

RECORDING REQUESTED BY )  
AND WHEN RECORDED MAIL TO: )  
 )  
City of Lake Elsinore )  
130 South Main Street )  
Lake Elsinore, California 92530 )  
Attention: City Clerk )  
 )

---

(Space above for Recorder's use.)

(Exempt from Recording Fees Per Govt Code §27383.)

## **DEVELOPMENT AGREEMENT**

by and between

**CITY OF LAKE ELSINORE**

and

**LE DIAMOND SPORTS CENTER, LLC**

## TABLE OF CONTENTS

	Page
<b>1. DEFINITIONS.....</b>	<b>2</b>
<b>2. PURPOSE AND ANALYSIS.....</b>	<b>4</b>
<b>2.1. Vested Right in Existing Land Use Regulations.....</b>	<b>4</b>
<b>2.2. Agreement Does Not Authorize Development.....</b>	<b>5</b>
<b>2.3. No Significant Environmental Impact. ....</b>	<b>5</b>
<b>3. RULES, REGULATIONS AND OFFICIAL POLICIES GOVERNING DEVELOPMENT. ....</b>	<b>6</b>
<b>3.1. Existing Land Use Regulations.....</b>	<b>6</b>
<b>3.2. New Rules. ....</b>	<b>6</b>
<b>3.2.1. Procedural Regulations. ....</b>	<b>6</b>
<b>3.2.2. Regulations Governing Construction Standards. ....</b>	<b>6</b>
<b>3.2.3. Non-Conflicting Regulations.....</b>	<b>6</b>
<b>3.2.4. Certain Conflicting Regulations.....</b>	<b>6</b>
<b>3.2.5. Regulations Needed to Protect the Health and Safety.....</b>	<b>6</b>
<b>3.3. Regulation by Other Public Agencies. ....</b>	<b>7</b>
<b>3.4. State and Federal Laws. ....</b>	<b>7</b>
<b>3.5. Police Power and Taxing Power. ....</b>	<b>7</b>
<b>4. FEES AND FINANCIAL RESPONSIBILITY. ....</b>	<b>7</b>
<b>4.1. Existing Development Fees.....</b>	<b>7</b>
<b>4.2. Deferred Development Impact Fees.....</b>	<b>7</b>
<b>4.3. Allocation of Project TIF.....</b>	<b>8</b>
<b>4.4. Financial Responsibility. ....</b>	<b>8</b>
<b>5. DURATION OF AGREEMENT.....</b>	<b>8</b>
<b>5.1. Term. ....</b>	<b>8</b>
<b>5.2. Timing of Development. ....</b>	<b>8</b>

5.3.	Periodic Review .....	9
6.	OPERATING MEMORANDA AND AMENDMENTS. ....	9
6.1.	Operating Memoranda .....	9
6.2.	Amendment. ....	9
7.	COOPERATION AND COVENANT OF FURTHER ASSURANCES.....	10
7.1.	Third Party Actions. ....	10
7.2.	Further Assurances.....	10
7.3.	Covenant of Good Faith and Fair Dealing. ....	10
8.	PERMITTED DELAYS. ....	10
9.	ESTOPPEL CERTIFICATES.....	11
10.	RECORDATION BY CITY CLERK. ....	11
11.	DEFAULT. ....	11
11.1.	Events of Default. ....	11
11.2.	Remedies. ....	11
11.3.	No Waiver.....	12
11.4.	Effect of Termination. ....	12
12.	INCORPORATION BY REFERENCE. ....	12
12.1.	Recitals. ....	12
12.2.	Exhibits. ....	12
13.	APPLICABLE LAW. ....	12
14.	NO JOINT VENTURE, PARTNERSHIP OR THIRD PARTY BENEFICIARY. ...	12
15.	COVENANTS RUNNING WITH THE LAND. ....	13
16.	CONSISTENCY FINDING. ....	13
17.	TERMS AND CONSTRUCTION.....	13
17.1.	Severability.....	13
17.2.	Entire Agreement.....	13

17.3.	Signature Pages. ....	13
17.4.	Time.....	13
17.5.	Notices. ....	14
18.	CONSENT OF OTHER PARTIES.....	14
19.	ASSIGNMENT AND NOTICE. ....	15
19.1.	Assignment (General) .....	15
19.2.	Requirements of Notice, Consent .....	15
19.3.	Assignment to Affiliate as a Matter of Right.....	15
20.	ENCUMBRANCES AND RELEASES ON REAL PROPERTY.....	15
20.1.	Discretion to Encumber.....	15
20.2.	Entitlement to Written Notice of Default.....	15
20.3.	Property Subject to Pro Rata Claims.....	16
21.	CONSTRUCTION, NUMBER AND GENDER. ....	16
22.	INSTITUTION OF LEGAL ACTION. ....	16
23.	INDEMNIFICATION. ....	16
24.	RIGHT OF ENTRY/ENCROACHMENT PERMITS.....	17
25.	PROCESSING OF APPLICATIONS AND PERMITS.....	17
26.	FINANCING OF IMPROVEMENTS. ....	17
26.1.	Potential Improvements Financing District. ....	17
26.2.	Maintenance Financing District. ....	17
Attachment No. 1	..... Legal Description of the Property	
Attachment No. 2	..... Title Report Exhibit Land Ownership	
Attachment No. 3	..... Selected Analysis of Estimated Permit Fees	
Attachment No. 4	..... Financial Responsibility	
Attachment No. 5	..... Conditions of Approval	

**DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF LAKE ELSINORE AND LE DIAMOND SPORTS CENTER, LLC**

This Development Agreement (“Agreement”) dated for identification purposes only as of \_\_\_\_\_, 2017 (“Date of Agreement”) is entered into by and between the City of Lake Elsinore, California, a municipal corporation (“City”) and **LE DIAMOND SPORTS CENTER, LLC**, a California limited liability company (“Vested Party”). The City and the Vested Party are hereinafter sometimes referred to individually as a “Party” and collectively as “Parties.”

**RECITALS**

A. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the legislature of the State of California adopted the “Development Agreement Act,” Government Code Sections 65864 through 65869.5. The Development Agreement Act authorizes the City to enter into an agreement with any person having a legal or equitable interest in real property regarding the future development of such property.

B. Pursuant to the Development Agreement Act, the City adopted Ordinance No. 996 establishing procedures and requirements for consideration of development agreements as set forth in Lake Elsinore Municipal Code Chapter 19.12 (the “Development Agreement Ordinance”).

C. JIC-CP Diamond Development, LLC, a California limited liability company (“JIC-CP”), is the current fee owner of approximately twenty-three (23) acres consisting of nine (9) parcels of unimproved land generally located north of Pete Lehr Drive and west of Diamond Drive within the Diamond Specific Plan in the City of Lake Elsinore, California (collectively, the “JIC-CP Property”) more particularly described in the LEGAL DESCRIPTION attached hereto as Attachment No. 1 and incorporated by this reference herein.

D. Subsequent to the execution of this Agreement, Vested Party will be acquiring fee ownership of the JIC-CP Property.

E. The parcels of land comprising the JIC-CP Property, as well as other parcels of land in the JIC-CP Property’s vicinity, are legally described and depicted in the “TITLE REPORT EXHIBIT LAND OWNERSHIP” attached hereto as Attachment No. 2 and incorporated by this reference herein. The JIC-CP Property is identified in Attachment No. 2, as is that portion of Campbell Road owned by the City (the “City Parcel”), color-coded yellow and green, respectively. By Resolution No. 2016-122, the City Council approved the sale of the City Parcel to JIC-CP Diamond Development, LLC for the Project. In the aggregate, the JIC-CP Property and the City Parcel comprise the property that will be owned by Vested Party and is subject to this Agreement (the “Property”).

F. Vested Party wishes to develop a multi-use sports complex facility (“Project”) on the Property and has obtained the following Land Use Entitlements from the City: (i) Tentative

Parcel Map 37149, (ii) Conditional Use Permit 2016-02 and Commercial Design Review 2016-02. The City Council has determined that the Project is consistent with the sports-themed development encouraged in the City's General Plan and the Diamond Specific Plan and would generate significant economic benefits to the City, including without limitation, creation of new jobs, generation of increased sales taxes and increased name recognition and status.

G. The proposed Project requires significant financial investment by Vested Party and in order to bring certainty and stability to the City's regulations applicable to the processing of the Land Use Entitlements and future Development of the Property, the Vested Party and the City intend to vest the General Plan, the Specific Plan and Existing Land Use Regulations.

H. On February 7, 2017, the City of Lake Elsinore Planning Commission held a duly noticed public hearing to consider Vested Party's application for this Agreement and recommended to the City Council approval of this Agreement.

I. On February 14, 2017, the City Council held a duly noticed public hearing to consider this Agreement and found and determined that (a) this Agreement is compatible with the orderly development of the Property and the surrounding area; (b) this Agreement will have an overall positive effect on the health, safety and welfare of the residents of and visitors to the City; (c) this Agreement constitutes a lawful, present exercise of the City's police power and authority under the Development Agreement Act and Development Agreement Ordinance; (d) this Agreement is entered into pursuant to and in compliance with the requirements of the Development Agreement Act and the Development Agreement Ordinance; and did therefore, in approving this Agreement introduce for first reading Ordinance No. \_\_ (the "Enabling Ordinance"). On February 28, 2017 the City Council conducted the second reading of the Enabling Ordinance thereby approving this Agreement, to become effective thirty (30) days after the adoption thereof (i.e., effective on March 30, 2016).

J. This Development Agreement has been processed, considered and executed in accordance with the Development Agreement Act and the Development Agreement Ordinance.

The foregoing true and correct Recitals constitute a substantive part of this Agreement, and the Parties have materially relied upon them as such in their respective determinations to execute this Agreement.

## 1. DEFINITIONS.

All initially-capitalized words, terms, and phrases used, but not otherwise defined, in the Recitals and this Agreement shall have the meanings assigned to them in this Section 1, unless the context clearly indicates otherwise.

1.1. "Affiliate" means (i) JIC-CP, RJ LEDSC Management, LLC, a California limited liability company, LE Diamond Holding Company, LLC, a Delaware limited liability company, LE Diamond Sports Park, LLC, a California limited liability company, LE Diamond Holdings, LLC, a California limited liability company (each an "Enumerated Entity," (ii) any limited liability company named after the Date of Agreement, *via* filing with the Secretary of State of the State of California by Vested Party or an Enumerated Entity, of an "LLC-2," *i.e.*, an "Amendment to Articles of Organization of a Limited Liability Company (LLC)," (a "Renamed

Entity”), (iii) any member or manager of, or investor in Vested Party, any Enumerated Entity, and/or a Renamed Entity, (iv) any legal entity, unformed as of the time of this Agreement’s execution, that includes Vested Party, an Enumerated Entity, or any Renamed Entity, as a member or manager thereof, or an investor therein, and/or (v) any person or entity that individually or collectively, directly or indirectly, controls, is controlled by, or is under common control with Vested Party, an Enumerated Entity, and/or a Renamed Entity.

1.2. “Agreement” means this Development Agreement.

1.3. “CEQA” means the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.* and the implementing regulations promulgated thereunder as the “CEQA Guidelines” (Title 14, California Code of Regulations Section 15000 *et seq.*) and the City's local guidelines.

1.4. “City” means the City of Lake Elsinore, a municipal corporation.

1.5. “City Council” means the duly elected City Council of the City.

1.6. “Development” means grading, construction and/or installation of public improvements, infrastructure and facilities related to the Project (whether located within or outside the Property) and the construction and/or installation of private improvements, structures, buildings and facilities and the installation of landscaping.

1.7. “Development Agreement Act” is defined in Recital A of this Agreement.

1.8. “Development Agreement Ordinance” is defined in Recital B of this Agreement.

1.9. “Diamond Specific Plan” means that certain specific plan adopted pursuant to California Government Code Section 65450 *et seq.* and LEMC Chapter 17.204 by the City Council by Ordinance No. CC-2010-1278 on June 22, 2010 and Amendment No. 1 thereto adopted by the City Council by Ordinance No. 2015-1340 on June 9, 2015.

1.10. “Effective Date” means the date the Enabling Ordinance approving this Agreement becomes effective which is 30 days after the Date of Agreement first entered above.

1.11. “Existing Development Fees” means any Land Use Entitlement application and permit processing fees and charges, development impact fees, linkage fees, or exactions or other similar impact fees or charges (whether collected as a condition to issuance of grading and/or building permits, or otherwise) imposed by the City on and in connection with new development pursuant to the Existing Land Use Regulations and set forth in Attachment No. 3, the “Selected Analysis of Estimated Permit Fees” attached to this Agreement and incorporated by this reference herein.

1.12. “Existing Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of the City governing the development and use of land in effect on the Effective Date, including, without limitation, the Development Agreement Ordinance, the City’s General Plan, the Diamond Specific Plan, Tentative Parcel Map 37149, Conditional Use Permit 2016-02 and Commercial Design Review 2016-02 and/or any other ordinance, resolution or Land Use Entitlement governing the permitted use of land, the Existing

Development Fees imposed by the City and reflected in Attachment No. 3, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes (including without limitation the action taken by the City in Resolution No. 2016-137 approving Tentative Parcel Map 37253, adopted on December 13, 2016 and providing for the dedication of that portion of Diamond Drive owned by “CIVIC PARTNERS IDAHO, LLC,” reflected on Attachment No. 2 as a portion of the parcel of land color coded orange) the granting of encroachment permits and the conveyance of rights and interests that provide for the use of or the entry upon public property, and the design, improvement and construction standards and specifications applicable to the processing of Land Use Entitlements and Development of the Property.

1.13. “Land Use Entitlements” means Tentative Parcel Map 37149, Conditional Use Permit 2016-02, Commercial Design Review 2016-02 and all other future land use and development entitlements and approvals applied for by the Vested Party and approved by the City, including without limitation variances, design review, review of building, landscaping or signage plans, subdivision or tract maps, conditional use permits and building permits and certificates of occupancy subject to and including all conditions of approval and any mitigation measures identified and adopted pursuant to the Existing Land Use Regulations and applicable CEQA review, if any, in accordance with the terms of this Agreement.

