DATE: December 16, 2019

TO: Board of Supervisors
   Jeffrey v. Smith, M.D., J.D., County Executive

FROM: Bruce Knopf, Asset and Economic Development Director

SUBJECT: Supplemental Information - Board of Supervisors Meeting, December 17, 2019, Item 23

COMMITTEE RECOMMENDATIONS

At the regular Finance and Government Operations Committee (FGOC) meeting of December 12, 2019 (Item No.11), FGOC considered recommendations relating to Santa Clara County Fairgrounds Management Corporation, Inc. At the meeting, FGOC took action to forward this item to the full Board for consideration at its December 17, 2019 meeting, and Supervisor Cortese requested Administration provide a comparison between the terms of the current FMC Management Agreement and the proposed Amended and Restated Santa Clara County Fairgrounds Management Agreement.

A comparison of terms is attached as well as a copy of the current Agreement, as amended.

cc:
Miguel Marquez, Chief Operating Officer
James R. Williams, County Counsel
Megan Doyle, Clerk of the Board
Chief Board Aides
Mercedes Garcia, OBA
Agenda Review Administrator

Attachments:
- Comparison of Terms, Proposed Amended and Restated Management Agreement (Fairgrounds)
- Management Agreement (Fairgrounds) April 18, 2000, As Amended
<table>
<thead>
<tr>
<th><strong>CURRENT</strong></th>
<th><strong>PROPOSED</strong></th>
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<tbody>
<tr>
<td><strong>TERM</strong></td>
<td>Five years originally, with annual one-year extensions; A three-year extension was approved in 2013 and 2016. (<a href="#">§2.01 As Amended</a>)</td>
</tr>
<tr>
<td><strong>TERMINATION DATE</strong></td>
<td>December 31, 2019 (<a href="#">§2.01 As Amended</a>)</td>
</tr>
<tr>
<td><strong>TERMINATION FOR DEFAULT OF FMC</strong></td>
<td>County may immediately terminate the Agreement for default by FMC. (<a href="#">§2.01 As Amended</a>)</td>
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<td><strong>TERMINATION FOR CONVENIENCE OF COUNTY</strong></td>
<td>County may terminate the Agreement for convenience upon 90-day notice. (<a href="#">§2.01 As Amended</a>)</td>
</tr>
<tr>
<td><strong>USE</strong></td>
<td>(<a href="#">§4.01</a>) Contractor: • Shall permit the Property to be used and occupied for purposes of conducting the annual County Fair. • May permit the Property to be used for promotion of any educational, charitable, informational, cultural, entertainment, or amusement purpose, provided that such no events shall be permitted which shall interfere with the conduct of the annual County Fair. • Contractor may permit promoters to use the Property for any uses that have been provided on the Property in the past or at the time of execution of this Agreement.</td>
</tr>
<tr>
<td><strong>LIMITATIONS ON USE AGREEMENTS</strong></td>
<td>(See below, Restrictions on Use)</td>
</tr>
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</table>
| RESTRICTIONS ON USE | (§4.01) No uses shall be permitted that are contrary to those policies of the Board of Supervisors governing the Property and attached hereto as Exhibit B, including the following:  
1. Car Show Policy  
2. Smoking Ordinance  
3. Reservation of Helicopters  
4. Bingo Guidelines for Fair | County so long as such extended or renewed terms are subject to termination upon thirty (30) days' notice.  
• In the event Manager desires to enter into a Use Agreement for a term longer than one (1) year and such Use Agreement is one in which the tenant requires that the Use term continue regardless of the termination of this Agreement, the County may, in connection with its consent of the Use Agreement and in its sole and absolute discretion, agree to assume the Use Agreement upon such termination. Unless the County agrees to assume a Use Agreement, such Use Agreement shall terminate automatically upon the termination of this Agreement. |

| County may sell or lease any portion of the Property. | (§1.01)  
The County reserves the right to use the Property from time to time at no cost to the County for (i) governmental emergency use and (ii) non-emergency, short-term County government uses. In connection with any non-emergency, short-term uses, the County shall coordinate the scheduling thereof with Manager. | (§2.03(i))  
Manager shall provide the County with notice regarding proposed, upcoming uses of the Property as part of its Monthly Report to the County.  
• Prior to booking events involving helicopters, Manager shall obtain the County's written approval. |
**GENERAL OPERATIONS**

- County appoints Contractor as manager of the activities, events and operations on the Property. (§1.01)
- Contractor shall present every year a County Fair. Contractor shall pay all expenses of the Fair and, subject to the provisions of Article 3, shall be entitled to retain all proceeds of the County Fair. (§1.02)
- Contractor shall administer the Satellite Wagering Facility in accordance with Article 3. (§1.05)
- Contractor shall administer the Agreement for Historical Project, Restoration of Storage Facility for Historical Steam Engine, and, if so requested by the County, the Agreement Between County of Santa Clara, the Fair Management Corporation and California Trolley and Railroad Corporation, that is contemplated will be executed in the near future. (§1.06)
- Contractor shall enter into and administer concession agreements for activities on the Property (including without limitation, the County Fair and the Exposition Hall). (§1.09)
- Contractor shall enter into and administer agreements with parking managers to manage the parking activities on the Property. Contractor may charge for parking in amounts set by Contractor. (§1.10)
- Host the County Fair on the Property and promote attendance at the County Fair. (§2.02(a))
- Develop a Master Plan in accordance with the Guiding Principles considered and accepted by the Board of Supervisors on May 20, 2014 to further support the County Fair and enhance the use of the Property for public events and recreation. (§2.02(c))
- On or before April 30, 2020, Manager shall submit a draft of the Fairgrounds Master Plan to the County for review and comment, including, but not limited to, review and comment by the Director of the County's Department of Planning and Development. (§2.02(c))
- In consultation with the County, prepare and provide a preventative maintenance plan, which shall be updated from time to time as reasonably necessary. (§2.02(g))
- Without the prior written approval of the County, Manager shall not permit title of the Property to become encumbered by the recording of easements, mechanic's liens or other liens against the Property. (§2.02(i))

**“COMPENSATION” OR “FUNDS”**

- Contractor shall cover Contractor's annual operating expenses, capital improvement expenses, and any debt service expenses through revenue that Contractor receives from the annual County Fair...income from concessionaires and parking managers, income from promoters of events, and

- All Gross Receipts shall be used by Manager to operate the Property. Other than salaries and benefits provided for FMC’s employees in the Budget, FMC shall receive no, nor shall it allocate to itself from Gross Receipts, compensation or fees for its duties under this Agreement.
### COMPARISON OF TERMS
SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT AGREEMENT

