



CITY COUNCIL

SUPPLEMENTAL MEMORANDUM

MEETING DATE: May 7, 2024 **ITEM NUMBER:** NB-1

SUBJECT: ONE YEAR USE AGREEMENT FOR JACK HAMMETT SPORTS COMPLEX WITH RAIDERS FOOTBALL CLUB, LLC, FOR 2024 PRE-SEASON TRAINING CAMP

DATE: MAY 7, 2024

FROM: LORI ANN FARRELL HARRISON, CITY MANAGER

PRESENTATION BY: ALMA REYES, DEPUTY CITY MANAGER

FOR FURTHER INFORMATION CONTACT: ALMA REYES
714.754.5090

Mayor and City Council,

Please note that the draft agreement between the City of Costa Mesa and the Raiders Football Club, LLC, has been amended as noted in the attached redlined version of the agreement, at the request of the Raiders, in order to ensure compliance with the National Football League's (NFL) Constitution and By-Laws.

Staff also requests that the City Council amend the Recommended Action to add the following:

- Authorize the City Manager, in coordination with City Attorney, to make any and all additional amendments to the Agreement, as needed, to ensure compliance with the NFL's Constitution and/or By-Laws and related requirements.

**USE AGREEMENT FOR
JACK HAMMETT SPORTS COMPLEX**

This Use Agreement (“Agreement”) is between the City of Costa Mesa, a California municipal corporation (“City”) and Raiders Football Club, LLC, a Nevada limited liability company (“Team”). The City and Team are periodically referred to herein individually as a “Party” and collectively as the “Parties.”

WHEREAS, City owns and operates recreational fields property located at 2750 Fairview Road, Costa Mesa California, 92626, also referred to as Jack Hammett Sports Complex as more particularly described in Exhibit A (referred to herein as the “Property” or “Jack Hammett Sports Complex”), which has several fields, including Fields 3 and 4 as more particularly depicted in Exhibit A; and

WHEREAS, the Team is known for its extensive community involvement and the City welcomes the Team to the City; and

WHEREAS, the Team desires to operate a portion of their 2024 preseason training camp at the Jack Hammett Sports Complex; and

WHEREAS, the Parties agree that the Team may utilize the Property for its training camp and related ~~community~~ events subject to the terms and conditions as set forth herein.

Now, therefore, in consideration of the mutual promises contained in this Agreement, the City and Team agree as follows:

- I. **TERM.** The term of this Agreement is for the 2024 pre-season during the Training Camp Maintenance and Training Camp Use periods as described more particularly in Section II of this Agreement.
- II. **PERIODS FOR USE OF THE PROPERTY.**
 - A. **TRAINING CAMP.** Team shall have the option for the exclusive use of Fields 1-6 during the 2024 pre-season to conduct its preseason training camp and related community events (“Training Camp Use Period”). The parties recognize that the specific dates and lengths of time associated with the Training Camp Use Period in 2024 may vary; however, it is understood that training camp will commence on approximately July 19, 2024 and end on August 11, 2024. It is understood the Use Period may vary for future years. The precise dates for these periods shall be established as set forth in Section III(C) below.
 - B. **TRAINING CAMP MAINTENANCE.** In addition, Team shall have the option for an exclusive right of access and use of Fields 1-6 at the Property for a period commencing on June 4, 2024 to the commencement date of the Training Camp Use Period (this period being the “Training Camp Maintenance Period”), at which time, Team shall have exclusive access to maintain and/or repair Fields

1-6 as needed to hold the Training Camp and all related community events, including upgrading Fields 3 and 4 into NFL quality fields, as determined at the discretion of the Team. As used in this Agreement, the term “exclusive” shall not be interpreted to preclude the City, as owner of the property, including its designees, from accessing the Fields for any purpose, including but not limited to, general maintenance and upkeep purposes including the City Maintenance (defined below). City will make best efforts to coordinate all maintenance activities and access to fields with the Team so that such access shall not materially interfere with Team’s permitted use of the fields. The costs incurred in maintaining Fields 3 and 4 during the Training Camp Maintenance Period, or at any other time shall hereinafter be referred to as “Maintenance Costs,” and shall be the sole responsibility of the Team. Team’s exclusive access to Fields 1-6 during the Training Camp Maintenance Period shall include the right to maintain Team’s own security personnel on site for the protection of the fields.

- C. FUTURE USE. Team must submit a Letter of Interest (LOI) to notify City of any interest in utilizing the fields, if available, in 2025, by January 1, 2025. The City does not guarantee availability for any future years outside of this Agreement term as the City is still under contract with the Los Angeles Chargers through August 2026. This information is requested for planning purposes in the event the fields are made available.