1.14. “LEMC” means the Lake Elsinore Municipal Code.

1.15. “Project” means the Development of the proposed multi-use sports complex facility on the Property pursuant to the Land Use Entitlements.

1.16. “Project-Related Improvements” means public improvements located in proximity to, and designed and constructed in connection with the Project to be completed by Vested Party in accordance with the Conditions of Approval attached hereto as Attachment No. 5 and incorporated herein by reference.

1.17. “Property” means the real property which is the subject of this Agreement and which is described in Recitals C and D, and more particularly described in Attachment No. 1.

1.18. “Term” is defined in Section 5.1 of this Agreement.

1.19. “Vested Party” means LE Diamond Sports Center, LLC, a California limited liability company, and its successors in interest to all or any part of the Property, and/or to any of the rights and obligations hereunder.

## 2. PURPOSE AND ANALYSIS.

### 2.1. Vested Right in Existing Land Use Regulations.

The City has determined that the proposed Project is of a high quality and would provide significant public benefits to the City and its residents, businesses and visitors and that entry into this Agreement will further the goals and objectives of the City’s land use planning policies, by encouraging sports-themed Development of the Property in accordance with the Existing Land Use Regulations and eliminating uncertainty in the planning, entitlement and Development processes.



In exchange for the Project benefits to the City and its residents, businesses and visitors, the Vested Party wishes to receive the assurances permitted by the Development Agreement Act and the Development Agreement Ordinance such that the Vested Party will be deemed to have a vested interest in the applicability of the Existing Land Use Regulations to the Development and implementation of the Project and each portion thereof. As such, the Vested Party, if it chooses, may proceed to develop the Property in accordance with the Existing Land Use Regulations, with certainty that Vested Party will have the ability to expeditiously and economically complete the Project.

## 2.2. Agreement Does Not Authorize Development.

The Parties agree and acknowledge that this Agreement itself does not authorize Vested Party to undertake any Development of the Property and that before any Development activity can occur (a) the Vested Party must have submitted all necessary applications for all Land Use Entitlements and (b) the City must have approved such Land Use Entitlement applications pursuant to the Existing Land Use Regulations, including undertaking whatever environmental documentation the City determines is required pursuant to CEQA.

This Agreement does not require the City to approve any Land Use Entitlement, but only obligates the City to process all Land Use Entitlement applications submitted by Vested Party during the Term of this Agreement pursuant to the Existing Land Use Regulations, including without limitation consistency with Attachment No. 3 described below in Sections 4.1 and 4.2. Consequently, the City may approve, conditionally approve or deny such Land Use Entitlement applications on the basis of the Existing Land Use Regulations. Upon approval by City of any of the Land Use Entitlements, as they may be amended from time to time, such Land Use Entitlements shall become part of the Existing Land Use Regulations, and the Vested Party shall have a “vested right,” as that term is defined under California law, in and to such Land Use Entitlements by virtue of this Agreement.

## 2.3. No Significant Environmental Impact.

The environmental documentation prepared and adopted/approved by the City, as lead agency, for the Diamond Specific Plan pursuant to CEQA adequately addresses the potential environmental impacts under this Agreement. In particular, there are no substantial changes to the Property or the circumstances under which the Property is to be regulated and developed under this Agreement when viewed against the Existing Land Use Regulations, including the Diamond Specific Plan, and there is no new information of substantial importance which would require preparation of another CEQA document pursuant to CEQA Guidelines Section 15162. The vesting of the Existing Land Use Regulations, including the General Plan and Diamond Specific Plan through this Agreement is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because there is no possibility that this Agreement will have any significant direct, indirect, or cumulative environmental impacts apart from or beyond those already analyzed, addressed, and mitigated as stated in the environmental documentation prepared and adopted/approved for the Diamond Specific Plan pursuant to CEQA.

### 3. RULES, REGULATIONS AND OFFICIAL POLICIES GOVERNING DEVELOPMENT.

#### 3.1. Existing Land Use Regulations.

During the Term of this Agreement, Vested Party shall have a vested right to pursue Development of the Property in accordance with the Existing Land Use Regulations and the City shall have authority over the Development of the Property in accordance with the Existing Land Use Regulations. "Existing Land Use Regulations" as defined in Section 1.11 of this Agreement does not include any City ordinance, resolution, code, rule regulation or official policy, governing: (a) the conduct of business, professions and occupations and the issuance of business licenses; (b) taxes and assessments; or (c) the control and abatement of nuisances.

#### 3.2. New Rules.

Although Existing Land Use Regulations will govern uses of the Property and any potential Development of the Property, this Agreement will not prevent the City from applying the following new rules, regulations and policies.

##### 3.2.1. Procedural Regulations.

Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

##### 3.2.2. Regulations Governing Construction Standards.

Regulations governing construction standards and specifications including, without limitation, the City's Building Code, Plumbing Code, Mechanical Code, Electrical Code and Fire Code, provided that such construction standards and specifications are applied on a City-wide basis.

##### 3.2.3. Non-Conflicting Regulations.

Written regulations approved by the City that are not in material conflict with the Existing Land Use Regulations and do not materially and adversely impact the Development of the Property.

##### 3.2.4. Certain Conflicting Regulations.

Written regulations approved by the City that are in material conflict with the Existing Land Use Regulations only if Vested Party has given its written consent to the application of such regulations to development of the Property.

##### 3.2.5. Regulations Needed to Protect the Health and Safety.

Regulations which are in conflict with the Existing Land Use Regulations if the City determines that enforcement is reasonably necessary to protect City residents, businesses and visitors from conditions dangerous to their health, safety or both.

3.3. Regulation by Other Public Agencies.

The Parties acknowledge that other public agencies, not within the control of the City, possess authority to regulate aspects of the Development of the Project and the Property separately from the City. This Agreement does not limit the authority of such other public agencies.

3.4. State and Federal Laws.

If State or Federal laws or regulations enacted after the Effective Date hereof, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement will be modified or suspended as may be necessary to comply with such State or Federal laws or regulations; provided, however that this Agreement will remain in full force and effect to the extent it is not inconsistent with such State or Federal laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

3.5. Police Power and Taxing Power.

The City will not impose, or enact any additional conditions, exactions, dedications, fees or regulations through the exercise of either the police power or the taxing power with respect to the Development of the Property except as provided in the Existing Land Use Regulations or except as provided in this Agreement. Nothing stated in Section 3.2.5 above shall limit the applicability of this Section 3.5.

4. FEES AND FINANCIAL RESPONSIBILITY.

4.1. Existing Development Fees.

During the Term of this Agreement, City shall impose and Vested Party shall be required to pay only Existing Development Fees in connection with the use or Development of the Property and the processing of applications for Land Use Entitlements submitted by Vested Party. "Existing Development Fees" as defined in Section 1.11 do not include impact fees, exactions, assessments or fair share charges or other similar fees or charges imposed by other governmental entities regardless of whether the City is required to collect or assess such fees (e.g., school district impact fees pursuant to Government Code Section 65995). Existing Development Fees and the formulas for calculating such fees to be imposed on the Project are set forth in the Selected Analysis of Estimated Permit Fees Attachment No. 3, which is attached hereto and incorporated herein.

4.2. Deferred Development Impact Fees.

Notwithstanding the time for payment of development impact fees pursuant to the Existing Land Use Regulations and as identified in the Selected Analysis of Estimated Permit Fees (Attachment No. 3), payment of all development impact fees in connection with the Development shall be deferred and paid at the time a certificate of occupancy is issued for the Project. All development impact fees shall be calculated in accordance with the fee schedule in effect as of the Effective Date and set forth in Attachment No. 2.

#### 4.3. Allocation of Project TIF.

In furtherance of the City's desire to incentivize sports related development, City agrees that all Traffic Impact Fees (TIF) paid by Vested Party in accordance with LEMC Section 16.74.040 for the Development of the Project shall be exclusively allocated by City to (a) reimburse Vested Party for any Project Related Improvements that qualify as eligible "traffic infrastructure", or (b) to fund eligible "traffic infrastructure" within the boundaries of the Diamond Specific Plan on the East Lake Specific Plan. For purposes of this paragraph, the term "traffic infrastructure" shall have the meaning as that term is defined in LEMC Section 16.74.020 within the TIF network as specified in the City's approved Traffic Fee Study related to TIF, as that study may be amended from time to time.

#### 4.4. Financial Responsibility.

To ensure implementation of their shared understanding and intent as to the allocation of financial responsibility for the design, construction, and implementation of certain Project-Related Improvements, to wit, off-site improvements to Diamond Drive and in the vicinity of the intersection of Diamond Drive and Pete Lehr Drive, the Parties have agreed upon the inclusion in this Agreement of Attachment No. 4, incorporated by this reference herein. Notwithstanding the content of Attachment No. 4, the Parties note that (i) Vested Party shall bear the costs of designing those Project-Related Improvements identified in Attachment No. 4 as "City Financial Responsibility," and (ii) Attachment No. 4 shall not limit, to any extent or degree, the applicability of the Conditions of Approval reflected in Attachment No. 5 to the Project, or any duty of Vested Party reflected in the Conditions of Approval.

### 5. DURATION OF AGREEMENT.

#### 5.1. Term.

This Agreement's "Term" shall be defined as follows. This Agreement shall become operative and commence upon the Effective Date. It shall remain in effect until seven (7) years from and after the Effective Date, unless this Agreement is terminated, modified, or extended upon mutual written consent of the Parties hereto or as otherwise provided in this Agreement. Following the expiration or termination of the Term hereof, this Agreement shall be deemed terminated and of no further force and effect; provided, such expiration or termination shall not automatically affect any right or duty of the City or the Vested Party arising from Land Use Entitlements relating to the Property approved or issued prior to the expiration or termination of the Term.

#### 5.2. Timing of Development.

The City and the Vested Party acknowledge that the Vested Party cannot at this time accurately predict the time schedule within which Development of the Property will occur, if Development occurs at all. Therefore, Vested Party will have the right to pursue Development of the Property, if at all, at the rate and in the sequence deemed appropriate by the Vested Party within the exercise of its sound business judgment. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the

Parties' intent to cure that deficiency by acknowledging and providing that Vested Party shall have the right to develop the Property, if such development occurs, in such order, at such rate, and at such time as Vested Party deems appropriate within the exercise of its subjective business judgment. For purposes of this Agreement, completion of Development of the Property will mean the date on which a certificate of occupancy or comparable instrument issued by the City for the last improvement or structure constructed pursuant to this Agreement and the Existing Land Use Regulations. Upon expiration of this Agreement, unless the Parties mutually agree to extend this term, this Agreement will be deemed terminated and of no further force and effect.

### 5.3. Periodic Review.

The City will, in accordance with Government Code Section 65865.1, review this Agreement at least once every twelve (12) months from and after the Effective Date hereof in order to review the extent of the good faith substantial compliance by Vested Party with the terms and provisions of this Agreement and the performance of the City of its obligations under this Agreement. During each such periodic review, the City and the Vested Party will have the duty to demonstrate their good faith compliance as may be reasonably necessary, or required. The City's failure to review the Vested Party's compliance with this Agreement, at least annually, will not constitute or be asserted by either Party as a breach by the other Party.

## 6. OPERATING MEMORANDA AND AMENDMENTS.

### 6.1. Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the City and the Vested Party. The Development of the Property may demonstrate that clarifications to this Agreement and the Existing Land Use Regulations are appropriate with respect to the details of performance of the City and the Vested Party. To the extent allowable by law, the Vested Party shall retain a certain degree of flexibility as provided herein with respect to all matters, items and provisions covered in general under this Agreement, except for those which relate to the (i) term; (ii) permitted uses; or (iii) density or intensity of use. When and if the Vested Party finds it necessary or appropriate to make changes, adjustments or clarifications to matters, items or provisions not enumerated in (i), (ii) or (iii) above, the Parties shall effectuate such changes, adjustments or clarifications through operating memoranda (the "Operating Memoranda") approved by the Parties in writing which reference this Section 6.1. Operating Memoranda are not intended to constitute an amendment to this Agreement but mere ministerial clarifications; therefore public notices and hearings shall not be required. The City Manager shall be authorized, upon consultation with, and approval of, the Vested Party, to determine whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment to this Agreement which requires compliance with the provisions of Section 6.2 below.

### 6.2. Amendment.

Subject to the notice and hearing requirements of the Government Code, this Agreement may be modified or amended from time to time only with the written consent of both the Vested Party and the City or their successors and assigns in accordance with the

provisions of the Lake Elsinore Municipal Code and Sections 65867 and 65868 of the Government Code.

7. COOPERATION AND COVENANT OF FURTHER ASSURANCES.

7.1. Third Party Actions.

Vested Party shall defend, at its expense, including costs and attorneys' fees, indemnify, and hold harmless City, its agents, officers, officials, commissions, councils, committees, boards and employees from any claim, action or proceeding against City, its agents, officers, officials, commissions, councils, committees, boards or employees to attack, set aside, void, or annul the approval of this Agreement, the validity of any provision of this Agreement, any breach hereunder, or any action taken or decision made hereunder, including the approval of any permit granted pursuant to this Agreement. City shall promptly notify Vested Party of any such claim, action or proceeding, and City shall cooperate in the defense. In any defense of City and/or Vested Party against such an action, Vested Party shall have the right to select legal counsel and any experts or consultants deemed necessary and appropriate by Vested Party, subject to City's approval which shall not be unreasonably withheld. In addition, any action instituted by any third party challenging this Agreement or any other permit or approval required from the City or any other governmental entity, for the Development of the Project, will constitute a permitted delay under Section 10. Notwithstanding the foregoing, the filing of any third party action against the City and/or the Vested Party with respect to this Agreement or any provision hereof will not be a reason to delay or stop the Development of the Property (including, without limitation, the processing of any application of the Vested Party with respect to the Property, the issuance of any building permit or the issuance of any certificate of occupancy) unless the third party obtains a court order preventing such activity. Vested Party's obligation to indemnify City hereunder shall survive any termination of this Agreement.