<table>
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<tr>
<th><strong>any other income from Contractor's management activities hereunder.</strong></th>
<th><strong>For any given calendar year, in the event Gross Receipts exceed expenditures, plus reserves provided in the Budget, recommended by FMC's Auditor or otherwise approved by the County, the County may direct Manager to transfer all or a portion of such funds to the County.</strong></th>
</tr>
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<tbody>
<tr>
<td>• If, after payment of all its expenses, operating debts and obligations, Contractor generates any net profits for any calendar year during the Term, then not later than April 1 of the following year, Contractor shall deliver an amount equal to such profits to the County.</td>
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**BUDGET, BUSINESS PLAN, AND AUDIT**

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<tr>
<th><strong>Article 5</strong> Contractor shall annually prepare and submit for County's review and approval:</th>
<th><strong>§2.08</strong></th>
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<tr>
<td>a) A budget and business plan that addresses prior year performance and financial projections for the budget year, including facility maintenance and repair and equipment requirements; and</td>
<td>a) Manager will submit to the County for the County's approval (i) an operations budget, which shall be an estimate for operation of the Property during a calendar year, including routine repairs and replacements, and (ii) a capital budget, which shall be an estimate of capital replacements and substitutions of and additions relating to all or a portion of the Property for a calendar year (collectively, the &quot;Budget&quot;).</td>
</tr>
<tr>
<td>b) An annual financial audit of the Contractor's operation, with said audit being conducted by an entity that is approved by County.</td>
<td>b) The Budget shall be submitted to the County for the County's approval no later than October 31st of each calendar year for the ensuing calendar year. Each such Budget shall be approved or disapproved by the County within 60 days after receipt. If the County fails to respond within 60 days of receipt, the Budget shall be deemed to be approved. After approval by the County, the Budget for a calendar year shall be submitted to the State Department of Food and Agriculture, in accordance with California Government Code Section 25906.</td>
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</table>

County shall review the budget and business plans and audits delivered to it within 60 days following receipt and within said 60-day period shall notify Contractor in writing either (i) that County approves Contractor's plan or (ii) that County disapproves of Contractor's plan, in whole or in part. If County disapproves of Contractor's plan, County in its notice shall specify the portions of the plan that are disapproved and shall set out proposed changes that would make the plan acceptable to County. County's failure to deliver a notice of approval or disapproval as required above shall be deemed approval of Contractor's submitted plan.

As part of its annual budget and business plan, Contractor shall prepare and submit to County for its approval an annual budget for the County Fair (§2.08)

As part of its annual budget and business plan, Contractor shall prepare and submit to County for its approval an annual budget for the County Fair (§2.08)
| Showing the estimated revenues and proposed expenditures from all sources during the ensuing calendar year. When approved the budget shall be submitted to the State Department of Food and Agriculture, in accordance with California Government Code Section 25905. | Deviation. A "Substantial Deviation" shall be any single line item expense that exceeds $25,000 of the budgeted amount or an accumulative total of expenses that exceed four percent (4%) Budget for the calendar year. Consequently, no expenses may be incurred or commitments made by Manager in connection with the maintenance and operation of the Property that constitute a Substantial Deviation from the amounts allocated to such expenses for the period in question in the approved Budget without the County's prior consent; provided that the foregoing limitation shall not apply to expenses relating to taxes, insurance or utilities or expenditures required due to emergencies that threaten life or property or could result in civil or criminal liability for the County and/or Manager. Manager shall promptly notify the County whenever Manager determines that the Budget or any line item in the Budget is insufficient to cover the expenses of operating the Property of the applicable expense category. d) If Substantial Deviations have occurred or are anticipated by Manager during the course of any calendar year, Manager, upon the County's request, shall prepare and submit to the County a revised Budget covering the remainder of the calendar year. e) Manager shall act diligently, in good faith, and in a commercially reasonable manner to maximize revenues, minimize expenses and losses. |
### ADDITIONAL CONSIDERATIONS

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<tr>
<th>Paragraph</th>
<th>Description</th>
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| § 5.02 | Upon request by County, Contractor shall further complete and submit to County for its information:  
   a. A marketing plan developed using available community resources, to address community and media relationships and year-round facility use;  
   b. An operating plan for the annual County Fair and other interim events addressing areas of operations.  
   c. A proposed plan to maintain and improve the Property, together with an outline of proposed funding sources for such improvements, a projection of gross and net income to be derived from any such new uses, and a plan for repayment of the financing of the capital improvements. |

| | a) See §2.08(h) the required annual business plan.  
   b) See §2.08(h) the required annual business plan.  
   c) See §2.02 - the Master Plan. |

### ALTERATIONS, REPAIRS, AND MAINTENANCE

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<tr>
<th>Paragraph</th>
<th>Description</th>
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| (§6.01) | Contractor shall maintain and repair the existing improvements, landscaping and parking areas on the Property as set out in Article 7 below. Contractor shall make changes, alterations, or additions ("Alterations") to Property, only with the prior consent of the County. In requesting County's approval of any Alterations, Contractor shall submit to County detailed plans and specifications of the proposed Alteration and an explanation of the reasons therefore. Contractor may, with County's written consent, demolish or materially alter and or expand any building on the Property. Any Alterations shall be made at Contractor's cost and expense. Contractor shall comply with the following conditions in making any Alterations:  
   a. No alterations shall be undertaken until Contractor shall have procured, |

| | (§2.06)  
   a) Manager shall make or install, or cause to be made and installed, all necessary or desirable repairs, alterations, replacements, improvements (including capital improvements), and other maintenance and repair work on and to the Property ("Alterations"); provided, however,  
   i. Manager shall not make any expenditures which are not provided for in the approved Budget without the prior written approval of the County;  
   ii. Manager may not make any Alterations, other than Minor Alterations (defined below), without obtaining the prior approval of the County's Department of Facilities and Fleet or its applicable |
at its expense, all necessary permits and authorizations of all governmental authorities having jurisdiction.
b. No Alterations affecting the structure of any building on the Residual Property shall be made except in accordance with plans and specifications prepared by a licensed architect and/or engineer, and under the supervision of such licensed architect and/or engineer or other construction manager.
c. Before commencing any Alterations, Contractor at its own expense shall obtain any necessary and appropriate riders for fire and extended coverage, comprehensive general public liability and property damage insurance covering the risks during the course of such work, and certificates therefore. County shall be named as an additional insured on said insurance policies.
d. Any Alterations shall be made promptly (unavoidable delays excepted), in a good workmanlike manner and in compliance with all applicable laws, municipal ordinances, building codes, permits and requirements of all governmental authorities having jurisdiction, and of the local Board of Fire Underwriters, if any. Upon completion, Contractor shall obtain and deliver to County a copy of the amended Certificate of Occupancy, if required. The cost of any Alterations shall be promptly paid so that the Property is free at all times from liens for labor and materials supplied for the Alterations.

