

Attachment A

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**LEASE AND FAIRGROUNDS OPERATION AGREEMENT
BETWEEN
THE COUNTY OF MONTEREY
AND
SALINAS VALLEY FAIR, INC.**

THIS LEASE AND FAIRGROUNDS OPERATION AGREEMENT (“AGREEMENT”), is made effective as of _____, 2022 (“EFFECTIVE DATE”), by and between the COUNTY OF MONTEREY, a political subdivision of the State of California (“COUNTY”), and SALINAS VALLEY FAIR, INC., a California non-profit corporation providing services to the County with an office at 625 Division Street, King City, California (“CONTRACTOR”), with the approval of the California Department of Food and Agriculture (“CDFA”), an agency of the State of California. COUNTY and CONTRACTOR may sometimes be referred to collectively herein as “Parties” and in singular as a “Party,” with reference to the following:

A. WHEREAS, the State of California appropriates certain monies for the encouragement of county fairs and said monies are allocated to the Network of California Fairs by the CDFa pursuant to the provisions of Business and Professions Code Sections 19620–19642.1; and

B. WHEREAS, CONTRACTOR and the COUNTY have facilities available to hold said fairs on such dates as may be hereafter selected for the purpose of exhibiting and advertising the agricultural and livestock products of said County and the State of California; and

C. WHEREAS, it is the mutual desire of the Parties hereto that said CONTRACTOR, pursuant to Government Code Section 25906, hold and conduct agricultural fairs, and have the use, possession and management of the fairgrounds for the period of this AGREEMENT; and

D. WHEREAS, it is mutually understood by and between the Parties hereto that the law of the State of California vests in the County and its duly elected and appointed officials and none other, the power and authority to hold and conduct a county fair annually; and

NOW, THEREFORE, said COUNTY and said CONTRACTOR, for the considerations hereinafter set forth, mutually agree as follows:

TERMS AND CONDITIONS

The COUNTY, with the approval of CDFa, pursuant to Section 25906 of the Government Code, does hereby authorize CONTRACTOR to manage, use, possess, operate and conduct an annual agricultural fair and related and appropriate fair(s) and interim events on that certain property in the City of King, County of Monterey, known as the Salinas Valley Fairgrounds, located at 625 Division Street in King City, California (“FAIRGROUNDS”) as further described in **Exhibit A**, which is attached and incorporated herein by this reference.

CONTRACTOR will, subject to the laws of the State of California and standards prescribed by the CDFA, manage, use and possess said fairgrounds, and operate and conduct said fair(s) and interim usage shall be conducted in accordance with the highest and best standards for the benefit of CONTRACTOR, the COUNTY and the State of California.

ARTICLE I CONTRACT FOR SERVICES

COUNTY hereby engages CONTRACTOR to perform the services hereinafter more particularly described, the term of such contract for services to commence upon the EFFECTIVE DATE of this AGREEMENT and to start and continue until the completion of the work provided for herein and as scheduled in Article IV.

CONTRACTOR hereby agrees to perform the professional services as set forth herein and to furnish or procure the use of incidental services necessary for the completion of said services.

ARTICLE II SCOPE OF SERVICES

The CONTRACTOR shall maintain, improve, and operate the FAIRGROUNDS and conduct an annual fair that includes agriculture and other community-relevant exhibits and competitions.

The CONTRACTOR shall submit an annual budget to the CDFA as well as any other submittals that may from time to time be required by CDFA to receive funding from the State of California. Said budget to be approved by the County Board of Supervisors prior to CONTRACTOR submitting said budget to CDFA. Said budget shall show the available funds and estimated revenue from all sources and all expenditures proposed to be made during the year.

ARTICLE III COMPENSATION

The CONTRACTOR shall retain and use all monies received by it from the conduct of said fair(s), and from the use, possession, and management of the FAIRGROUNDS. CONTRACTOR agrees to bear, assume, pay and discharge all expenses and obligations incurred by it in connection with said fair(s) and FAIRGROUNDS.

ARTICLE IV SCHEDULE OF WORK

The term of this AGREEMENT and schedule for carrying out this assignment (hereinafter "TERM") will be five (5) years beginning on the effective date and ending on April 1, 2027.

CONTRACTOR shall have the option to extend the TERM of this AGREEMENT for eight (8), five (5) year periods upon written notice to COUNTY and CDFA, with any

such extension of this AGREEMENT subject to CDFA review and preapproval in accordance with Business and Professions Code Section 19622.3. CONTRACTOR shall give said written notice not less than six (6) months before expiration of the current TERM or any extension thereto. All notices shall be in writing and delivered in person or sent by first class U.S. mail, postage prepaid to the address for notice set forth below.

ARTICLE V NONDISCRIMINATION

CONTRACTOR warrants that during the rendition of any and all services pursuant to the terms of this AGREEMENT, CONTRACTOR will fully comply with all federal, state and local laws and regulations which prohibit discrimination against any employee or applicant for employment because of 'race, color, religion, national origin, sex, age, or mental handicap. CONTRACTOR will take affirmative action to ensure that qualified applicants are employed and employees are treated during their employment without regard to race, color, religion, national origin, sex, age, or mental handicap. CONTRACTOR will, in all solicitations or advertisements, for applicants, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, sex, age, or mental handicap. In addition, CONTRACTOR will not on any such basis discriminate against recipients of services under this contract or against those who apply to receive such services. The provision of services primarily or exclusively to such target population as may be designated in this AGREEMENT shall not be deemed to be prohibited discrimination. The term "discrimination," as used in this contract, is the same term that is used in Monterey County Code, Chapter 2.80 ("Procedures for Investigation and Resolution of Discrimination Complaints"); it means the illegal denial of equal employment opportunity, harassment (including sexual harassment and violent harassment), disparate treatment, favoritism, subjection to unfair or unequal working conditions, and/or other discriminatory practice by any Monterey County official, employee, or agent, due to an individual's race, color, ethnic group, national origin, ancestry, religious creed, marital status, sex, gender, gender identity, gender expression, sexual orientation, sexual preference, age, veteran or military status, medical condition, genetic information, physical disability (including AIDS) or mental disability. The term also includes any act of retaliation, including for political affiliation.

ARTICLE VI RECORDS AND MEETINGS

The COUNTY shall have the right to examine, monitor and audit all records, documents, conditions and activities of the CONTRACTOR and its subcontractors related to services provided under this AGREEMENT during normal business hours. CONTRACTOR shall permit the COUNTY and the State or any of its duly authorized representatives to have access to and to examine all audit any pertinent books, documents, papers and records of the CONTRACTOR related to this AGREEMENT. Pursuant to Government Code section 8546.7, if this AGREEMENT involves the expenditure of public funds in excess of \$10,000, this AGREEMENT is subject to the examination and audit of the State Auditor, at the request of the COUNTY or as part of any audit by the COUNTY, for a period of three (3) years after any final payment under this AGREEMENT.

The CONTRACTOR shall comply with the Ralph M. Brown Act (Government Code § 54950 *et seq.*) and the California Public Records Act (Government Code § 6250 *et seq.*).