III. USE OF PROPERTY DURING EXCLUSIVE USE PERIODS.

- A. GENERAL PROVISIONS. Whenever Team has a right to use the Property or any fields under this Agreement, Team shall have the exclusive rights to use and may use the fields for football training purposes and incidental uses thereto, including but not limited to the preparation for pre-season training and the set up and break down of training and field equipment, subject to the Management Plan submitted by the Team and conditions required by the City as set forth in the Special Event permit to be submitted by Team. Team shall have the obligation to maintain those fields beyond the City’s basic maintenance (“City Maintenance”), and shall be solely responsible for all Maintenance Costs, should Team determine that additional maintenance is required beyond the City Maintenance. The parties shall coordinate whenever planning or performing maintenance. In no event shall City allow for the building of permanent structures or improvements on any of the fields during the Term of this Agreement; provided, however, City may allow temporary structures or improvements to be placed on and adjacent to the fields, such as temporary restrooms or grandstands, when such temporary structures or improvements are consistent with the uses of the Property pursuant to this Agreement and do not result in permanent damage or destruction to the quality of the fields.

B. SPECIAL EVENT PERMIT REQUIRED FOR PUBLIC EVENTS HELD DURING TRAINING CAMP USE PERIODS. During the Training Camp Use Period, Team shall ~~host~~conduct no less than ten (10) ~~open and public events~~private practices at the Property ~~each of which will allow the community, with attendance limited to access~~X number, including Team personnel, City personnel, invitees, and existing Team sponsors and ~~view football season ticket holders (but excluding Team players, coaches, training football support staff, public safety and related operations. As such, security personnel).~~ Team may make accommodations ~~for such public viewing~~by having ~~grandstands~~bleachers on the Property, ~~by having merchandise available for gift or purchase, games, activities, activations, to support the X number of attendees listed above and by having~~may have other related ~~public event~~event accommodations (such as portable restrooms, temporary food service provisions including food trucks, and any needed security provisions). The scheduling of all ~~public events and open~~practices held by Team during the Training Camp Use Period shall be at the sole discretion of Team and subject to the needs, ~~and~~ priorities, ~~and practice scheduling~~ of the Team. Within thirty (30) days of execution of this Agreement, Team shall deliver to City, through its City Manager or authorized designee, any necessary permit applications, including but not limited to a special event permit application and management plan that includes, but is not limited to, the anticipated dates of the Training Camp Use and Maintenance Periods, ~~including anticipated dates when Training Camp will be open to the public, as well as the Team.~~ Team shall also submit such information with the special event permit application, and provide City with its plan for parking, traffic, safety and security, noise management, concessions, staffing, site improvements and any other relevant information (“Management Plan”) required by the City Manager. Team shall cooperate with the Orange County Fairgrounds as well as other surrounding properties in developing their Management Plan, and, in particular, addressing their parking needs during the Training Camp Use Period. The City Manager or authorized designee, shall have the discretion to place reasonable conditions on the Team, as set forth in the Special Event Permit to be submitted by the Team, related to the use of the Property pursuant to this Agreement. The Team shall obtain all other applicable permits (such as a film permit), all of which shall be subject to review and approval of the City Manager or authorized designee, for use of the Property pursuant to this Agreement. All costs for review and approval by the City shall be borne by the Team. The City Manager or authorized designee shall review and approve, deny, or approve with conditions, such management plan and all permits as expeditiously as possible, and in no event more than thirty (30) days after a complete application has been submitted to the City Manager or authorized designee.

C. City and Team acknowledge and agree that any plans for practices during the Training Camp Use Period shall be discussed in advance of such practice(s) by the Team with the other NFL teams based in southern California (“Southern California NFL Teams”), and such discussions shall include the number of invitees and any related Community Contributions outlined in Section IV.B.

~~C.D.~~ MAINTENANCE COSTS. Team shall have the obligation to pay all costs and expenses relating to the preparation for the use periods including any approved temporary improvements, except for any City Maintenance. In addition, for the Term of this Agreement, Team shall be responsible for all Maintenance Costs related to Fields 3 and 4 beyond the City Maintenance.

IV. USAGE RENT AND COMMUNITY CONTRIBUTIONS.

A. USAGE RENT TO CITY. In exchange for the Team’s use of those facilities specified in this Agreement for the 2024 Training Camp, the Team agrees to pay City usage rent (“Usage Rent”) in the amount of one hundred and sixty-five thousand (\$165,000).

1. Usage Rent schedule shall be as follows:
 - 50% deposit due upon contract execution
 - 25% due on July 1, 2024
 - 25% final payment due by August 31, 2024

B. COMMUNITY CONTRIBUTIONS. In addition to the payments associated with Maintenance Costs and Usage Rent, Team shall make the following community contributions (“Community Contributions”):

1. ~~Team~~ Junior Training Camp. Team shall ~~host~~ pay for the City to organize a junior training camp (“Jr. Training Camp”) at the Property ~~on a date selected by Team. The Jr. Training Camp shall be open to the public for youth ages six (6) through twelve (12), provided Team shall determine the maximum number of attendees based on operational and staffing availability.~~ The Jr. Training Camp shall be free of charge for all youth attendees. ~~All scheduling, activities, content, Team personnel appearances, marketing, and media coverage for the Jr. Training Camp shall be determined at the sole discretion of the Team. Team~~ City may require all attendees to review and sign a waiver form prior to participating in the Jr. Training Camp. ~~Team shall have no right to brand, market, or publicize the Jr.~~ Training Camp.

