

**AGREEMENT PROVIDING FOR MANAGEMENT AND OPERATION OF THE
SAN MATEO COUNTY FAIR AND SAN MATEO COUNTY EVENT CENTER**

THIS AGREEMENT, made and entered into this ____ day of _____,
2018, by and between the COUNTY OF SAN MATEO, a political subdivision of the
State of California, hereinafter referred to as "County", and the SAN MATEO COUNTY
EXPOSITION AND FAIR ASSOCIATION, non-profit corporation, hereinafter referred
to as "Association";

WITNESSETH:

WHEREAS, County is the owner of certain property known and designated as the
San Mateo County Event Center ("Event Center"), 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 of said
County; and

WHEREAS, the County is now authorized to conduct satellite wagering at the
Event Center and a building has been renovated for that purpose; and

WHEREAS, it has been and is the mutual desire of the parties hereto that
pursuant to Government Code Section 25906, the Association shall annually conduct the
San Mateo County Fair ("Fair"), and manage and operate the Event Center, and its
buildings and facilities, which includes a Satellite Wagering Facility, for the purposes
authorized by law pursuant to the conditions as hereinafter set forth;

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

1. Pursuant to the terms and conditions hereinafter set forth, the Association
shall annually manage and direct said Fair on such dates as it selects in consideration of
the interests of the County. The Association shall also manage the Event Center and its
satellite wagering facility on a year-round basis to allow other individuals, institutions,
corporations, or associations to conduct lawful activities. The Association shall use best

efforts to manage and direct the Fair, the satellite wagering facility and the Event Center in a manner that will produce revenue that matches or exceeds the costs of said operations. The Association will further use best efforts to direct a high quality Fair that will attract increased attendance and reflect positively on the County.

2. The Association will, subject to the laws of the State of California, manage and control the Fair, the satellite wagering facility and Event Center in accordance with the highest and best standards for the benefit of the people of the County of San Mateo. The Association shall have the power and authority to establish rules and policies governing charges, and may enter into use permits, concessions and licenses upon such terms as it deems advisable within the scope of its authority. The Association shall operate as a public agency, performing certain public functions delegated to it by the County, including but not limited to conducting the annual County Fair, and subject to applicable provisions of the Brown Act, CA Govt. Code §54950, *et seq.*

3. The Association shall retain all monies received by it from conducting the Fair, the satellite wagering facility and the use and management of the Event Center. The Association shall also retain sums that may be appropriated by the State Department of Food and Agriculture to the County from the Fair and Exposition fund of the State of California, which the Board of Supervisors of County, pursuant to all applicable laws and regulations, may determine to use for fair and exposition, or property improvement purposes (e.g., CDFA deferred maintenance grant funds). From such sums, the Association shall pay and discharge all operating expenses and obligations incurred in connection with the preparation, maintenance, management, and operation of said property and of the Fair, as well as any debt service for the satellite wagering facility.

4. The Association will accurately make and keep all usual and necessary records of its actions and transactions and for all monies disbursed or expended by the Association in connection with its management and control of the Event Center,

including the satellite wagering facility. The Association agrees that its books, records and documents pertaining to the Fair shall be subject to examination by authorized State regulatory agencies, including the Department of Food and Agriculture and Division of Fairs and Expositions, and that any such books and documents not transferred to and retained by the County shall be preserved by the Association for such examination for a period of seven years from the date of creation. The Association shall secure an independent Auditor to audit all financial operations of the Association each year of this agreement. The annual audit report shall be provided to the Board of Directors and County Manager.

5. For each calendar year, prior to the expenditure of any funds or the creation of any obligations for the Association, in connection with the use and operation of Event Center, the Association shall submit to the County a budget setting forth in detail all of the items of expenditures and contemplated receipts for the Fair and Event Center, including the satellite wagering facility, during the succeeding year, which budget shall be subject to the approval of the County; following County approval it shall be submitted to the Division of Fairs and Exposition of the State Department of Food and Agriculture in accordance with applicable law. The Association will make best efforts to utilize local San Mateo County companies and will work closely with the San Mateo County Convention and Visitors Bureau to ensure the Event Center's benefit to the County.