**ARTICLE VII
AUDITS AND RECOVERY OF OVERPAYMENTS**

1. Right to Audit at Any Time. COUNTY officials shall have the right, at any time during regular working hours, on reasonable advance notice, to monitor and audit all work performed and all records and procedures related to this AGREEMENT, in order to see that all applicable county, state and federal regulations are met, to determine the extent to which the program is achieving its purpose, and to insure that any funds paid to CONTRACTOR under this AGREEMENT are being used properly. Government Code section 8546.7 makes this AGREEMENT subject to the examination and audit of the State Auditor, at the request of the COUNTY or as part of any audit by the COUNTY, for a period of three (3) years after any final payment under this AGREEMENT.

Upon request, the CONTRACTOR shall make available to CDFA, or the California Department of Finance at the request of CDFA, any and all books and records, insofar as they relate to this AGREEMENT and any revenues and expenditures for fair or exposition purposes.

CONTRACTOR agrees that they will submit annual audited financial statements to the COUNTY upon completion of said audited financial statements.

2. Recovery of Overpayments. If any audit shows that the COUNTY has paid to the CONTRACTOR any amount in excess of properly allowable costs, then the CONTRACTOR shall reimburse the COUNTY for that amount, either by a cash payment made within thirty (30) days after the COUNTY notifies the CONTRACTOR of the overpayment, or by an offset made by COUNTY against any payments owed by the COUNTY to the CONTRACTOR under this AGREEMENT.

If any audit by the CDFA or California Department of Finance shows that CONTRACTOR unlawfully misused or misappropriated state funds in breach of the purpose for which those funds were allocated, CONTRACTOR shall submit reimbursement of those funds to CDFA.

**ARTICLE VIII
COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS**

The CONTRACTOR agrees that they and their subcontractors shall comply with all applicable state, federal and local laws, regulations, rules, administrative orders or other requirement of any county, state, federal or other governmental agency or authority having jurisdiction over CONTRACTOR, in effect at the EFFECTIVE DATE of this AGREEMENT or at any time during the TERM (hereinafter "LAWS"). The COUNTY and CONTRACTOR shall comply with all applicable standards prescribed by the CDFA for the purpose of receiving any State of California funding.

**ARTICLE IX
INDEPENDENT CONTRACTOR**

In the performance of work, duties, and obligations under this AGREEMENT, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the COUNTY, CDFA or the State of California.

CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including but not limited to Federal and State income taxes and social security, arising out of CONTRACTOR's performance of this AGREEMENT. In connection therewith, CONTRACTOR shall defend, indemnify, and hold COUNTY, CDFA and the State of California harmless from any failure to pay such taxes.

No offer or obligation of permanent employment with the COUNTY or CDFA or particular COUNTY or State of California department or agency is intended in any manner, and the CONTRACTOR shall not become entitled by virtue of this AGREEMENT to receive from COUNTY or State of California any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits, Federal and State income taxes and social security (collectively referred to hereinafter as "Employee Benefits"), arising out of CONTRACTOR's performance of this AGREEMENT. In connection therewith, CONTRACTOR shall defend, indemnify, and hold COUNTY, CDFA and the State of California harmless from any failure to pay such Employee Benefits.

**ARTICLE X
INSURANCE**

1. Insurance Coverage Requirements. Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this AGREEMENT, a policy or policies of insurance with the following minimum limits of liability:

(a) Comprehensive general liability, including but not limited to premises, personal injuries, products and completed operations, with a combined single limit of not less than \$1,000,000.00 per occurrence; and

(b) Comprehensive automobile liability covering all motor vehicles, including owned, leased, non-owned and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit of not less than \$1,000,000.00 per occurrence; and

(c) If CONTRACTOR is an employer, CONTRACTOR shall maintain workers' compensation insurance in accordance with California Labor Code section 3700 and with a minimum of \$100,000.00 per occurrence for employer's liability; and

(d) If, in conjunction with this AGREEMENT, CONTRACTOR renders any professional services for which professional errors and omission insurance is necessary in order that all services rendered under this AGREEMENT be covered by insurance, then CONTRACTOR shall maintain professional liability insurance in the amount of not less than \$1,000,000.00 per occurrence.

2. General Insurance Requirements. All insurance required by this AGREEMENT shall be with a company acceptable to the COUNTY and authorized by law to transact insurance business in the State of California. All such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of two years following the date CONTRACTOR completes its performance of services under this AGREEMENT.

Each liability policy shall provide that the COUNTY shall be given notice in writing at least thirty (30) days in advance of any change, cancellation, or non-renewal thereof. Each policy shall provide identical coverage for each subcontractor, if any, performing work under this AGREEMENT, or be accompanied by a certificate of insurance showing each subcontractor has identical insurance coverage.

Comprehensive general liability and automobile liability policies shall provide an endorsement naming the County of Monterey and State of California, its officers, agents, and employees and Additional Insureds and shall further provide that such insurance is primary insurance to any insurance or self- insurance maintained by the COUNTY and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR's insurance.

Prior to the execution of this AGREEMENT by the COUNTY, CONTRACTOR shall file certificates of insurance with the County Risk Management and COUNTY's contract administrator, showing that the CONTRACTOR has in effect the insurance required by this AGREEMENT. The CONTRACTOR shall file a new or amended certificate of insurance promptly after any change is made in any insurance policy which would alter the information of the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.

ARTICLE XI IMPROVEMENT, REPAIR AND MAINTENANCE OF FAIRGROUNDS

1. Maintenance, Repair and Improvements. CONTRACTOR shall maintain the FAIRGROUNDS in good condition and repair, at CONTRACTOR's sole cost and expense. From time-to-time during the TERM of this AGREEMENT, CONTRACTOR shall make all repairs and improvements to the FAIRGROUNDS that CONTRACTOR deems necessary in its sole determination. All repairs and improvements shall be made in compliance with all applicable LAWS, and conducted in a good workman like manner, all at CONTRACTOR's sole cost and expense. In the event CONTRACTOR desires to construct a "Major Improvement" on the FAIRGROUNDS, defined as the complete renovation of an existing building or construction of a new building costing in excess of Three Hundred Thousand Dollars (\$300,000.00), CONTRACTOR shall notify COUNTY in writing, providing COUNTY a copy of the final working plans for the improvement, and the COUNTY shall either approve or disapprove the proposed Major Improvement within thirty (30) days after CONTRACTOR's notification. COUNTY's approval of a proposed Major Improvement shall not be unreasonably withheld, and shall be conclusively deemed given unless COUNTY disapproves the proposed Major Improvement within the thirty-day period. Upon the termination or expiration of this AGREEMENT, all

improvements constructed by CONTRACTOR shall become the exclusive property of the COUNTY.

2. Project Management, Permitting and Inspections. From time-to-time during the TERM of this AGREEMENT, CONTRACTOR may contract with that certain joint powers authority, a public entity commonly known as the California Fairs Financing Authority ("CFFA") and also known as the California Construction Authority, to provide project management, bidding and inspection services for repairs and improvements made to the FAIRGROUNDS. CFFA was organized as a joint powers authority in 1988 to provide planning design, and construction services for projects at fairgrounds throughout California. CONTRACTOR may enter into an agreement with CFFA to perform certain construction services including, without limitation:

- (i) plan preparation and approval, including compliance with all applicable LAWS;
- (ii) bidding work and providing contract maintenance services; and
- (iii) providing inspection services for such projects. COUNTY hereby consents and authorizes CFFA to provide such permitting and inspection services on its behalf as it relates to projects on the FAIRGROUNDS pursuant to substantially similar terms and conditions as outlined in the Memorandum of Understanding (MOU) attached as **Exhibit B**, which is incorporated herein by this reference. An executed copy of the MOU shall be attached and incorporated to this AGREEMENT upon execution.

