

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

THIS AGREEMENT, made and entered into this _____ day of _____, 2008, 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 Fairgrounds and a building is being 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”), manage 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 the dates mutually acceptable to the Association and the Board of Supervisors of County. The Association shall also manage the Event Center and its satellite wagering facility for the remainder of the year 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 annually increase the attendance at the Fair by directing a high quality Fair that will attract increased attendance.

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.

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 so retain such sums as have been or 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, with the consent of the State Department of Food and Agriculture may determine to use for fair and exposition purposes. 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 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.

5. 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 and approved by the Division of Fairs and Exposition of the State Department of Food and Agriculture.

6. The Association will develop an annual marketing plan that includes utilization of local hotels and local shops and services.

7. The Association will work closely with the San Mateo County Convention and Visitors Bureau.

8. The Association shall perform maintenance of all Event Center buildings and grounds. "Maintenance" as used herein shall be understood to mean complete maintenance of buildings and grounds which includes 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, utility systems, paved roads and areas, repair of all electrical and mechanical systems and devices and repair 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.

9. 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 that it does not have decision making authority on the use of the property or buildings.

b. No major maintenance or capital improvements can be undertaken without the prior approval of the County. "Major maintenance" as used herein shall be understood to be selected items of maintenance which cost more than \$100,000. "Capital improvements" are those improvements which cost more than \$100,000. The County and Association will jointly perform major maintenance and capital improvements of all Event Center buildings and grounds.

c. Non-reimbursed 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 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 General Manager shall consider using County services.

10. Association shall provide all labor and materials to set up, dismantle and provide necessary services for the annual Fair, exposition activities, use permits, special events and similar activities.

11. 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, the location and use of any streets, roads, easements, utilities, or parking lots or facilities. Prior to exercising its rights of ownership above stated, County shall solicit the recommendation of Association.

12. Association is hereby authorized to provide for, conduct and carry on horse racing in accordance with the provisions of the law relating thereto. Notwithstanding any provision of this agreement to the contrary, the Association may, in its own name and upon its own obligation, without any obligation upon the County, borrow funds not in excess of ONE AND ONE-HALF MILLION DOLLARS (\$1,500,000.00) for a period not to exceed thirteen (13) days to operate the cash change fund in connection with horse racing at each Fair. Association shall provide full coverage, fire, theft, embezzlement, robbery and mysterious disappearance insurance covering the full amount so borrowed. The fund shall be used as “change account” only and shall not be used for any other purpose.

13. Association agrees that contracts that exceed \$50,000, which it executes, such as exhibit space, concessions, services, or exposition usage, shall have the approval of a quorum of the Board of Directors of the Association and shall be recorded in the minutes of the Board. Contracts that are \$50,000 or less may be executed by the General Manager or his or her designee.

14. The selection of any General Manager 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. Such selection shall be subject to ratification by the Board of Directors of Association. The General Manager shall be dismissed by a

majority vote of the same committee subject to the terms of his or her employment agreement.

15. The Board of Supervisors of the County has the sole right to appoint Association Directors. Currently there are seven Directors. 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 make such appointments and/or re-appointments within sixty days of the date a vacancy occurs whether by expiration of a term or otherwise. At least one Director will be from the agricultural community. 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.

16. 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.

17. Association will manage and control the Fair, the Event Center including the Satellite Wagering Facility, and 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.

18. For each officer and employee of the Association who is responsible for the handling of any funds, purchases or financial affairs of the Association, before engaging in any of said services as hereinabove mentioned, the Association shall provide a bond in an amount commensurate with his or her responsibilities.

19. Insurance.

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 FIVE MILLION DOLLARS (\$5,000,000.00) 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. The 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).

Notwithstanding the foregoing, upon request of Association, the County's Risk Manager, may, at his/her discretion, authorize combined single limits less than those stated above for activities deemed to be of minimal risk.

County and Association shall be named as "additional Insured" and the policies shall provide County and Association be furnished ten days' advance written notice of cancellation.

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.

c. The General Manager, with the written approval of the County Risk Manager, is authorized to modify or waive the requirements listed in paragraphs 19 b(1) and 19b(2) if it has been determined that the risk is minor.

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

20. 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.

21. This agreement shall be without force or effect unless it is approved by the State Department of Food and Agriculture.

22. 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.

23. 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 in April to review mutual concerns regarding this agreement.

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

25. The effective date of this agreement shall be deemed to be July 1, 2008. The term shall be for twelve years from July 1, 2008 to June 30, 2020.

26. This agreement supersedes the previous operating agreement between County and Association dated December 13, 2005.

IN WITNESS WHEREOF the parties hereto by their duly authorized representative, have affixed their hands on this ____ day of _____, 2008.

COUNTY OF SAN MATEO

By _____
President, Board of Supervisors

ATTEST:

Clerk of Said Board

SAN MATEO COUNTY EXPOSITION AND
FAIR ASSOCIATION

By _____
President

By _____
Secretary
"ASSOCIATION"