

**MEMORANDUM OF UNDERSTANDING RELATING TO SPECIFIED EVENT
CENTER IMPROVEMENT PROJECTS**

This Memorandum of Understanding Relating To Specified Event Center Improvement Projects (“MOU”) is entered into as of the Effective Date (as defined herein) by and between the County Of San Mateo, a political subdivision of the State of California, hereinafter referred to as the “County”, and the San Mateo County Exposition And Fair Association, a non-profit corporation, hereinafter referred to as the “Association,” (the County and the Association may be collectively referred to herein as “Parties,” or individually as a “Party”).

Recitals

WHEREAS, the County is the owner of certain property known and designated as the San Mateo County Event Center (“Event Center”), located in the City of San Mateo, County of San Mateo, State of California, and has caused to be erected thereon buildings and structures to provide for conference, conventions, and expositions, and for exhibiting and displaying the agricultural, horticultural, viticultural, livestock, and other products, which buildings/structures include a certain building known as Fiesta Hall; and

WHEREAS, pursuant to that certain “Agreement Providing for Management of the San Mateo County Fair and the San Mateo County Event Center” between the County and the Association (the “Event Center Management Agreement”), dated August 12, 2008, as amended, a copy of which is attached hereto as **Exhibit A**, the Association manages the Event Center and its satellite wagering facility in accordance with the terms and provisions of the Event Center Management Agreement; and

WHEREAS, the Event Center Management Agreement contains provisions governing the use, maintenance, and improvement of the Event Center, which provide, in pertinent part, that the County “has ownership and control of all the Event Center property” (§ 9(a)); “No major maintenance or capital improvements can be undertaken without the prior approval of the County” (§9(b)); “Non-reimbursed emergency and or unanticipated major maintenance items will be handled on a case by case basis” (§9(c)); and the “Association will be responsible for the administration and supervision of all major maintenance and capital improvements” (§9(d)); and

WHEREAS, the County desires to improve the Event Center and ensure the continued suitability of the property for hosted conferences, conventions, and expositions and as an emergency response center, by agreeing to make funds available to the Association in an amount not to exceed \$700,000.00 for certain costs incurred in connection with a project to replace the heater at Fiesta Hall (the “Fiesta Hall Project”), subject to the limitations set forth in this MOU; and

WHEREAS, the County also desires to improve the Event Center by agreeing to make funds available to the Association in an amount not to exceed \$1,000,000.00 for certain costs incurred in connection with a project to install solar canopies in the main guest parking lot which includes

relocation of current RV power, water, and sewer hookup locations under solar canopies, offering upgraded and out-of-sightline power, water, and sewer hookups along with additional parking and EV charging stations, improvements that will increase the Association's ability to accommodate hosted conferences, conventions, and expositions and enhance its emergency preparedness in order to serve San Mateo County residents in case of a disaster (the "Solar Canopies Project"), subject to the limitations set forth in this MOU; and

WHEREAS, the County also desires to improve the Event Center by agreeing to make funds available to the Association in an amount not to exceed \$300,000.00 for certain costs incurred in connection with a project to make internet and Wi-Fi capability upgrades to offer state-of-the-art Wi-Fi systems at the Event Center for use at hosted conferences, conventions, and expositions as well as for essential emergency response purposes (the "Wi-Fi Upgrades Project"), subject to the limitations set forth in this MOU; and

WHEREAS, the Fiesta Hall Project, the Solar Canopies Project and the Wi-Fi Upgrades Project may be collectively referred to herein as the "Projects;" and

WHEREAS, the Parties agree that the Projects fall within the scope of major maintenance and/or capital improvement under Section 9 of the Event Center Management Agreement, for which County approval is required and which shall be administered and supervised by the Association; and