administrative successor ("FÂF") and without otherwise complying with the provisions of this Section 2.06. Depending on the nature of the Alteration, FAF may require that the construction of the Alteration be managed by FAF with respect to bidding and contracting. “Minor Alterations” shall mean minor maintenance and repair work, including but not limited to tasks such as cleanup, gardening, clearing drains, changing light bulbs, painting, carpet replacement, and door lock repairs. Except in connection with Minor Alterations, Manager shall notify FAF upon the start of any Alteration work and upon the completion of such work, shall provide FAF with copies of all plans and permits prior to start of work, and shall provide FAF with copies of certificates of occupancy, if applicable, within 30 days of receipt from the applicable administrative official. Notwithstanding the foregoing, Manager may, without obtaining the prior approval of FAF, make temporary Alterations when necessary for temporary exhibitions on the Property on short notice, provided all of the following are true: (i) all necessary permits have been obtained and such temporary Alterations are otherwise done in accordance with Laws, (ii) the temporary Alterations are removed and the Property is returned to its prior condition.
<table>
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<tr>
<th>within 48 hours following the end of the event for which they were needed, and (iii) Manager shall, within 7 days after the removal of the temporary Alteration, provide FAF with a report describing the nature of the temporary Alteration, the reason it was necessary, copies of all required approvals, the date installed and the date removed; and</th>
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<tr>
<td>iii. Notwithstanding the foregoing, Manager shall make emergency Alterations involving manifest danger to life or property, for human safety, or to avoid the suspension of any necessary service to the Property within 24 hours of becoming aware of the incident without the County's prior approval and irrespective of whether such costs exceed the approved Budget, provided that in each such instance, Manager shall, before causing any such emergency Alteration to be made, use reasonable commercial efforts under the circumstances to notify the County of that Alteration and shall, after such emergency, provide the County with a report on the emergency and the corrective measures taken.</td>
</tr>
<tr>
<td>b) All Alterations (except for Minor Alterations made by Manager's employees) shall be done by a licensed contractor. Manager shall require that all contractors and their subcontractors pay prevailing wages and follow all Public Contract Code requirements, if</td>
</tr>
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</table>
applicable, for work done to the Property.
c) No Alterations shall be undertaken until Manager has procured all necessary building permits and authorizations of all governmental authorities having jurisdiction, and all Alterations shall be made in compliance with Law, including but not limited to the California Environmental Quality Act.
d) No Alterations affecting the structure of any building on the Property shall be made except in accordance with plans and specifications prepared by a licensed architect and/or engineer, and under the supervision of such licensed architect and/or engineer or other construction manager.
e) Before commencing any Alterations, Manager shall obtain any necessary and appropriate riders for fire and extended coverage, comprehensive general public liability and property damage insurance covering the risks during the course of such work, and certificates therefore.
f) The County reserves the right, in its sole option, to cause road work, grading, grounds maintenance, and associated works, including provisions for drainage and technical advice involving engineering matters to be performed by County personnel and/or through the use of county equipment. The cost of such work and/or the use of equipment may be charged by the County to Manager to be paid out of Gross Receipts. "Gross Receipts" shall mean the entire amount of all receipts, determined on a cash basis, from tenant rentals actually collected, for
ACCOUNTING REPORTS

<p>| (See Budget, Business Plan and Annual Audit requirement, Article 5, above.) |
| (§3.03) |
| a) On or before 30 days following the end of each calendar month, Manager shall deliver to the County (i) an unaudited income and expense statement showing the results of operation of the Property for the preceding calendar month and the calendar year to date; (ii) a comparison of actual income and expenses with the income and expenses projected in the Budget; (iii) a Rent Roll and Event Calendar dated as of the last day of the preceding calendar month; and (iv) a list and description of proposed uses and planned events for the upcoming 6 months which do not yet appear on the Rent Roll and Event Calendar ((i) - (iv), collectively, the &quot;Monthly Report&quot;). |
| b) Within 45 days after the end of each calendar year, Manager shall deliver to the County an income and expense statement as of the end of such calendar year, and the results of operation of the Property during the preceding calendar year. |
| c) The County may request, and Manager shall cooperate in the production of an independent, third-party financial audit of the Property and this Agreement by an auditor other the FMC's Auditor, requested or initiated by the County. |
| d) County may request and Manager shall provide when available such additional monthly, quarterly and/or annual reports that relate to the operations of the Property. |</p>
<table>
<thead>
<tr>
<th>Compliance with Nondiscrimination, Equal Opportunity and wage theft prevention</th>
<th>No</th>
<th>Exhibit C – County Standard Provisions, Paragraph C.</th>
</tr>
</thead>
<tbody>
<tr>
<td>No-Smoking Policy</td>
<td>No</td>
<td>See Exhibit C – Standard Provisions, Paragraph D.</td>
</tr>
<tr>
<td>Food and Beverage Standards</td>
<td>No</td>
<td>See Exhibit C – Standard Provisions, Paragraph E.</td>
</tr>
<tr>
<td>Contracting Principles for contracts over $100K</td>
<td>No</td>
<td>See Exhibit C – Standard Provisions, Paragraph F.</td>
</tr>
<tr>
<td>Electronic Signatures</td>
<td>No</td>
<td>See (§7.07)</td>
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</table>
MANAGEMENT AGREEMENT

County of Santa Clara,
a political subdivision of the State of California

and

Santa Clara County Fair Management Corporation,
a California nonprofit corporation

April 18, 2000
MANAGEMENT AGREEMENT
BETWEEN SANTA CLARA COUNTY AND
SANTA CLARA COUNTY FAIR MANAGEMENT CORPORATION

THIS AGREEMENT is entered into between the County of Santa Clara, a political subdivision of the State of California (the "County") with offices at 70 West Hedding Street, East Wing, 11th Floor, San Jose, CA (95110), and the Santa Clara County Fairgrounds Management Corporation (the "Contractor") with offices at 344 Tully Road, San Jose, CA (95111).

With the execution of this Agreement by both parties, and upon the effective date of this same Agreement, Contractor agrees to forego any possessory interest in the real property ("Property") described in Exhibit A and agrees to the termination of any and all prior lease agreements (including without limitation Lease between the County, as landlord, and Contractor, as tenant, dated April 1995, as amended) between the County and Contractor. Nothing in this Agreement is to be construed as waiving Contractor's obligations to repay loans that have been advanced by the County to Contractor; provided that said loans are to be repaid in a manner that is consistent with Article 3 of this Agreement.

Preliminary Statement

A. County is the owner of the Property which consists of approximately 170 acres, commonly know as "the Santa Clara County Fairgrounds", located on Tully Road in San Jose. Previously, County and Contractor entered into that certain lease agreement dated April 1995 (the "FMC Lease") pursuant to which County leased to Contractor the Property.