2. Team Donation to Local Youth Sports Team. Team shall donate a monetary amount of Ten Thousand Dollars (\$10,000) to a local youth sports team.
3. Vehicle Donation. Team shall donate a new Ford transit van (“Van”) to City. Team shall be responsible for the purchase price and all costs to deliver the Van to City. The Parties shall mutually agree on a pick-up location and date for the Van to be delivered. City shall be responsible for all other costs and obligations in connection with operating the vehicle including registration fees, insurance costs, and any permitting.
4. Ticket Donation. Team shall donate one hundred (100) tickets to City for an NFL preseason game played in Southern California during the 2024-2025 season. Selection of the game and the exact location of the tickets shall be at the discretion of the Team. All other costs related to attendance of the game shall be the responsibility of City or the ticketholder including parking fees and concessions.

In addition to the Community Contributions provided to the City under this Section, the Parties acknowledge that Team shall also provide community contributions to Costa Mesa High School (“CMHS”) under a separate agreement, which shall include: (1) ~~hosting~~paying for an event for the CMHS football team; -and (2) donating weight room equipment to CMHS; however, Team shall have no right to brand, market, or publicize the event or donation.

- C. COSTS. City shall not pay for, nor have any obligation to pay, in whole or in part with public funds any of the Maintenance Costs. No later than September 1, 2024 or by such date as mutually agreed date to by Parties, Team shall be responsible for all work and costs required to restore the Property back to its condition prior to the Training Camp Use and Maintenance Periods-, following the Training Camp Use Period. Following the Training Camp Use Period, the parties will perform an on-site walk through of the Property on a mutually agreed upon date to determine whether any additional maintenance and repairs are required by the Team to restore the field to its condition prior to the Training Camp Use and Maintenance Periods.
- V. CONFLICT OF INTEREST. The Team affirms that, to the best of Team’s knowledge, there exist no actual or potential conflicts of interest between the parties, including the financial interests of their officers, agents, or employees. Any question regarding a possible conflict of interest will be raised with the City.

- VI. COOPERATION.** City and Team shall cooperate in the event of any legal action or claim made by a third party that may result from activities relating to the performance of this Agreement.
- VII. COMPLIANCE.** City and Team agree to comply with all applicable federal, state, and local laws, regulations and codes in the performance of this Agreement. Team and City expressly agree and acknowledge that the terms of this Agreement may be modified to the extent any provision of the League Rules requires such a modification in order to make this Agreement comply with any new League Rules established after the Agreement is executed or any new interpretations or ~~clarifications~~clarifications issued by the NFL for any League Rules, which are existing as of the date of this Agreement. Without limiting the generality of the foregoing, Team shall have the right to terminate this Agreement without penalty upon written notice to City at any time if this Agreement is then prohibited by new League Rules, provided, however, that the requirements of Sections III.C. (Maintenance Costs), and XI. (Indemnification), shall survive termination of the Agreement. As used in this Agreement, "League Rules" means the Constitution, By-Laws and any other agreements or policies of the NFL and its subsidiaries and affiliates, as well as any rulings and or orders of the NFL Commissioner.
- VIII. FORCE MAJEURE.** City and Team shall not be responsible for damages or for delays or failures in performance resulting from acts or occurrences beyond their respective, reasonable control ("Force Majeure Event"), including, without limitation: fire, lightning, explosion, power surge or failure, water, acts of God, war, revolution, civil commotion or acts of civil or military authorities or public enemies; any law, order, regulation, ordinance, or requirement of any government (other than City, unless City action is consistent with this Agreement and generally applicable laws); labor unrest, including without limitation, strikes, slowdowns, picketing or boycotts; inability to secure materials and supplies, transportation facilities, fuel or energy shortages, or acts or omissions of others. If a Party is prevented from performing its material obligations under this Agreement due to a Force Majeure Event, the Parties shall discuss, in good faith, rescheduling the affected dates of the Training Camp Maintenance and/or Use Period, as applicable, to a later mutually agreed upon date(s). If the Parties are unable to mutually agree on a later rescheduled date(s), either Party shall have the right to terminate this Agreement without penalty and without any further obligations. In the event of such termination, Team shall be entitled to a refund pro rata, of any pre-paid Usage Rent (as set forth under Section IV.A) or other upfront payments made by Team based on the proportion of days in which Team actually used the Property during the Training Camp Use Period prior to the termination.
- IX. ASSIGNMENT.** The obligations of the parties pursuant to this Agreement shall not be assigned without the prior written consent of the parties.