WHEREAS, the Association has entered into an Individual Project Agreement numbered CCA Project# SMA-21-062 with the California Construction Authority ("CCA"), as amended and dated September 21, 2022, by which the CCA will perform services and work including construction and project management in connection with the Fiesta Hall Project, in exchange for payment of fees by the Association in an amount not to exceed Eight Hundred Ten Thousand, One Hundred One Dollars and Zero Cents (\$810,101.00), and which provides that construction work is to be completed by April 27, 2023 (the "CCA IPA-Fiesta Hall Agreement"), a copy of which is attached hereto as **Exhibit B**; and

WHEREAS, the Association has entered into an Individual Project Agreement numbered CCA Project# SMA-22-088 with the California Construction Authority ("CCA"), dated November 16, 2022, by which the CCA will perform services in connection with development of a Request for Proposal for design of the Solar Canopies Project in exchange for payment of fees by the Association in an amount not to exceed Eight Thousand, Two Hundred Thirty-Four Dollars and Fifty-Two Cents (\$8,234.52), and which provides a project budget outline totaling \$4,740,901.10 for the Solar Canopies Project (the "CCA IPA-Solar Canopies Agreement"), a copy of which is attached hereto as **Exhibit C**; and

WHEREAS, the County is not a party to the CCA IPA-Fiesta Hall Agreement or the CCA IPA Solar Canopies Agreement and has no obligations under those agreements and does not through this MOU or otherwise intend or accept any obligations of any kind under those agreements or any other agreement entered into by the Association in connection with the

Projects; and

WHEREAS, the Association has incurred certain design costs related to the Fiesta Hall Project; and

WHEREAS, the purpose of this MOU is to memorialize the understanding between the County and the Association regarding the County's financial contributions to the Projects and as to the Association's administration and supervision of the Projects.

MEMORANDUM OF UNDERSTANDING

NOW, THEREFORE, in consideration of the foregoing and the terms, covenants and conditions herein contained, the Parties agree as follows:

1. **Board Approval.** This MOU is contingent upon the approval of the County's Board of Supervisors.
2. **Association's Project Administration and Supervision.** The Parties understand and agree that the Association shall be responsible for administration and supervision of the Projects, including the management of any agreements entered into by the Association with contractors for the Projects, including the CCA, in accordance with their terms and conditions to ensure the effective, efficient, and timely completion of the Projects. The Association further specifically agrees in connection with its administration and supervision of the Projects to:
 - a. Ensure the retention of qualified contractors to perform services in connection with the Projects using competitive procurement.
 - b. Ensure the satisfactory completion of all project management, construction inspections, and tasks for the Projects, including as outlined in the CCA IPA-Fiesta Hall Agreement and the CCA IPA Solar Canopies Agreement; and
 - c. Ensure that services and work performed in connection with the Projects complies with all applicable laws, regulations, and ordinances, including, but not limited to, appropriate licensure, certification regulations, confidentiality of records, applicable quality assurance regulations, and Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware, and further ensure that CCA and any other contractors retained in connection with the Projects timely and accurately completes, signs, and submits any/all necessary documentation regarding such compliance; and
 - d. Regularly update the County as to status and progress of all stages of the Projects and respond to reasonable requests from the County regarding the Projects; and

