to me that the preceding lease was signed on behalf of said company, by their authority and he/she acknowledged that the company did execute the same for its stated purpose.

\_\_\_\_\_  
NOTARY PUBLIC

Approved (initials): U.S. Skiing \_\_\_\_\_ PCMC \_\_\_\_\_

## **TRAINING CENTER AGREEMENT**

This Agreement is made and entered into this \_\_\_\_ day of January, 1997, by and between United States Skiing whose principle offices are located at 1500 Kearns Blvd., Building F, P.O. Box 100, Park City, Utah 84060, and Park City Municipal Corporation ("PCMC"), located at 445 Marsac Avenue, P.O. Box 1480, Park City, Utah 84060.

### **Recitals**

A. U.S. Skiing is the National Governing Body for the sports of skiing and snowboarding in the United States of America. It is recognized by the United States Olympic Committee ("USOC") and International Ski Federation ("FIS") as the sole sanctioning and governing body for Olympic-eligible and FIS-eligible skiing and snowboarding in the United States.

B. PCMC operates a public racquet club located at 1200 E. Little Kate Road in Park City, Utah ("Racquet Club").

C. U.S. Skiing and PCMC desire to create a high caliber ski and snowboard athletic training facility (hereinafter "the Fitness Center") to be located within the Racquet Club premises for the use, enjoyment and benefit of the general public, U.S. Skiing, its affiliates, employees, coaches and athletes.

NOW, THEREFORE, for and in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Term and Termination.**

1.1 The term of this Agreement shall be a period of two (2) years from the effective date hereof.

1.2 PCMC shall have the first right to negotiate an additional 2 year extension.

2 **Obligations of U.S. Skiing.**

2.1 U.S. Skiing shall provide on loan to PCMC approximately thirty-eight (38) pieces of strength training equipment (hereinafter "the Equipment") subject to the provisions and restrictions set forth herein. U.S. Skiing shall retain sole ownership of such Equipment. A list of the Equipment is attached as "Exhibit A."

2.2 U.S. Skiing shall cause its Sports Science Department to provide a minimum of 100 hours per year of training and assistance to the Racquet Club staff for the following purposes:

- 2.2.1 Use of the Equipment and development of fitness programs (such as the "Ski Fitness Program" already developed by the U.S. Ski Team) for the general public involving the Equipment and the Facility; and
- 2.2.2 Providing information on fitness, nutrition, ski fitness tips, etc. for publication in the Racquet Club's regular publication, "Play Magazine," and for Racquet Club informational flyers.
- 2.3 U.S. Skiing shall cooperate with the Racquet Club staff to create opportunities for joint social functions with U.S. Ski Team athletes, staff and the public, including youth opportunities when U.S. Ski Team members are in the Park City area and are available for such functions. U.S. Skiing shall not be obligated to require the attendance of any U.S. Ski Team coaches or athletes, but shall use its best efforts to encourage their attendance at and participation in such functions.
- 2.4 Upon termination of this Agreement, PCMC shall have an option of first refusal to either secure the donation, lease or purchase of the Equipment. U.S. Skiing shall not otherwise donate, lease or sell the Equipment without first giving PCMC thirty days written notice to exercise its option of first refusal herein. This option shall terminate one year after termination of this Agreement. If PCMC does not exercise the option granted herein, U.S. Skiing shall move the Equipment from the Facility at its cost. The value of the Equipment shall be independently determined by a mutually agreed upon industry representative, such as a CAMSTAR sales representative.
- 2.5 U.S. Skiing shall provide to the Racquet Club staff on an annual basis a list identifying all current athletes, coaches and staff eligible for free or special fee memberships pursuant to section 3 below. U.S. Skiing shall provide Racquet Club staff with a monthly update of the list as changes in team membership and employment occur.
- 2.6 U.S. Skiing shall provide to the Racquet Club a license, substantially in the form of Exhibit B attached hereto, to use the name and marks of the U.S. Ski Team.

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- 2.7 U.S. Skiing and any of its athletes, coaches, staff or other eligible participant or program under paragraphs 3.5, 3.6, 3.7 and 3.8 below shall not interfere with any other patron of the Racquet Club, the access to other spaces within the building or obstruct parking for or the entrances to those other spaces in any way. PCMC shall have the right require U.S. Skiing to take reasonably necessary mitigation measures for any participant, program or activity that interferes with the normal day-to-day operations of the Racquet Club. If such measures are not complied with, PCMC may prohibit any such future programs or individual participation.
- 2.8 U.S. Skiing agrees not to discriminate against anyone on the basis of race, color, national origin, age, sex or disability in its hiring practices, services or operation of its programs hereunder.