X. **PUBLIC RECORDS AND CONFIDENTIALITY.**

- A. The Team understands that City is subject to the California Public Records Act and this Agreement constitutes a public record of a type that is generally required to be disclosed upon request.
- B. It is agreed that the Team shall disclose only information necessary for City to provide the facilities and services contemplated by this Agreement and, if any such information is considered confidential, it shall be clearly marked "Confidential Information" and sent by the Team in writing only to City (as specified below) or orally disclosed to City and reduced to writing by the Team within an appropriate time period as reasonably required by the City or otherwise required by law. City shall inform its employees that Confidential Information shall not be used or disclosed to others except in furtherance of this Agreement unless Confidential Information: (i) is or shall have been known to City before its receipt thereof; (ii) is disclosed to City by a third party; (iii) is or shall have become known to the public through no fault of City; or (iv) is required by law to be disclosed.
- C. During and subsequent to the term of this Agreement, no publicity, advertisement, media release or other public announcement related to this Agreement or the subject matter hereof, including without limitation, reference to the Las Vegas Raiders or its trademarks or products or services, in connection with this Agreement, will be made without Team's prior written consent.

XI. **INDEMNIFICATION.**

- A. Except as otherwise limited herein, City shall defend, indemnify and hold harmless the Team, LV Stadium Events Company, LLC, The Oakland Raiders, a California limited partnership, The Raider Image, LLC, Raiders Foundation NV, and each of their officers, and employees, agents from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the grossly negligent or intentional acts or omissions of City, their/its officers, employees, or agents.
- B. Except as otherwise limited herein, the Team shall defend, with the attorneys of City's choosing, indemnify and hold harmless City and their/its officers, employees, and agents from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising

out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the grossly negligent or intentional acts or omissions of the Team or their/its officers, employees, or agents.

- C. Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release any Party from its obligation to indemnify as to any claims or cause of action asserted so long as the event(s) upon which such claim or cause of action is predicated shall have occurred prior to the effective date of termination or completion.

XII. INSURANCE.

- A. The Team, shall obtain, maintain, and keep in full force and effect during any and all Training Camp Use Periods, and Training Camp Maintenance Periods, all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent AM Best's Insurance Rating Guide, and approved by City:
1. Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than five million dollars (\$5,000,000.00), combined single limits, per occurrence and no less than ten million dollars (\$10,000,000.00) general aggregate limit. For the year 2024, the above insurance shall cover the period beginning within two (2) weeks of execution of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the commencement of the Term of this Agreement.
 2. Business automobile liability for owned vehicles (if any), hired, and non-owned vehicles, with a policy limit of not less than Ten Million Dollars (\$10,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
 3. Property Insurance, Fire and Extended Coverage Form in an amount sufficient to reimburse Team for all of its equipment, trade fixtures, inventory, fixtures and other personal property located on or in the Property.
 4. Workers' Compensation as required by California law.
 5. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of City and the Team against other insurable risks relating to performance.

B. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

1. Additional insureds: “The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of this Agreement with the City.”
2. Notice: “Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled nor the coverage or limits reduced, until thirty (30) days after written notice is given to City (for the avoidance of doubt, any notice of a reduction in coverage may come from Team and not from Team’s insurance carrier).”
3. Other insurance:— “The Team’s insurance coverage shall be primary insurance as respects the City and its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy.”
4. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City and its officers, officials, agents, employees, and volunteers.
5. The City’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

C. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

D. Certificates of Insurance. Team shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to the commencement of a Training Camp Maintenance Period.

E. Non-limiting. Nothing in this Section shall be construed as limiting in any way; the indemnification provision contained in this Agreement.

XIII. COSTS OF IMPROVEMENTS. Team has been alerted to the requirements of California Labor Code section 1770, *et seq.*, which require the payment of prevailing wage rates and the performance of other requirements if it is determined that

improvements made to the Property related to this Agreement constitute public works. It shall be the sole responsibility of team to determine whether to pay prevailing wages for any or all work required by this Agreement. As a material part of this Agreement, team agree to assume all risk of liability arising from any decision not to pay prevailing wages for work related to this Agreement.

XIV. WAIVER OF SUBROGATION. The team hereby waives any right of recovery against City due to loss of or damage to the property of Team, when such loss of or damage to property arises out of an act of God or any of the property perils included in the classification of fire or extended perils (“all risk” as such term is used in the insurance industry) whether or not such perils have been insured, self-insured, or non-insured; provided however, team does not waive the right of subrogation where the loss or damage is caused by City’s gross negligence or willful misconduct.

XV. DAMAGES. Except as otherwise provided in this Agreement, the Team shall be responsible for damages to City property directly resulting from Team’s use of the Property (or portion thereof) except for damages resulting from acts of God or by City or its agents or employees, ordinary wear and tear excluded. As set forth in Section IV.C, the parties will perform a walk through of the Property following the Training Camp Use Period to identify any damage for which Team is responsible for. In the event of damage resulting from the Team’s use of the Property, City shall invoice the Team for the cost to repair such damage or restore the Property. The Team shall pay to City the invoiced charges within thirty (30) days of receipt of the invoice or such other mutually agreed upon date.