6. The Association shall perform general maintenance of all Event Center buildings and grounds. "General Maintenance" as used herein shall be understood to include the following: preventive maintenance for all buildings; planting and maintenance for all landscaped areas; cleaning and general upkeep of all unplanted areas; repair of all buildings, cleaning and upkeep of utility systems, paved roads and areas; repair of all electrical and mechanical systems and devices, and maintenance and upkeep

of storm drains. County shall have the right to monitor the adequacy of maintenance. If, in the opinion of County and after consultation with Association, the inadequacy of the maintenance is such as to lead to the deterioration of County facilities, County may perform the work itself and charge Association for the actual costs of labor and materials.

7. Use of Property, Major Maintenance, and Capital Improvements.

a. The County has ownership and control of all the Event Center property. The Association acknowledges that in performing the services set forth in this agreement, its stewardship of the property and buildings is subject to the County's ownership interest.

b. No major maintenance or capital improvements may be undertaken by the Association or at the Association's direction without the prior approval of the County. "Major maintenance" as used herein shall be understood to be items of maintenance that cost more than \$100,000. "Capital improvements" are those improvements to the real property that cost more than \$100,000. The County shall have ultimately decision-making authority concerning any major maintenance or capital improvements and will work jointly with the Association to perform any major maintenance or capital improvements to Event Center buildings and grounds.

c. Emergency and/or unanticipated major maintenance items will be handled on a case-by-case basis. The Association and the County agree to meet promptly to discuss and seek mutual agreement on the handling of such items.

d. Association will be responsible for the day-to-day administration and supervision of all major maintenance and capital improvements. The Association will keep the County informed of all

stages of such projects. For all projects in which the bid procedure is not required, the Association, through its Chief Executive Officer (CEO), shall consider using County services.

8. Association shall enter into agreements for the provision of labor and materials to set up, dismantle and provide necessary services for the annual Fair, and may enter into agreements with exhibitors to secure such services for all other exposition activities, events and similar activities.

9. County, in exercising its ownership of Event Center, may, with the advice of Association, construct such buildings and other structures as it deems advisable. This authority includes the right to remodel, relocate, replace or demolish any existing structure, determine the nature and location of any new permanent structure, and determine the location and use of any streets, roads, easements, utilities, parking lots or other facilities. Prior to exercising its rights of ownership above stated, County shall consult with and solicit the recommendation of Association.

10. Association is hereby authorized to provide for, conduct and carry on horse racing in accordance with the provisions of the law relating thereto. The Association shall maintain an unrestricted cash reserve of not less than 15% of its annual operating budget.

11. The Association agrees that contracts it enters into for the purchase of goods and/or services that exceed \$50,000, shall be approved by a majority of a quorum of the Board of Directors of the Association and shall be recorded in the minutes of the Board. Contracts for \$50,000 or less may be executed by the CEO or his/her designee.

12. The selection of any CEO of the Event Center shall be made by an affirmative vote of a majority of a five member committee consisting of two members of the Board of Supervisors, two members of the Association Board of Directors, and the County Manager or his/her designee. Such selection shall be subject to ratification by the

Board of Directors of the Association. The dismissal of an Association CEO shall require a majority vote of the same committee.

13. The Board of Supervisors of the County has the sole right to appoint Association Directors. There shall be nine (9) Directors with at least one (1) Director with a background in the agriculture community. A Director's term of office shall be three years. However, Directors shall serve at the pleasure of the Board of Supervisors. The Board of Supervisors shall endeavor to make such appointments and/or re-appointments within sixty days of the date a vacancy occurs whether by expiration of a term or otherwise. A representative from the Association Board of Directors shall participate in interviewing applicants being considered by the Board of Supervisors for appointment to the Association Board of Directors. Directors shall be limited to four full terms of service. A term shall run from October 1 to September 30. Director's terms shall be staggered so that a proportionate number of terms of service shall terminate each year.

14. The Board of Directors shall adopt by-laws consistent with this Agreement and may provide for such standing committees as are necessary. Only Directors shall be members of such standing committees.