3. **Obligations of PCMC.**

- 3.1 PCMC shall provide a room for the Fitness Center consisting of finished space at the Racquet Club as shown on "Exhibit C" for the placement and use of the Equipment. PCMC shall, at its cost, make any reasonably necessary improvements to the Fitness Center as mutually agreed by PCMC and by the United States Olympic Committee or U.S. Skiing fitness expert to render the facility reasonably suitable for the purposes contemplated in this Agreement. Improvements shall be limited to cosmetic and other similar improvements such as new paint or wall coverings, flooring, electrical outlets, etc.
- 3.2 PCMC shall pay or reimburse the cost of moving the Equipment from Colorado Springs, Colorado to the Facility. U.S. Skiing shall secure a moving truck (at such reduced cost as it is able to negotiate) through Hoggan Health Industries.
- 3.3 The Racquet Club staff shall create fitness programs incorporating the Equipment, and offer such programs to the general public at rates to be determined by PCMC.
- 3.4 PCMC shall cooperate with U.S. Skiing in the scheduling of dryland training camps for U.S. Skiing coaches and athletes, and shall ensure that the Fitness

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Center and Equipment are reserved to the exclusive use of U.S. Skiing coaches and athletes during such times, not to exceed four 3-hour blocks per month and subject to availability, operational hours and scheduled classes. The parties understand and agree that such dryland training camps may occasionally necessitate the closure of the Fitness Center to the general public. PCMC shall not levy any charges for use of the Fitness Center against U.S. Skiing or any of its coaches or athletes in connection with such dryland training camps, unless otherwise agreed.

- 3.5 PCMC will provide free membership to each U.S. Ski Team athlete and coach which shall include access to the Fitness Center, pools, aerobics classes (a fee will be charged if such classes are full but the instructor is willing to accept more participants), gymnasium, and locker rooms, subject to availability, operational hours and scheduled classes. Tennis/racquetball courts and programs are not included. PCMC may give priority to regular customers in classes or programs offered to a limited number of participants. PCMC shall provide photo identification membership cards to each such athlete certified as eligible for such privileges by U.S. Skiing. Memberships shall expire with the termination of team membership or this Agreement, whichever occurs first.
- 3.6 PCMC shall provide free memberships to the Fitness Center and locker rooms only, subject to availability, operational hours and scheduled classes, to all U.S. national team members of Winter National Governing Bodies, as recognized by the United States Olympic Committee (currently Bobsledding, Luge, Speed Skating, Figure Skating, Curling, Biathlon and Ice Hockey). To the extent crowding occurs, as determined by PCMC, PCMC may limit free access of team members to specific hours of operation. PCMC may give priority to regular customers in classes or programs offered to a limited number of participants. Memberships shall expire with the termination of team membership or this Agreement, whichever occurs first.
- 3.7 PCMC shall provide U.S. Skiing a credit of \$50 per hour for each hour of training services provided in Paragraph 2.2 above. Such credit may only be drawn on by U.S. Skiing for the purchase of Staff Punch cards for its staff (individual only, not family members) at the same rate as PCMC employees

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participating in the PCMC "Wellness Program" (Currently, each punchcard shall contain 20 punches and cost \$25). Staff Punchcards shall entitle their holders to use of the Fitness Center, free-swim, aerobics classes drop-in gymnasium and locker rooms, subject to availability, operational hours and scheduled classes. One punch shall entitle the holder to use: 1) any combination of the Fitness Center, drop-in gym or free swim; OR 2) one aerobics session. Racquet Club staff shall maintain a monthly accounting of the value of service provided by U.S. Skiing under paragraph 2.2. and Punchcard uses by U.S. Skiing, and make such information available to the PCMC Finance Department and U.S. Skiing.

