

PARKS AND RECREATION COMMISSION

Angela Bennett, Chairman
Sheldon Windley, Vice Chairman
Angie Avila, Commissioner
Fern Day, Commissioner
Dan Traxler, Commissioner

October 25, 2022

Ione City Hall
1 E. Main Street, Ione 95640
City Council Chambers
6:00 PM

**DUE TO THE GOVERNOR'S EXECUTIVE ORDER N-25-20 ADOPTED MARCH 17, 2020,
THE PARK AND RECREATION COMMISSION OF THE CITY OF IONE WILL BE
CONDUCTING THEIR MEETING VIA ZOOM AND IN PERSON AT 1 E. MAIN STREET**

Join Zoom Meeting

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Meeting ID: 235 196 1316

Passcode: 95640

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**THE CITY OF IONE IS A GENERAL LAW CITY DEDICATED TO
PROVIDING LEADERSHIP, ACCOUNTABILITY, AND FISCAL
INTEGRITY WHILE PROMOTING ECONOMIC OPPORTUNITIES AND
MAINTAINING A HIGH QUALITY OF LIFE FOR OUR CITIZENS**

PLEASE LIMIT PUBLIC COMMENT/TESTIMONY TO FOUR MINUTES
California Government Code Section 54954.3

The Ione Park & Recreation Commission welcomes, appreciates, and encourages participation in their Meeting. The Park & Recreation Commission reserves the right to reasonably limit the total time for public comment on any particular noticed agenda item as it may deem necessary.

Full staff reports and associated documents are available for public review at the Office of the City Clerk, City Hall, 1 E. Main Street, Lone, CA. Hard copies may be obtained for \$3.60 for pages 1-5 and \$.45 for each additional page. Documents that are not available when the agenda is posted will be made available for public review at the meeting

AGENDA

1) CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

3) ROLL CALL

4) APPROVAL OF AGENDA

5) PUBLIC COMMENT: **EACH SPEAKER IS LIMITED TO 4 MINUTES**

*NOTE: This is the time for members of the public who wish to be heard on matters that do not appear on the Agenda. Persons may address the Park & Recreation Commission at this time on any subject within the jurisdiction of the Park and Recreation Commission. Please be mindful of the **4 minute time limit per person**. Pursuant to the Brown Act, the Park & Recreation Commission may not take action or engage in a detailed discussion on an item that does not appear on the Agenda. However, matters that **require Commission action will be referred to staff for a report and/or recommendation for possible action at a future Commission meeting. Is there anyone in the audience who wishes to address the Commission at this time?***

6) PRESENTATIONS/ANNOUNCEMENTS:

7) REGULAR AGENDA:

1) City of Lone Parks

- a) Consider recommending City Council approval for Ed Hughes Arena Host/Howard Park Caretaker Management Agreement
- b) Consider recommending approval of El Dorado Disc Sports Foundation ("EDDS") Agreement
- c) Train Depot Park
 - i) Project Update
 - ii) Train Depot Building Update

8) COMMISSION MEMBERS REPORTS/FUTURE AGENDA ITEMS

9) ADJOURNMENT

ADA COMPLIANCE STATEMENT

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact City Clerk, Janice Traverso at 209-274-2412. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

I, Janice Traverso, the City Clerk of the City of Ione, declare under the penalty that the foregoing agenda for the October 25, 2022 meeting of the Ione Parks & Recreation Commission was posted on October 21, 2022 at the office of the City of Ione, City Hall at 1 E. Main Street, Ione, CA 95640 and was available for public review at that location.

Janice Traverso, City Clerk, City of Ione

**ED HUGHES HORSE ARENA HOST/
HOWARD PARK CARETAKER
MANAGEMENT AGREEMENT
BETWEEN THECITY OF IONE
AND KD'S HORSEMANSHIP, LLC**

This Management Agreement ("Agreement") shall be made and entered into this 1st day of November, 2022 (Effective Date) by and between the City of Ione (City), a California municipal corporation and KD's Horsemanship, LLC, (KD) herein referred to as the "Parties".