3. Liens. Lessee shall keep the FAIRGROUNDS free from any liens and shall pay when due all bills arising out of any work performed, materials furnished or obligations incurred by CONTRACTOR, its agents, employees or contractors.

ARTICLE XII TERMINATION

This AGREEMENT may be terminated under the following events set forth below:

1. Abandonment. COUNTY may terminate this AGREEMENT if the CONTRACTOR abandons the FAIRGROUNDS. COUNTY shall provide CDFA written notice of abandonment by CONTRACTOR and termination of this AGREEMENT within five (5) business days of discovering abandonment.

2. Termination upon Failure to Perform. COUNTY may terminate this AGREEMENT upon thirty (30) days written notice to CONTRACTOR and CDFA should CONTRACTOR fail to perform any term, covenant or condition of this AGREEMENT, and should CONTRACTOR fail to cure such breach within thirty (30) days after written notice from COUNTY to CONTRACTOR and CDFA specifying the nature of such breach. In the event the act required to cure the non-performance cannot be accomplished within said period, to preclude a default, CONTRACTOR must commence the accomplishment of the necessary act within said period and thereafter proceed with diligence and good faith to accomplish the same.

3. Return of State Funds to CDFA. By the effective date of the termination or expiration of this AGREEMENT, CONTRACTOR shall return to COUNTY any state funds, with an accounting, that were allocated to the COUNTY or CONTRACTOR by the CDFA within the past five (5) years and that may be in the possession of the CONTRACTOR at the time of termination. COUNTY shall be responsible for noticing and compelling the return of the state funds and the provision of the accounting from CONTRACTOR. COUNTY shall return the state funds with the accounting to the CDFA within forty-five (45) days following the effective date of termination or expiration of this AGREEMENT.

ARTICLE XIII ASSIGNMENT OF CONTRACT

This AGREEMENT shall not be assigned by CONTRACTOR, either in whole or in part without the prior written consent of COUNTY and CDFA. COUNTY shall not assign this AGREEMENT either in whole or in part without the prior written consent of CONTRACTOR and CDFA.

ARTICLE XIV INDEMNIFICATION AND HOLD HARMLESS

CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including, but not limited to, damages to property and injuries to or death of persons, court costs, and attorney's fees) occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of COUNTY. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers employees, agents, and subcontractors.

CONTRACTOR and COUNTY shall indemnify and hold harmless the State of California and the California Department of Food and Agriculture, its officers, agents, employees, and servants from and against any and all liability expense, including defense costs, legal fees, and claims for damages arising from CONTRACTOR or COUNTY negligence, intentional acts, violation of county, municipal, federal and/or state laws or regulations, or breaches of this AGREEMENT. Indemnification with respect to defense costs shall be made at the time the State of California or the California Department of Food and Agriculture incurs such costs.

ARTICLE XV PERFORMANCE TIME

Time is of the essence in this AGREEMENT.

**ARTICLE XVI
NOTICE**

Any notice to be given hereunder shall be delivered to the Party to be noticed by either personal delivery or by first class mail, postage prepaid. and addressed as follows:

TO: County of Monterey
Attention: PWF-Real Property Specialist
1441 Schilling Place, South Building, 2nd Floor
Salinas, California 93901

TO: Salinas Valley Fair, Inc.
Attention: Executive Director
625 Division Street
King City, California 93930

Any notice to CDFA required under this AGREEMENT shall be in writing and delivered by first class mail, postage prepaid, and addressed to the addresses indicated below. Notice shall be deemed effective on the third business day following the date of deposit in first class mail.

TO: California Department of Food and Agriculture
Attention: Fairs and Expositions Branch Chief
1220 N Street
Sacramento, California 95814

Correspondence other than notices may be given by phone, regular mail, email or facsimile. By written notice to the other and CDFA, either Party may change its own mailing address or correspondence information.

**ARTICLE XVII
CONFLICT OF INTEREST**

CONTRACTOR shall not, during the term of this AGREEMENT, without obtaining the written consent of COUNTY, permit any member of the governing board of CONTRACTOR to perform for compensation any administrative or operational functions for CONTRACTOR with respect to the performance of this AGREEMENT (including, but not by way of limitation, fiscal, accounting, or bookkeeping functions). Such consent shall be obtained in writing by CONTRACTOR from COUNTY. COUNTY may consent if COUNTY determines such performance to be fair or responsible. Should COUNTY refuse to consent within three (3) weeks of receipt of the request therefore, then CONTRACTOR either shall comply with COUNTY's decision or remedial action shall be initiated. In that event the performance of such functions may continue until the Board of Supervisors has decided the matter. CONTRACTOR shall comply with such Board decision. CONTRACTOR shall not, during the term of this AGREEMENT, with respect to the performance of this AGREEMENT, without having promptly disclosed the same to COUNTY in writing:

(a) Employ any person who is related by blood or marriage to a manager or a member of the governing board of the CONTRACTOR; or

(b) Contract for the acquisition of goods or services for more consideration than would be paid for equivalent goods or services on the open market from any person who is related by blood or marriage to a manager or a member of the governing board of the CONTRACTOR; or

(c) Contract for the acquisition of goods or services for more consideration than would be paid for equivalent goods or services on the open market from the organization in which any person who is related by blood or marriage to a manager or member of the governing board of the CONTRACTOR has a substantial personal financial interest. Such disclosure shall be in writing, addressed to COUNTY. Should COUNTY object to such employment or contracting and refuse to give consent in writing to the CONTRACTOR within three weeks of receipt of the disclosure, then CONTRACTOR either shall not permit such employment or contracting as so disclosed, or shall file a letter with the Clerk of the Board of Supervisors protesting COUNTY's decision. In that event, said employment or contracting may continue until the Board of Supervisors has decided the matter. CONTRACTOR shall comply with such Board decision.

CONTRACTOR shall not, during the term of this AGREEMENT, permit any member of the governing board of CONTRACTOR to acquire, directly or indirectly, any personal financial interest in the performance of this AGREEMENT, as by providing goods or services for compensation, or otherwise, without having first disclosed the same to the governing board, and said member shall not participate in governing board discussions or action on such matter.

The CONTRACTOR may not utilize his/her position for any personal, financial interest in the performance of this AGREEMENT.

ARTICLE XVIII NEGOTIATED AGREEMENT

This contract for services has been arrived at through negotiation and neither Party is deemed to be the party which prepared this AGREEMENT within the meaning of Civil Code Section 1654.

ARTICLE XIX OWNERSHIP

COUNTY should have title to any fixed assets purchased under this AGREEMENT with COUNTY funds, and COUNTY may, at any time, take possession and control thereof from CONTRACTOR.