7.2. Further Assurances.

Each Party covenants on behalf of itself and its successors and assigns to take all actions and do all things, and to execute with acknowledgments or affidavits if required, any and all documents and writings that may be necessary or proper to achieve the purposes and objectives of this Agreement. Each Party will take all necessary measures to see that the provisions of this Agreement are carried out in full.

7.3. Covenant of Good Faith and Fair Dealing.

Except as may be required by law, neither Party will do anything which will have the effect of harming or injuring the right of the other Party to receive the benefits of this Agreement and each Party will refrain from doing anything which would render performance under this Agreement impossible or impractical. In addition, each Party will do everything which this Agreement describes that such Party will do.

8. PERMITTED DELAYS.

Any period of delay caused by acts of G-d; civil commotion; war; insurrection; riots; strikes; walk outs; picketing or other labor disputes; unavoidable shortages of materials or supplies; damages to work in progress by reason of fire, flood, earthquake or other casualty; litigation which prohibits or delays performance of the Agreement, including without limitation

actions addressed by Section 7.1; moratoria; judicial decisions; or any other cause which is not within the reasonable control of the Parties may extend the duration of the Agreement. Each Party will promptly notify the other Party of any delay hereunder as soon as possible after the same has been ascertained, and the term of this Agreement will be extended by the period of any such delay. Notwithstanding Section 13.3, any claim for delay must be presented within 30 days of knowledge of the cause of such delay or any entitlement to time extension will be deemed waived. Notwithstanding the foregoing, in no event shall Vested Party be entitled to a permitted delay due to an inability to obtain financing or proceed with development as a result of general market conditions, interest rates, or other similar circumstances that make development impossible, commercially impracticable, or infeasible.

9. ESTOPPEL CERTIFICATES.

Either Party may at any time, and from time to time, deliver written notice to the other Party, requesting that the other Party certify in writing to the knowledge of the certifying Party that: (a) this Agreement is in full force and effect and is a binding obligation of the certifying Party; (b) this Agreement has not been amended or modified, except as expressly identified; (c) no default in the performance of the requesting Party's obligations pursuant to Agreement exists, except as expressly identified. A Party receiving a request hereunder will execute and return the requested certificate within 30 days after receipt of the request.

10. RECORDATION BY CITY CLERK.

Pursuant to Government Code Section 65868.5, within 10 days after the Entry Date, the City Clerk will record a copy of the Agreement in the Records of the County Recorder.

11. DEFAULT.

11.1. Events of Default.

Subject to any written extension of time by mutual consent of the Parties, and subject to the provisions of Section 8 regarding permitted delays, the uncured failure of either Party to perform any material term or provision of this Agreement will constitute a default. On written notice to a Party of its failure of performance, such Party will have forty-five (45) days to cure such failure of performance; provided, however that if the nature of the failure of performance is such that it cannot be cured within such period, then the diligent prosecution to completion of the cure will be deemed to be cure within such period. Any notice of default given hereunder will be in writing and specify in detail the nature of the alleged default and the manner in which such default may be satisfactorily cured in accordance with this Agreement. During the time period herein be in writing and specified for the cure of a failure of performance, the Party charged with such failure of performance will not be considered to be in default for purposes of termination of this Agreement or for purposes of institution of legal proceedings with respect thereto and, if the Vested Party is the Party that has failed to perform, then the City will not be excused from its performance under this Agreement during that period.

11.2. Remedies.

Upon the occurrence of a default under this Agreement and the expiration of any applicable cure period, the non-defaulting Party will have such rights and remedies

against the defaulting Party as it may have at law or in equity including, without limitation, the right to terminate this Agreement.

11.3. No Waiver.

The failure by a Party to insist on the strict performance of any of the provisions of this Agreement by the other Party will not constitute a waiver of such Party's right to demand strict performance by such other Party in the future. All waivers must be in writing to be effective or binding on the waiving Party and no waiver will be implied from any omission by a Party to take action. No express written waiver of any default will affect any other default or cover any other period of time except that specified in such express waiver.

11.4. Effect of Termination.

Termination of this Agreement by one Party due to the default of the other Party will not affect any right or duty emanating from any then existing Land Use Entitlement or approvals with respect to the Property, but the rights and obligations of the Parties will otherwise cease as of the date of such termination. If the City terminates this Agreement because of a default of the Vested Party, then the City will retain any and all benefits including, without limitation, money or land received by the City hereunder. The obligations of Vested Party to indemnify City shall survive any termination of this Agreement.

12. INCORPORATION BY REFERENCE.

12.1. Recitals.

The Recitals in this Agreement are material and are incorporated herein by reference as though fully set forth herein.

12.2. Exhibits.

Any Exhibit to this Agreement is incorporated herein by reference as though fully set forth herein.

13. APPLICABLE LAW.

This Agreement will be construed and enforced in accordance with the laws of the State of California.

14. NO JOINT VENTURE, PARTNERSHIP OR THIRD PARTY BENEFICIARY.

The City and the Vested Party hereby renounce the existence of any form of joint venture or partnership between them and expressly agree that nothing contained herein or in any document executed in connection herewith will be construed as making the City and the Vested Party joint venturers or partners. It is understood that the contractual relationship between the City and the Vested Party is such that the Vested Party is an independent contractor and not an agent of the City. Furthermore, this Agreement is not intended or construed to create any third party beneficiary rights in any person who is not a party to this Agreement.



15. COVENANTS RUNNING WITH THE LAND.

All of the terms, provisions, covenants and obligations contained in this Agreement will be binding upon the Parties and their respective successors and assigns, and all other persons or entities acquiring all or any part of the Property, and will inure to the benefit of such Parties and their respective successors and assigns. All the provisions of this Agreement will be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law including, without limitation, California Civil Code Section 1468. Each covenant to or refrain from doing some act on the Property is expressly for the benefit of the Property and is a burden upon the Property, runs with the Property and is binding upon each Party and each successive Vested Party during its ownership of the Property or any part thereof, and will benefit each Party and its property hereunder, and each Party succeeding to an interest in the Property.

16. CONSISTENCY FINDING.

By approving and executing this Agreement, the City finds that its provisions are consistent with the City's General Plan and with the Diamond Specific Plan, and the City further finds and determines that execution of this Agreement is in the best interests of the public health, safety and general welfare of the City's present and future residents, property owners and taxpayers.

17. TERMS AND CONSTRUCTION.

17.1. Severability.

If any term, provision, covenant or condition of this Agreement is determined to be invalid, void or unenforceable by judgment or court order, then the remainder of this Agreement will remain in full force and effect, unless enforcement of this Agreement, as so invalidated, would be unreasonable or grossly inequitable under all the circumstances or would frustrate the stated purposes of this Agreement.

17.2. Entire Agreement.

This Agreement contains all the representations and constitutes the entire agreement between the City and the Vested Party as to each and all matters addressed herein. Any prior correspondence, memoranda, agreements, warranties or representations, whether written or oral, are superseded in total by this Agreement.

17.3. Signature Pages.

For convenience, the signatures of the Parties may be placed and acknowledged on separate pages and, when attached to this Agreement, will constitute this document as one complete Agreement.

17.4. Time.

Time is of the essence of this Agreement and of each and every term and condition hereof.

17.5. Notices.

Any notice shall be in writing and given by delivering the same in person or by sending the same by registered, or certified mail, return receipt requested, with postage prepaid, by overnight delivery, or by facsimile to the respective mailing addresses, as follows:

If to City:	City of Lake Elsinore 130 S. Main Street Lake Elsinore, CA 92530 Attn: City Manager Facsimile: (951) 674-2392
With a copy to:	Leibold McClendon & Mann PC 9841 Irvine Center Drive, Suite 230 Irvine, CA 92618 Attention: Barbara Leibold Facsimile: (949) 585-6305
If to Vested Party:	LE Diamond Sports Center, LLC 13974 Boquita Drive Del Mar, CA 92014 Attn.: Gary Jacobs Facsimile: (858) 481-3792
With a copy to:	The Law Offices of Edward Z. Kotkin 250 El Camino Real, Suite 102 Tustin, CA 92780 Attn.: Edward Kotkin Facsimile: (714) 384-4550

Either City or Vested Party may change its mailing address at any time by giving written notice of such change to the other in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices under this Agreement shall be deemed given, received, made or communicated on the earlier of the date personal delivery is effected or on the delivery date or attempted delivery date shown on the return receipt, air bill or facsimile.

18. CONSENT OF OTHER PARTIES.

The Vested Party may, at its discretion, elect to have other holders of legal, equitable or beneficial interests in the Property or parts thereof, acknowledge and consent to the execution and recordation of this Agreement by executing an appropriate instrument therefor. It is understood by the Parties that the execution of such document by other holders of legal, equitable or beneficial interests in the Project is not a condition precedent to this Agreement.

19. ASSIGNMENT AND NOTICE.

19.1. Assignment (General)

The rights and obligations of Vested Party hereunder shall not be assigned or transferred, except that on thirty (30) days written notice to City, Vested Party, may assign all or a portion of Vested Party's rights and obligations thereunder to any person or persons, partnership or corporation who purchases all or a portion of Vested Party's right, title and interest in the Property, provided such assignee or grantee assumes in writing each and every obligation of Vested Party hereunder yet to be performed, and further provided that Vested Party obtains the consent of City to the assignment, which consent shall not be unreasonably withheld. Any assignment pursuant to this Section 19 shall relieve Vested Party, as assignor, of any and all rights and obligations hereunder in accord with the nature and scope of the assignment in question.

19.2. Requirements of Notice, Consent

Provided the Vested Party's thirty (30) day notice includes the assumption by the assignee or grantee, the consent of the City shall be deemed to occur upon the thirtieth (30<sup>th</sup>) day of the notice period unless within that period the City provides written notice withholding consent and explaining the reasons it is withholding consent. The notice to City shall include the identity of any such assignee and a copy of the written assumption of the assignor's obligations hereunder pertaining to the portion assigned or transferred. After such notice and the receipt of such consent, the assignor shall have no further obligations or liabilities hereunder.

19.3. Assignment to Affiliate as a Matter of Right

Notwithstanding anything in this Section 19 the Parties understand and agree that Vested Party shall be permitted as a matter of right to assign its rights and obligations hereunder to any Affiliate so long as Vested Party's right, title and interest in the Property is transferred to such Affiliate prior to or concurrent with such assignment. City shall not have the authority to withhold consent to such an assignment pursuant to this Section 19.3.

20. ENCUMBRANCES AND RELEASES ON REAL PROPERTY.

20.1. Discretion to Encumber.

The Parties agree that this Agreement will not prevent or limit the Vested Party in any manner, at the Vested Party's sole discretion, from encumbering the Property, or any part of the same including, without limitation, improvement thereon, by any mortgage, deed of trust or other security device securing financing with respect to the Property or the Project. The City agrees that it will not unreasonably withhold its consent to any modification to this Agreement requested by a lender so long as the modification does not materially alter this Agreement to the detriment of the City.

20.2. Entitlement to Written Notice of Default.

Any lender of the Vested Party which has filed a written request with the City for notice of default of Vested Party will be entitled to receive written notification from the

City of any uncured default by the Vested Party in the performance of the obligations of the Vested Party under this Agreement.

20.3. Property Subject to Pro Rata Claims.

Any mortgagee or beneficiary which comes into possession of the Property or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, will take the Property or part thereof, subject to (i) any pro rata claims for payments or charges against the Property or part thereof secured by such mortgage or deed of trust, which accrued prior to the time that such mortgagee or beneficiary comes into possession of the Property or part thereof; and (ii) the terms and conditions of the Agreement.

21. CONSTRUCTION, NUMBER AND GENDER.

This Agreement will be construed as a whole according to its common meaning and not strictly for or against either Party in order to achieve the objectives and purposes of the Parties hereunder. Whenever required by the context of this Agreement, the singular will include the plural and vice versa, and the masculine gender will include the feminine and neuter genders. In addition, “will” is the mandatory and “may” is the permissive.

22. INSTITUTION OF LEGAL ACTION.

In addition to any other rights or remedies, either Party may institute legal action to cure, correct or remedy any uncured default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation thereof or obtain any remedies consistent with the purpose of this Agreement. In the event of any such legal action involving or arising out of this Agreement, the prevailing Party will be entitled to recover from the losing Party, reasonable litigation expenses, attorneys’ fees and costs incurred. The Parties acknowledge that if a breach of this Agreement by the City occurs, irreparable harm is likely to occur to the Vested Party and damages may be an inadequate remedy. Therefore, to the extent permitted by law, the Parties agree that specific enforcement of this Agreement by the Parties is an appropriate and available remedy, in addition to any and all other remedies which may be available to the Parties under law or at equity.

23. INDEMNIFICATION.

The Vested Party agrees to and will hold the City, its officers, agents, employees, officials, commissions, councils, committees, boards and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage which may arise out of Vested Party’s negligence with respect to its direct or indirect activities with respect to the Project. Vested Party agrees to and will defend the City and its officers, agents, employees, officials, commissions, councils, committees, boards and representatives from actions for any damages caused by or alleged to have been caused by reasons of the Vested Party’s activities with respect to the Project. The obligation of Vested Party to indemnify the City hereunder shall survive any termination of this Agreement. In the event and course of any indemnification by Vested Party pursuant to this Section 23, Vested Party shall have the right to select legal counsel and any experts or consultants deemed necessary and appropriate by Vested Party subject to City’s approval which shall not be unreasonably

withheld. This “hold harmless” agreement applies to all damages and claims for damages suffered or alleged to have been suffered by reason of the activities of Vested Party.

24. RIGHT OF ENTRY/ENCROACHMENT PERMITS.

It may be that entry on property adjacent to the Property will be required in order for Vested Party to complete the Development of the Project. City shall cooperate with Vested Party in any effort to obtain any required right of entry or encroachment permits. Vested Party shall reimburse City for any legal or other expense incurred by City in City’s performance under this Section 25.