- e. Exercise oversight to ensure that costs and expenses for the Projects are reasonable and, with respect to the Fiesta Hall Project, adhere to the limits outlined in the CCA IPA-Fiesta Hall Agreement, and with respect to the Solar Canopies Project, adhere to the project budget outlined provided in the CCA IPA -Solar Canopies Agreement; and
 - f. Upon the County's request and also, without further request, within fifteen (15) business days after either the completion of the Projects or termination of this MOU pursuant to §6 herein (Right of Termination), provide the County with an accounting of the funds deposited by the County into the Association's Capital Improvement Fund ("CIF") as provided herein, inclusive of interest earned by those funds, and remit to the County the remaining balance of funds, if any, including any interest earned by those funds while maintained by the Association.
3. **County Financial Contributions to Specified Event Center Improvement Projects.** The County's aggregate financial contribution under this Agreement shall not exceed a total of Two Million Dollars and Zero Cents (\$2,000,000.00), which amount shall be allocated to the respective Projects as set forth in this section.
- a. **Fiesta Hall Project Contribution.** The County agrees to make funds available to the Association in an amount not to exceed Seven Hundred Thousand Dollars and Zero Cents (\$700,000.00) for reasonable costs incurred in connection with the Fiesta Hall Project (including such costs incurred by the Association under the CCA IPA-Fiesta Hall Agreement) through deposit of such funds by the County to the Association's CIF, which is maintained in the County's treasury, within fifteen (15) business days of the Effective Date as defined in §18 herein. The County does not agree to provide any further funding for the Fiesta Hall Project or associated expenses absent approval by the County's Board of Supervisors. Further to §2(e) herein, the Association shall within fifteen (15) business days after either completion of the Fiesta Hall Project or termination of this MOU remit to the County any unexpended funds that may exist in the Association's CIF, including any interest earned by those funds while maintained by the Association.
 - b. **Solar Canopies Project Contribution.** The County agrees to make funds available to the Association in an amount not to exceed One Million Dollars and Zero Cents (\$1,000,000.00) for reasonable costs incurred in connection with the Solar Canopies Project (including such costs incurred by the Association under the CCA IPA – Solar Canopies Agreement) through deposit of such funds by the County to the Association's CIF, which is maintained in the County's treasury, within fifteen (15) business days of the Effective Date as defined in §18 herein. The County does not agree to provide any further funding for the Solar Canopies Project or associated expenses absent approval by the County's Board of Supervisors. Further to §2(e) herein, the Association shall within fifteen (15) business days after either completion of the Solar Canopies Project or termination of this MOU remit to the County any unexpended funds that may exist in

the Association's CIF, including any interest earned by those funds while maintained by the Association

- c. **Wi-Fi Upgrades Project Contribution.** The County agrees to make funds available to the Association in an amount not to exceed Three Hundred Thousand Dollars and Zero Cents (\$300,000.00) for reasonable costs incurred in connection with the Wi-Fi Upgrades Project through deposit of such funds by the County to the Association's CIF, which is maintained in the County's treasury, within fifteen (15) business days of the Effective Date as defined in §18 herein. The County does not agree to provide any further funding for the Wi-Fi Upgrades Project or associated expenses absent approval by the County's Board of Supervisors. Further to §2(e) herein, the Association shall within fifteen (15) business days after either completion of the Wi-Fi Upgrades Project or termination of this MOU remit to the County any unexpended funds that may exist in the Association's CIF, including any interest earned by those funds while maintained by the Association.

4. **Retention Of Records, Right To Monitor And Audit.** The County shall have the right to access, review, and examine the Association's records and documents to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this MOU, and to evaluate the quality, appropriateness, and timeliness of services performed by any contractor retained to perform services in connection with the Projects, including CCA. The County shall have the authority to direct the Association to exercise its rights under any agreement between the Association and any contractor retained in connection with the Projects to access and examine that contractor's records and documents as necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations.

5. **Term.** Subject to compliance with all terms and conditions, the term of the MOU shall be from December 1, 2022, through and including June 30, 2023. The term of the MOU may be extended by mutual written, signed agreement of the Parties.

6. **Right Of Termination.** Either Party may terminate this MOU with or without cause effective as of thirty (30) days upon written notice to the other Party.

7. **No Power To Contract In The Name Of The Other Party.** Neither Party, nor anyone acting on their behalf, shall have the right or authority to enter into any contract in the name of the other Party or to otherwise bind the other Party in any way without the express written consent of the Party.

8. **Indemnification.** The Association agrees that it shall defend, indemnify, and hold harmless the County, its officers, agents and/or employees from any and all claims for injuries to persons and/or damages of any kind that arise out of or relate to the Projects, this MOU, and any agreement between the Association and any contractor retained in connection with the Projects, including CCA.