ARTICLE XX ADMINISTRATION

CONTRACTOR shall designate the Executive Director of the Salinas Valley Fair, Inc. as CONTRACTOR's responsible principal who shall have full authority to obligate

CONTRACTOR. The Executive Director of the Salinas Valley Fair, Inc. will serve as principal liaison between COUNTY and CONTRACTOR, and shall be responsible for CONTRACTOR's obligations under this AGREEMENT. COUNTY will be notified in writing of the designation of a responsible principal other than the Executive Director.

ARTICLE XXI COUNTY'S USE

Subject to its own requirements CONTRACTOR shall permit COUNTY to use and occupy one of CONTRACTOR's buildings located upon the FAIRGROUNDS, at no cost to COUNTY, one time per year for a period to not exceed three (3) days, during the term of this AGREEMENT and any extension thereof for any public purpose, provided such building is not being used or occupied by any other CONTRACTOR approved user. The COUNTY shall not sublet said building. CONTRACTOR agrees to rent CONTRACTOR's buildings to COUNTY, during the term of the AGREEMENT and any extension thereof, at a special at-cost rental, established by CONTRACTOR covering CONTRACTOR's administrative, set-up, cleanup and other costs related to said rental, provided CONTRACTOR shall not be obligated to rent any building to COUNTY that is otherwise scheduled to be occupied by any other approved CONTRACTOR user.

Subject to its own requirements CONTRACTOR shall permit COUNTY to use the FAIRGROUNDS pursuant to substantially similar terms and conditions as outlined in the Emergency Facility Use Agreement (EFUA) attached as **Exhibit C**, which is incorporated herein by this reference. An executed copy of the EFUA shall be attached and incorporated to this AGREEMENT upon execution.

ARTICLE XXII CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

This AGREEMENT shall not be deemed effective unless it is approved and executed by the Fairs and Expositions Branch Chief of the CDFA. The Parties understand and agree that approval of this AGREEMENT by CDFA qualifies COUNTY and/or CONTRACTOR to receive funding from the CDFA Fairs and Expositions Branch but shall not guarantee that any funding from the State of California will be allocated to COUNTY or CONTRACTOR.

The Parties understand and agree that approval of this AGREEMENT by CDFA is conditioned upon the right of CDFA to enforce any term or condition of this AGREEMENT to the extent that duties and obligations are owed by COUNTY and CONTRACTOR to CDFA under this AGREEMENT. Failure of COUNTY or CONTRACTOR to comply with any duty or obligation owed to CDFA may preclude COUNTY or CONTRACTOR from receiving any allocation of funds from the State of California.

(Continues on next page)

IN WITNESS WHEREOF, COUNTY and CONTRACTOR have caused this AGREEMENT to be executed, all as of the day provided below.

COUNTY OF MONTEREY

CONTRACTOR

By: _____
Mary L. Adams
Chair of the Board of Supervisors

By: _____
Executive Director, Salinas Valley
Fair, Inc.

Date: _____

Date: _____

APPROVED AS TO FORM
Office of the County Counsel
Leslie J. Girard, County Counsel

APPROVED BY CALIFORNIA
DEPARTMENT OF FOOD AND
AGRICULTURE

By: _____
Mary Grace Perry
Deputy County Counsel

By: _____
Mike Francesconi
Fairs and Expositions Branch Chief

Date: _____

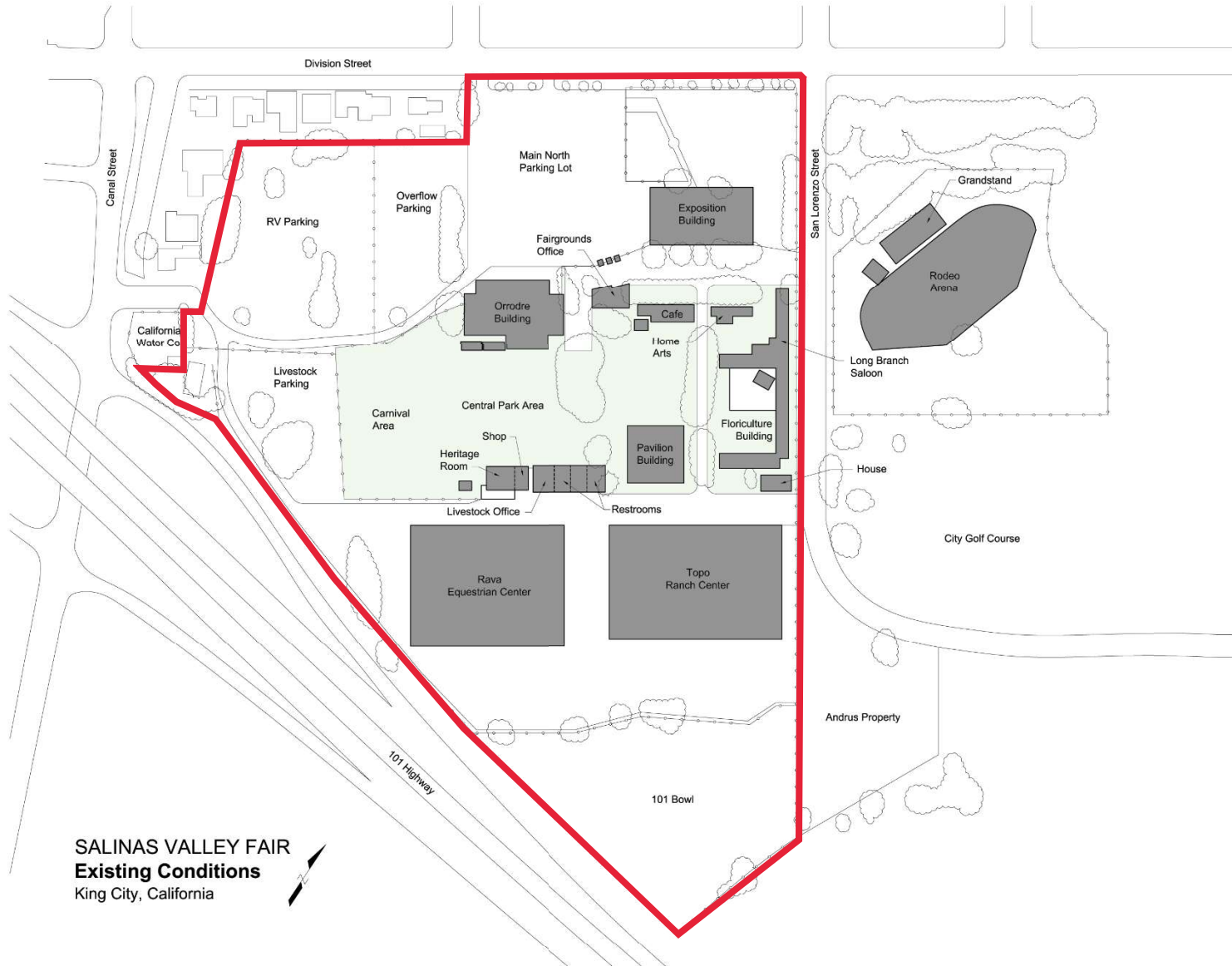
Date: _____

APPROVED AS TO RISK

By: _____
Danielle P. Mancuso
Risk Manager

Date: _____

Exhibit A



SALINAS VALLEY FAIR
Existing Conditions
King City, California



Exhibit B

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
CALIFORNIA FAIRS FINANCING AUTHORITY
AND THE SALINAS VALLEY FAIR

This Memorandum of Understanding (“Memorandum”) is entered into this _____ day of _____ 2015, by and between the California Fairs Financing Authority, a joint powers authority (“Authority” or “CFFA”), and the Salinas Valley Fair Inc., a California non-profit corporation (“Fair”).