- 3.8 The Racquet Club staff and U.S. Skiing will create opportunities for the U.S. youth developmental programs affiliated with the Winter National Governing Bodies, as recognized by the United States Olympic Committee, to use the Fitness Center, gymnasium, pools and locker rooms at the Racquet Club for an annual fee of \$175 per participant. Use must be under the supervision of the participant's coaches. Access times will be negotiated quarterly with the Racquet Club staff. U.S. Skiing shall provide PCMC an annual list of eligible programs. Memberships shall expire with the termination of team membership or this Agreement, whichever occurs first.
- 3.9 PCMC shall not make any reference to the United States Olympic Committee or utilize any Olympic marks, symbols or terminology in any of its publicity, promotion, advertising and marketing materials for the Racquet Club, unless otherwise authorized to do so.
- 3.10 PCMC may, but shall not be obligated to, add additional pieces of exercise equipment to the Equipment located within the Fitness Center.
- 3.11 PCMC shall provide qualified staff members to supervise the Fitness Center and the use of the Equipment during its operational hours. If platform equipment is included among the Equipment, the Racquet Club staff shall ensure such is used only by members of the U.S. Ski and Snowboard Teams under the supervision of a U.S. Skiing coach or trainer, and not by members of the general public.

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- 3.12 PCMC shall provide daily janitorial service for the Fitness Center, and regular maintenance service for the Equipment.

4. **Insurance and Indemnity.**

- 4.1 U.S. Skiing shall indemnify and hold PCMC and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against PCMC arising out of, in connection with, or incident to the use of the Fitness Center by any of its athletes, coaches, staff or other eligible participant or program under paragraphs 3.5, 3.6, 3.7 and 3.8 above and/or U.S. Skiing's defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the PCMC, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of U.S. Skiing; and provided further, that nothing herein shall require U.S. Skiing to hold harmless or defend PCMC, its agents, employees and/or officers from any claims arising from an intentional tort or the sole negligence of PCMC, its agents, employees, and/or officers. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement. U.S. Skiing shall, at its expense, carry a policy of general liability insurance, including professional liability, in an amount of at least One Million Dollars (\$1,000,000) per person and Two Million Dollars (\$2,000,000.00) per incident or occurrence. U.S. Skiing shall also provide Workers Compensation Insurance as per the State of Utah required limits. A certificate of insurance stating that PCMC shall receive thirty (30) days written notice of cancellation shall be provided to PCMC on or before the effective date of this Agreement, and maintained continuously during the term of the Agreement.
- 4.2 PCMC shall be responsible for the Equipment while it is in PCMC's possession. PCMC shall maintain appropriate property insurance to cover

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any loss or damage to the equipment caused by fire or other disaster. PCMC shall not be liable for normal wear and tear of the Equipment nor any damage caused by the negligence of U.S. Skiing or any eligible participant or program conducted pursuant to paragraphs 3.5, 3.6, 3.7 or 3.8 above. If the damage or destruction to the Racquet Club shall be so extensive as to require the substantial rebuilding, the effect of which may require removal of U.S. Skiing's operations from the premises, either PCMC or U.S. Skiing may elect to terminate this Agreement by written notice to the other within thirty (30) days after occurrence of such damage or destruction.

**5. Miscellaneous Provisions**

- 5.1 No waiver or failure to act with respect to any breach of this agreement shall be deemed a waiver with respect to any subsequent breach, regardless of its similarity to a previous breach.
- 5.2 Neither party may assign or transfer any part of this Agreement to any third party without the other party's prior written approval.
- 5.3 Without limiting the foregoing, for purposes of any obligation in connection with this Agreement, U.S. Skiing shall not be deemed to be a partner, joint venturer or agent of PCMC or any third party.
- 5.4 This Agreement may be executed in counterparts, and photostatic and facsimile copies of executed signature pages shall be fully binding.

**PARK CITY MUNICIPAL CORPORATION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved (initials): U.S. Skiing \_\_\_\_\_ PCMC \_\_\_\_\_

Attest:

City Recorder: \_\_\_\_\_

Approved as to Form:

City Attorney: \_\_\_\_\_

**UNITED STATES SKIING**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CORPORATE ACKNOWLEDGMENT**

STATE OF UTAH                    )  
                                          : ss.  
COUNTY OF SUMMIT            )

On this \_\_\_\_ day of \_\_\_\_\_, 199\_, personally appeared before me \_\_\_\_\_, who being duly sworn, did say that he/she is the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged to me that the preceding lease was signed on behalf of said company, by their authority and he/she acknowledged that the company did execute the same for its stated purpose.

\_\_\_\_\_  
NOTARY PUBLIC

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