

El Dorado Disc Sports Foundation

FACILITY USE AGREEMENT #6560

THIS AGREEMENT, made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "COUNTY"), and El Dorado Disc Sports Foundation, a nonprofit public benefit corporation, duly qualified to conduct business in the State of California, whose principal place of business is 4960 Emil Road, Shingle Springs, California 95682 (hereinafter referred to as "USER");

RECITALS

WHEREAS, COUNTY owns that certain real property, commonly known as the parking lot at 1360 Johnson Boulevard, South Lake Tahoe, California 96150 as identified in Exhibit A, marked "Parking Lot," incorporated herein and made by reference a part hereof (hereinafter referred to as the "PROPERTY");

WHEREAS, COUNTY desires to grant to USER, and USER desires to receive authorization from COUNTY to use PROPERTY for the purpose of allowing participants to park their vehicles on the third day of the 2022 King of the Lake Disc Golf three-day tournament on June 19, 2022 ("EVENT") which will be hosted off-site of PROPERTY;

WHEREAS, COUNTY has determined that allowing the use of PROPERTY during the EVENT will provide a public benefit to residents of COUNTY by raising awareness of the physical, mental, and social benefits that disc golf courses bring to a community;

WHEREAS, COUNTY finds use of PROPERTY for the above purpose is in the public interest and will not substantially conflict or interfere with the use of PROPERTY by COUNTY;

WHEREAS, use of PROPERTY during the EVENT shall be in compliance with all applicable federal, state and local laws including any zoning or health laws or regulations;

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, COUNTY and USER mutually agree as follows:

1. COUNTY hereby grants to USER and USER hereby agrees to accept from COUNTY this authorization for use of PROPERTY described herein for the purposes of allowing participants to park the day of the EVENT. Participants shall not park in Sheriff parking stalls marked "Reserved."
2. PROPERTY shall be utilized by USER for the sole purpose of allowing participants to park their vehicles in the parking lot on the day of the EVENT. The EVENT will be hosted at Bijou Community Park located directly across the street from PROPERTY. USER agrees that said use shall be only for the purpose of parking vehicles. Any changes in the date of use must be approved in advance by COUNTY's Contract Administrator.

3. USER shall be authorized to proceed with use of PROPERTY on the date noted hereinabove provided that this Agreement has been fully executed as evidenced by USER's receipt of a copy of said executed Agreement. Use of PROPERTY shall in no way interfere with the use and occupancy by COUNTY.
4. USER shall maintain and keep PROPERTY free of trash and litter which is generated as a result of USER's activities. USER agrees to leave said PROPERTY free from all trash, debris, or litter directly resulting from the USER's use of the PROPERTY. USER shall remove all trash, debris, or litter from PROPERTY and dispose of said trash, debris, or litter at its sole expense immediately after the EVENT.
5. USER acknowledges and agrees that it is solely responsible, and that COUNTY shall have no liability whatsoever, for any vehicles, trailers, or personal property on PROPERTY during the EVENT. Further, USER acknowledges and agrees that COUNTY makes no representations or warranties as to the condition of PROPERTY and that USER uses PROPERTY on an "as-is" condition.
6. Said use shall be limited to those portions of PROPERTY described in Exhibit A. At no time shall USER conduct any activities whatsoever in any of the interior areas of the building located on PROPERTY. PROPERTY must be surrendered to COUNTY in the same condition as at the commencement of the use period.
7. USER acknowledges and agrees that it is solely responsible for the security of any vehicles, trailers, or personal property placed on or brought on the PROPERTY for or during the EVENT.
8. USER shall be responsible for any costs incurred by COUNTY for damages to PROPERTY or other COUNTY real or personal property arising from USER's use, and for reasonable attorney fees to enforce the provisions of this Agreement.
9. INSURANCE: USER shall provide proof of a policy of insurance satisfactory to COUNTY's Risk Management Division and documentation evidencing that USER maintains insurance that meets the following requirements:
 - A. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and a \$1,000,000 aggregate limit.
 - B. USER shall furnish a certificate of insurance satisfactory to COUNTY's Risk Management Division as evidence that the insurance required above is being maintained.
 - C. The insurance will be issued by an insurance company acceptable to COUNTY's Risk Management Division or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
 - D. USER agrees that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times

during the term of this Agreement, USER agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and USER agrees that no work or services shall be performed prior to the giving of such approval. In the event USER fails to keep in effect at all times insurance coverage as herein provided, COUNTY may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

- E. The certificate of insurance must include the following provisions stating that:
1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to COUNTY; and
 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- F. USER's insurance coverage shall be primary insurance in respect to COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by COUNTY, its officers, officials, employees, or volunteers shall be in excess of USER's insurance and shall not contribute with it.
- G. Any deductibles or self-insured retentions must be declared to and approved by COUNTY. At the option of COUNTY, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions in respect to COUNTY, its officers, officials, employees, and volunteers; or USER shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- H. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to COUNTY, its officers, officials, employees, or volunteers.
- I. The insurance companies shall have no recourse against the County of El Dorado, its officers, and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- J. USER's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- K. In the event USER cannot provide an occurrence policy, USER shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- L. The certificate of insurance shall meet such additional standards as may be determined by the contracting COUNTY department, either independently or in consultation with COUNTY's Risk Management Division as essential for protection of COUNTY.