RECITALS

This Agreement is made in reference to the following recitals, incorporated herein:

WHEREAS, City owns real property commonly known as Howard Park ("Park") located at 600 South Church Street, Ione, California 95640, and includes various facilities including the Ed Hughes Memorial Arena ("Arena") for roping, barrel racing, rodeo and other equestrian and non-equestrian events; and

WHEREAS, City is seeking a qualified independent contractor to manage the arena and stables and be the caretaker of Howard Park; and

WHEREAS, KD has the skills, knowledge, and background to successfully operate, manage, market and promote Ione's equestrian facility; and

WHEREAS, City has determined that the management, operation, and related services in running an equestrian facility are special services that can be contracted out to a qualified independent contractor under various provisions of the Government Code.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and KD agree as follows:

AGREEMENT

- I. TERM. The initial term of this Agreement is five (5) years from the Effective Date of this Agreement ("Initial Term"). This agreement shall be reviewed yearly and adjustments to the terms and conditions of the agreement can be made if both parties agree. This Agreement may be extended one (1) time, for five (5) additional years ("Additional Term"), at City's sole discretion

after negotiation between the Parties on the terms, conditions, and covenants. City must notify KD, in writing, at least 90 days before the expiration of the Term whether or not City is extending the Agreement.

- II. **TERMINATION.** Notwithstanding Section II of this Agreement, either Party may terminate this Agreement without cause with ninety (90) calendar days prior written notice. City reserves the right to immediately terminate this Agreement for any breach thereof after ten (10) calendar day notice to KD. Upon any termination, KD shall vacate the Premises immediately. Any appurtenances that have been built shall be left in place if KD is terminated for Breach of Contract.
- III. **MANAGEMENT FEE:** City shall pay KD one thousand three hundred dollars (\$1,300) per month. Payment is due by the 1st day of each month. The monthly fee shall be reviewed in August of each year of the contract to be effective September 1 of each year. City also agrees to allow KD six (6) free days per year of private use of the Ed Hughes Arena.
- IV. **KD RESPONSIBILITIES.** KD responsibilities are listed in Exhibit B of this Agreement.
- V. **CITY RESPONSIBILITIES.** City responsibilities are listed in Exhibit C of this Agreement.
- VI. **IMPROVEMENTS, ALTERATIONS & REPAIRS.** KD shall not make any improvements, alterations, or repairs to the Premises without prior written approval from the City. All improvements shall comply with local, state, and federal laws. All improvements shall become City property upon termination of this Agreement.
- VII. **MAINTENANCE.** KD shall maintain the Premises and any permitted improvements, in a safe, clean and orderly manner at all times. Upon termination of this Agreement, KD shall surrender the Premises in good and sanitary condition, excepting reasonable wear and tear. KD shall also remove their RV upon the termination of the Agreement.
- VIII. **CITY INSPECTION.** City or City's staff has the right to inspect the Premises at any reasonable time to ensure compliance with this Agreement. In the event of an emergency such as a fire or other imminent catastrophe, City has the right to force entry.
- IX. **INSURANCE.** Prior to rendering services provided by the terms and conditions of this Agreement, KD agrees to obtain a two (\$2) million commercial insurance policy that covers property damage, personal injury, and that names the City as additional insured for the term of KD's maintenance and operation of the Premises.
- X. **INDEPENDENT CONTRACTOR.** For all purposes arising under this Agreement, KD is an independent contractor and not an employee of the City. Accordingly, KD shall not be entitled to any benefit normally afforded to an employee, including but not limited to:

Pension, annuity, disability, medical, dental, vision, life insurance, vacation or sick pay. KD shall not have the authority, express or implied, to bind or otherwise obligate City or its agents, employees or representatives in any manner except with prior written consent from the City.