15. Association will manage and control the Fair, the Event Center including the Satellite Wagering Facility, subject to the laws of the United States and the State of California, and all applicable ordinances, and will not permit or allow any violation of any law at said property or in connection therewith insofar as it is possible to prevent the same.

16. Insurance.

The Association shall maintain an insurance program in accordance with the following:

- a. Association shall procure and maintain in effect throughout the term of this Agreement insurance covering combined personal injury and property damage in a minimum amount of TEN MILLION

DOLLARS (\$10,000,000.00) per occurrence covering all phases of Association's operations under this Agreement. County shall be named as an "additional insured" on said policy, and the policy shall require the insurer to furnish County with not less than thirty days' advance notice of cancellation or material change in policy provisions. The Association, with the County's consent, may satisfy these insurance requirements through a program of self-insurance.

b. Association shall procure and maintain in effect throughout the term of this Agreement insurance covering Non-Profit Organization Liability in a minimum amount of TEN MILLION DOLLARS (\$10,000,000.00) per occurrence covering all phases of Association's operations under this Agreement.

c. Association shall procure and maintain liability coverage for Products/Completed Operations, Public Officials Errors and Omissions, and Employment Practices Liability in a minimum amount of FIVE MILLION DOLLARS (\$5,000,000.00) per occurrence covering all applicable phases of Association's operations under this Agreement.

d. Association shall cause each and every agency, firm, person, or concessionaire it authorizes to use the Event Center to furnish the Association prior to such use and maintain in effect throughout the period of use evidence of insurance as follows:

i. Combined Bodily Injury and Property Damage Insurance, including products liability, in a minimum amount of ONE MILLION DOLLARS (\$1,000,000.00) per occurrence for each agency, firm, person, or concessionaire using the Event Center, except

that for concessionaires having carnival type amusement rides or similar high risk exposures, the minimum amount of combined insurance shall be TWO MILLION DOLLARS (\$2,000,000.00).

ii. Workers' Compensation Insurance in the full amount required by statute and containing a waiver of subrogation as regards the County.

The Association shall maintain certificates furnished in accordance with the foregoing for a minimum period of three years and shall make such certificates available for inspection by County.

e. The CEO, after consultation with the County Risk Manager, is authorized to modify or waive the limits set forth herein if it has been determined that the risk at issue is minor.

f. The County shall provide fire insurance for the Event Center facility.

17. It is agreed that the County shall defend, save harmless and indemnify Association, its officers and employees, from any and all claims for injuries or damage to persons and/or property which arise out of the terms and conditions of this Agreement and which result from the negligent acts or omissions of the County, its officers and/or employees. It is further agreed that Association shall defend, save harmless, and indemnify the County, its officers, and employees from any and all claims for injuries or damages to persons and/or property which arises out of the terms and conditions of this Agreement and which result from negligent acts or omissions of Association, its officers, and/or employees.

18. The County reserves the right to assume control of all or part of the Event Center property if there is an emergency situation as determined by the County. If such determination is made by the County, this agreement will be suspended during the time

period as designated by the County. Notification of the emergency will be communicated by the County Manager or his or her designee.

19. Two members of the Board of Supervisors, two of the Association's Board of Directors, the County Manager and the Association's General Manager shall meet annually, or as mutually agreed upon, to review the Association's budget and any issues of concern.

20. The San Mateo County Counsel shall provide legal representation to the Association.

21. The effective date of this agreement shall be deemed to be _____, 2018. The term shall be from _____, 2018, to December 31, 2025.

22. This agreement supersedes the previous operating agreement between County and Association dated August 12, 2008, as amended on September 14, 2010, the term of which was scheduled to expire June 20, 2020.

IN WITNESS WHEREOF the parties hereto by their duly authorized representative, have affixed their hands on this ____ day of _____, 2018.

COUNTY OF SAN MATEO

By _____
President, Board of Supervisors

ATTEST:

Clerk of Said Board

SAN MATEO COUNTY EXPOSITION AND
FAIR ASSOCIATION

By _____
President, Board of Directors

By _____
Secretary, Board of Directors