B. Pursuant to its authority under the FMC Lease, Contractor entered into a "Sublease Agreement by and between Santa Clara County Fairgrounds Management Corporation and Rollin' Ice, Inc., for a portion of Exposition Hall" (the "Rollin' Ice Lease"). Contractor also entered into that certain Lease and Promotion Agreement dated March 1999 with Alvarez and Garner pursuant to
which Contractor leased to Alvarez and Garner a portion of the Property (the "A & G Lease").

C. Pursuant to a fairgrounds revitalization plan, the County staff has been negotiating with House of Blues Concerts, Inc. ("HOB") for a ground lease (the "HOB Lease") to HOB of a portion of the Property for construction of a theater.

D. There is a satellite wagering facility (the "Satellite Wagering Facility") located on the Property. Contractor operates the Satellite Wagering Facility.

E. The County and Contractor have determined that the FMC Lease has served its purposes and desire to terminate the FMC Lease and all Contractor’s possessory right, title and interest, as tenant, in the Property. In conjunction with the termination of the FMC Lease, the County will accept the attornment of Rolling’ Ice, as tenant under the Rollin’ Ice Lease and will accept Contractor’s assignment of all right, title and interest, as landlord, under the Rollin’ Ice Lease. Additionally, the County will accept the attornment of Alvarez and Garner, as tenants under the A&G Lease and will accept Contractor’s assignment of all right, title and interest, as landlord, under the A&G Lease.

F. The County desires for Contractor to continue to act as manager of the Property, except only the portion of the Property that is subject to the HOB Lease, (with the Property, less the HOB leasehold area, herein referred to as the “Residual Property”). Contractor desires to continue to act as manager for the Residual Property.

G. Additionally, as manager, Contractor will assume responsibility for managing existing improvements and activities on the Residual Property for the County, for managing upon their completion any subsequent improvements on the Residual Property and for advising the County on potential future developments on the Residual Property; provided, however, (i) County will make all decisions regarding the fairgrounds revitalization on the Residual Property, (ii) County will be in charge of all construction related to fairgrounds revitalization and (iii) County reserves the right to lease portions of the Residual Property to entities independent of the parties to this Agreement. As part of its management responsibilities, Contractor hereby agrees to cooperate with County and any tenant or lessee of the County in developing and administering a site management plan for the Residual Property. Contractor’s management responsibilities shall include event booking and coordination activities, promotional activities, property maintenance, as defined under the terms and conditions set forth in this Agreement.

H. Contractor is a nonprofit corporation and recognizes that it has been formed for the sole purpose of managing the Residual Property, events and operations at the Residual Property, providing for the maintenance of assets on the
Residual Property, assisting the County in attracting new development to the Residual Property, and planning and overseeing the annual County Fair. Contractor is duly authorized under the laws of the State of California to enter into this Agreement. Contractor acknowledges that it has participated in the preparation of a long-term plan for the development, use and operation of the Residual Property and herein agrees, to the extent the County so requests, to participate in the implementation of that plan for the benefit of the County.

NOW, THEREFORE, in consideration of the terms and conditions herein set forth, County and Contractor do hereby agree as follows:

ARTICLE 1. MANAGEMENT DUTIES

Section 1.01 County appoints the Contractor as manager of the activities, events and operations on the Residual Property throughout the term of this Agreement and subject to the termination provisions contained herein. In managing the events on the Residual Property, Contractor shall be responsible for coordination with HOB in accordance with the provisions of the HOB Lease. Contractor shall assure that any event or promotion at the Residual Property, including without limitation, the County Fair, in all respects will be in compliance with the HOB Lease. Contractor shall be responsible to assure that there is no violation of any non-competition provision in the HOB Lease and that HOB has priority paring and access rights as set out in agreements between the County and HOB, whether such agreements are executed before, or after, this Agreement.

Section 1.02 Contractor shall present every year a County Fair in accordance with the provisions of this Agreement. Contractor shall pay all expenses of the Fair and, subject to the provisions of Article 3, shall be entitled to retain all proceeds of the County Fair.

Section 1.03 County and Contractor hereby recognize their obligations as parties to an agreement with Rollin’ Ice, Inc., dated August 8, 1995, wherein Contractor agreed to sublet a portion of the Premises (formally described as a portion of Exposition Hall) for the use of Rollin’ Ice. Contractor hereby assigns to the County all its right, title and interest in the Rollin’ Ice Lease to County and the County hereby assumes all obligations of landlord, as set out in the Rollin’ Ice Lease. Contractor shall administer the Rollin’ Ice Lease, collect the rent due under the Rollin’ Ice Lease and apply the rent from the Rollin’ Ice Lease toward Contractor’s annual operating expenses. So long as the tenant is not in default thereunder, the Rollin’ Ice Lease shall remain in full force and effect.

Section 1.04 County and Contractor hereby recognize their obligations as parties to an agreement with Alvarez and Garner, dated ________, wherein Contractor sublet a portion of the Property for the use of Alvarez & Garner. Contractor hereby assigns to the County all its right, title and interest in the A & G Lease to County and the
County hereby assumes all obligations of landlord, as set out in the A & G Lease. Contractor shall administer the Al & G Lease, collect the rent due under the A & G Lease and apply the rent from the A & G Lease toward Contractor’s annual operating expenses. So long as the tenant is not in default thereunder, the A & G Lease shall remain in full force and effect.

Section 1.05 Contractor shall administer the Satellite Wagering Facility in accordance with Article 3 below.

Section 1.06 Contractor shall administer the Agreement for Historical Project, Restoration of Storage Facility for Historical Steam Engine, and, if so requested by the County, the Agreement Between County of Santa Clara, the Fair Management Corporation and California Trolley and Railroad Corporation, that is contemplated will be executed in the near future.

Section 1.07 Contractor shall administer the Spartan Little League Agreement for Improvement and Use of Santa Clara County Fairgrounds.

Section 1.08 The County and Contractor hereby terminate the FMC Lease and all FMC’s right, title and interest in the premises (as defined in the FMC Lease).

Section 1.09 Subject to the provisions of the Parking and Access License Agreement between the County and HOB (the “Parking Agreement”) and the HOB Lease, Contractor shall enter into and administer concession agreements for activities on the Residual Property (including without limitation, the County Fair and the Exposition Hall).

Section 1.10 Subject to the provisions of the Parking Agreement and the HOB Lease, Contractor shall enter into and administer agreements with parking managers to manage the parking activities on the Residual Property. In conjunction with this responsibility, Contractor may charge for parking in amounts set by Contractor.