XVI. SECURITY, HEALTH AND SAFETY.

When using City facilities:

- A. The Team shall inspect the fields to be used at the Property prior to use each day and report any material hazards or defects to City immediately.
- B. If the Team performs any “Trainer” services on site, such services shall be performed by appropriately licensed trainers or medical personnel.
- C. Each Party shall comply with all federal, state and local laws in performance of this Agreement.
- D. The Team understands that the possession, use and sale of alcohol on the City campus is governed by City Alcohol Policy and California state law. The Team agrees to comply with such policy and laws while on City property.

XVII. NOTICE. Whenever any notice is to be given hereunder, it shall be in writing and shall be deemed received, if delivered by courier on a business day, on the day delivered, or on the second business day following mailing, if sent by first-class mail, postage prepaid, or if by e-mail, on the date delivered if there is a confirmation of receipt received by the sending Party, to the following addresses:

To City: Lori Ann Farrell Harrison, City Manager
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
e-mail: loriann@costamesaca.gov

To City Attorney: Jones Mayer
Kimberly Hall Barlow, City Attorney
3777 N. Harbor Blvd.
Fullerton, CA 92835
e-mail: khb@jones-mayer.com

To the Team: Raiders Football Club, LLC
Attention: Peter Caracciolo
1475 Raiders Way
Henderson, NV 89052
e-mail: pcaracciolo@raiders.com

To Team's Attorney: Raiders Football Club, LLC
Attention: Legal
1475 Raiders Way
Henderson, NV 89052
e-mail: legal@raiders.com

XVIII. SEVERABILITY. If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired, or invalidated in any way.

XIX. NON-WAIVER. Waiver or non-enforcement by either Party of a term or condition shall not constitute a waiver or non-enforcement of any other term or condition or of any subsequent breach of the same or similar term or condition.

XX. NO THIRD-PARTY RIGHTS. Nothing in this Agreement is intended to make any person or entity who is not signatory to the Agreement a third-party beneficiary of any right created by this Agreement or by operation of law.

XXI. DISPUTE RESOLUTION. Any dispute arising regarding the interpretation or implementation of this Agreement, including any claims for breach of this Agreement, shall be resolved by submitting the claim for arbitration to JAMS in accordance with its rules and procedures applicable to commercial disputes. The location of any arbitration proceedings shall be Orange County, California, and any enforcement of the arbitrator's decision shall be brought in a court of competent jurisdiction in Orange County, California.

XXII. AMENDMENTS. Any amendments to this Agreement must be made, in writing, and approved by the authorized representatives of the Team and City.

XXIII. ENTIRE AGREEMENT. This Agreement and any exhibits attached hereto constitute the entire agreement between the parties to it and supersede any prior understanding or agreement with respect to the subject contemplated, and may be amended only by written amendment executed by both parties to this Agreement.

XXIV. GOVERNING LAW. This Agreement shall be construed in accordance with the laws of the State of California without regard to its conflicts of laws rules.

ACKNOWLEDGED AND ACCEPTED BY:

City of Costa Mesa

Name:

Date

Title:

APPROVED AS TO FORM:

Kimberly Hall Barlow, City Attorney

Date

Raiders Football Club, LLC

|

Signature:

Name:

Title:

Date

DRAFT

EXHIBIT A
JACK HAMMETT SPORTS COMPLEX



DRAFT

**USE AGREEMENT FOR
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III. USE OF PROPERTY DURING EXCLUSIVE USE PERIODS.

- A. GENERAL PROVISIONS. Whenever Team has a right to use the Property or any fields under this Agreement, Team shall have the exclusive rights to use and may use the fields for football training purposes and incidental uses thereto, including but not limited to the preparation for pre-season training and the set up and break down of training and field equipment, subject to the Management Plan submitted by the Team and conditions required by the City as set forth in the Special Event permit to be submitted by Team. Team shall have the obligation to maintain those fields beyond the City’s basic maintenance (“City Maintenance”), and shall be solely responsible for all Maintenance Costs, should Team determine that additional maintenance is required beyond the City Maintenance. The parties shall coordinate whenever planning or performing maintenance. In no event shall City allow for the building of permanent structures or improvements on any of the fields during the Term of this Agreement; provided, however, City may allow temporary structures or improvements to be placed on and adjacent to the fields, such as temporary restrooms or grandstands, when such temporary structures or improvements are consistent with the uses of the Property pursuant to this Agreement and do not result in permanent damage or destruction to the quality of the fields.