- XI. POSSESSORY INTEREST. Parties to this Agreement recognize that certain rights to property may create a taxable possessory interest as described in the California Revenue and Taxation Code. If such a possessory interest is created, City shall be entirely responsible for payment of any taxes levied on that interest. Questions regarding this interest shall be directed to the Amador County Tax Assessor's Office.
- XII. TAX LIABILITY. KD agrees to pay all state and federal income or other taxes that may arise pursuant to or as a result of this Agreement, and to indemnify City in the event City is found liable for payment of any such tax on behalf of KD.
- XIII. ASSIGNMENT. Except as otherwise provided in this Agreement, the rights and duties under this Agreement shall not be assigned, transferred, subcontracted or subleased either in whole or in part, nor shall use of the Premises or any portion thereof be assigned, transferred or subleased without prior written consent of the City. Any attempted action in violation of this Section shall be void.
- XIV. DEFEND, INDEMNIFY, AND HOLD HARMLESS. KD shall defend, indemnify and hold harmless City, its elected and appointed councils, boards, commissions, officers, agents and employees from and against any liabilities, claims, causes of action, complaints, injuries, damages, costs of attorney's fees and/or other losses incurred or claimed by or on behalf of any person or entity against City arising from the intentional or negligent acts or omissions by KD, or any of KD's officers, agents, employees, assigns, contractors or subcontractors.
- XV. CONDEMNATION. In the event of a taking of either the whole or part of the Park or Arena, including the Premises, by any public authority or entity under eminent domain or similar statutes, the City may elect to terminate this Agreement. KD shall not have any right to participate in any of the compensation generated by any eminent domain proceedings.
- XVI. NON-DISCRIMINATION. KD shall not unlawfully discriminate against any City employee or employees of KD, applicant for employment or for services or any member of the public because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.
- XVII. PROPERTY DAMAGE. KD uses the Premises at KD's own risk. City shall not be responsible for any damage to KD's property as a result of any occurrence, including but not limited to vandalism, theft, fire or flood.
- XVIII. WAIVER. A waiver by any Party for breach of any term, condition or covenant of this Agreement shall not be deemed to be a waiver of any subsequent or other breach or of any continued or

subsequent right to the same right or remedy. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

- XIX. **PRIOR AGREEMENTS.** This Agreement shall supersede all prior agreements, discussions, commitments and representations, whether written or oral, between the Parties.
- XX. **FORCE MAJEURE.** Neither Party shall be deemed in default with respect to performance of any terms, conditions or covenants under this Agreement if the same is due to any act of God or other act beyond control of the Parties, including war, flood, fire, and explosion.
- XXI. **MODIFICATIONS.** This Agreement may only be modified in a writing signed by both Parties.
- XXII. **SEVERABILITY.** If any term, section, phrase, condition, or provision of this Agreement is held to be invalid, void or unenforceable, the remainder of the Agreement shall remain in full force and effect.
- XXIII. **JURISDICTION.** Any action brought in court regarding this Agreement, including actions to enforce provisions of this Agreement or for declaratory relief, shall be filed and remain in a court of competent jurisdiction in Sacramento County.
- XXIV. **GOVERNING LAW.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the state of California.
- XXV. **SIGNATURES.** By signing this Agreement, the Parties agree that they have read, fully understand and agree to the terms, conditions and covenants of this Agreement and have had a full and fair opportunity to consult with an attorney prior to signing.
- XXVI. **MEDIATION.** Both parties agree that any dispute under this agreement may only be resolved through mediation. The parties will split the cost of the mediator and each party is responsible for its own fees.
- XXVII. **NOTICES.** All notices and demands of any kind which either Party may require or desire to service on the other Party in connection with this Agreement must be served in writing either by personal service or by registered mail, return receipt requested, and deposited in the United States mail addressed to the Party to be served as follows:

CITY:

Attn: City Manager
City of Ione

P.O. Box 398
1 East Main Street
Ione, CA 95640

KD:

Attn: KD's Horsemanship
10065 New Hope Road
Galt, CA 95632

IN WITNESS HEREOF, the Parties hereto have executed this Agreement on this 1st day of November, 2022.

CITY OF IONE:

KD:

Michael Rock, City Manager

Kathy Van Steyn, KD's Horsemanship

ATTEST:

Janice Traverso, City Clerk

APPROVED AS TO FORM:

Carolyn Walker, City Attorney

**EXHIBIT A:
PREMISES**

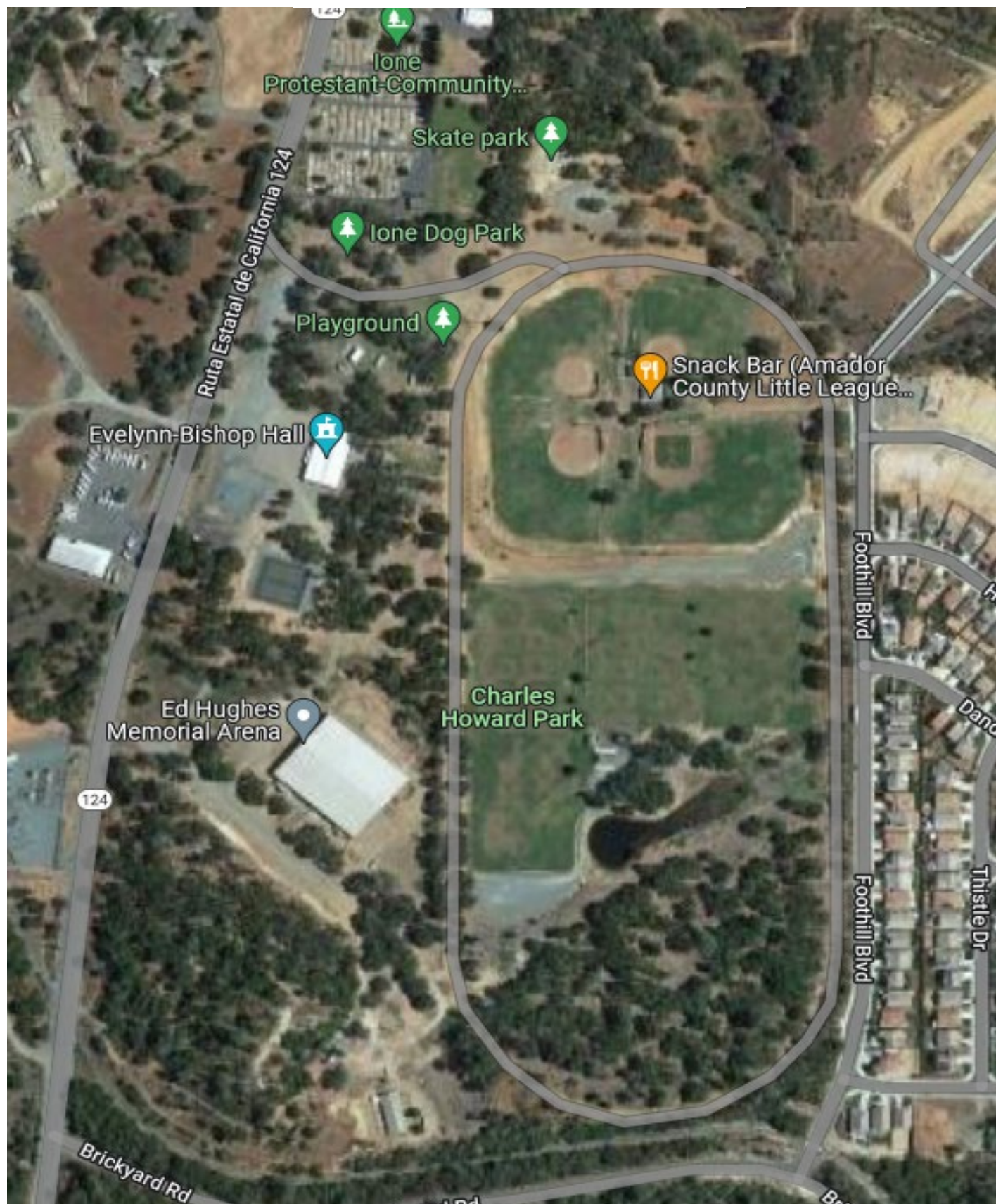


EXHIBIT B: MANAGEMENT RESPONSIBILITIES

KD recognizes that the Ione Homecoming Association, by previous agreement, has total control of Howard Park during the week of the Ione Homecoming Celebration. Ione Homecoming Celebration is normally the second weekend in May. Ione Homecoming Association owns rodeo panels that are chained and locked. KD must contact the Ione Homecoming Association for permission to use said panels. KD will be financially responsible for any and all damages to panels while in KD's use.

KD will promote, market, and schedule equine and non-equine events at Ed Hughes Equestrian Arena and/or within the areas as outlined in Exhibit A.

KD shall place into action Arena Rental Agreements, Day Rider Use, Vendor Applications and set fee rates accordingly for each category of renter. KD will forward copies of fee rates to City.

KD may collect fees on behalf of the City and submit all fees collected to the City on a weekly basis at City Hall.

KD will manage all event scheduling of arena and inquiries normally handled for rental and day use purposes by the City.

KD shall handle all rental agreements with potential event renters; ensure all are licensed with City if required as well as vendor licensing as appropriate.

KD shall create and establish rules and conditions of arena use for daily riders, monthly users, event rental users and vendors. Vendors using the arena for business location purposes will be required to obtain a City business license and schedule dates of use.

