

**MEMORANDUM OF UNDERSTANDING RELATING TO HAZARD MITIGATION
GRANT REIMBURSEMENT**

This Memorandum of Understanding Relating To Hazard Mitigation Grant Reimbursement (“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 conferences, conventions, and expositions, and for exhibiting and displaying agricultural, horticultural, viticultural, livestock, and other products; and

WHEREAS, pursuant to that certain “Agreement Providing for Management of the San Mateo County Fair and the San Mateo County Event Center” by and between the County and the Association (the “Event Center Management Agreement”), dated August 12, 2008, as amended, which is incorporated by reference as if fully set forth herein, 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 Event Center serves as a critical facility, supports emergency services and disaster response in the County, and has been designated as a Community Resilience Center pursuant to Assembly Bill 211, which provides that Community Resilience Centers shall serve as community emergency response facilities and aid in building long-term resilience, preparedness, and recovery operations for local communities; and

WHEREAS, on September 9, 2022, the Federal Emergency Management Agency (“FEMA”) approved \$900,000 in funds under the Hazard Mitigation Grant Program (“HMGP”) to upgrade the Event Center’s electrical facilities and install two new generators and automatic transfer switches at its Expo Hall and Central Mall Substation (the “Project”); and

WHEREAS, on September 19, 2022, the California Governor's Office of Emergency Services ("Cal OES") provided notification of FEMA's approval of the HGMP grant for the Project and specified requirements to receive reimbursements as a grant subrecipient for costs of the Project; and

WHEREAS, the Parties agree that the Project is 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, or may enter, into agreements with third parties to complete the Project and incur costs in connection therewith, but the County is not a party to any such agreements and has no obligations under those agreements and does not through this MOU or otherwise intend or accept any obligations of any kind under such agreements or any other agreement entered into by the Association in connection with the Project; and

WHEREAS, CalOES requires the Board of Supervisors, as governing body of a non-state agency, to issue a resolution under CalOES form OES-FPD-130 authorizing specified agents to execute applications for and on behalf of the County for the purpose of obtaining federal financial assistance for existing or future grant programs, as a condition of obtaining reimbursement under such grant programs, which resolution shall be effective for a three year period; and

WHEREAS, the County intends to authorize the Chief Executive Officer of the Association as an agent in connection with the CalOES form OES-FPD-130 requirement to facilitate the submission and processing of CalOES reimbursement for the Association's costs incurred for the Project under the HMGP, which reimbursements are expected to be provided directly to the County by CalOES or FEMA; and

WHEREAS, the purpose of this MOU is to memorialize the understanding between the Parties relating to the Project and the disposition of reimbursements the County may receive from CalOES and/or FEMA under the HMGP for the Project.

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 Project,

including the management of any agreements entered into by the Association with contractors for the Project. The Association further specifically agrees in connection with its administration and supervision of the Project to:

- a. Ensure the retention of qualified contractors to perform services in connection with the Project using applicable required procurement processes; and
- b. Ensure the satisfactory completion of all project management, construction inspections, and tasks for the Project; and
- c. Ensure that services and work performed in connection with the Project complies with all applicable laws, regulations, and ordinances, including, but not limited to, appropriate licensure requirements, 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 any contractors retained in connection with the Project timely and accurately complete, sign, and submit any/all necessary documentation regarding such compliance; and
- d. Regularly update the County as to status and progress of all stages of the Project and respond to reasonable requests from the County regarding the Project; and
- e. Exercise oversight to ensure that costs and expenses for the Project are reasonable and necessary and that requests for reimbursement submitted to CalOES and/or FEMA are true, correct, and complete; and
- f. Upon the County's request and also, without further request by the County, within fifteen (15) business days after either the completion of the Project or termination of this MOU pursuant to Paragraph 7 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.

3. **Disposition of Reimbursement Received by County for Association's Project Costs.** The Parties agree that to the extent that the County receives reimbursement funds from CalOES and/or FEMA under the HMGP for the Association's costs of the Project, the County shall remit such funds to the Association by depositing them into the Association's CIF, which is maintained in the County's treasury, within thirty (30) days after the County receives such reimbursement funds. The County does not agree to provide any independent financial contribution to the Project in any amount or to provide reimbursement for the Association's costs of the Project except to pass through such reimbursements from CalOES or FEMA as set forth in this paragraph.

4. **Cooperation.** The Association shall cooperate with and supply necessary information to the County to effectuate this MOU and with CalOES and/or FEMA to ensure

compliance with the requirements of the HMGP in connection with the Project, including with respect to (i) the preparation of any submissions or reports required by CalOES and/or FEMA, and (ii) the fulfillment by the County of any other requirements of CalOES and/or FEMA in connection with the HMGP and the Project.

5. **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 Project. 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 Project 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.

6. **Term.** Subject to compliance with all terms and conditions, the term of the MOU shall be from June 13, 2023, through and including June 30, 2024. The term of the MOU may be extended by mutual written, signed agreement of the Parties.

7. **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.

8. **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.

9. **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 Project, this MOU, and any agreement between the Association and any contractor retained in connection with the Project.

10. **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.

11. **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.

12. **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.

13. **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.

14. **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.

15. **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.

16. **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

17. **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.

18. **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.

19. **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 _____, 2023.

COUNTY OF SAN MATEO

By _____
Mike Callagy, County Executive

SAN MATEO COUNTY EXPOSITION AND FAIR ASSOCIATION

By *Dana Stoehr*
Dana Stoehr, Chief Executive Officer