- B. SPECIAL EVENT PERMIT REQUIRED FOR EVENTS HELD DURING TRAINING CAMP USE PERIODS. During the Training Camp Use Period, Team shall conduct no less than ten (10) private practices at the Property, with attendance limited to X number, including Team personnel, City personnel, invitees, and existing Team sponsors and season ticket holders (but excluding Team players, coaches, football support staff, public safety and security personnel). Team may make accommodations by having bleachers on the Property to support the X number of attendees listed above and may have other related event accommodations (such as portable restrooms, temporary food service provisions including food trucks, and any needed security provisions). The scheduling of all practices held by Team during the Training Camp Use Period shall be at the sole discretion of Team and subject to the needs and priorities of the Team. Within thirty (30) days of execution of this Agreement, Team shall deliver to City, through its City Manager or authorized designee, any necessary permit applications, including but not limited to a special event permit application and management plan that includes, but is not limited to, the anticipated dates of the Training Camp Use and Maintenance Periods. Team shall also submit such information with the special event permit application, and provide City with its plan for parking, traffic, safety and security, noise management, concessions, staffing, site improvements and any other relevant information (“Management Plan”) required by the City Manager. Team shall cooperate with the Orange County Fairgrounds as well as other surrounding properties in developing their Management Plan, and, in particular, addressing their parking needs during the Training Camp Use Period. The City Manager or authorized designee, shall have the discretion to place reasonable conditions on the Team, as set forth in the Special Event Permit to be submitted by the Team, related to the use of the Property pursuant to this Agreement. The Team shall obtain all other applicable permits (such as a film permit), all of which shall be subject to review and approval of the City Manager or authorized designee, for use of the Property pursuant to this Agreement. All costs for review and approval by the City shall be borne by the Team. The City Manager or authorized designee shall review and approve, deny, or approve with conditions, such management plan and all permits as expeditiously as possible, and in no event more than thirty (30) days after a complete application has been submitted to the City Manager or authorized designee.
- C. City and Team acknowledge and agree that any plans for practices during the Training Camp Use Period shall be discussed in advance of such practice(s) by the Team with the other NFL teams based in southern California (“Southern California NFL Teams”), and such discussions shall include the number of invitees and any related Community Contributions outlined in Section IV.B.

- D. **MAINTENANCE COSTS.** Team shall have the obligation to pay all costs and expenses relating to the preparation for the use periods including any approved temporary improvements, except for any City Maintenance. In addition, for the Term of this Agreement, Team shall be responsible for all Maintenance Costs related to Fields 3 and 4 beyond the City Maintenance.

IV. USAGE RENT AND COMMUNITY CONTRIBUTIONS.

- A. **USAGE RENT TO CITY.** In exchange for the Team's use of those facilities specified in this Agreement for the 2024 Training Camp, the Team agrees to pay City usage rent ("Usage Rent") in the amount of one hundred and sixty-five thousand (\$165,000).

1. Usage Rent schedule shall be as follows:
 - 50% deposit due upon contract execution
 - 25% due on July 1, 2024
 - 25% final payment due by August 31, 2024

- B. **COMMUNITY CONTRIBUTIONS.** In addition to the payments associated with Maintenance Costs and Usage Rent, Team shall make the following community contributions ("Community Contributions"):

1. **Junior Training Camp.** Team shall pay for the City to organize a junior training camp ("Jr. Training Camp") at the Property. The Jr. Training Camp shall be free of charge for all youth attendees. City may require all attendees to review and sign a waiver form prior to participating in the Jr. Training Camp. Team shall have no right to brand, market, or publicize the Jr. Training Camp.
2. **Team Donation to Local Youth Sports Team.** Team shall donate a monetary amount of Ten Thousand Dollars (\$10,000) to a local youth sports team.
3. **Vehicle Donation.** Team shall donate a new Ford transit van ("Van") to City. Team shall be responsible for the purchase price and all costs to deliver the Van to City. The Parties shall mutually agree on a pick-up location and date for the Van to be delivered. City shall be responsible for all other costs and obligations in connection with operating the vehicle including registration fees, insurance costs, and any permitting.
4. **Ticket Donation.** Team shall donate one hundred (100) tickets to City for an NFL preseason game played in Southern California during the 2024-2025 season. Selection of the game and the exact location of the

tickets shall be at the discretion of the Team. All other costs related to attendance of the game shall be the responsibility of City or the ticketholder including parking fees and concessions.

In addition to the Community Contributions provided to the City under this Section, the Parties acknowledge that Team shall also provide community contributions to Costa Mesa High School (“CMHS”) under a separate agreement, which shall include: (1) paying for an event for the CMHS football team; and (2) donating weight room equipment to CMHS; however, Team shall have no right to brand, market, or publicize the event or donation.