10. NOTICE TO PARTIES: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to COUNTY shall be in duplicate and addressed as follows:

To COUNTY:

With a copy to:

County of El Dorado
Chief Administrative Office
Facilities Division
3000 Fairlane Court, Suite One
Placerville, California 95667

County of El Dorado
Chief Administrative Office
330 Fair Lane
Placerville, California 95667

Attn.: Russell Fackrell
Facilities Division Manager

Attn.: Michele Weimer
Procurement and Contracts Manager

or to such other location as COUNTY directs.

Notices to USER shall be addressed as follows:

El Dorado Disc Sports Foundation
4960 Emil Road
Shingle Springs, California 95682

Attn.: Sharon K. Keoppel, President and Founder

or to such other location as USER directs.

11. INDEMNITY: To the fullest extent allowed by law, USER shall defend, indemnify, and hold harmless the COUNTY and its officers, agents, employees, and representatives from and against any and all claims, actions, losses, injuries, damages, or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, brought for or on account of, injury to or death of any person, including but not limited to workers, COUNTY employees, officers, or agents, and the public, or damage to property, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of USER, its officers, agents, employees, volunteers, representatives, consultants, and subconsultants. This duty of USER includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778 and is subject to any limit provided for in Civil Code Section 2782.8(a) of the cost to defend charged to USER. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement, provided that the COUNTY's failure to immediately or timely notify USER does not limit or waive USER's defense and indemnity obligations in this Article. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement.

12. INDEPENDENT CONTRACTOR: USER agrees that the USER, and any officers, agents, employees, associates, and volunteers of USER, in the performance of this AGREEMENT shall act in an independent capacity and not as officers, employees, agents, associates, or volunteers

of COUNTY. USER is solely responsible for the manner in which it uses PROPERTY and exclusively assumes responsibility for the behavior and acts of its employees, associates, agents, and volunteers and for the behavior and acts of all attendants and participants at the PROPERTY.

13. It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreements not incorporated herein, and no alterations or variations of the terms hereof unless made in writing between the parties hereto shall be binding on either of the parties hereto.
14. The use granted herein is personal to USER. It is non-assignable and any attempt to assign this Agreement shall immediately terminate it.
15. COUNTY reserves the right to terminate this Agreement at any time for any reason by serving written notice to USER. Upon receipt of such termination notice from COUNTY, USER shall immediately cease use of PROPERTY.
16. SOLE AND ONLY AGREEMENT: This instrument constitutes the sole and only agreement between COUNTY and USER respecting the PROPERTY or the granting of this Agreement to USER by COUNTY, and correctly sets forth the obligations of COUNTY and USER to each other as of its effective date. Any agreements or representations respecting PROPERTY or the Agreement not expressly set forth in this instrument are null and void.
17. This Agreement is to be governed by and construed in accordance with the laws of the State of California.
18. The COUNTY Officer or employee with responsibility for administering this Agreement is Russell Fackrell, Facilities Division Manager, Chief Administrative Office, or successor.

This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

CONTRACT ADMINISTRATOR:

By: _____
Russell Fackrell
Facilities Division Manager
Chief Administrative Office

Dated: _____

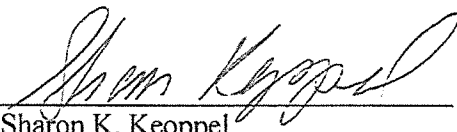
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

--COUNTY OF EL DORADO--

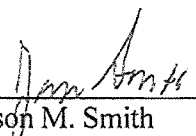
By: _____
Purchasing Agent
Chief Administrative Office
"COUNTY"

Dated: _____

--EL DORADO DISC SPORTS FOUNDATION--

By: 
Sharon K. Keoppel
President, Founder, and
Chief Executive Officer
"USER"

Dated: 5/19/22

By: 
Jason M. Smith
Corporate Secretary

Dated: 5/20/22

El Dorado Disc Sports Foundation

Exhibit A

Parking Lot