Whereas, Authority and Fair desire to enter into this Memorandum to specify how Authority will perform certain services for Fair.

Now, therefore, the parties hereto hereby agree as follows:

1. Designation of Projects. Fair may request and Authority may provide written Letters of Understanding designating (1) specific services to be undertaken by Authority, (2) the time for completion of the services, (3) the compensation to be paid by Fair to Authority for the performance of the service, and (4) any interim approvals determined appropriate by Fair for the performances of the services. The Letters of Understanding shall be in substantially the form attached hereto as Attachment “I.” If Authority is willing to perform the requested services set forth in the Letter of Understanding within the time and for the compensation specified in the Letter of Understanding, the parties shall sign the Letter of Understanding.
2. Scope of Services. Authority shall perform the services set forth in the signed Letter of Understanding (“Services”). Authority shall perform the Services subject to the restrictions set forth in Authority’s joint powers agreement.
3. Contracting and Bidding. In the event Authority contracts for any portion of the Services, Authority shall use the contracting and bidding procedures adopted by Authority.
4. Limited Commitment. Fair has no obligation to engage Authority for any services under this Memorandum.
5. Access to Documents. Authority agrees that all notes, designs, drawings, specifications and other technical data produced pursuant to a Letter of Understanding shall be made available to Fair upon request.
6. Audit. Fair shall have the right, at its own expense, to audit the books and records of Authority relating to any Services. Said audit shall be conducted, if at all, within two years following the date of completion of the subject Services.

7. Alternation. No alternations or variation of the terms of this Memorandum shall be valid unless made in writing and signed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding upon the parties.
8. Authority's Representative. Authority's representative shall be the Managing Director of Authority.
9. Fair's Representative. Fair's representative shall be the Chief Executive Officer of Fair.
10. Compensation. Payment for services will be made by Fair as set forth specifically in the pertinent Letter of Understanding. Original invoices shall be submitted by Authority to Fair. Invoices shall identify the project, any applicable Letter of Understanding, contract number, assignment number or work order number, and shall contain a breakdown of the items claimed for payment in accordance with the compensation set forth in the Letter of Understanding for which the invoice is submitted. Fair shall make payment to Authority within thirty (30) days of date of invoice. A Letter of Understanding may provide for advance payment by Fair.
11. Indemnity.

Authority shall defend, indemnify, and hold harmless Fair, its officers, directors, employees, representatives and agents, from and against any and all liability, loss, expense (including reasonable attorneys' fees and litigation expenses), or claims for injury or damages arising out of the performance of this Memorandum or any Letter of Understanding between Authority and Fair, but only in proportion to and to the extent such liability, loss, expense, or claims for injury or damages are caused by, or result from, the negligent or intentional acts or omissions of Authority, and its officers, directors, employees, representatives or agents.

Fair shall defend, indemnify, and hold harmless Authority, and its officers, directors, employees, representatives and agents, from and against any and all liability, loss, expense (including reasonable attorneys' fees and litigation expenses), or claims for injury or damages arising out of the performance of this Memorandum or any Letter of Understanding between Fair and Authority, but only in proportion to and to the extent such liability, loss, expense, or claims for injury or damages are caused by, or result from, the negligent or intentional acts or omissions of Fair, its officers, directors, employees, representatives or agents.

The provisions of this Section shall survive the expiration, termination or assignment of this Memorandum or any Letter of Understanding between the parties.

12. Termination. Either party may terminate this Memorandum by giving the other party not less than thirty (30) days prior written notice of termination and by completing any non-revocable obligations. This Memorandum shall remain in force until terminated. Any Services assignment under a Letter of Understanding which remains in force and extends past the thirty (30) day notice of termination period shall extend

the termination date of this Memorandum until the completion and approval of the Letter of Understanding Services assignment(s). Upon termination of this Memorandum, Fair shall compensate Authority for all Letter of Understanding Services performed prior to termination.

13. Notice. All notices required or provided for under this Memorandum shall be in writing and delivered in person or sent by first class U.S. mail, postage prepaid, and/or email. Notices to be given to Fair shall be addressed as follows:

Salinas Valley Fair, Inc.
Attn: Chief Executive Officer
625 Division Street
King City, CA 93930

Notices to be given to Authority shall be addressed as follows:

California Fairs Financing Authority
Attn: Managing Director
1776 Tribute Road, Suite 100
Sacramento, CA 95815

14. Waiver. The waiver by either party of the performance of any term, condition, or agreement shall not invalidate this Memorandum. No waiver of any of the provisions of this Memorandum shall be deemed or shall constitute a waiver of the time for performing any other act or an identical act to be performed at a later time. No waiver shall be binding unless executed in writing by the party making the waiver.
15. Severability. If any term or provision of this Memorandum, or the application thereof to any person or circumstance, shall be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Memorandum shall be valid and shall be enforced to the fullest extent permitted by law, unless the exclusion of such term or provision, or the application of such term or provision, would result in such a material change so as to cause completion of the obligations contemplated herein to be unreasonable.

This Memorandum of Understanding is executed as of the date first above written.

CALIFORNIA FAIRS FINANCING AUTHORITY

By: Managing Director

SALINAS VALLEY FAIR, INC.

By: Chief Executive Officer

DRAFT

ATTACHMENT "I"

FORM LETTER OF UNDERSTANDING ("LOU")

To: Salinas Valley Fair
Attn: Chief Executive Officer

From: California Construction Authority
Executive Officer

Subject: Letter of Understanding No. ____ (CFFA Project No. _____)

This Letter of Understanding is entered into between California Fairs Financing Authority ("Authority" or "CFFA"), and the Salinas Valley Fair ("Fair") pursuant to the Memorandum of Understanding ("Memorandum") between Authority and Fair dated _____, 2015. All terms and conditions of the Memorandum are incorporated herein.

SCOPE OF SERVICES: Authority shall complete the scope of services ("Services") attached hereto as Exhibit "A" and incorporated herein.

FUNDING: The Fair shall pay Authority in accordance with the estimated project costs set forth in Exhibit "A", and Fair agrees to be responsible for the following:

[] Actual costs and expenses incurred by Authority in performing the Services ("Actual Project Costs"). Actual Project Costs include design costs, construction contract costs, project management costs, project in section costs, other costs related to the subject project, including the cost of processing extraordinary public records requests and attorney's fees and charges.

[] A fee of ____% of the Actual Project Costs or a minimum of \$1,000, whichever is greater, for Authority's performance of the Services. "Actual Project Costs" will include all final Project Costs, but will exclude the amount of Authority's fee.

[] Prior to commencement of work by Authority, Fair shall deposit with Authority funds equal to the estimated Project Costs, including the construction contract amount, the estimated construction contingency, the estimated construction management services fee, and other amounts Authority's Executive Officer deems appropriate. If Authority's Managing Director determines that portions of this deposit should be paid during Managing Director.