Section 1.11 Title to the Residual Property and improvements existing on the Residual Property on the date hereof are retained by the County, which reserves all rights of ownership and possession in the improvements and real property. County, at its sole discretion, may sell or lease any portion of the Residual Property to an entity that is independent of the parties to this Agreement. In the event any sale or lease should occur during the term of this Agreement, the Residual Property definition shall automatically be modified to exclude any leased or sold property and no formal amendment shall be required to modify the definition of Residual Property.

ARTICLE 2. TERM
Section 2.01 The term of this Agreement shall commence on the day of its execution by the County and shall end on December 31, 2005, (the “Term”). County and Contractor may extend this Agreement beyond its termination date upon the approval of both parties and subject to the Contractor’s satisfactory performance. County may terminate this Agreement upon the default of Contractor. Under any circumstances, the County reserves the right to cancel this Agreement at its discretion and with or without cause upon six (6) months prior written notice to Contractor.

ARTICLE 3. CONTRACTOR COMPENSATION

Section 3.01 County and Contractor hereby agree that Contractor shall cover Contractor’s annual operating expenses, capital improvement expenses, and any debt service expenses through revenue that Contractor receives from (i) the annual County Fair, (ii) the rent from the Rollin’ Ice Lease, (iii) the rent from the A& G Lease, (iv) the proceeds from the Satellite Waging Facility, (v) subject to any inconsistent provisions of the Parking Agreement, income from concessionaires and parking managers, (vi) income from promoters of events and (vii) any other income from Contractor’s management activities hereunder. If, after payment of all its expenses, operating debts and obligations, Contractor generates any net profits for any calendar year during the Term, then not later than April 1 of the following year, Contractor shall deliver an amount equal to such profits to the County. If there then exists any unpaid balance to the County loan to Contractor, the sums delivered to the County shall be credited to reduce the loan balance. If there then is no outstanding unpaid loan balance from Corporation to County, then County may expend such sums as County determines, in its sole discretion.

Section 3.02 Satellite Waging.

(a) County has been designated as the recipient of sums described in California Business and Professions Code Section 199610.4 (the “Section 19610.4 Fee) which County receives from the time to time directly from the State of California. The procedure for collection and disbursement of those funds is described below.

(b) Contractor collects certain gross income (“Wagering Gross Income”) from its operation of the Satellite Wagering Facility including without limitation a handling fee, parking revenues, admission charges, a percentage of food concessions and miscellaneous retail sales.

(c) Contractor pays all expenses (“Wagering Expenses”) related to the Satellite Wagering Facility including without limitation fees to racing facilities, licensing fees, costs of repair, operation and maintenance of the facility and parking.

(d) At the end of each calendar year Contractor shall determine its net satellite income (“Net Satellite Income”) by deducting the Wagering Expenses from its
Wagering Gross Income. Pursuant to state law, Contractor then forwards to the State of California the Net Satellite Income. The State is required to rebate to the County a portion of the Net Satellite Income (the “Rebated Income”).

(c) County hereby agrees that Contractor shall be entitled to receive the Rebated Income and Contractor shall apply the Rebated Income toward Contractor’s operating, capital and debt service expenses. Payment of Rebated Income to Contractor shall be made by the County in arrears and on a quarterly basis.

Section 3.03 Possessory Interest Taxes.

(a) This Agreement constitutes an Agreement with the Board of Supervisors of the County of Santa Clara, which in part is made pursuant to Section 25905 of the California Government Code as it relates to the conduct of an agricultural fair. Therefore, pursuant to the provisions of Revenue and Taxation Code Section 201.2, the Contractor shall be deemed to be an agency of the County only for purposes of possessory interest taxes, and county-owned property used or possessed by the Contractor in the conduct of the agricultural fair shall be exempt from taxation under subdivision (b) of Section 3 of Article XII of the State Constitution.

(b) Any license, permit or concession rights granted by Contractor to third parties to operate on the Residual Property, and the Rollin’ Ice Lease and the Alvarez and Garner Lease, shall be subject to the imposition by Contractor and payment by the other contracting party of applicable possessory interest taxes. Contractor shall include a proviso regarding such taxes in each of its licenses, permits and concession right agreements, and in all of its contractual agreements.

ARTICLE 4. USE

Section 4.01. Contractor, in its management of the Residual Property, shall permit the Residual Property to be used and occupied for purposes of conducting the annual County Fair on behalf of the County of Santa Clara pursuant to Section 25905 of the California Government Code. Contractor, in its management of the Residual Property, also may permit the Residual Property to be used for promotion of any educational, charitable, informational, cultural, entertainment, or amusement purpose, provided that such uses must be in compliance with limitations contained in other leases of the Property, including without limitation the HOB Lease. All uses permitted by the Contractor shall be in accordance with local, state, and federal laws, and no events shall be permitted which shall interfere with the conduct of the annual County Fair. Further, Contractor may permit promoters to use the Residual Property for any uses that have been provided on the Residual Property in the past or at the time of execution of this Agreement; provided, however, no uses shall be permitted that are contrary to those policies of the Board of Supervisors governing the Residual Property and attached hereto as Exhibit B.
Section 4.02 Contractor hereby assumes and agrees to perform all obligations of the County or of Contractor under Contractor’s existing agreements with the County, including (a) any County/CTRC Agreement for Historical Project, Restoration of Storage Facility for Historical Steam Engine at the Santa Clara County Fairgrounds; and (b) the Agreement For Improvement and Use of the Santa Clara County Fairgrounds dated March 21, 1989, between County, the Fair Association, Spartan Little League and City of San Jose. Contractor’s assumption under this Section 4.02 shall expire on the expiration or earlier termination of this Agreement.

Section 4.03 Contractor shall assure that HOB and any party using the Residual Property coordinates its activities with the City of San Jose Police Department and/or the County Sheriff’s Department to assure that the party presenting an event is in compliance with public safety requirements.

ARTICLE 5. ADDITIONAL CONTRACTOR COVENANTS

As additional consideration to County, Contractor shall annually prepare and submit for County’s review and approval:

(a) a budget and business plan that addresses prior year performance and financial projections for the budget year, including facility maintenance and repair and equipment requirements; and

(b) an annual financial audit of the Contractor’s operation, with said audit being conducted by an entity that is approved by County.

County shall review the budget and business plans and audits delivered to it within sixty (60) days following receipt and within said sixty (60) day period shall notify Contractor in writing either (i) that County approves Contractor’s plan or (ii) that County disapproves of Contractor’s plan, in whole or in part. If County disapproves of Contractor’s plan, County in its notice shall specify the portions of the plan that are disapproved and shall set out proposed changes that would make the plan acceptable to County. County’s failure to deliver a notice of approval or disapproval as required above shall be deemed approval of Contractor’s submitted plan.