25. PROCESSING OF APPLICATIONS AND PERMITS.

City will accept and process the any and all applications for Land Use Entitlements on as expedited a basis as may prove practicable, with each Party using its best and good faith efforts to achieve this result. Vested Party may request that City utilize private contract planners, plan checkers or inspectors and any other available means to expedite the processing of the applications for Land Use Entitlements hereunder, including concurrent processing of such applications by various City departments. Vested Party shall reimburse City, on a deposit-based cost recovery system, for all costs of processing Land Use Entitlements by City staff and/or private contractors.

26. FINANCING OF IMPROVEMENTS.

26.1. Potential Improvements Financing District.

Upon request by Vested Party, City shall commence its best efforts to form a capital improvements financing district to assist Vested Party in funding the Development of the Project to the maximum extent necessary, including without limitation the Development of any and all Project-Related Improvements and City development impact fees (e.g., TIF, Fire, Parks, City Hall, etc.) that can reasonably be included within said district in conformance with the Diamond Specific Plan and applicable laws; provided, however, that permit fees and MSHCP fees cannot be financed and TUMF fees can be financed only through the Western Riverside Council of Governments (WRCOG).

26.2. Maintenance Financing District.

In accordance with Condition 172 of the Conditions of Approval (Attachment No. 5), prior to the issuance of the first building permit, the Vested Party shall consent to the formation of Community Facilities District or annex into the proposed Community Facilities District No. 2015-2 (Maintenance Services) to fund the on-going operation and maintenance of the public right of way landscaped areas and neighborhood parks to be maintained by the City and for street lights in the public right of way for which the City will pay for electricity and a maintenance fee to Southern California Edison, including parkways, open space and public storm drains constructed within the development and federal NPDES requirements to offset the annual negative fiscal impacts of the project. Vested Party shall, make a ten thousand dollar (\$10,000) non-refundable deposit to cover the cost of the formation or annexation process, as applicable.

IN WITNESS WHEREOF, City and Vested Party have executed this Agreement as of the date first hereinabove written.

“CITY”

CITY OF LAKE ELSINORE,  
a municipal corporation

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

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Barbara Leibold, Esq.,  
City Attorney

“VESTED PARTY”

**LE DIAMOND SPORTS CENTER, LLC**  
a California limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

THE LAW OFFICES OF EDWARD Z. KOTKIN

By: \_\_\_\_\_  
Edward Z. Kotkin, Esq.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) §  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_ a Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature of Notary

(Affix seal here)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) §  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_ a Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature of Notary

(Affix seal here)



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) §  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_ a Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature of Notary

(Affix seal here)

ATTACHMENT NO. 1

**PROPERTY LEGAL DESCRIPTION**

Real property in the City of Lake Elsinore, County of Riverside, State of California, described as follows:

**PARCEL A:**

LOT 1, BLOCK 6 OF HEALDS FIRST ADDITION TO ELSINORE, IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 6, PAGE 308 AND IN BOOK 4, PAGE 205 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, CALIFORNIA.

EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

THE NORTHERLY 60 FEET AND THAT PORTION LYING EASTERLY OF THE SOUTHERLY PROLONGATION OF THE WESTERLY RIGHT OF WAY LINE OF DIAMOND DRIVE, FORMERLY KNOWN AS KUHN'S STREET (60 FEET WIDE) AS SHOWN ON SAID HEALDS FIRST ADDITION TO ELSINORE; SAID SOUTHERLY PROLONGATION TERMINATING AT THE SOUTHERLY LINE OF SAID LOT 1, BLOCK 6 OF SAID HEALDS FIRST ADDITION TO ELSINORE.

SAID LEGAL DESCRIPTION IS PURSUANT TO CERTIFICATE OF COMPLIANCE RECORDED JULY 28, 1980 AS INSTRUMENT NO. 135636 OF OFFICIAL RECORDS OF SAID COUNTY.

**PARCEL B:**

THE NORTHERLY 60 FEET OF LOT 1, BLOCK 6 OF HEALDS FIRST ADDITION TO ELSINORE, IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 6, PAGE 308 AND IN BOOK 4, PAGE 205 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, CALIFORNIA.

**PARCEL C:**

LOTS 2, 3 AND 4 AND THE SOUTHERLY 10 FEET OF LOT 5, BLOCK 6 OF HEALDS FIRST ADDITION TO ELSINORE, IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 6, PAGE 308 AND IN BOOK 4, PAGE 205 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, CALIFORNIA.

SAID LEGAL DESCRIPTION IS PURSUANT TO CERTIFICATE OF COMPLIANCE RECORDED JULY 28, 1980 AS INSTRUMENT NO. 135636 OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL D:

LOT 6 AND THE SOUTHERLY 50 FEET OF LOT 7 AND THE NORTHERLY 40 FEET OF LOT 5, BLOCK 6 OF HEALDS FIRST ADDITION TO ELSINORE, IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 6, PAGE 308 AND IN BOOK 4, PAGE 205 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, CALIFORNIA.

SAID LEGAL DESCRIPTION IS PURSUANT TO CERTIFICATE OF COMPLIANCE RECORDED JULY 28, 1980 AS INSTRUMENT NO. 135636 OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL E:

LOTS 8 AND 9 AND THE SOUTHERLY 30 FEET OF LOT 10 AND THE NORTHERLY 10 FEET OF LOT 7, BLOCK 6 OF HEALDS FIRST ADDITION TO ELSINORE, IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 6, PAGE 308 AND IN BOOK 4, PAGE 205 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, CALIFORNIA.

SAID LEGAL DESCRIPTION IS PURSUANT TO CERTIFICATE OF COMPLIANCE RECORDED JULY 28, 1980 AS INSTRUMENT NO. 135636 OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL F:

LOTS 11 AND 12 AND THE SOUTHERLY 2 FEET OF LOT 13 AND THE NORTHERLY 20 FEET OF LOT 10, BLOCK 6 OF HEALDS FIRST ADDITION TO ELSINORE, IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 6, PAGE 308 AND IN BOOK 4, PAGE 205 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, CALIFORNIA.

SAID LEGAL DESCRIPTION IS PURSUANT TO CERTIFICATE OF COMPLIANCE RECORDED JULY 28, 1980 AS INSTRUMENT NO. 135636 OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL G:

LOTS 14 AND 15 AND THE NORTHERLY 40 FEET OF LOT 13, BLOCK 6 OF HEALDS FIRST ADDITION TO ELSINORE, IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 6, PAGE 308 AND IN BOOK 4, PAGE 205 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY; CALIFORNIA.

SAID LEGAL DESCRIPTION IS PURSUANT TO CERTIFICATE OF COMPLIANCE RECORDED JULY 28, 1980 AS INSTRUMENT NO. 135636 OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL H:

LOTS 16 AND 17, BLOCK 6 OF HEALDS FIRST ADDITION TO ELSINORE, IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 6, PAGE 308 AND IN BOOK 4, PAGE 205 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, CALIFORNIA.

PARCEL J:

PARCEL 1 OF PARCEL MAP 27852, IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 182, PAGES 19 THROUGH 24, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ATTACHMENT NO. 2

TITLE REPORT EXHIBIT LAND OWNERSHIP

(ATTACHED)



ATTACHMENT NO. 3

SELECTED ANALYSIS OF ESTIMATED PERMIT FEES

(ATTACHED)



CITY OF LAKE ELSINORE, CALIFORNIA  
SELECTED ANALYSIS OF ESTIMATED PERMIT FEES  
LAKE ELSINORE DIAMOND SPORTS COMPLEX - DIAMOND DRIVE, LAKE ELSINORE, CA

SQUARE FOOTAGE - 1ST FLOOR 430,816  
SQUARE FOOTAGE - 2ND FLOOR 89,023  
*Total* 519,839

LAKE ELSINORE DIAMOND SPORTS COMPLEX (519,839 sf)				REVISED AMOUNT	FEES DUE	PAID TO	CASH OR FINANCED	Fees Due at Permit	Fees Due at COO	Fees Paid Directly to 3rd Parties	COMMENTS
<b>WRCOG, RCA, RCHCA (GOVT AGENCIES)**</b>											
STEVEN'S KANGAROO RAT (KRAT)	\$	11,000.00	Due at Permit	Pay to City	Cash only			\$ 11,000.00	\$ -	-	City reports and remits to 3rd Party Agency
MSHCP		149,160.00	Due at Permit	Pay to City	Cash only			149,160.00	-	-	City reports and remits to 3rd Party Agency
TUMF (FIRST FLOOR)		1,805,119.04	Due at COO	Pay to City (unless Financed through WRCOG)	PROGRAM IS REVIEWING THE S.C.I.P. PROGRAM TO FINANCE THESE FEES (http://csda.org/Infrastructure-Finance-Programs/Statewide-Community-Infrastructure-Program-(SCIP).aspx)			-	1,805,119.04	-	City reports and remits to 3rd Party Agency
TUMF (SECOND FLOOR)		373,006.37	Due at COO	Pay to City (unless Financed through WRCOG)	WRCOG IS REVIEWING THE S.C.I.P. PROGRAM TO FINANCE THESE FEES (http://csda.org/Infrastructure-Finance-Programs/Statewide-Community-Infrastructure-Program-(SCIP).aspx)			-	373,006.37	-	City reports and remits to 3rd Party Agency
WRCOG, RCA, RCHCA (GOVT AGENCIES) SUBTOTAL				2,338,285.41				160,160.00	2,178,125.41	-	
<b>CITY</b>											
PROF DEV FEE - 4 TRADES		20.00	Due at Permit	Pay to City	City will accept payment at COO			-	20.00	-	
GRADING IMPROVEMENT BONDS - ONSITE		35,000.00	Due at Permit	Pay to City	City will accept payment at COO			-	35,000.00	-	
GRADING IMPROVEMENT BONDS - OFFSITE		20,000.00	Due at Permit	Pay to City	City will accept payment at COO			-	20,000.00	-	
PLANNING REVIEW FEE		39,575.74	Due at Permit	Pay to City	City will accept payment at COO			5,000.00	34,575.74	-	
PLAN RETENTION FEE		2.07	Due at Permit	Pay to City	City will accept payment at COO			-	2.07	-	
SEISMIC OTHER		20,258.38	Due at Permit	Pay to City	City will accept payment at COO			-	20,258.38	-	
GREEN BLDG FEE 4		EXEMPT	Exempt	Pay to City	Not applicable			-	-	-	
GREEN BLDG FEE 5		2,894.05	Due at Permit	Pay to City	City will accept payment at COO			-	2,894.05	-	
PLAN CHECK - BUILDING PERMIT		148,409.02	Due at Permit	Pay to City	City will accept payment at COO			-	148,409.02	-	
PERMIT FEES - BUILDING PERMIT		197,878.70	Due at Permit	Pay to City	City will accept payment at COO			-	197,878.70	-	
TRADES (M/P/EX/FIXTURES)		465,820.00	Due at Permit	Pay to City	City will accept payment at COO			-	465,820.00	-	
TRAFFIC IMPACT FEES (FIRST FLOOR)		624,683.20	Due at COO	Pay to City	Financed			-	624,683.20	-	
TRAFFIC IMPACT FEES (SECOND FLOOR)		129,083.35	Due at COO	Pay to City	Financed			-	129,083.35	-	
FIRE DIF		175,240.00	Due at COO	Pay to City	Financed			-	175,240.00	-	
CITY HALL		51,983.90	Due at COO	Pay to City	Financed			-	51,983.90	-	
PARKS		93,600.00	Due at COO	Pay to City	Financed			-	93,600.00	-	
PROF DEV FEE - 4 TRADES		20.00	Due at Permit	Pay to City	City will accept payment at COO			-	20.00	-	
PERMIT ISSUANCE FEE		120.00	Due at Permit	Pay to City	City will accept payment at COO			-	120.00	-	
LIBRARY		EXEMPT	Exempt	Pay to City	Not applicable			-	-	-	
ANIMAL		EXEMPT	Exempt	Pay to City	Not applicable			-	-	-	
COMMUNITY CENTER		EXEMPT	Exempt	Pay to City	Not applicable			-	-	-	
SUBTOTAL				2,004,588.41				5,000.00	1,999,588.41	-	
CITY - SUBTOTAL				\$ 4,342,873.82				165,160.00	4,177,713.82	-	
<b>WATER/SEWER DISTRICT (EVMWD) ***</b>											
EVMWD - WATER	\$	210,389.70	Contact EVMWD	Pay to EVMWD	EVMWD has indicated they can finance these fees over a Five Year Period. 25% Down and balance over time. However, the City has an option to finance these.			-	-	210,389.70	Fee determined by and paid directly to Bsnore Valley Municipal Water District (EVMWD). "Will Serve" letter required to be remitted to the City.
EVMWD - SEWER		2,102,088.96	Contact EVMWD	Pay to EVMWD	See Note 1 below EVMWD has indicated they can finance these fees over a Five Year Period. 25% Down and balance over time. However, the City has an option to finance these.			-	-	2,102,088.96	Fee determined by and paid directly to Bsnore Valley Municipal Water District (EVMWD). "Will Serve" letter required to be remitted to the City.
EVMWD - SUBTOTAL				2,312,478.66				-	-	2,312,478.66	
<b>SCHOOL DISTRICT (LEUSD) ***</b>											
School Fees		291,109.84	Contact LEUSD	Pay to LEUSD	Cash (Developer to Confirm with District)			-	-	291,109.84	Fee determined by and paid directly to Lake Bsnore Unified School District (LEUSD). A letter issued by LEUSD is required before the City can issue permits.
LEUSD - SUBTOTAL				291,109.84				-	-	291,109.84	
GRAND TOTAL				\$ 6,946,462.32				\$ 165,160.00	\$ 4,177,713.82	\$ 2,603,588.50	

\*\* Fees Fees are estimates only. Actual fees to be determined by EVMWD.

\*\*\* Fees are estimates only. Actual fees to be determined by LEUSD.