•Rules and Conditions of Use" shall be provided to City upon completion,

KD shall coordinate improvements which include, but not limited to new bleachers and footing to support bleachers, upgraded or new water truck, additional tractor to increase rental usage for larger associations, enlarge warm-up arena, solar panel energy for night lighting around Arena, relocate trailer parking area away from top level parking lot, additional stalls/livestock pens for overnight rentals, install security system with feed directly to KD's home and cell phone; clean, inspect- notify City of potential electrical issues in office, and maintain office to standard upkeep thereafter of any repairs necessary by City; and upgrade parking surface surrounding arena to dampen current dust situation. The City

shall not be responsible for any improvements above and beyond normal wear and tear breakdown due to age of structure, building code requirements or force majeure.

KD or their designated staff shall remain on the property and be available to assist renters and attendees during all scheduled events. KD shall lock park entrance gates after sponsored events.

KD shall be responsible for all ground maintenance to include but not limited to mowing, weeding, debris clearing, flooding of rainfall into Arena, horse manure, and trash. In the event of tree debris or storm damage the City agrees to clear said debris and/or repair damages done to arena and or surrounding areas.

KD can utilize City tractor and water truck to maintain the Ed Hughes Equestrian Center. City has first right of use of tractor. KD may allow staff to utilize the City's tractor and water truck after said staff has undergone a City sponsored training session.

KD will be jointly responsible for fuel and normal maintenance costs. Any damage to City equipment caused by abuse or neglect will be at KD's expense.

KD may allow alcohol to be served at events held within the equestrian area. ABC licenses will be required at events serving alcohol. City must sign all applications for liquor licenses. City reserves the right to refuse any liquor license requests.

KD shall comply with all City ordinances when sponsoring events. Ione Noise Ordinance is found in Chapter 9.16 of the Ione Municipal Code.

KD shall notify appropriate authorities of any violations suspected outside the realm of arena management, such as dog leash laws, suspicious vehicles parked and suspicious persons. KD shall not make any attempts of investigation if suspected violation is present or potential to occur.

KD will be responsible for opening and closing City restrooms, gates, or other facilities on Premises from time to time and as requested by the City.

EXHIBIT C: CITY RESPONSIBILITIES

City shall provide new NO PARKING, HANDICAPPED and any additional government required signage to be used along South outside wall of arena to keep fire lane clear of trailers parking, unless said area is determined to not be a fire lane by the Ione Fire Chief. If determination is made, KD shall install "No Horse Trailer Parking" signs allowing for public parking clear of horse trailers and horses.

City shall allow KD to park horse trailer at arena to be utilized as an office to maintain a daily presence and monitor day riders and unlawful use by vendors. KD, nor any other individual shall reside in trailer for a period of more than 20 hours, UNLESS KD is holding a weekend event and is needed for onsite management by event renter. Trailer is and will continue to be fully insured and KD shall provide a copy of insurance coverage.

City shall maintain public restrooms for entire duration of the Agreement given the restrooms are utilized by public, and other visitors of the Park (except for KD sponsored events). City shall pay all utility expenses. City shall pay for all solid waste and recycling services.

City shall maintain all roads and parking areas surrounding the Park, with the exception to upgrades done by KD.

City shall allow KD to park and store equipment, i.e. flatbed trailer, black widow groomer and miscellaneous ranch/arena tools. KD shall allow potential renters to keep livestock in livestock pens, allow horse trailer parking overnight and overnight camping on events lasting longer than 24 hours. Daily overnight camping, to include horse pens is allowed with a limited stay of 4 days maximum unless otherwise approved by the City.

City shall allow KD use of City tractor and water truck, subject to the conditions listed in Exhibit B: KD Responsibilities.

Insurance shall be available for purchase through the City's JPA for users of the Ed Hughes Memorial Arena who are not specifically covered by "event insurance" which is required each time KD wishes to hold any sort of public event at the Arena.

City will provide KD with keys to the front entrance gate, the arena announcer's booth, a key the payment drop box, and any other keys necessary for the use of the Premises. KD shall return all keys to the City at the conclusion of the contract. KD shall not duplicate keys without permission of the City.

City shall provide KD with appropriate contact information for both local and county officials to be contacted in case of an emergency or non-emergency needs.