- C. **COSTS.** City shall not pay for, nor have any obligation to pay, in whole or in part with public funds any of the Maintenance Costs. No later than September 1, 2024 or by such date as mutually agreed date to by Parties, Team shall be responsible for all work and costs required to restore the Property back to its condition prior to the Training Camp Use and Maintenance Periods, following the Training Camp Use Period. Following the Training Camp Use Period, the parties will perform an on-site walk through of the Property on a mutually agreed upon date to determine whether any additional maintenance and repairs are required by the Team to restore the field to its condition prior to the Training Camp Use and Maintenance Periods.
- V. **CONFLICT OF INTEREST.** The Team affirms that, to the best of Team’s knowledge, there exist no actual or potential conflicts of interest between the parties, including the financial interests of their officers, agents, or employees. Any question regarding a possible conflict of interest will be raised with the City.
- VI. **COOPERATION.** City and Team shall cooperate in the event of any legal action or claim made by a third party that may result from activities relating to the performance of this Agreement.
- VII. **COMPLIANCE.** City and Team agree to comply with all applicable federal, state, and local laws, regulations and codes in the performance of this Agreement. Team and City expressly agree and acknowledge that the terms of this Agreement may be modified to the extent any provision of the League Rules requires such a modification in order to make this Agreement comply with any new League Rules established after the Agreement is executed or any new interpretations or clarifications issued by the NFL for any League Rules, which are existing as of the date of this Agreement. Without limiting the generality of the foregoing, Team shall have the right to terminate this Agreement without penalty upon written notice to City at any time if this Agreement is then prohibited by new League Rules, provided, however, that the requirements of Sections III.C. (Maintenance Costs), and XI. (Indemnification), shall survive termination of the Agreement. As used in this Agreement, “League Rules”

means the Constitution, By-Laws and any other agreements or policies of the NFL and its subsidiaries and affiliates, as well as any rulings and or orders of the NFL Commissioner.

VIII. FORCE MAJEURE. City and Team shall not be responsible for damages or for delays or failures in performance resulting from acts or occurrences beyond their respective, reasonable control (“Force Majeure Event”), including, without limitation: fire, lightning, explosion, power surge or failure, water, acts of God, war, revolution, civil commotion or acts of civil or military authorities or public enemies; any law, order, regulation, ordinance, or requirement of any government (other than City, unless City action is consistent with this Agreement and generally applicable laws); labor unrest, including without limitation, strikes, slowdowns, picketing or boycotts; inability to secure materials and supplies, transportation facilities, fuel or energy shortages, or acts or omissions of others. If a Party is prevented from performing its material obligations under this Agreement due to a Force Majeure Event, the Parties shall discuss, in good faith, rescheduling the affected dates of the Training Camp Maintenance and/or Use Period, as applicable, to a later mutually agreed upon date(s). If the Parties are unable to mutually agree on a later rescheduled date(s), either Party shall have the right to terminate this Agreement without penalty and without any further obligations. In the event of such termination, Team shall be entitled to a refund pro rata, of any pre-paid Usage Rent (as set forth under Section IV.A) or other upfront payments made by Team based on the proportion of days in which Team actually used the Property during the Training Camp Use Period prior to the termination.

IX. ASSIGNMENT. The obligations of the parties pursuant to this Agreement shall not be assigned without the prior written consent of the parties.

X. PUBLIC RECORDS AND CONFIDENTIALITY.

- A. The Team understands that City is subject to the California Public Records Act and this Agreement constitutes a public record of a type that is generally required to be disclosed upon request.
- B. It is agreed that the Team shall disclose only information necessary for City to provide the facilities and services contemplated by this Agreement and, if any such information is considered confidential, it shall be clearly marked “Confidential Information” and sent by the Team in writing only to City (as specified below) or orally disclosed to City and reduced to writing by the Team within an appropriate time period as reasonably required by the City or otherwise required by law. City shall inform its employees that Confidential Information shall not be used or disclosed to others except in furtherance of this Agreement unless Confidential Information: (i) is or shall have been known to

City before its receipt thereof; (ii) is disclosed to City by a third party; (iii) is or shall have become known to the public through no fault of City; or (iv) is required by law to be disclosed.

- C. During and subsequent to the term of this Agreement, no publicity, advertisement, media release or other public announcement related to this Agreement or the subject matter hereof, including without limitation, reference to the Las Vegas Raiders or its trademarks or products or services, in connection with this Agreement, will be made without Team's prior written consent.

XI. INDEMNIFICATION.

- A. Except as otherwise limited herein, City shall defend, indemnify and hold harmless the Team, LV Stadium Events Company, LLC, The Oakland Raiders, a California limited partnership, The Raider Image, LLC, Raiders Foundation NV, and each of their officers, and employees, agents from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the grossly negligent or intentional acts or omissions of City, their/its officers, employees, or agents.
- B. Except as otherwise limited herein, the Team shall defend, with the attorneys of City's choosing, indemnify and hold harmless City and their/its officers, employees, and agents from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the grossly negligent or intentional acts or omissions of the Team or their/its officers, employees, or agents.
- C. Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release any Party from its obligation to indemnify as to any claims or cause of action asserted so long as the event(s) upon which such claim or cause of action is predicated shall have occurred prior to the effective date of termination or completion.