Note 1: The City will assist in forming a Community Facilities District but the overall approval is contingent upon credit acceptable to bond market investors and the deal meets the City's CFI Goals and Objectives. It is likely that the Bonds would have to be issued when the project is complete. The SCIP through CSCDA program may be the way to go. Please be advised that a ICFA with WRCOG would be required to finance TUMF, and in the past they have not allowed that.

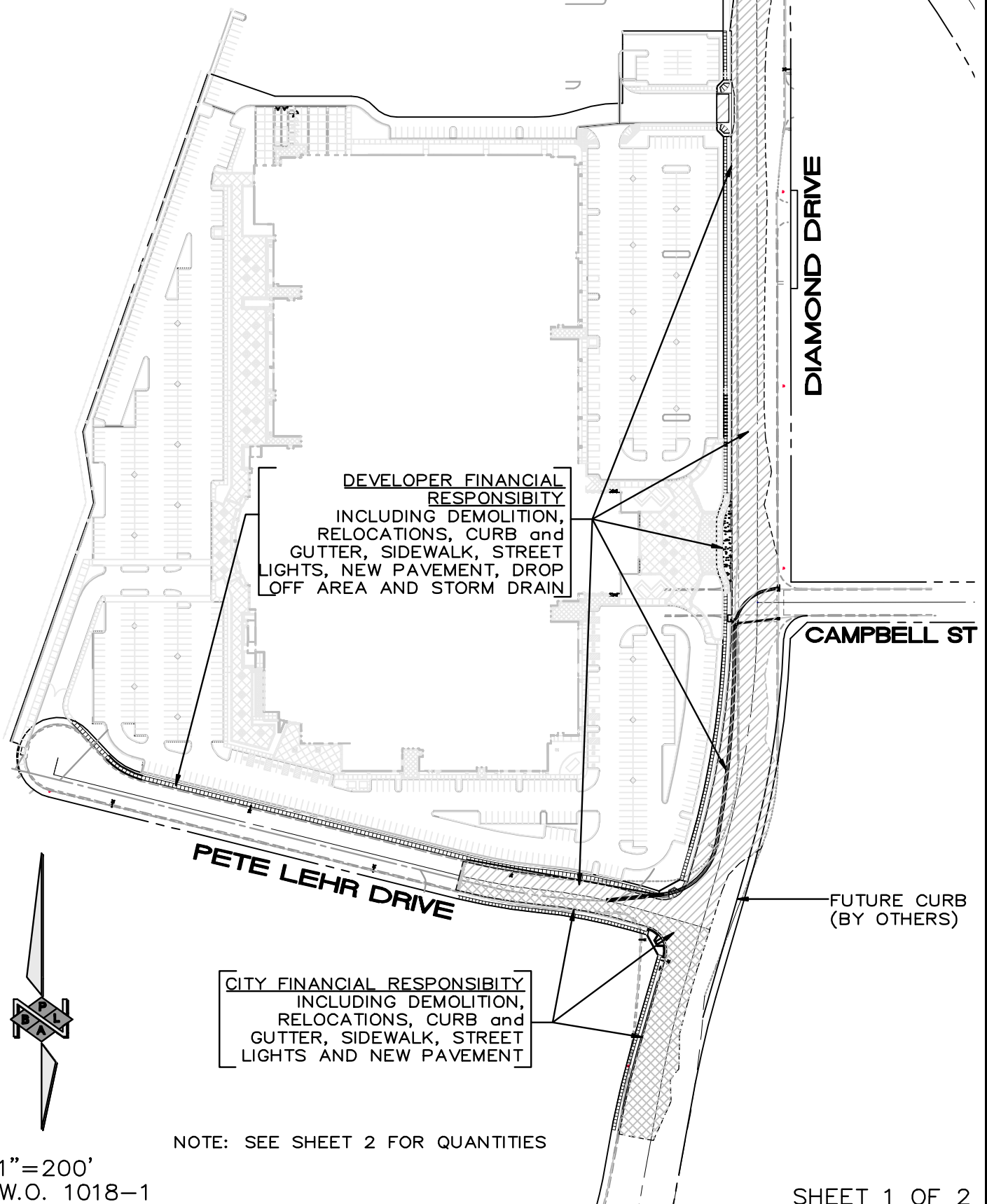


ATTACHMENT NO. 4

FINANCIAL RESPONSIBILITY

(ATTACHED)

**DIAMOND INDOOR SPORTS CENTER  
OFF-SITE IMPROVEMENTS  
FINANCIAL RESPONSIBILITY EXHIBIT**



**DIAMOND INDOOR SPORTS CENTER  
OFF-SITE IMPROVEMENTS  
FINANCIAL RESPONSIBILITY EXHIBIT**

## QUANTITY ESTIMATE

ITEM	UNIT	DEVELOPER RESPONSIBLE QUANTITY	CITY RESPONSIBLE QUANTITY
CONST. 7" AC OVER 8" C.A.B. MINIMUM OR PER SOILS REPORT	SF	84,220	24,724
JOIN EXISTING A.C. PAVEMENT PER DETAIL SHEET 2	LF	1,458	346
CONST. TYPE 6 6" INTEGRAL CURB & 24" GUTTER PER CITY STD. 200	LF	1,677	646
CONST. CROSS GUTTER PER CITY STD. 209	SF	1,135	—
CONST. NON-CONTIGUOUS SIDEWALK PER CITY STD. 211	SF	7,260	3,876
CONST. BUS TURNOUT PER CITY STD. 121	SF	1,065	—
SAWCUT & REMOVE EXIST AC PAVEMENT	SF	70,140	28,769
CONST. LOCAL DEPRESSION TYPE 'A' PER CO. OF RIVERSIDE STD.	EA	1	—
CONST. HANDICAP ACCESS RAMP TYPE 1 PER CITY STD. 214A	EA	3	1
CONST. 6" AC BERM PER CITY STD. 207	LF	95	—
GRIND AND OVERLAY EXIST. AC PAVING (0.17' MIN.)	SF	7,290	1,730
REMOVE EXISTING CURB AND GUTTER	LF	1,583	607
REMOVE EXISTING A.C. BERM	LF	180	42
REMOVE EXISTING SIDEWALK	SF	—	2,870
CONST. CONTIGUOUS SIDEWALK PER CITY STD. 210	SF	2,327	—
INSTALL 18" RCP STORM DRAIN (SEE PROFILE FOR D-LOAD)	LF	72	—
INSTALL 36" RCP STORM DRAIN (SEE PROFILE FOR D-LOAD)	LF	84	—
INSTALL 48" RCP STORM DRAIN (SEE PROFILE FOR D-LOAD)	LF	472	—
INSTALL 54" RCP STORM DRAIN (SEE PROFILE FOR D-LOAD)	LF	51	—
CONST. JUNCTION STRUCTURE PER SPPWC STD. 331-3	EA	1	—
CONST. JUNCTION STRUCTURE PER SPPWC STD. 332-2(CASE I)	EA	1	—
CONST. CATCH BASIN PER SPPWC 300-3	EA	1	—
CONST. GRATED CATCH BASIN PER SPPWC 305-3	EA	4	—
CONST. CONCRETE COLLAR PER SPPWC STD. 380-4	EA	1	—

ATTACHMENT NO. 5

CONDITIONS OF APPROVAL

(ATTACHED)

## CONDITIONS OF APPROVAL

### RESOLUTIONS:

**PROJECT NUMBER:** PA 2016-04 (TPM 37149, CUP 2016-02, and CDR 2016-02)

**PROJECT NAME:** Diamond Sports Complex

**PROJECT LOCATION:** APNs 373-210-037, 373-210-038, 373-210-039, 373-210-043, 363-150-006, 363-161-029, 363-161-030, 363-161-031, 363-161-032, 363-161-033, 363-161-034, and 363-161-035

**APPROVAL DATE:**

**EXPIRATION DATE:**

### GENERAL CONDITIONS

1. Planning Application 2016-0004 (TPM 37149, CUP 2016-0002, and CDR 2016-0002) consists of the development of The Project applicant is proposing the development of an approximately 520,000 square foot indoor commercial sports facility on 23.12 acres of disturbed vacant land collectively referred to as the "project". The sports facility is proposed for two levels. The ground floor would have approximately 430,000 square feet that can be used for 58 indoor volleyball courts or 33 basketball courts and stadium style seating. The second level would total approximately 89,000 square feet and provide team rooms for rent, suites around the main volleyball court and a sports bar. The facility would include three restaurant facilities, including a food court and family-style restaurant on the first floor and a sports bar on the second floor. The Project site is located adjacent to and north of the Lake Elsinore Storm baseball stadium, east of the Lake Elsinore/San Jacinto River Inlet, west of Diamond Drive and south of Lakeshore Drive. The Assessor Parcel Numbers of the site are 373-210-037-8, 373-210-038-9, 373-210-039-0, 373-210-043-3, 363-150-006-2, 363-161-029-7, 363-161-030-7, 363-161-031-8, 363-161-032-9, 363-161-033-0, 363-161-034-1 and 363-161-035-2.
2. The applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City, its Officials, Officers, Employees, Agents, and Consultants agents (collectively referred to individually and collectively as "Indemnities") from any claim, action, or proceeding to attack, set aside, void, or annul an approval by Indemnities concerning approval of the project, or any of the proceedings, acts or determinations taken, done, or made prior to the decision, or to determine the reasonableness, legality or validity of any condition attached thereto. The Applicant's indemnification is intended to include, but not be limited to, damages, fees and/or costs awarded against or incurred by Indemnities and costs of suit,

claim or litigation, including without limitation attorneys' fees, penalties and other costs, liabilities and expenses incurred by Indemnities in connection with such proceeding. The City will promptly notify the applicant of any such claim, action, or proceeding against the City. If the project is challenged in court, the City and the applicant shall enter into formal defense and indemnity agreement, consistent with this condition.

3. Within 30 days of project approval, the applicant shall sign and return the final Conditions of Approval to the Community Development Department for inclusion in the case records.

### **PLANNING DIVISION**

4. Conditional Use Permit No. 2016-02 shall lapse and become void two years following the date on which the conditional use permit became effective, unless one of the following: (1) prior to the expiration of two years, a building permit related to the conditional use permit is issued and construction commenced and diligently pursued toward completion; or (2) prior to the expiration of two years, the applicant has applied for and has been granted an extension of the design review approval pursuant to subsections (B) and (C) of Lake Elsinore Municipal Code (LEMC) Section 17.168.080. Subject to the provisions of LEMC Section 17.168.110, a conditional use permit granted pursuant to the provisions of this section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the conditional use permit application.
5. Tentative Parcel Map No. 37149 will expire two years from date of approval unless within that period of time a Final Map has been filed with the County Recorder, or an extension of time is granted by the City of Lake Elsinore City Council in accordance with the State of California Subdivision Map Act and applicable requirements of the Lake Elsinore Municipal Code.
6. Tentative Parcel Map No. 37149 shall comply with the State of California Subdivision Map Act and applicable requirements contained in the Lake Elsinore Municipal Code (LEMC), unless modified by approved Conditions of Approval.
7. Commercial Design Review No. 2016-02 shall lapse and become void two years following the date on which the design review became effective, unless one of the following: (1) prior to the expiration of two years, a building permit related to the design review is issued and construction commenced and diligently pursued toward completion; or (2) prior to the expiration of two years, the applicant has applied for and has been granted an extension of the design review approval pursuant to subsections (B) and (C) of Lake Elsinore Municipal Code (LEMC) Section 17.184.120. Notwithstanding conditions to the contrary, a design review granted pursuant to LEMC Chapter 17.184 shall run with the land for this two-year

period, subject to any approved extensions, and shall continue to be valid upon a change of ownership of the site which was the subject of the design review application.

8. All Conditions of Approval shall be reproduced on page one of building plans prior to their acceptance by the Building and Safety Division, Community Development Department. All Conditions of Approval shall be met prior to the issuance of a Certificate of Occupancy and release of utilities.
9. All site improvements shall be constructed as indicated on the approved building plans, as modified by these conditions of approval.
10. Any proposed minor revisions to approved plans shall be reviewed and approved by the Community Development Director or designee. Any proposed substantial revisions to the approved plans shall be reviewed according to the provisions of the Municipal Code in a similar manner as a new application. Grading plan revisions shall be reviewed by the City Engineer.
11. All roof mounted or ground support air conditioning units or other mechanical equipment incidental to development shall be architecturally screened or shielded by landscaping so that they are not visible from neighboring property or public streets. Any roof mounted central swamp coolers shall also be screened, and the Community Development Director, prior to issuance of building permit shall approve screening plan.
12. A detailed on-site lighting plan, including a photometric diagram, shall be reviewed to ensure that all exterior on-site lighting shall be shielded and directed on-site so as not to create glare onto neighboring property and streets or allow illumination above the horizontal plane of the fixture.
13. The property address (in numerals at least six inches high) shall be displayed near the entrance and be easily visible from the front of the subject property and public right-of-way.
14. The applicant shall construct trash enclosure(s) with a decorative roof to match the colors, materials and design of the project architecture.
15. A uniform hardscape and street furniture design including seating benches, trash receptacles, free-standing potted plants, bike racks, light bollards, etc., shall be utilized and be compatible with the architectural style. Detailed designs shall be submitted for Planning Division review and approval prior to the issuance of building permits.