**AGREEMENT
BETWEEN THE CITY OF IONE AND
EL DORADO DISC SPORTS FOUNDATION**

This Agreement for the use of facilities at Howard Park is entered into this 1st day of November, 2022 by and between the City of Ione ("City"), a California municipal corporation and El Dorado Disc Sports Foundation ("EDDS"), a California 501c3 public benefit nonprofit who are hereafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the City owns and operates Howard Park ("Park") at 600 Church Street (Hwy 124), in Ione, California; and

WHEREAS, the Amador Chain Anglers Disc Golf Club through EDDS operates the Howard Park Disc Golf Course ("HPDGC"); and

WHEREAS, the City acknowledges that disc golf is an environmentally sustainable, low maintenance, low impact, and low-cost recreational activity that can be enjoyed by people of all ages; and

WHEREAS, the City wishes to grant EDDS permission to use the Park for the purposes of operating the HPDGC in exchange for a small annual payment for reimbursement of the City's costs to operate and maintain the facilities, and for certain other improvements to the Park; and

WHEREAS, the City wishes to grant EDDS permission to use the park in exchange for: (1) a small annual payment for reimbursement of the City's costs to operate and maintain the facilities, and (2) certain other improvements to the Park;

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants herein contained and such other and such other and further consideration as is hereby acknowledged, the Parties agree to the following:

TERMS AND CONDITIONS

PARTIES AND DESIGNATED CONTACT PERSONS

City Representative:	EDDS Representative:
Michael Rock, City Manager City of Ione 1 E. Main Street Ione, CA 95640 Tel: (209) 274-2412 Ext. 116 mrock@ione-ca.com	Lee Lockhart, President Lake Amador Resort 7500 Lake Amador Drive Ione, CA 95640 Tel: (209) 274-4739 lockhartclan209@gmail.com

1. Term:

- A. This Agreement will be valid from date of approval through and continuing for one year from date of approval.
- B. At one year, the terms and conditions may be evaluated by all Parties
- C. At one year, the Agreement may be extended for two five-year terms
- D. If either Party to this Agreement fails to perform any of its obligations under this Agreement when due and called for, that party shall be in default if it fails to cure such default within thirty (30) days after written notice from the non-defaulting Party of such default; provided, however, that if the nature of a non-monetary default is the result of a force majeure occurrence or is otherwise of a nature such that it cannot be fully cured within that thirty (30) day period, the Party in default shall have such additional time as is reasonably necessary to cure the default so long as the Party in default is proceeding diligently to complete the necessary cure after service of notice by the non-defaulting Party. If the EDDS remains in default after the 30-day cure period, the Agreement may be terminated at the City's option.

2. Mutual Covenants:

A. The City will:

- a. **Facilities License & Coordination.** Grant the EDDS a non-exclusive license to use the disc golf course and parking areas ("City Facilities") designated by the City on a full-time basis during the term of this Agreement for disc golf related functions.
- b. **Advertisements.** Allow the EDDS to sell banners to hang around the disc golf course in order to fundraise for the Foundation. Signs shall comply with the City's sign ordinance, as may be amended

from time to time. Advertising shall be limited to commercial advertising involving offering of goods or services for sale, consistent with both constitutional and local law requirements.

- c. **Monitor.** Monitor the Park and City Facilities to ensure all commitments are being adhered to.

B. The EDDS will:

- a. **Fee.** Pay the City a participation fee of \$100 per year for the term of the Agreement, or as amended at the first anniversary of this Agreement, for the purpose of helping the City offset operations and maintenance costs associated with the City Facilities. The fee will be paid by January 1st of each year of the term of the Agreement. Prior to the anniversary of the first year of this Agreements, the Parties shall negotiate in good faith an appropriate fee in a continuing effort to help the City offset rising operations and maintenance costs.
- b. **Disc Golf Course Use.** Conduct disc golf functions on the courts in accordance with applicable laws and City policies, including all OSHA regulations and standards. The Foundation shall not use the courses, nor permit others to use the courses in a way that will create a hazardous condition on the courses or surrounding areas. The President shall inspect the premises prior to any play to ensure no hazardous conditions are present.
- c. **Improvements.** Invest in the development of the Park through donations, grants and fundraising efforts and help the City make capital improvements to the City Facilities as grants, donations and fundraising allow. However, the Foundation shall not make any improvements or alterations to the Park or City Facilities without prior written approval from the City.
- d. **Equipment.** Provide and maintain the necessary equipment for the Foundation's intended use of the City Facilities.
- e. **Insurance.** Maintain insurance as specified in Section 4 of this Agreement. The Foundation will further maintain additional property insurance covering any items kept at the courses.
- f. **Conservation.** Assist the P&R Department Staff to conserve both water and electrical power associated with the City Facilities.