XII. INSURANCE.

- A. The Team, shall obtain, maintain, and keep in full force and effect during any and all Training Camp Use Periods, and Training Camp Maintenance Periods, all of the

following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent AM Best's Insurance Rating Guide, and approved by City:

1. Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than five million dollars (\$5,000,000.00), combined single limits, per occurrence and no less than ten million dollars (\$10,000,000.00) general aggregate limit. For the year 2024, the above insurance shall cover the period beginning within two (2) weeks of execution of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the commencement of the Term of this Agreement.
2. Business automobile liability for owned vehicles (if any), hired, and non-owned vehicles, with a policy limit of not less than Ten Million Dollars (\$10,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
3. Property Insurance, Fire and Extended Coverage Form in an amount sufficient to reimburse Team for all of its equipment, trade fixtures, inventory, fixtures and other personal property located on or in the Property.
4. Workers' Compensation as required by California law.
5. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of City and the Team against other insurable risks relating to performance.

B. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

1. Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of this Agreement with the City."
2. Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled nor the coverage or limits reduced, until thirty (30) days after written notice is given to City (for the avoidance of doubt, any notice of a reduction in coverage may come from Team and not from Team's insurance carrier)."
3. Other insurance: "The Team's insurance coverage shall be primary insurance as respects the City and its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa

shall be excess and not contributing with the insurance provided by this policy.”

4. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City and its officers, officials, agents, employees, and volunteers.
5. The City’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

C. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

D. Certificates of Insurance. Team shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to the commencement of a Training Camp Maintenance Period.

E. Non-limiting. Nothing in this Section shall be construed as limiting in any way; the indemnification provision contained in this Agreement.

XIII. COSTS OF IMPROVEMENTS. Team has been alerted to the requirements of California Labor Code section 1770, *et seq.*, which require the payment of prevailing wage rates and the performance of other requirements if it is determined that improvements made to the Property related to this Agreement constitute public works. It shall be the sole responsibility of team to determine whether to pay prevailing wages for any or all work required by this Agreement. As a material part of this Agreement, team agree to assume all risk of liability arising from any decision not to pay prevailing wages for work related to this Agreement.

XIV. WAIVER OF SUBROGATION. The team hereby waives any right of recovery against City due to loss of or damage to the property of Team, when such loss of or damage to property arises out of an act of God or any of the property perils included in the classification of fire or extended perils (“all risk” as such term is used in the insurance industry) whether or not such perils have been insured, self-insured, or non-insured; provided however, team does not waive the right of subrogation where the loss or damage is caused by City’s gross negligence or willful misconduct.

XV. DAMAGES. Except as otherwise provided in this Agreement, the Team shall be responsible for damages to City property directly resulting from Team’s use of the Property (or portion thereof) except for damages resulting from acts of God or by City or its agents or employees, ordinary wear and tear excluded. As set forth in Section IV.C, the parties will perform a walk through of the Property following the

Attention: Legal
1475 Raiders Way
Henderson, NV 89052
e-mail: legal@raiders.com

- XVIII. SEVERABILITY.** If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired, or invalidated in any way.
- XIX. NON-WAIVER.** Waiver or non-enforcement by either Party of a term or condition shall not constitute a waiver or non-enforcement of any other term or condition or of any subsequent breach of the same or similar term or condition.
- XX. NO THIRD-PARTY RIGHTS.** Nothing in this Agreement is intended to make any person or entity who is not signatory to the Agreement a third-party beneficiary of any right created by this Agreement or by operation of law.
- XXI. DISPUTE RESOLUTION.** Any dispute arising regarding the interpretation or implementation of this Agreement, including any claims for breach of this Agreement, shall be resolved by submitting the claim for arbitration to JAMS in accordance with its rules and procedures applicable to commercial disputes. The location of any arbitration proceedings shall be Orange County, California, and any enforcement of the arbitrator's decision shall be brought in a court of competent jurisdiction in Orange County, California.
- XXII. AMENDMENTS.** Any amendments to this Agreement must be made, in writing, and approved by the authorized representatives of the Team and City.
- XXIII. ENTIRE AGREEMENT.** This Agreement and any exhibits attached hereto constitute the entire agreement between the parties to it and supersede any prior understanding or agreement with respect to the subject contemplated, and may be amended only by written amendment executed by both parties to this Agreement.
- XXIV. GOVERNING LAW.** This Agreement shall be construed in accordance with the laws of the State of California without regard to its conflicts of laws rules.

ACKNOWLEDGED AND ACCEPTED BY:

City of Costa Mesa

Name:
Title:

Date

APPROVED AS TO FORM:

Kimberly Hall Barlow, City Attorney

Date

Raiders Football Club, LLC

Signature:
Name:
Title:

Date

DRAFT

EXHIBIT A
JACK HAMMETT SPORTS COMPLEX

DRAFT