16. Three (3) sets of the Final Landscaping / Irrigation Detail Plans shall be submitted to the Community Development Department with appropriate fees, reviewed by the City's Landscape Architect Consultant and approved by the Community Development Director or designee, prior to issuance of a building permit.
- a) All planting areas shall have permanent and automatic sprinkler system with 50% plant coverage using a drip irrigation method.
  - b) All planting areas shall be separated from paved areas with a six inch (6") high and six inch (6") wide concrete curb. Runoff shall be allowed from paved areas into landscape areas.
  - c) Planting within fifteen feet (15') of ingress/egress points shall be no higher than twenty-four inches (24").
  - d) Landscape planters shall be planted with an appropriate parking lot shade tree pursuant to the LEMC and Landscape Design Guidelines.
  - e) No required tree planting bed shall be less than 5 feet wide.
  - f) Root barriers shall be installed for all trees planted within 10 feet of hardscape areas to include sidewalks.
  - g) Any transformers and mechanical or electrical equipment shall be indicated on landscape plan and screened as part of the landscaping plan.
  - h) The landscape plan shall provide for ground cover, shrubs, and trees and meet all requirements of the City's adopted Landscape Guidelines.
  - i) All landscape improvements shall be bonded 100% for material and labor for two years from installation sign-off by the City. Release of the landscaping bond shall be requested by the applicant at the end of the required two years with approval/acceptance reviewed by the Landscape Consultant and approved by the Community Development Director or Designee.
  - j) All landscaping and irrigation shall be installed within affected portion of any phase at the time a Certificate of Occupancy is requested for any building.
  - k) Final landscape plan must be consistent with approved site plan.
  - l) Final landscape plans to include planting and irrigation details.
  - m) Final landscape plans shall include drought tolerant planting consistent with Elsinore Valley Municipal Water District standards subject to plan check and approval by the City's landscape plan check consultant.
  - n) No turf shall be permitted.
17. Landscaping installed for the project shall be continuously maintained to the reasonable satisfaction of the Community Development Director. If it is determined that the landscaping is not being maintained, the Director of Community Development shall have the authority to require the property owner to bring the landscaping into conformance with the approved landscape plan. The continued maintenance of all landscaped areas shall be the responsibility of the developer or any successors in interest.



18. No individual signs are approved as part of this approval. The applicant or designee shall submit an application for a sign permit, pay appropriate fees and receive approval from the Community Development Department for any sign(s) installed at the project site. OR The applicant shall submit a sign program for review and approval of the Planning Commission prior to installation.
19. The project shall connect to sewer and meet all requirements of the Elsinore Valley Municipal Water District (EVMWD). The applicant shall submit water and sewer plans to the EVMWD and shall incorporate all district conditions and standards.
20. Provisions of the City's Noise Ordinance shall be satisfied during all site preparation and construction activity. The applicant shall place a weatherproof 3' x 3' sign at the entrance to the project site identifying the approved days and hours of construction activity 7:00 a.m. – 5:00 p.m., Monday through Friday. Only finish work and similar interior construction may be conducted on Saturdays and may commence no earlier than 8:00 a.m. and shall cease no later than 4:00 p.m. with no construction activity to occur on Sundays or legal holidays. The sign shall identify the name and phone number of the development manager to address any complaints.
21. The proposed location of on-site construction trailers shall be approved by the Community Development Director or designee. A cash bond of \$1,000 shall be required for any construction trailers placed on the site and used during construction. Bonds will be released after removal of trailers and restoration of the site to an acceptable state, subject to approval of the Community Development Director or designee. Such trailer(s) shall be fully on private property and outside the public right of way.
22. Graffiti shall be removed within 24 hours.
23. The entire site shall be kept free from trash and debris at all times and in no event shall trash and debris remain for more than 24 hours.
24. Install, operate and maintain full capture systems for all storm drains that captures runoff from the facility or site.
25. If any of the conditions of approval set forth herein fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted; record a notice of violation on the property title; institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation.

26. Prior to the issuance of a building permit, the applicant shall have a reciprocal parking agreement to utilize nearby existing parking spaces or, alternatively, demonstrate a right to utilize other off-site parking in order to satisfy the offsite parking spaces requirement identified in the Traffic Study dated July 14, 2016.
27. Prior to recordation of a final map, applicant shall have acquired from the City that portion of APN 363-161-034 that is unnecessary for right of way purposes pursuant to an executed purchase and sales agreement.
28. The Diamond Sports Complex shall avoid having large events on the same day and time as large events are held at the Lake Elsinore Diamond. In the event of scheduling conflicts where large events are planned on the same day and time at both venues, Diamond Sports Complex shall apply for a Special Event permit pursuant to Chapter 5.108 of the LEMC and shall include with the application a parking management plan which demonstrates the location and proposed coordination for making off-site parking spaces available to patrons of the special event. The parking management plan shall be by the City Engineer or designee.
29. The Diamond Sports Complex shall be limited to a maximum of occupancy of 6,032. Any event exceeding this occupancy shall obtain a Special Event permit pursuant to Chapter 5.108 of the LEMC. Notwithstanding the foregoing, the maximum occupancy shall not exceed that allowed by the Fire Marshall.
30. Applicant shall submit to the City's acting Police Chief a Security Plan prepared to the Chief's satisfaction outlining implementation of the following measures, which shall be monitored by the Police Department. At a minimum, the security plan shall provide the following:
  - a) A Closed Circuit Television System capable of viewing and recording events inside the premises, including the entrance and exits doors to restroom/locker room facilities, courts, food concession facilities, and visitor viewing/seating areas.
  - b) A Closed Circuit Television System capable of viewing and recording events immediately outside the premises, including all entrance/exit doors, outside perimeter walls, and parking areas.
  - c) A tape or disc storage library of recorded cameras kept for a minimum of 60 days.

## **BUILDING AND SAFETY**

### **GENERAL CONDITIONS**

31. Final Building and Safety Conditions will be addressed when building construction plans are submitted to Building and Safety for review. These conditions will be

based on occupancy, use, the California Building Code (CBC), and related codes which are enforced at the time of building plan submittal.

32. All design components shall comply with applicable provisions of the 2013 edition of the California Building, Plumbing and Mechanical Codes: 2013 California Electrical Code; California Administrative Code, 2013 California Energy Codes, 2013 California Green Building Standards, California Title 24 Disabled Access Regulations, and Lake Elsinore Municipal Code.
33. The application shall provide 10% voluntary green measures on the project, as stipulated by the 2013 California Green Building Standards.
34. Applicant shall provide details of all applicable disabled access provisions and building setbacks on plans to include:
  - a) All ground floor units to be adaptable.
  - b) Disabled access from the public way to the entrance of the building.
  - c) Van accessible parking located as close as possible to the main entry.
  - d) Path of accessibility from parking to furthest point of improvement.
  - e) Path of travel from public right-of-way to all public areas on site, such as club house, trash enclosure, trash lots and picnic areas.
35. Applicant must obtain street addressing for all proposed buildings by requesting street addressing and submitting a site plan for commercial or multi-family residential projects or a recorded final map for single-family residential projects.
36. A receipt or clearance letter from the Lake Elsinore School District shall be submitted to the Building and Safety Department to ensure the payment or exemption from School Mitigation Fees.
37. Applicant must obtain all building plans and permit approvals prior to commencement of any construction work.
38. Trash enclosures, patio covers, light standards, and any block walls will require separate approvals and permits.
39. On-site sewer and water plans will require separate approvals and permits.
40. Applicant shall provide a house electrical meter to provide power for the operation of exterior lighting, irrigation pedestals and fire alarm systems for each building on the site. Developments with single user buildings shall clearly show on the plans how the operation of exterior lighting and fire alarm systems when a house meter is not specifically proposed.

## AT PLAN REVIEW SUBMITTAL

41. Applicant must submit to Building and Safety four (4) complete sets of plans and two (2) sets of supporting calculations for review and approval including:
- a) An electrical plan including load calculations and panel schedule, plumbing schematic, and mechanical plan applicable to scope of work.
  - b) A Sound Transmission Control Study in accordance with the provisions of the Section 1207, of the 2013 edition of the California Building Code.
  - c) A precise grading plan to verify accessibility for the persons with disabilities.
  - d) Truss calculations that have been stamped by the engineer of record of the building and the truss manufacturer engineer.

## PRIOR TO ISSUANCE OF GRADING PERMIT(S)

42. Onsite water and sewer plans, submitted separately from the building plans, shall be submitted to Building and Safety for review and approval.
43. A demolition permit shall be obtained if there is an existing structure to be removed as part of the project.

## PRIOR TO ISSUANCE OF BUILDING PERMIT(S)

44. Applicant shall provide appropriate stamp of a registered professional with original signature on the plans.
45. A pre-construction meeting is required with the building inspector prior to the start of the building construction.

## ENGINEERING DIVISION

### GENERAL

46. All slopes and landscaping within public right-of-way shall be maintained by the property owner or property owner's association or another maintenance entity approved by the City Council.
47. All open space and slopes outside the public right-of-way shall be owned and maintained by property owner or property owner's association.
48. In accordance with the City's Franchise Agreement for waste disposal & recycling, the developer shall be required to contract with CR&R Inc. for removal and disposal of all waste material, debris, vegetation and other rubbish generated during cleaning, demolition, clear and grubbing or all other phases of construction.

49. Developer shall mitigate to prevent any flooding and/or erosion downstream caused by development of the site and or diversion of drainage.
50. Any grading that affects “waters of the United States”, wetlands or jurisdictional streambeds, shall require approval and necessary permits from respective Federal and/or State agencies.
51. The developer shall provide a copy of an encroachment permit or any approval documents from the Riverside County Flood Control District for encroaching, grading, or discharging into County flood control facilities.
52. All required soils, geology, hydrology and hydraulic, and seismic reports shall be prepared by a Registered Civil Engineer.

#### FEES

53. All fees required for subdivisions under Chapter 16 of the LEMC or otherwise authorized by ordinance or resolutions, and as required by these COA, shall be paid. The developer shall pay all Engineering Division assessed , plan check and permit fees (LEMC 16.34). Applicable Development Impact Fees include but not limited to: Fire Facility Impact Fee, Library Capital Improvement Fund Fee, ), Multiple Species Habitat Conservation Plan fees (MSHCP), Park Capital Improvement Fund Fee, Public Building Impact Fees, Stephens Kangaroo Rat Habitat Fee, Storm Drain Capital Improvement Fund Fee, Traffic Infrastructure Fee (TIF), and Transportation Uniform Mitigation Fee (TUMF) .
54. Mitigation Fees will be assessed at the prevailing rate at time of payment in full.

#### FLOOD PLAIN

55. Site development along the wetlands shall require special grading and erosion control requirements (LEMC Title 15)
56. Project lies within a FEMA mapped special flood hazard zone and within the Floodplain Management area as defined at LEMC 15.68.
57. Meet all requirements of LEMC 15.68 regarding floodplain management. Finish floor elevation of all existing non-permitted (buildings put in place subsequent to the original CUP) and future buildings shall be a minimum of 1267 ft. Any fill placed in the 100-year flood plain for the purposes of elevating the building floor out of the flood plain shall require a CLOMR/CLOMR-F and LOMR/LOMR-F to be processed with FEMA.

58. No improvement shall be made upon all lands below the 1265 ft elevation level in the FEMA mapped Lake Elsinore flood plain southeasterly of the Lake levee and no artificial change in the topography in the surface of said lands shall be made (except terracing and soil conservation measures) without first complying with all applicable local, State and Federal laws, rules and regulations and Section 404 of the Clean Water Act. LEMC 15.68.052
59. Meet all requirements of LEMC 15.64 regarding flood hazard regulations to include elevation of the lowest floor a minimum of 2 feet above the base flood elevation in FEMA mapped special flood hazard areas (100year).
60. Provide written approval of construction activity within the wetlands from the U.S. Department of Fish and Game and U.S. Army Corp of Engineers.
61. The project is responsible for complying with the Santa Ana Region NPDES Permits as warranted based on the nature of development and/or activity. These Permits include:
  - a) General Permit -Construction
  - b) General Permit - Industrial
  - c) Scrap Metal
  - d) Deminimus Discharges
  - e) MS4
62. The project shall complete and submit for review and approval to the Engineering Division BOTH a preliminary and final WQMP, incorporating the LID Principles and Stormwater BMPs.
63. The preliminary WQMP shall be approved prior to scheduling for Planning Commission; the final WQMP shall be approved prior to issuance of any grading or building permit.
64. The applicant shall use the Water Quality Management Plan for the Santa Ana Region of Riverside County guidance document and template for WQMP preparation.
65. WQMP – The Water Quality Management Plan (WQMP) specifically identifying Best Management Practices (BMPs) that will be used onsite to control identified pollutants of concern. The applicant shall utilize the MS4 Permittee Drainage Area Management Plan (DAMP), Model WQMP, and LID Guidance Manual for reference, and the MS4 Permittee's WQMP template for submittal. This WQMP shall include the following:
  - a) Detailed site and project description

- b) Potential stormwater pollutants
  - c) Post-development drainage characteristics
  - d) Low Impact Development (LID) BMP selection and analysis
  - e) Structural and Non-Structural source control BMPs
  - f) Site design and drainage plan (BMP Exhibit)
  - g) Vector issues are addressed in the BMP design, operation and maintenance.
  - h) GIS coordinates for all LID and Treatment Control BMPs
  - i) HCOC - demonstrate that discharge flow rates, velocities, duration and volume for the post construction condition from a 2 year and 10 year 24 hour rainfall event will not cause significant adverse impacts on downstream erosion and receiving waters, or measures are implemented to mitigate significant adverse impacts to downstream public facilities and water bodies. Design goal to replicate pre-development hydrologic regime.
66. The 2010 SAR MS4 Permit requires implementation of LID Principles and LID Site Design, where feasible, to treat the pollutants of concern identified for the project, in the following manner (from highest to lowest priority) : (*Section XII.E.2, XII.E.3, and XII.E.7*)
- a) Evaluation of highest and best use for sites discharging to Lake Elsinore.
  - b) Preventative measures (these are mostly non-structural measures, e.g., preservation of natural features to a level consistent with the MEP standard; minimization of Urban Runoff through clustering, reducing impervious areas, etc.)
  - c) The Project shall 'Infiltrate, harvest and use, evapotranspire and/or bio-treat the 85<sup>th</sup> percentile storm event also known as the Design Capture Volume (DCV).
  - d) The Project shall consider a properly engineered and maintained bio-treatment system only if infiltration, harvesting and use and evapotranspiration cannot be feasibly implemented at the project site.
  - e) Any portion of [the DCV] that is not infiltrated, harvested and used, evapotranspired, and/or biotreated shall be treated and discharged in accordance with the requirements set forth in Section XII.G.
67. Parking lot landscaping shall be designed to with concave landscape grading and provide for treatment, retention or infiltration of runoff.
68. Project hardscape areas shall be designed and constructed to provide for drainage into adjacent landscape and permeable surfaces in low traffic roads and parking lots.
69. Trash enclosures shall be bermed and covered.