3. Non-Exclusivity & Scheduling.

This is a non-exclusive license for the Foundation to use the City Facilities. The Foundation shall provide City with a schedule of league games and practices by January 1st of each year before the start of the season to secure specific dates and times. The City may use the City Facilities for any other purpose it desires when not in use by the Foundation.

4. Insurance.

The Foundation shall procure and maintain for the duration of this Agreement casualty and general liability insurance in commercially reasonable amounts, or as required by California Law, insuring against claims for injuries to persons or damages to property which may arise from or in connection with the Foundation's use of the City Facilities or performance under this Agreement. The coverage shall in no event be less than \$1,000,000 in primary coverage. The insurance policies must contain the following:

- a. The City, its officers, agents and employees are to be covered as additional insured. The policy shall not contain any special limitations on the scope of protection afforded to the City, its officers, agents and employees.
- b. For any claim related to this Agreement, the Foundation's insurance shall be the primary insurance as it relates to claims made against the City, its officers, officials and employees. Any insurance or self-insurance maintained by the City, its officers, officials or employees shall be excess of the Foundation's insurance and shall not contribute to it.
- c. The Foundation's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of insurer's liability.
- d. Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided or cancelled by either Party, reduced in coverage or in limits except after thirty (30) days prior (10 days for non-payment of premium) written notice by certified mail, return receipt requested, has been given to the City. The Foundation shall also provide the same notice to the City.
- e. The Foundation shall furnish the City with original endorsements effecting coverage required by this Section. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City within thirty (30) days from execution of this Agreement.

- f. Any failure to comply with reporting or other provisions of the parties, including breach of warranties, shall not affect coverage provided the City, its officers, agents and employees.

5. Indemnity.

The Foundation shall indemnify and hold City, its officers, agents, volunteers and employees harmless from and against all claims, damages, losses and expenses, including attorneys fees and costs arising out of the use of other activities described in this Agreement by the Foundation, caused in whole or in part by any negligent act or omission of the Foundation, its agents, volunteers or employees or anyone directly or indirectly associated with the Foundation or anyone whose acts for which the Foundation may be liable, except where such liability is caused by the active negligence, sole negligence or willful misconduct of the City, its officers, agents or employees.

6. Assignment.

The Foundation agrees it will not assign the right or duties in this Agreement herein without first obtaining prior written consent of the City. Any assignment without the City's consent shall be voidable, and at the City's election, shall constitute a default of this Agreement.

7. Dispute Resolution.

If, during the performance of this Agreement, a dispute arises between the Foundation and the City that cannot be settled by discussions, the Foundation shall submit to the City a written statement within ten (10) days of the incident giving rise to the dispute. The City Manager or other City designee shall issue a written decision to the Foundation within seven (7) days. The Foundation reserves the right to appeal the decision to the City Council within 30 days after the decision is made. The City Council's decision on an appeal shall be binding and final. The Foundation and the City shall continue to perform their duties under this Agreement without interruption during the dispute period.

8. General Terms and Conditions.

The terms and conditions of this Agreement shall govern and shall take precedence over any different or additional terms and conditions the Foundation may have included in any documents attached to or accompanying this Agreement. Any handwritten changes on the face of the Agreement shall be ignored and have no legal effect unless initialed by both Parties.

8.1 Choice of Law, Forum Selection, Entire Agreement and Modifications.

The Agreement shall be construed under California law (without regard for choice-of-law considerations) and the policies and procedures of the City, as amended from time to time. Any action arising out of this Agreement shall be heard by a state court in California. For this purpose, the Foundation specifically and unconditionally consents to jurisdiction in Amador County. The Agreement constitutes the entire Agreement and understanding of the Parties and replaces any prior or contemporaneous agreements or understands, whether written or oral. Modifications to this Agreement will be valid only with a writing signed by both Parties.

8.2 Use of City Name or Logo.

The Foundation agrees not to use the name, logo or any other marks (including but not limited to colors and music) owned by or associated with the City or the name of any representative of the City in any sales promotion work or advertising, or any form of publicity, without prior written permission of the City in each instance.