Section 5.01 Upon request by County, Contractor shall further complete and submit to County for its information:

(a) a marketing plan developed using available community resources, to address community and media relationships and year-round facility use;

(b) an operating plan for the annual County Fair and other interim events addressing areas of operations.
Section 5.02 Contractor agrees that the foregoing studies, plans and reports shall be generally consistent with the Fairgrounds Revitalization Plan, as adopted by the County and Contractor, or consistent with any revision or modification to that Plan or any other uses for the Residual Property that may be approved by the County.

Section 5.03 As part of its annual budget and business plan, Contractor shall prepare and submit to County for its approval an annual budget for the County Fair showing the estimated revenues and proposed expenditures from all sources during the ensuing calendar year. When approved the budget shall be submitted to the State Department of Food and Agriculture, in accordance with California Government Code Section 25905. Said budget shall be submitted by Contractor to County on or before December 1 of each year. If the budget is not submitted on or before December 1, County shall approve, or disapprove, the budget within thirty (30) days from receipt thereof. County’s failure to disapprove the budget shall be deemed an approval of the budget.

Section 5.04 If any mechanic’s lien or other similar encumbrance shall be filed against the Residual Property as a result of any activity of Contractor, Contractor shall, at its expense, cause such lien to be discharged of record or bonded within thirty (30) days after notice to Contractor of the filing thereof from County.

ARTICLE 6. ALTERATIONS

Section 6.01 Contractor shall maintain and repair the existing improvements, landscaping and parking areas on the Residual Property as set out in Article 7 below. Contractor shall make changes, alterations, or additions (“Alterations”) to Residual Property, only with the prior consent of the County. In requesting County’s approval of any Alterations, Contractor shall submit to County detailed plans and specifications of the proposed Alteration and an explanation of the reasons therefore. Contractor may, with County’s written consent, demolish or materially alter and/or expand any building on the Residual Property. Any Alterations shall be made at Contractor’s cost and expense. Contractor shall comply with the following conditions in making any Alterations:

(a) No alterations shall be undertaken until Contractor shall have procured, at its expense, all necessary permits and authorizations of all governmental authorities having jurisdiction. County shall join in the application for such permits or authorizations within five (5) days after request whenever necessary.
(b) No Alterations affecting the structure of any building on the Residual Property shall be made except in accordance with plans and specifications prepared by a licensed architect and/or engineer, and under the supervision of such licensed architect and/or engineer or other construction manager.

(c) Before commencing any Alterations, Contractor at its own expense shall obtain any necessary and appropriate riders for fire and extended coverage, comprehensive general public liability and property damage insurance covering the risks during the course of such work, and certificates therefore. County shall be named as an additional insured on said insurance policies.

(d) Any Alterations shall be made promptly (unavoidable delays excepted), in a good workmanlike manner and in compliance with all applicable laws, municipal ordinances, building codes, permits and requirements of all governmental authorities having jurisdiction, and of the local Board of Fire Underwriters, if any. Upon completion, Contractor shall obtain and deliver to County a copy of the amended Certificate of Occupancy, if required. The cost of any Alterations shall be promptly paid so that the Residual Property is free at all times from liens for labor and materials supplied for the Alterations.

ARTICLE 7. REPAIRS AND MAINTENANCE

Section 7.01.

(a) Contractor, at its own expense and to the extent Contractor has funds available from its operation of the Residual Property, shall maintain the existing improvements on the Residual Property and shall make any repairs thereto, whether interior and exterior, structural and non-structural, foundation and roof, and whether extraordinary, foreseen or unforeseen necessary to so maintain the Residual Property. As used herein, the term “Repairs” shall include all such replacements necessary to keep the Improvements in the condition described above. All repairs made by Contractor shall be new and at least equal in quality to the condition of the improvements.

(b) Contractor’s obligations under this Section shall include, but not be limited to, repairing, patching, repaving and re-striping of the parking areas in a manner consistent with the Parking Agreement, and Contractor shall plant, replant, and replace landscaping, maintain sewer and drainage lines located on the Residual Property, and light the Residual Property, at its own cost and expense, subject to the financial limits described above.

ARTICLE 8. COMPLIANCE WITH LAW

April 6, 2000
Section 8.01 Except as otherwise provide in Section 8.04, Contractor shall, at its cost and expense, comply with all laws and regulations of federal, state and municipal governments, departments, commissions and boards which may impose any obligations, order or duty upon Contractor with respect to the Residual Property or the Improvements or arising out of Contractor's use thereof, and shall immediately comply with any notices of violation issued pursuant to law or any directives or orders issued pursuant thereto. In particular, Contractor shall operate the Residual Property in accordance with the applicable noise ordinances that are in effect on the date hereof or amended by duly authorized governmental authority thereafter. If Contractor does not have the financial ability to comply with law, Contractor shall promptly notify County and County may either (i) make arrangements for payment or (ii) terminate this Agreement.

Section 8.02 Contractor's Board of Directors shall comply with all applicable provisions of Court Ordinance Code NS-19.22, relating to ethical standards. Contractor's Board of Directors shall be bound by the applicable provisions of the California Fair Political Practices Act and shall file on or before their due date all financial disclosures required by law, including without limitation the California Fair Political Practices Act.

Section 8.03 Contractor shall have no liability for, or responsibility to respond to, any claim, action or inquiry regarding any Environmental and Hazardous Substance Matters (as defined in Section 14.02 below) located in, on, under or around the Residual Property prior to the commencement of this Agreement. County, as a material consideration to Contractor entering this Agreement, assumes full responsibility for any required response, removal, remediation, testing, or other obligation, including without limitation consultants' fees, attorneys' fees and court costs, arising out of any matter related to Hazardous Materials on the Residual Property.

Section 8.04 Toxic Materials

Superfund Amendment and Reauthorization Act of 1986, Public Law 99-499, 100 State. 1613; the Toxic Substances Control Act, 15 U.S.C. &2601, et seq.; as amended; those substances defined as "hazardous waste," "extremely hazardous waste," "restricted hazardous waste" or "hazardous substances" in the Hazardous Waste Control Act, &2500 et seq. of the California Health and Safety Code; and those materials and substances similarly described in the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. &136 et seq., as amended; the Atomic Energy Act of 1954, 42 U.S.C. &2011 et seq., as amended; the Porter Cologne Water Quality Control Act, &1300 et seq. of the California Health and Safety Code; and in the regulations adopted and publications promulgated pursuant to said laws (hereinafter collectively referred to as the "Laws"). Such materials and substances are hereinafter collectively referred to as "Toxic Materials". Contractor shall become aware of the content of such Laws and all other laws regulating Toxic Materials as enforced by, but not limited to, the city of San Jose, the Bay Area Air Quality Management District, Santa Clara County Health Department, the Santa Clara Valley Water District, California Regional Water Quality Control Board, California Environmental Protection Agency, Department of Toxic Substances Control and all state and Federal offices enforcing regulations concerning occupational safety and health. It shall be the sole obligation of Contractor to obtain any permits and approvals required pursuant to the laws.