FORM LOU (Page 2 of 3)

[] *[Denote any other specifics such as expenses, approvals or fees].*

ACCEPTED AND APPROVED BY:

ACCEPTED AND APPROVED BY:

Managing Director
California Fairs Financing Authority

Chief Executive Officer
Salinas Valley Fair

Date: _____

Date: _____

DRAFT

Exhibit “A”

Scope of Services (“Services”)

[Insert description of Services to be performed by CFFA, date(s) for completion, estimated project cost, and any interim approvals required by Fair]

DRAFT

Exhibit C

EMERGENCY FACILITY USE AGREEMENT

This Agreement is made by and between the **County of Monterey**, a political subdivision of the State of California ("COUNTY"), and **SALINAS VALLEY FAIR, INC.**, a California non-profit corporation providing services to the County with an office at 625 Division Street, King City, California ("SALINAS VALLEY FAIR"), sometimes referred to collectively herein as "Parties" and in singular as a "Party," with reference to the following:

RECITALS

- A. COUNTY provides emergency response and disaster relief services to residents in the event of a natural disaster or local emergency, including **but not limited to**, providing temporary care and shelter, distributing prophylaxis medications and/or vaccinations, medical testing, and providing other essential services ("Emergency Need Operations") to protect the health and welfare of the citizens of the county; and
- B. COUNTY desires to coordinate -Emergency Need Operations planning with owners and entitled occupants of various facilities located throughout the county with the intent that these facilities could be used to conduct Emergency Need Operations to fulfill the COUNTY's efforts to protect the health and safety of its citizens (**and/or their livestock**) during a disaster or emergency; and
- C. COUNTY desires to maintain this Agreement to use the facility described below and on **Exhibit "A"** (Site Plan) attached hereto and incorporated herein by this reference ("Facility"), for Emergency Need Operations, and to define working relationships and roles of COUNTY and SALINAS VALLEY FAIR before a disaster occurs. In the case of a disaster or emergency where this Facility is needed, COUNTY will use the emergency contacts provided herein in order to establish shelter or other disaster relief operations in as expeditious a manner as such emergency conditions allow or require.

Facility Name: Salinas Valley Fairgrounds

Address: 625 Division Street, King City, CA 93930

The 24-hour contact information for the Emergency Facility is as follows:

Name/Title of Emergency Contact for Salinas Valley Fair:

Chief Executive Officer

Main Phone: 831-385-3243

24 Hr. Phone: _____

Name/Title of Emergency Contact for COUNTY:

Debra R. Wilson, Contracts-Purchasing Officer & Emergency Operations Center Logistics Chief

Main Phone: (831) 755-4992 24 Hr. Phone: (831) 917-580

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, SALINAS VALLEY FAIR agrees to allow COUNTY to use the Facility upon the following terms and conditions:

1. Use of Facility: Upon COUNTY's request, SALINAS VALLEY FAIR will permit COUNTY to use the Facility, on a temporary basis as reasonably necessary, for Emergency Need Operations and will allow COUNTY, through its departments and agreements with other public and private agencies, to operate the Facility with all equipment and services associated with temporary occupancy and other essential needs. **If applicable**, said use shall be subject to the following:
 - a. Federal Required Provisions attached hereto as **Exhibit "B"**.
 - b. Emergency Animal Sheltering During Coronavirus Disease Pandemic document attached here to as **Exhibit "C"**.
 - c. Emergency Evacuation Information for Large Animals document attached hereto as **Exhibit "D"**.

If requested by SALINAS VALLEY FAIR, an Emergency Facility Occupancy Plan prepared by COUNTY shall be attached hereto as **Exhibit "E"** upon completion.

2. Facility Management: In the event that COUNTY makes use of the Facility pursuant to Section 1 above, COUNTY will designate an official, the "Facility Manager", to manage the Facility during the Emergency Need Operations, and SALINAS VALLEY FAIR will designate a coordinator, the "Facility Coordinator", to work with the Facility Manager regarding COUNTY's use of the Facility. COUNTY will have primary responsibility for the management and operations of the Facility during the Emergency Need Operations.
3. Term: The term of this Agreement shall be coterminous the Contract For Service agreement to which this Agreement is attached.
4. Facility Use Fee: Any applicable Facility Use Fee shall be waived for Emergency Needs Operations to protect the health, welfare and safety of the citizens (**and/or their livestock**) of Monterey County,
5. Condition of Facility: At the commencement of COUNTY's active use of the Facility, the Facility Coordinator and Facility Manager, or designee(s) thereof, will jointly conduct a pre-occupancy survey of the Facility and inventory supplies made available to COUNTY before it is turned over to COUNTY. The Facility Coordinator will identify and secure all SALINAS VALLEY FAIR's equipment that COUNTY should not use while operating the Facility. COUNTY will exercise reasonable care while using the Facility for the Emergency Need Operations and will make no modifications to the Facility without the express written approval of SALINAS VALLEY FAIR. If any improvements are damaged or removed by COUNTY, its authorized agents, employees or contractors, within forty-five (45) days of the closing date of Emergency Need Operations, they shall be restored or replaced by COUNTY to as near the original condition and location as is practicable.

6. Custodial Services: It is understood that SALINAS VALLEY FAIR will not provide custodial services. COUNTY shall clean the Facility before COUNTY's use of Facility ends.
7. Security: In coordination with the Facility Coordinator, the Facility Manager, as he or she deems necessary and appropriate, will coordinate with law enforcement regarding any public safety issues at the Facility.
8. Signage and Publicity: COUNTY may post signs identifying the Facility as a specific type of COUNTY Emergency Need Operations in locations approved by the Facility Coordinator and will remove such signs when the Disaster Operation is closed. SALINAS VALLEY FAIR will not issue press releases, social media, or other publicity concerning the Disaster Operation without the express written consent of the Facility Manager. SALINAS VALLEY FAIR will refer all media questions about the Emergency Needs Operations to the Facility Manager.
9. Closing the Emergency Need Operations at the Facility: COUNTY will notify SALINAS VALLEY FAIR, or the Facility Coordinator, of the closing date for the Emergency Need Operations. Within ten (10) business days of the closing date of the Emergency Need Operations, the Facility Manager and Facility Coordinator will jointly conduct a post-occupancy survey to record any damage or conditions. The Facility Manager and Facility Coordinator will conduct a post-occupancy inventory of any CITY provided supplies used during the Emergency Need Operations. SALINAS VALLEY FAIR shall allow COUNTY at least thirty (30) days from the date of the survey to remove any and all materials and return the Facility to an orderly condition, excluding reasonable wear and tear, at which point COUNTY's active use and obligations under this Agreement shall terminate.
10. Reimbursement: COUNTY will reimburse SALINAS VALLEY FAIR for the following items:
 - a. Any damage to the Facility or other property of SALINAS VALLEY FAIR resulting from the Emergency Need Operations, excluding reasonable wear and tear, that is not repaired or replaced according to Sections 5 and 9 of this Agreement. Reimbursement for Facility or other property damage will be based on replacement at actual cash value.
 - b. SALINAS VALLEY FAIR's food and/or supplies (for people or livestock) used by COUNTY during the Emergency Need Operations. Any request for reimbursement for food and/or supplies must be accompanied by supporting invoices.
 - c. Personnel or other operational costs incurred during the Emergency Need Operations as pre-determined by Facility Manager and COUNTY prior to COUNTY's active use of the Facility. Any request for reimbursement for personnel costs must be accompanied by a list of the personnel with the dates and hours worked at the Facility, and any request for reimbursement for operational costs must be accompanied by supporting invoices.