8.3 Terms of Payment.

Payments shall be made to the City within thirty (30) days upon the City's presentation of an invoice for services rendered pursuant to this Agreement.

8.4 Termination.

The City may terminate this Agreement in whole or in part for cause upon thirty (30) days written notice to the Foundation if the Foundation fails to comply with any material term or condition of this Agreement, becomes insolvent or files for bankruptcy protection or fails to comply in a material way with the requirements of this Agreement if done in accordance with Section 1B of this Agreement. Late delivery of services or services that are defective or do not conform to the requirements of this Agreement shall, subject to the limitations herein, be sufficient cause to allow the City to terminate for cause.

8.5 Independent Contractor.

The Foundation shall perform its duties under this Agreement as an independent contractor and not as an employee of the City. Neither the Foundation nor any agent or employee of the Foundation shall be or shall be deemed to be an agent or employee of the City. The Foundation shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Agreement. The Foundation acknowledges that the Foundation and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation or any other

employee benefit, statutory or otherwise. The Foundation shall have no authorization, express or implied, to bind the City to any agreements, liability or understanding except as expressly set forth herein. The Foundation shall be solely responsible for the acts of the Foundation, its employees and agents.

8.6 Non-Waiver.

No waiver by any Party of any default or nonperformance shall be deemed a waiver of any subsequent default or non-performance.

8.7 Limitation on City Liability.

In no event shall the City be liable for any indirect, consequential, incidental, lost profits or life expectancy damages arising out of this Agreement.

8.8 Affirmative Action, Equal Employment Opportunity and Targeted Group Business.

The City is committed to the policy that all persons shall have equal access to its programs, facilities and employment without regard to race, color, creed, religion, sex, age, marital status, disability, public assistance status, veteran status or sexual orientation and is committed to transacting business with entities and individuals who follow these practices. Accordingly, the Foundation must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Foundation will maintain non-segregated facilities for their employees and not allow their employees to perform services at any segregated facilities under its control. By entering into this Agreement, the Foundation certifies that it complies with all federal and state laws as well as with City laws and policies related to non-discrimination, equal employment opportunity and affirmative action.

8.9 Compliance with Ordinances and Regulations.

The Foundation agrees to abide by all applicable laws and regulations and all rules, notices, prohibitions instructions, or directions posted on any park or trail sign by the City. This includes field closures. The Foundation is not authorized to alter, construct, erect, or remove any structure within a park or on a trail without permission from the City. This includes the physical alteration of structures. The Foundation agrees to not assemble for the purpose of which, in fact, results in blocking or obstructing the lawful use by any other person of any portion of a park or trail or any structure in a park or on a trail or any position of access or exit to or from any park, trail, structure therein. This includes blocking off entrance drives and parking areas. The Foundation agrees not to charge admission, collect fees or payment for any activity, event, service or use of any land or

facility in a park or on a trail without permission from the City. This includes charging a fee for the use of parking spaces.

8.10 Severability.

If any provision of this Agreement shall be invalid or unenforceable with respect to any Party, the remainder of the Agreement or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

8.11 Survivability.

The terms, provisions, representations and warranties contained in this Agreement that by their sense and context are intended to survive the performance thereof by any of the Parties shall so survive the completion of performance and termination of this Agreement, including the making of any and all payments hereunder.

8.12 Notices.

All notices, requests, or other communications required hereunder shall be sufficient only if given in writing and shall be deemed given only when delivered personally or deposited in the United States mails by certified or registered mail, postage prepaid addressed as follows:

If to the City:
City of Lone
Attn: City Manager
P.O. Box 398
Lone, CA 95640

If to the Foundation:
Lake Amador Resort
Attn: Lee Lockhart
7500 Lake Amador Drive
Lone, CA 95640

Such addresses may be changed by either party by written advice as to the new address delivered to the other party at the address provided above.

8.13 Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one and the same document.

Facsimile or electronic signatures shall have the same effect as original signatures.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in duplicate by its City Manager and attested to by its City Clerk; and the Foundation has caused this Agreement to be executed by its authorized agent.

CITY OF IONE

**EL DORADO DISC SPORTS
FOUNDATION**

By _____
Michael Rock, City Manager

By _____
Lee Lockhart, President

APPROVED AS TO FORM:

By _____
Carolyn Walker, City Attorney

By _____
Janice Traverso, City Clerk