(b) At the commencement of this Agreement and during the month of January of each year through and including the year following the termination or expiration of this Agreement, Contractor shall disclose to County, in writing, the names and amounts of any Toxic Materials, whether solid, liquid or gaseous in form, which was stored, used or disposed of on the Residual Property, or which Contractor intends to store, use or dispose of on the Residual Property for the year prior to and following the date of each such disclosure; provided, Contractor shall not be required to disclose any Toxic Materials that are used in ordinary office or cleaning operations and are not present on the Residual Property in sufficient quantities to subject Contractor to reporting requirements with regard thereto.

(c) If Contractor or its agents, employees, contractors, licensees, or invitees (except the Indemnities) causes contamination or deterioration of air, water or soil resulting in a level of contamination greater than the maximum levels established from time to time during the term of this Agreement by any governmental authority having jurisdiction over such contamination, then Contractor shall promptly take any and all action necessary to clean up such contamination in the manner as required by law; provided, however, that Contractor shall not take any remedial action in response to the presence of any Toxic Materials in or about the Residual Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any claims relating to any Toxic Materials in any way connected with the Residual Property, without first notifying the County of Contractor's intention to do so and affording County ample opportunity to appear,
intervene, or otherwise appropriately assert and protect County's interest with respect thereto. If Contractor fails to take such action, County may, but shall not be obligated to, take such action. In such event, all costs incurred by County with respect to such clean up activities shall be for the account of Contractor.

(d) Contractor shall immediately provide County with telephonic notice, which shall later be confirmed by written notice, of any and all accumulation, spillage, discharge, and disposal of Toxic Materials onto or within the Residual Property, and any injuries or damages resulting directly or indirectly there from. Further, Contractor shall deliver to County each and every notice or order received from governmental agencies concerning Toxic Materials and the possessions, use and/or disposal thereof promptly upon receipt of each such notice or order. In addition, Contractor shall immediately notify County in writing of (i) any enforcement, cleanup, removal, or other governmental or regulatory action instituted, completed, or threatened pursuant to any Laws, (ii) any claim made or threatened by any person against Contractor or the Residual Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Toxic Materials, and (iii) any reports made to any local, state or federal environmental agency arising out of or in connection with any Toxic Materials in or removed from the Residual Property, including any complaints, notices, warnings, or asserted violations relating in any way to the Residual Property, or Contractor's use thereof. Contractor shall promptly deliver to County copies of hazardous waste manifests reflecting the legal and proper disposal of all Toxic Materials removed from the Residual Property. County shall have the right to enter on the Residual Property upon twenty-four (24) hours oral notice to Contractor for the purpose of inspecting the Residual Property for compliance with all environmental requirements.

(e) Contractor shall store in appropriate leak-proof containers, or in any other manner approved or prescribed by law, any and all Toxic Materials permitted within the Residual Property pursuant to this Agreement, which if discharged or emitted into the atmosphere, upon the ground or into or on any body of water will or may (1) pollute or contaminate the same, or (2) adversely affect the (a) health, safety or welfare of persons, whether on the Residual Property, or elsewhere, or (b) the condition, use or enjoyment of the Residual Property, or any real or personal property whether on the Residual Property or anywhere else, or (c) the Residual Property or any of the improvements thereto or thereon. There shall be no ponding or surface storage whatsoever of Toxic Materials on the Residual Property or any portion thereof.

(f) Notwithstanding anything to the contrary contained in this Section 8.04, Contractor shall not dispose of any Toxic Materials, regardless of the quantity of concentration, within the drains and plumbing facilities within the Residual Property or other property of County. The disposal of Toxic Materials shall be in approved containers and removed from the Residual Property only duly licensed
carriers. If Contractor becomes aware of or suspects the presence of any Toxic Materials existing within or coming onto the Residual Property, Contractor shall immediately give written notice of such condition to County as required by California Health and Safety Code Section 25359.7.

(g) Contractor shall pay, prior to delinquency, and all fees, taxes (including excise taxes) and fines which are charged upon or incident to Contractor’s activities related to Toxic Materials, and shall not allow such obligations to become a lien or charge against the Residual Property or upon County.

(h) On or before the expiration of this Agreement, Contractor shall take any and all action required to be taken under the Laws in order to (i) surrender the Residual Property to County in a condition which would be completely free of any and all Toxic Materials brought in, on or under the Residual Property by Contractor or Contractor’s agents, employees, contractors, licensees or invitees.

(i) Should Contractor breach any promise or fail to satisfy any of the conditions contained in this Section 8.04; time being of the essence thereof, County may, for no additional cause whatsoever, terminate this Agreement upon ten (10) days written notice to Contractor.

(j) The following substances are prohibited from being brought onto the Residual Property:

- Arsines
- Etching
- Asbestos
- Fluorocarbons
- Chlorocarbons
- Freon
- Dioxins, including dioxin precursors and intermediates.

Anything contained in the California List of Extremely Hazardous Chemicals

(k) Notwithstanding any other provision of this Section 8.04, Contractor shall have no obligation with regard to any contamination or deterioration of air, water or soil if such event were caused by party other than Contractor or its agents, employees, contractors, licensees or invitees. County shall be solely responsible for and shall indemnify, protect, defend (by counsel approved by Contractor) and hold harmless Contractor and Contractor’s agents, employees, representatives, directors and officers (collectively “Contractor Indemnities”) from and against any and all claims, costs, penalties, fines or losses which arise before, during or after the term of this Agreement as a result of a Toxic Material Act which is NOT caused by Contractor or Contractor’s agents, employees, contractors, licensees or invitees. This indemnification by County shall survive the termination of this Agreement.
ARTICLE 9. UTILITIES

Section 9.01. Contractor shall be solely responsible for, and shall pay when they become due, the cost of utilities services consumed on the Residual Property by Contractor, including, without limitation, water, gas, light, heat, telephone, electricity, garbage, refuse and other utility and communication services rendered or used on the Residual Property during the Term.

ARTICLE 10. INDEMNITY

Section 10.01 Except as otherwise provided in Section 8.04, Contractor shall indemnify, reimburse, hold harmless and defend County, its governing board, directors, officers, agents, representatives and employees, from and against any and all claims, actions, damages, losses, costs, liabilities and obligations, including without limitation court costs and reasonable attorneys’ fees, arising out of any claim, suit, judgment, loss or damage to any property, arising from or out of any occurrence, in or upon the Residual Property or any part hereof, or occasioned wholly or in part by any negligent act or omission of Contractor or those of its officers, agents, contractors and employees. To the extent, however, that the acts or omissions of the Board of the Fair Management Corporation are not fully covered by the policy of insurance required under Article 11 of this Agreement, County will indemnify, hold harmless, reimburse and defend those members of the Board of Directors for any claims, actions, damages, losses, costs liabilities and obligations, including without limitation court costs and reasonable attorneys’ fees, arising out of any claim, judgment, loss or expense beyond the insurance coverage which the County determines arose from actions taken in their capacity as members of the Board and in accordance with reasonable business practices and applicable law.