70. Water Quality Facilities that service more than one parcel shall be placed in an easement to provide for maintenance and prevent obstruction.
71. Hydromodification / Hydraulic Conditions of Concern – The project shall identify potential Hydraulic Conditions of Concern (HCOC) and implement measures to limit disturbance of natural water bodies and drainage systems; conserve natural areas; protect slopes, channels and minimize significant impacts from urban runoff.
72. California Environmental Quality Act (CEQA) – If the environmental documents prepared pursuant to CEQA identify resources requiring Clean Water Act Section 401 Permitting, the applicant shall obtain certification through the Santa Ana Regional Water Quality Control Board and provide a copy to the Engineering Division.
73. The project shall use either volume-based and/or flow-based criteria for sizing BMPs in accordance with NPDES Permit Provision XII.D.4.

#### CONSTRUCTION:

74. A Stormwater Pollution Prevention Plan (SWPPP) is required for this project. A copy of the current SWPPP shall be kept at the project site and be available for review upon request.

Erosion & Sediment Control - Prior to the issuance of any grading or building permit, the applicant shall submit for review and approval by the City Engineer, an Erosion and Sediment Control Plan as a separate sheet of the grading plan submittal to demonstrate compliance with the City's NPDES Program, California Building Code, and state water quality regulations for grading and construction activities. The Erosion and Sediment Control Plan shall identify how all construction materials, wastes, grading or demolition debris, and stockpiles of soil, aggregates, soil amendments, etc. shall be properly covered, stored and secured to prevent transport into local drainages or waters by wind, rain, tracking, or dispersion. The plan shall also describe how the project will ensure that all BMPs will be maintained during construction of any future right of ways.

#### POST CONSTRUCTION:

75. Recorded Operation and Maintenance (O&M) Plan that (1) describes the long-term operation and maintenance requirements for BMPs identified in the BMP Exhibit; (2) identifies the entity that will be responsible for long-term operation and maintenance of the referenced BMPs; (3) describes the mechanism for funding the long-term operation and maintenance of the referenced BMPs, and (4) provides for annual certification of water quality facilities by a registered civil engineer and/or the City for a fee if the service is available.



76. All storm drain inlet facilities shall be appropriately marked "Only Rain in the Storm Drain" using the City authorized marker to prevent illegal dumping in the drain system.
77. Prior to the issuance of a certificate of use and/or occupancy, the applicant shall demonstrate compliance with applicable NPDES permits for construction, industrial/commercial, MS4, etc. to include:
- a) Demonstrate that all structural Best Management Practices (BMP's) described in the BMP Exhibit from the project's approved WQMP have been implemented, constructed and installed in conformance with approved plans and specifications.
  - b) Demonstrate that the project has complied with all non-structural BMPs described in the project's WQMP.
  - c) Provide signed, notarized certification from the engineer of work that the structural BMP's identified in the project's WQMP are installed and operational.
  - d) Submit a copy of the fully executed, recorded Operations and Maintenance (O&M) Plan for all structural BMPs.
  - e) Demonstrate that copies of the project's approved WQMP (with recorded O&M Plan attached) are available for each of the initial occupants (commercial/industrial) or Owner's Association as appropriate.
  - f) Agree to pay for a Special Investigation from the City of Lake Elsinore for a date twelve (12) months after the issuance of a Certificate of Use and/or Occupancy for the project to verify compliance with the approved WQMP and O&M Plan. A signed/sealed certification from the engineer of work dated 12 months after C of O will be considered in lieu of a Special Investigation by the City.
  - g) Provide a recorded copy of one of the following:
    - i) CC&R's (they must include the approved WQMP and O&M Plan) for the project's Owners Association.
    - ii) A water quality implementation agreement with the approved WQMP and O&M Plan attached; or
    - iii) The final approved Water Quality Management Plan and Operations and Maintenance Plan.
78. Industrial Facilities - For industrial facilities subject to California's General Permit for Stormwater Discharges Associated with Industrial Activity as defined by Standard Industrial Classification (SIC) Code.
79. Prior to grading or building permit close-out and/or the issuance of a certificate of use and occupancy, the applicant shall demonstrate that compliance with the permit has been obtained by providing a copy of the Notice of Intent (NOI)

submitted to the State Water Resources Control Board and a copy of the notification of the issuance of a Waste Discharge Identification (WDID) Number or other proof of filing to the satisfaction of the NPDES Coordinator.

80. Chemical management - Prior to the issuance of building permits for any tank or pipeline, the uses of said tank or pipeline shall be identified and the applicant shall submit a Chemical Management Plan in addition to a WQMP with all appropriate measures for chemical management (including, but not limited to, storage, emergency response, employee training, spill contingencies and disposal).

#### PARCEL MAP

81. The developer shall submit for plan check review and approval a final map.
82. Prior to City Council approval of the Parcel Map, the developer shall, in accordance with Government Code, have constructed all improvements or noted on the title sheet of the map the improvements to be constructed or have improvement plans submitted and approved, agreements executed and securities posted.

#### UTILITIES

83. All arrangements for relocation of utility company facilities (power poles, vaults, etc.) out of the roadway shall be the responsibility of the property owner or property owner's agent.
84. All overhead utilities shall be undergrounded in accordance with Chapter 12.16 of the Lake Elsinore Municipal Code (LEMC)
85. Underground water rights shall be dedicated to the City pursuant to the provisions of Section 16.52.030 (LEMC), and consistent with the City's agreement with the Elsinore Valley Municipal Water District.
86. The developer shall apply for, obtain and submit to the City Engineering Division a letter from Southern California Edison (SCE) indicating that the construction activity will not interfere with existing SCE facilities (aka SCE NIL).
87. The developer shall submit a copy of the "Will Serve" letter to the City Engineering Division from the applicable water agency stating that water and sewer arrangements have been made for this project and specify the technical data for the water service at the location, such as water pressure and volume etc.

## IMPROVEMENTS

### DESIGN

88. Sight distance into and out of the project location shall comply with CALTRANS Standards.
89. The developer shall install permanent bench marks per City of Lake Elsinore Standards and at locations to be determined by City Engineer.
90. The developer shall install blue dot markers in the roadway at a right angle to Fire Hydrant locations per Lake Elsinore Standards.
91. The developer shall coordinate with Riverside Transit Authority for location and installation of bus transit facilities.
92. 10 year storm runoff shall be contained within the curb and the 100 year storm runoff shall be contained within the street right-of-way. When either of these criteria are exceeded, drainage facilities shall be provided.
93. All drainage facilities in this project shall be constructed to Riverside County Flood Control District Standards.
94. A drainage study shall be provided. The study shall identify the following: identify storm water runoff from and upstream of the site; show existing and proposed off-site and onsite drainage facilities; and include a capacity analysis verifying the adequacy of the facilities. The drainage system shall be designed to ensure that runoff from a 10-yr storm of 6 hours or 24 hours duration under developed condition is equal or less than the runoff under existing conditions of the same storm frequency. Both 6 hour and 24hour storm duration shall be analyzed to determine the detention basin capacities necessary to accomplish the desired results.
95. All natural drainage traversing the site shall be conveyed through the site, or shall be collected and conveyed by a method approved by the City Engineer. All off-site drainage, if different from historic flow, shall be conveyed to a public facility.
96. Roof drains shall not be allowed to outlet directly through coring in the street curb. Roofs should drain to a landscaped area.
97. The site shall be planned and developed to keep surface water from entering buildings (California Green Building Standards Code 4.106.3).

98. All existing storm drain inlet facilities adjacent to the subject properties shall be retrofitted with a storm drain filter; all new storm drain inlet facilities constructed by this project shall include a storm drain filter.
99. All Public Works requirements shall be complied with as a condition of development as specified in the Lake Elsinore Municipal Code (LEMC) and Lake Elsinore Public Works Standard Plans.
100. The owner shall dedicate in fee title to the City a strip of right-of-way along Diamond Drive adjacent to the property frontage for a total right-of-way of 50' wide from centerline to the project property line.
101. The owner shall dedicate an irrevocable access easement across the northerly driveway extending to the northerly parcel for public use.
102. The developer shall construct full street improvements and dedicate right-of-way on Diamond Drive such that the ultimate right-of-way width conforms to General Plan right-of-way cross sections. The cross section of roadway improvements with a raised median (if applicable and if applicable, developer shall pay cash-in-lieu of construction of ½ the raised median), parkway, street lights, bike lane, and curb, gutter and sidewalk, shall be consistent with other development on Diamond Drive, as recommended by the City. The road improvements shall be consistent with the Traffic Analysis (revised) dated July 28, 2016 and the General Plan Circulation Plan.
103. The developer shall implement mitigation measures identified in the Traffic Analysis dated July 28<sup>th</sup>, 2016, as specified in Section 10 of this Study to the satisfaction of the City Engineer.
104. The developer shall install a traffic signal at the Diamond Drive and Pete Lehr intersection. The traffic signal shall be installed and operational prior to the issuance of the final occupancy.
105. Street improvement plans shall be prepared by a Registered Civil Engineer and the plans shall include curb and gutter, sidewalk, ac pavement, street lighting, median, trail, and drainage improvements.
106. The developer shall provide signing and striping plans for the required improvements of this project. The plans shall also incorporate traffic calming measures on local streets.
107. If existing improvements are to be modified, the existing improvement plans on file shall be modified accordingly and approved by the City Engineer prior to issuance of building permit.

## PERMITTING/CONSTRUCTION

- 108. An Encroachment Permit shall be obtained prior to any work on City and/or State right-of-way. The developer shall submit the permit application, required fees and executed agreements, security and other required documentation prior to issuance.
- 109. All compaction reports, grade certifications, monument certifications (with tie notes delineated on 8 ½" x 11" Mylar) shall be submitted to the Engineering Division before final inspection of public works improvements will be scheduled and approved.
- 110. The developer shall be responsible for acquiring right-of-ways in which the developer or the City has no legal title or interest.
- 111. All streets shall be constructed per Lake Elsinore City Standards and/or applicable specific plan. Any deviation from City standards shall be approved by the City Engineer.

## ACCEPTANCE OF IMPROVEMENTS

- 112. The developer shall participate in "fair share" payment of offsite improvements as described in Section 11 of the Traffic Analysis dated July 28, 2016 to the satisfaction of the City Engineer, if the offsite improvements are not subject to TUMF or established City of Lake Elsinore fees.
- 113. A portion of the required improvements for this development may be covered under the Traffic Impact Fee (TIF) program. Request for reimbursement or credits shall be approved by the City Engineer and based on allowable costs in the fee program and availability of funds.
- 114. The developer shall submit a written request for acceptance to the City Engineer.
- 115. As-built plans shall be completed and signed by the City Engineer.

## GRADING

### DESIGN:

- 116. A grading plan signed and stamped by a California Registered Civil Engineer shall be submitted for City review and approval for all addition and/or movement of soil (grading) on the site. The plan shall include separate sheets for erosion control, haul route and traffic control. The grading submittal shall include all supporting

documentation and be prepared using City standard title block, standard drawings and design manual (available at [www.lake-elsinore.org](http://www.lake-elsinore.org)).

117. All grading plan contours shall extend to minimum of 50 feet beyond property lines to indicate existing drainage pattern.
118. The grading plan shall show that no structures, landscaping, or equipment are located near the project entrances that could reduce sight distance.
119. If the grading plan identifies alterations in the existing drainage patterns as they exit the site, a Hydrology and Hydraulic Report for review and approval by City Engineer shall be required prior to issuance of grading permits. All grading that modifies the existing flow patterns and/or topography shall be approved by the City Engineer.
120. A seismic study shall be performed on the site to identify any hidden earthquake faults, liquefaction and/or subsidence zones present on-site. A certified letter from a registered geologist or geotechnical engineer shall be submitted confirming the absence of this hazard.
121. The developer shall obtain all necessary off-site easements and/or permits for off-site grading and the applicant shall accept drainage from the adjacent property owners.

#### PERMIT/CONSTRUCTION:

122. Developer shall execute and submit grading and erosion control agreement, post grading security and pay permit fees as a condition of grading permit issuance.
123. A preconstruction meeting with the City Public Works Inspector (Engineering Division) is required prior to commencement of ANY grading activity.
124. Developer shall provide the city with a copy of the Notice of Intent (NOI) and Waste Discharge Identification (WDID) letter issued by the Regional Water Quality Control Board for the National Pollutant Discharge Elimination System (NPDES) program
125. Prior to commencement of grading operations, developer is to provide to the City with a map of all proposed haul routes to be used for movement of import material. All such routes shall be subject to the review and approval of the City Engineer. Haul route shall be submitted prior to issuance of a grading permit. Hauling in excess of 5,000 cy shall be approved by City Council. (LEMC 15.72.065)

126. Export sites located within the Lake Elsinore City limits must have an active grading permit.
127. Applicant to provide to the City a video record of the condition of all proposed public City haul roads. In the event of damage to such roads, applicant shall pay full cost of restoring public roads to the baseline condition. A bond may be required to ensure payment of damages to the public right-of-way, subject to the approval of the City Engineer.
128. All grading shall be done under the supervision of a geotechnical engineer. Slopes steeper than 2 to 1 shall be evaluated for stability and proper erosion control and approved by the City.
129. Review of the project Storm Water Pollution Prevention Plan (SWPPP) and sediment and erosion control plan shall be completed. A copy of the current SWPPP shall be kept at the project site and be available for review upon request.
130. Approval of the project Water Quality Management Plan (WQMP) for post construction shall be received prior to issuance of a grading permit.
131. Submit an approved environmental clearance document to the Engineering Division. This approval shall identify and clear all proposed grading activity anticipated for this project.
132. Developer shall pay all grading permit applicable processing, permit, security and development fees including those fees identified in an applicable development agreement, Stephens Kangaroo Rat Habitat.