9. **Merger Clause.** This MOU constitutes the sole and complete MOU between the Parties pertaining to the subject matter contained herein and correctly states the rights, duties, and obligations of each Party. Any prior agreement, promises, negotiations, or representations between the Parties related to the subject matter contained herein not expressly stated in this document are not binding. All subsequent modifications to this MOU shall be in writing and signed by the Parties.

10. **No Third-Party Beneficiaries.** This MOU is entered into for the sole benefit of the Parties and is not for the benefit of, nor may any provision hereof, be enforced by any other person or entity. Nothing contained herein or in the Parties' course of dealings shall be construed as conferring any third-party beneficiary status on any person or entity not a party to this MOU.

11. **Controlling Law.** The validity of this MOU and of its terms, the rights and duties of the Parties under this MOU, the interpretation of this MOU, the performance of this MOU, and any other dispute of any nature arising out of this MOU shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this MOU shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

12. **Severability.** If any provision of this MOU shall be held to be invalid, void, or unenforceable, the validity, legality, or enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

13. **Conflict of Interest.** Each of the Parties shall avoid all conflicts of interest in the performance of this MOU and shall immediately notify the other Parties should a conflict of interest arise that would prohibit or impair any ability to perform under this MOU.

14. **Disputes.** The Parties agree that, with regard to all disputes or disagreements arising under this MOU that are not resolved informally at the staff level after a good faith attempt, the Parties may, at their sole and mutual discretion, agree to engage in mediation, and the costs of any such mediation shall be divided equally between the Parties.

15. **Notices.** Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of the County, to:

Michael Callagy, County Executive

400 County Center

Redwood City, CA 94063

(650) 363-4123

mcallagy@smcgov.org

In the case of the Association, to:

Dana Stoehr, Chief Executive Officer

2495 S. Delaware Street

San Mateo, CA 94403

(650) 574-3247

dstoehr@smcec.co

16. **Electronic Signature.** The Parties wish to permit this MOU and future documents relating to this MOU to be signed electronically in accordance with California law, the County's Electronic Signature Administrative Memo and associated resolution.

17. **Signatures in Counterparts.** This MOU may be signed in counterparts, such that signatures appear on separate signature pages. A copy or original of this document with all signature pages appended together shall be deemed a fully executed agreement. This MOU may be executed and delivered by facsimile transmission, by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, each of which shall be deemed an original.

18. **Effective Date.** This MOU shall become effective upon execution by the Parties hereto and approval by the County's Board of Supervisors (the "Effective Date").

[Signatures of the Parties appear on the following page.]

IN WITNESS WHEREOF the parties hereto by their duly authorized representative, have affixed their hands on this _____ day of _____, 2022.

COUNTY OF SAN MATEO

By _____
Mike Callagy, County Executive

SAN MATEO COUNTY EXPOSITION AND FAIR ASSOCIATION

By *Dana Stoehr*
Dana Stoehr, Chief Executive Officer

EXHIBIT A

[INSERT EXECUTED COPY OF “AGREEMENT PROVIDING FOR MANAGEMENT OF
SAN MATEO COUNTY FAIR AND SAN MATEO COUNTY EVENT CENTER”]

EXHIBIT B

[INSERT EXECUTED COPY OF DOCUMENT TITLED "AMENDMENT NO. 1
INDIVIDUAL PROJECT AGREEMENT BETWEEN CALIFORNIA CONSTRUCTION
AUTHORITY AND SAN MATEO COUNTY EVENT CENTER FOR THE FIESTA
HALL HEATER REPLACEMENT, CCA PROJECT#: SMA-21-062"]

EXHIBIT C

[INSERT EXECUTED COPY OF DOCUMENT TITLED "INDIVIDUAL PROJECT AGREEMENT BETWEEN CALIFORNIA CONSTRUCTION AUTHORITY AND SAN MATEO COUNTY EVENT CENTER FOR RV PARK AND SOLAR CANOPIES, CCA PROJECT#: SMA-22-088"]