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the COUNTY and SALINAS VALLEY FAIR or its officer, officials, employees or agents. COUNTY shall not be responsible for paying any taxes on SALINAS VALLEY FAIR 's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, SALINAS VALLEY FAIR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance. In addition, SALINAS VALLEY FAIR understands and acknowledges that it and its officers, officials, employees and agents shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure.

SALINAS VALLEY FAIR will submit any request for reimbursement to COUNTY within sixty (60) days after the Facility closes. COUNTY is not responsible for storm damage or other damage caused by the Emergency Need Operations.

11. Non-Exclusive Use: COUNTY's rights under this Agreement are non-exclusive. SALINAS VALLEY FAIR reserves the right to use, or allow others to use the Facility for purposes that do not interfere with COUNTY's use of the Facility. In the event of such use by SALINAS VALLEY FAIR, SALINAS VALLEY FAIR shall provide COUNTY prior notice of such use, and shall ensure that any use by SALINAS VALLEY FAIR, SALINAS VALLEY FAIR's agent(s), lessee(s), or licensee(s) does not interfere with COUNTY's emergency use of the Facility. If applicable, said SALINAS VALLEY FAIR use shall be subject to the Notice of Health Insurance Portability and Accountability (HIPAA) and Patient Privacy Law Compliance requirements attached hereto as **Exhibit "F"**.
12. Liability: By COUNTY's exercise of this Agreement, SALINAS VALLEY FAIR assumes no liability for loss or damage to COUNTY's property, or injury to or death of any agent, employee, or contractor of COUNTY, unless said loss, damage, injury, or death is as a result, in part or whole, of the SALINAS VALLEY FAIR's negligence or other willful misconduct.
13. Insurance: COUNTY shall maintain its own insurance coverage, through commercial insurance, self-insurance or a combination thereof with limits no less than \$5,000,000, against any claim, expense, cost, damage, or liability arising out of the performance of its responsibilities pursuant to this Agreement.
14. Indemnification: Each Party shall defend, indemnify and hold the other Party, its officers, employees, and agents harmless 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, expenses, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the indemnifying Party, its officers, agents, or employees, and only to the extent authorized by applicable law.

- 15. Further Acts: The Parties hereto agree to perform any further acts and execute any documents that may be reasonably necessary to affect the purpose of this Agreement.
- 16. Counterparts: This Agreement may be executed in any number of counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original provided all of the Parties have fully executed this Agreement. Unless otherwise prohibited by law or COUNTY policy, the Parties agree that an electronic copy of this Agreement, or an electronically signed Agreement, has the same force and legal effect as the Agreement executed with an original ink signature. The term “electronic copy of this Agreement” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of the original signed Agreement in a portable document format. The term “electronically signed Agreement” means the Agreement that is executed by applying an electronic signature using technology approved by the COUNTY.
- 17. Notices: All notices under this agreement shall be addressed and delivered as

COUNTY:

County of Monterey
Contracts Purchasing Office
Attention: Debra R. Wilson
1488 Schillings Place
Salinas, California 93901
Tel: (831) 755-4992
Email: wilsondr@co.monterey.ca.us

SALINAS VALLEY FAIR:

Salinas Valley Fair, Inc.
Attention: Chief Executive Officer
625 Division Street
King City, California 93930
Tel: _____
Email: _____

IN WITNESS WHEREOF, the Parties have executed this Agreement by the respective authorized representatives set forth below to be effective on the date executed by SALINAS VALLEY FAIR, INC. or COUNTY, whichever is later.

SALINAS VALLEY FAIR, INC.

By: _____

Name: _____

Title: Chief Executive Officer

Date: _____

COUNTY OF MONTEREY SIGNATURES

“COUNTY”

COUNTY OF MONTEREY,
a political subdivision of the State of California

By: _____

Debra R. Wilson, PhD,
Contracts-Purchasing Officer

Date: _____

APPROVED AS TO RISK:

By: _____

Danielle P. Mancuso, Risk Manager

APPROVED AS TO FORM:

By: _____

William M. Litt, Deputy County Counsel

Exhibit "A"
Site Plan

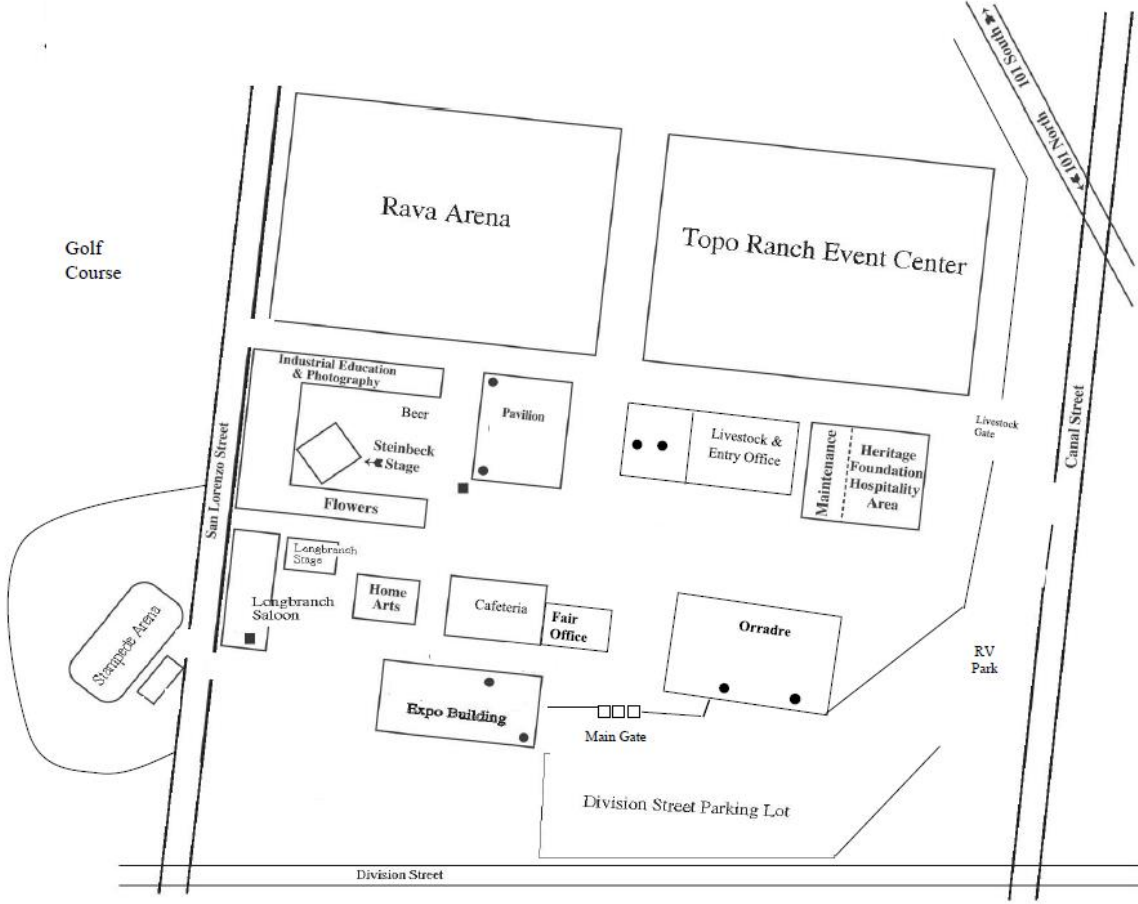


Exhibit “B” Federal Required Provisions

This Agreement Exhibit (this “Exhibit”) is part of the Emergency Facility Use Agreement (the “Agreement” or the “Contract”) between SALINAS VALLEY FAIR, INC. (“Contractor”), and the County of Monterey (“County”), under which the Contractor is providing services to County.

This Exhibit is attached to the Contract and is part of the Contract to ensure that the Contract complies with all Federal laws, regulations and restrictions applicable to Contractor and the services being provided under the Contract.

All capitalized terms not defined herein have the meanings given to them in the Contract. The provisions of this Exhibit supplement the terms of the Contract. If there is a conflict between the provisions of the Contract and this Exhibit, the provisions of this Exhibit control.

FEDERAL PROVISIONS

1. **Remedies.** In the event Contractor breaches any term or provision of this Contract, County has the right to pursue all available remedies at law or equity, including recovery of damages, specific performance of this Contract, and termination of this Contract. Except as expressly provided elsewhere in this Contract, each party's rights and remedies under this Contract are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.
2. **Termination for Cause and Convenience.** If County terminates this Contract for convenience, County shall pay Contractor for services provided prior to the date of termination. If County terminates this Contract due to Contractor’s breach, County may settle the Contract by negotiated agreement, pursuant to Section 9 (Disputes) of the Contract, or a combination of these methods.
3. **Contract Work Hours and Safety Standards Act.**
 - a. *Overtime requirements.* No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - b. *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- c. *Withholding for unpaid wages and liquidated damages.* The Federal Emergency Management Agency or County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- d. *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

4. Rights to Inventions.

- a. General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Contract, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the County and Contractor agree to take actions necessary to provide immediate notice and a detailed report to Federal Emergency Management Agency (FEMA).
- b. Unless the Federal Government later makes a contrary determination in writing, irrespective of Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the County and Contractor agree to take the necessary actions to provide, through FEMA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR, Part 401.
- c. The Contractor agrees to include paragraphs (a) and (b) above in each third party subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FEMA.

5. Clean Air Act; Federal Water Pollution Control Act.

- a. The Contractor shall comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq., and the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq.
- b. The Contractor shall report each violation of these requirements to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

- c. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

6. **Debarment and Suspension Clause.** The Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7. **Byrd Anti-Lobbying Amendment, 31 U.S.C § 1352 (as amended).** Contractors who apply or bid for an award of \$100,000 or more shall file the required certification attached hereto as Appendix A (44 C.F.R. PART 18-CERTIFICATION REGARDING LOBBYING). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the County.
8. **Procurement of Recovered Materials.** In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are Environmental Protection Agency (EPA_ designed items unless the product cannot be acquired:
 - a. Competitively within a timeframe providing for compliance with the Contract performance schedule;
 - b. Meeting contract performance requirements; or
 - c. At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines website, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

The Contractor shall comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

9. **Access to Records.** The following access to records requirements apply to this Contract:
 - a. The Contractor agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
 - b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - c. The Contractor agrees to provide the FEMA Administrator or his or her authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.
 - d. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.
10. **Contract Changes.** This Contract may be modified or amended only by a written document executed by Contractor and County, provided, that the payment provisions and the Service Plan may be amended by a written administrative amendment executed by Contractor and the County Administrator (or designee), subject to any required state or federal approval, and provided further that such administrative amendment may not increase the payment limit of this Contract or reduce the services Contractor is obligated to provide pursuant to this Contract.
11. **Department of Homeland Security Seal, Logo, Flags.** The Contractor may not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
12. **Compliance with Federal Law, Regulations, and Executive Orders.** This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.
13. **No Obligation by Federal Government.** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the Contract.
14. **Program Fraud and False or Fraudulent Statement or Related Acts.** The Contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

APPENDIX A, 44 C.F.R. PART 18-CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

SALINAS VALLEY FAIR, INC.

By: _____
Signature of Contractor's Authorized Official

Chief Executive Officer
Name and Title of Contractor's Authorized Official

Date

Exhibit “C”
Emergency Animal Sheltering During
Coronavirus Disease Pandemic

Exhibit “D”
Emergency Evacuation Information for
Large Animals (with Emergency
Information Sheet)

Exhibit “E”
Emergency Facility Occupancy Plan

To be inserted when completed

Exhibit “F”

Notice of Health Insurance Portability and Accountability (HIPAA) and Patient Privacy Law Compliance.

SALINAS VALLEY FAIR acknowledges that it may have direct or incidental access to “Protected Health Information” or “PHI” or contact with COUNTY’s patients, clients, and or occupants of the Facility. For purposes of this exhibit of the Agreement, “Protected Health Information” or “PHI” shall have the meaning provided by the Standard for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Subparts A and E of Part 164 (the “Privacy Standards”) as promulgated by the Department of Health and Human Services (“HHS”) pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) (42 U.S.C. Section 1320d, et seq.), California Civil Code Section 56.20 et seq. and other applicable California laws (each and collectively, the “HIPAA Laws”).

The COUNTY will endeavor to implement reasonable safeguards to protect the PHI from any intentional or unintentional disclosure to third parties in violation of the Privacy Standards by implementing appropriate administrative, technical, and physical safeguards to protect the privacy of PHI, and will endeavor to implement appropriate administrative, technical and physical safeguards to limit incidental disclosures of PHI, including disclosures to SALINAS VALLEY FAIR and SALINAS VALLEY FAIR’s representative and staff. The parties agree that neither SALINAS VALLEY FAIR nor its staff shall need access to, nor shall they use or disclose, any PHI of COUNTY patients, clients and or occupants. In the event, however, PHI is disclosed to SALINAS VALLEY FAIR or its staff, either directly or indirectly and regardless of whether the disclosure is inadvertent or otherwise, Owner agrees to take reasonable steps to maintain, and to require its staff to maintain, the privacy and confidentiality of such PHI, including that no PHI will be removed from the Facility by SALINAS VALLEY FAIR or its staff, and no PHI will be discussed with or otherwise disclosed to any other person or entity. SALINAS VALLEY FAIR agrees to immediately notify the COUNTY upon learning of any disclosure of PHI to SALINAS VALLEY FAIR or its staff. The Parties agree that the foregoing does not create, and is not intended to create, a “business associate” relationship between the Parties as that term is defined by the Privacy Standards. The COUNTY may terminate this Agreement without penalty if SALINAS VALLEY FAIR violates this provision.