#### PRIOR TO ISSUANCE OF BUILDING PERMIT

133. Provide final soils, geology and seismic report, including recommendations for parameters for seismic design of buildings, and walls prior to building permit.
134. Approval of a letter of map revision (LOMR) or letter of map revision based on fill (LOMR-F) must be received from FEMA.
135. All required public right-of-way dedications and easements shall be prepared by the developer or developer's agent and shall be submitted to the Engineering Division for review and approval prior to issuance of building permit.
136. Prior to issuance of certificates of use and occupancy or building permits for individual tenant improvements or construction permits for a tank or pipeline, uses shall be identified and, for specified uses (where the proposed improvements will store, generate or handle hazardous materials in quantities that will require



permitting and inspection once operational), the developer shall propose plans and measures for chemical management (including, but not limited to, storage, emergency response, employee training, spill contingencies and disposal) to the satisfaction of the County/City Building Official(s).

- 137. The Parcel Map shall be recorded.
- 138. All street improvement plans, traffic signal plans, signing and striping plans shall be completed and approved by the City Engineer.
- 139. The developer shall pay all Capital Improvement TIF and Master Drainage Fees and Plan Check fees (LEMC 16.34).

#### PRIOR TO OCCUPANCY

- 140. The traffic signals referenced in Condition of Approval No. 58 shall be installed per the Traffic Analysis (revised) dated July 28, 2016 to the satisfaction of the City Engineer.
- 141. All public improvements shall be completed in accordance with the approved plans or as condition of this development to the satisfaction of the City Engineer.
- 142. The fair share cost of future improvements as a condition of this development shall be paid.
- 143. All final studies and reports, grade certifications, monument certifications (with tie notes delineated on 8 ½ x 11" mylar) shall be submitted in .tif format on a CD/DVD. Studies and reports include, Soils, Seismic, Hydrology, Hydraulics, Grading, SWPPP, WQMP, etc. All plan sets and recorded maps shall be digitized and provided on CD/DVD as follows:
  - a) Final Map(s) - GIS Shape files\* and .tif of recorded map.
  - b) Improvement Plans – GIS Shape files\* and .tif of approved as built mylar.
  - c) Grading Plans - .tif of approved as built mylar.
  - d) \*GIS Shape files must be in projected Coordinate System: NAD 83 State Plane California Zone VI U.S. Fleet.
- 144. Developer shall provide FEMA elevation certificates for all buildings (includes trailers and storage facilities) prior to final approvals. If a LOMR-F has been processed and approved by FEMA, the letter of determination and certification may be in the form of a letter signed and sealed by a licensed civil engineer.
- 145. All required public right-of-way dedications, easements, dedications and vacations and easement agreement(s) not processed on the final map for ingress and egress



through adjacent property(ies) shall be recorded with a recorded copy provided to the City prior to building permit issuance.

146. Documentation of responsibility for slope maintenance along right-of-ways and open spaces to be maintained by the property owner or other entity shall be provided in a recordable format and recorded prior to occupancy/final.
147. All signing and striping and traffic control devices onsite and offsite shall be installed.
148. The developer shall pay fee in-lieu of construction of future median improvements on Diamond Drive and Mission Trail. The fee shall be equal to current cost estimate for improvements (including contingency) plus an additional 15% of the total construction cost estimate to cover design and administrative costs. The cost estimate shall be approved by City staff.
149. In the event of damage to City roads from hauling or other construction related activity, applicant shall pay full cost of restoring public roads to the baseline condition.
150. Prior to grading or building permit close-out and/or the issuance of a certificate of use or a certificate of occupancy, developer shall:
  - a) Demonstrate that all structural BMPs have been constructed, installed and are functioning in conformance with approved plans and specifications and the WQMP;
  - b) Demonstrate that they are prepared to implement all non-structural BMPs included in the conditions of approval or building/grading permit conditions;
  - c) Demonstrate that an adequate number of copies of the approved project specific WQMP are available for the future owners/occupants; and
  - d) The developer shall provide all education guidelines for Water Quality Management Practices to the tenants, operators and owners of the businesses of the development, regarding the environmental awareness on good housekeeping practices that contribute to protection of storm water quality and meet the goals of the approved WQMP in the Riverside County NPDES Drainage Area Management Plan. Contact the City NPDES Coordinator for handout/guideline information.
151. The property owner (aka Legally Responsible Party) shall execute and cause to be recorded a "Covenant and Agreement" in the form provided by the City to inform future property owners of the requirement to implement the approved final project-specific WQMP.

152. Developer shall pay all outstanding applicable processing and development impact fees, including but not limited to: Fire Facility Impact Fee, Library Capital Improvement Fund Fee, ), Multiple Species Habitat Conservation Plan fees (MSHCP), Park Capital Improvement Fund Fee, Public Building Impact Fees, Stephens Kangaroo Rat Habitat Fee, Storm Drain Capital Improvement Fund Fee, Traffic Infrastructure Fee (TIF), and Transportation Uniform Mitigation Fee (TUMF)

## **CITY OF LAKE ELSINORE FIRE MARSHAL**

### **GENERAL CONDITIONS**

153. **Riverside County Fire Department Lake Elsinore Office of the Fire Marshal -** It is the responsibility of the recipient of these Fire Department conditions to forward them to all interested parties. The permit number **(as it is noted above)** is required on all correspondence.

Questions should be directed to the Riverside County Fire Department, Lake Elsinore Office of the Fire Marshal at 130 S. Main St., Lake Elsinore, CA 92530. Phone: (951) 671-3124 Ext. 225. The following fire department conditions shall be implemented in accordance with the Lake Elsinore Municipal Code and the adopted codes at the time of project building plan submittal, these conditions are in addition to the adopted code requirements.

154. **Blue Dot Reflectors-** Blue retro-reflective pavement markers shall be mounted on private streets, public streets and driveways to indicate location of fire hydrants. Prior to installation, placement of markers must be approved by the Riverside County Fire Dept.
155. **Minimum Hydrant Fire Flow-** Minimum required fire flow shall be 3,000 GPM for 2 hours duration at 20 PSI residual operating pressure, which must be available before any combustible material is placed on the job site. Average spacing between hydrants 400' and 225' maximum distance from any point on the street or road frontage to hydrant.
156. **Super Fire Hydrants-** Super fire hydrants (6" x 4" x 2-2 1/2"), shall be located not less than 25 feet or more than 250 feet from any portion of the building as measured along approved vehicular travel ways.
157. **Minimum Access Standards-** The following access requirements are required to be implemented to ensure fire department and emergency vehicular access. All roadways shall conform to the City of Lake Elsinore approved roadway standards but in no case shall the minimum fire department vehicular access be less the following provisions:

- a) Thirty feet (30') clear width. Where parking is to be provided, each parking side shall be provided with eight (8') additional feet on each side of the fire department access.
  - b) Median openings or crossovers between opposing lanes of a divided highway or street shall be located only at approved intersections at intervals of not less than 500 feet. [Ord. 529 § 3.2(F), 1973].
  - c) The required all weather vehicular access shall be able to support no less than 75,000 lbs. over 2 axles.
  - d) Roadway gradient shall not exceed 15% on any access road, driveways, and perimeter roads.
  - e) Turning Radius shall be 28' inside and 48' outside for all access roads.
158. **Secondary Access-** In the interest of Public Safety, this project shall provide an Alternate or Secondary Access. Said access shall be constructed in accordance to the City of Lake Elsinore Engineering Department standards to accommodate full fire response and community evacuation.
159. **Automatic / Manual Gates-** Gate entrances shall be at least two feet wider than the width of the traffic lane (s) serving that gate and no less than 24 feet wide. Any gate providing access from a road to a driveway shall be located at least 35 feet from the roadway and shall open to allow vehicle to stop without obstructing traffic on the road. Where a one-way road with a single traffic lane provides access to a gate entrance, a 40 foot turning radius shall be used. Gate access shall be equipped with a rapid entry system. Plans shall be submitted to the Fire Department for approval prior to installation. Automatic/manual gate pins shall be rated with shear pin force, not to exceed 30 foot pounds. Automatic gates shall be equipped with emergency backup power. Gates activated by the rapid entry system shall remain open until closed by the rapid entry system. Contact the Fire Planning office for current plan check fees.
160. **Separation of Occupancy-** A fire barrier wall for the separation of occupancies is required per the California Building Code. Fire walls, fire barriers, fire partitions, smoke barriers, and smoke partitions or any other wall required to have protected openings or penetrations shall be effectively and permanently identified with signs or stenciling. Such identification shall be located in accessible concealed floor, floor ceiling or attic spaces repeated at intervals not exceeding 30 feet along the wall, and include lettering not less than .5 inch in height, incorporating the suggested wording "FIRE AND/OR SMOKE BARRIER—PROTECT ALL OPENINGS," or other wording.

#### PRIOR TO BUILDING PERMIT ISSUANCE

161. **Plan Check Fee-** Building plan check fees shall be made payable to the “City of Lake Elsinore”, and shall be submitted to the Fire Department at the time of plan submittal.
162. **Water System Plans-** Applicant and/or developer shall submit 2 sets of water system plans to the Fire Department for review. The plans must be signed by a registered Civil Engineer and/or water purveyor prior to Fire Department review and approval. Mylars will be signed by the Fire Department after review and approval. Two (2) copies of the signed and approved water plans shall be returned to the Fire Department before release of a building permit.
163. **Prior to Building Construction Verification-** This project shall be inspected and approved by the Fire Marshal or designee prior to bringing combustible materials on site. During said inspection all permanent road signs shall be in place, all hydrants shall on operating and approved for use by the water purveyor, and all permanent road surfaces shall be completed including primary and secondary access circulation.

#### PRIOR TO BUILDING FINAL INSPECTION

164. **Fire Sprinkler System 13-** Install a complete fire sprinkler system designed in accordance with California Building Code, California Fire Code and adopted standards. Sprinkler systems with pipe sizes larger than 4 inches in diameter will require the Engineer or Architect of Record certification with details and calculations with “wet signature” that the building structural system is designed to support the seismic and gravity loads for the support of the additional weight of the sprinkler system. The PIV and FDC shall be located to the front of the building in an approved location, unobstructed and within 50 feet of an approved road or driveway, within 200 feet of a hydrant. A C-16 licensed contractor must submit plans, along with the current fee, to the Fire Department for review and approval prior to installation.
165. **Evacuation/Voice Fire Alarm System-** Install a manual and/or automatic emergency voice/alarm communication fire alarm system in accordance with California Building Code, California Fire Code and adopted standards. The location of the Fire Alarm Control Unit shall be located in an environmentally controlled location in accordance with *NFPA 72*. A C-10 licensed contractor must submit plans, along with the current fee, to the Fire Department for review and approval prior to installation.
166. **Designated Fire Lanes-** The applicant shall prepare and submit to the Fire Department for approval, a site plan designating required fire lanes with appropriate lane painting and/ or signs.

167. **Knox Rapid Entry Box-** A rapid entry Knox Box shall be installed on the outside of the building. Key(s) shall have durable and legible tags affixed for identification of the correlating tenant space. Special forms are available from this office for ordering the Knox Box. If the building/facility is protected with a fire alarm or burglar alarm system, it is recommended that the lock box be “tamper” monitoring.
168. **Fire Extinguishers –** Minimum Install portable fire extinguishers complying with Section 906 of the 2013 California Fire Code with a minimum rating of 2A-10BC and signage. Fire Extinguishers located in public areas shall be in recessed cabinets mounted 48” (inches) to center above floor level with maximum 4” projection from the wall. Contact Fire Dept. for proper placement of equipment prior to installation.
169. **Hood/Duct Suppression System-** A UL 300 hood/duct fire extinguishing system must be installed over the cooking Equipment as required by the California Fire Code, California Mechanical Code and adopted standards. The extinguishing system must automatically shut-down gas and /or electricity to all cooking appliances upon activation. A C-16 licensed contractor must submit plans, along with the current fee, to the Fire Department for review and approval prior to installation. Alarm system supervision is only required if the building has an existing fire alarm system.

#### **DEPARTMENT OF ADMINISTRATIVE SERVICES**

170. Prior to the issuance of the first building permit, the applicant shall consent to the formation of Community Facilities District or annex into the proposed Community Facilities District No. 2015-2 (Maintenance Services) to fund the on-going operation and maintenance of the public right of way landscaped areas and neighborhood parks to be maintained by the City and for street lights in the public right of way for which the City will pay for electricity and a maintenance fee to Southern California Edison, including parkways, open space and public storm drains constructed within the development and federal NPDES requirements to offset the annual negative fiscal impacts of the project. Applicant shall, make a ten thousand dollar (\$10,000) non-refundable deposit to cover the cost of the formation or annexation process, as applicable. The applicant may propose alternative financing mechanisms to fund the on-going operation and maintenance of the public right of way landscaped areas and neighborhood parks to be maintained by the City and for street lights in the public right of way for which the City will pay for electricity and a maintenance fee to Southern California Edison, including parkways, open space and public storm drains constructed within the development and federal NPDES requirements to offset the annual negative fiscal impacts of the project in lieu of creating/annexing into a district.

#### **MITIGATION MONITORING AND REPORTING PROGRAM**

171. The applicant shall comply with the following mitigation measures, which are set forth in the Mitigation Monitoring & Reporting Program (MMRP) for the Diamond Specific Plan EIR (SCH# 2009031084) and the first addendum, which was adopted for this project.

I hereby state that I acknowledge receipt of the approved Conditions of Approval for the above named project and do hereby agree to accept and abide by all Conditions of Approval as approved by the City of Lake Elsinore City Council on \_\_\_\_\_. I also acknowledge that all Conditions shall be met as indicated.

Date: \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_

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

Address: \_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_