ARTICLE 11. INSURANCE

Contractor, at its sole cost and expense, shall maintain the following insurance coverage in full force and effect throughout the term of this Agreement:

Section 11.01 Upon request from County, Contractor shall provide an original plus one (1) copy of a Certificate of Insurance certifying that coverage as required has been obtained and remains in force for the period required by the Agreement. In addition, a certified copy of the policy or policies shall be provided by Contractor upon request.

Section 11.02 All policies shall contain a special provision for thirty (30) days prior written notice of any cancellation, or change in coverage that no longer meets the herein specified insurance requirements to be sent to the Clerk of the Board of Supervisors, 70 West Hedding Street, San Jose, California 95110, or to the address shown on the Certificate of Insurance.
Section 11.03  All policies other than those obtained through CSFA's pooled insurance plan shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than AAA, according to the current Best's Key Rating Guide, unless otherwise approved by County's Insurance Manager.

Section 11.04

(a) Throughout the term of this Agreement, Contractor, at its sole cost and expense, shall maintain in full force and effect, Comprehensive General Liability or Commercial General Liability insurance covering bodily injury (including death, personal injury and property damage).

(i) Limits shall be in an amount of not less than one million dollars ($1,000,000) per occurrence, and two million dollars ($2,000,000) aggregate, if applicable.

(ii) Such insurance shall name HOB, County, County's governing board, directors, officers, agents, representatives, and employees, individually and collectively, as additional insured.

(iii) Such insurance for additional insiders shall apply as primary insurance, and any other insurance maintained by HOB, County, its governing board, directors, officers, agents, representatives, and employees, shall be excess only and not contributing with the insurance required under this paragraph.

(b) Throughout the term of this Agreement, Contractor, at its sole cost and expense, shall maintain in full force and effect, insurance coverage for bodily injury (including death) and property damage which provides total limits of not less than one million dollars ($1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicle/aircraft/watercraft.

(c) Throughout the term of this Agreement, Contractor, at its sole cost and expense, shall maintain in full force and effect, insurance coverage for:

(i) Statutory California Worker's Compensation coverage includes a broad form all-states endorsement.

(ii) Employer's Liability coverage for not less than one million dollars ($1,000,000) per occurrence for all employees engaged in services or operations under this Agreement.
(iii) Inclusion of County and its governing board, directors, officer, representatives, agents, and employees as additional insured, or waiver of subrogation.

Section 11.05 Contractor shall maintain casualty insurance against loss or damage by fire and such other risks to the Improvements as are included in so-called “extended coverage” endorsements in an amount equal to one hundred percent (100%) of the replacement cost of the improvements without any deduction being made for depreciation and shall name County as a loss payee. Contractor shall also provide fire insurance on all personal property contained within or on the Residual Property. The policy shall be written on a standard “all risk” contract, excluding earthquake and flood. The contract shall insure for not less than ninety (90%) percent of the actual cash value of the personal property, and Contractor shall name County as an additional insured.

Section 11.06 Except as may be specifically provided for elsewhere in this Agreement, County and Contractor hereby each mutually waive any and all rights of recovery from the other in event of damage to the Residual Property or property of either caused by acts of God, perils of fire, lightening, and the extended coverage perils as defined in insurance policies and forms approved for use in the State of California. Each party shall obtain any special endorsements, if required by their insurer, to evidence compliance with the aforementioned waiver.

Section 11.07 If Contractor fails or refuses to procure or maintain insurance as required by this Agreement to be procured and maintained by Contractor, County shall have the right, at County’s election, on ten(10) days’ prior written notice to Contractor, to procure and maintain the insurance described in this Article 11 for the benefit of Contractor and County. County shall give prompt notice of the payment of such premiums, stating the amounts paid and the name(s) of the insured(s), which shall include Contractor.

ARTICLE 12. COUNTY’S COVENANTS AND DISCLOSURES

Section 12.01 Pursuant to California Health and Safety Code Section 25359.7, County hereby discloses to Contractor that County is aware of possible contamination of the Residual Property on the date hereof by Environmental and Hazardous Substance Matters as disclosed in Memorandum re: Santa Clara County Fairgrounds, 344 Tully Road, Santa Clara, California dated May 3, 1994, from Tom Callaghan, with said memorandum being on file with the Clerk of the Board of Supervisors. “Environmental and Hazardous Substance Matters” shall mean the presence of pollution or contaminants as defined by any applicable governmental regulatory agency, including but not limited to hazardous or toxic substances or materials regulated under Federal, State or local environmental statutes, ordinances, rules, regulations or orders, such as asbestos fibers or other asbestos containing materials, Radon gas, polychlorinated biphenyls (“PCB’s”) or any petroleum of
any kind and in any form, including gasoline, pesticides, ammonia, chlorine and derivatives thereof.

ARTICLE 13. DEFAULT

Section 13.01 Each of the following events shall be a default by Contractor and a breach of this Agreement:

(a) Failure or refusal to pay when due any sum to be paid to the County under this Agreement, or to perform as required or conditioned by any other covenant or condition of this Agreement.

(b) The subjectio of any right or interest of Contractor to attachment, execution, or other levy, or to seizure under legal process, if not removed within thirty (30) days.

(c) The appointment of a receiver to take possession of Contractor's assets, including but not limited to, assignment for benefit of creditors or voluntary or involuntary bankruptcy proceedings.

(d) An assignment by Contractor for the benefit of creditors or the filing of a voluntary or involuntary petition by or against Contractor under any law for the purpose of adjusting Contractor a bankrupt; or for the purpose of adjudicating Contractor a bankrupt; or for extending time for payment, adjustment, or satisfaction of Contractor's liabilities; or for reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency; unless the assignment or proceeding, and all consequent orders, adjudication, custody's, and supervisions are dismissed, vacated, or otherwise permanently stayed or terminated within thirty (30) days after the assignment, filing, or other initial event.

Section 13.02 As a precondition to pursuing any remedy for an alleged default by Contractor, County shall, before pursuing any remedy, give notice of default to Contractor. The notice of default shall specify in detail the alleged event of default.

Section 13.03 If the alleged default is nonpayment of any sums to be paid by Contractor, Contractor shall have thirty (30) days after notice is given to cure the default. For the cure of any other default, Contractor shall promptly and diligently after the notice commence during the default and shall have forty-five (45) days to cure default. Contractor shall not be in default if it commences to cure the default within forty-five (45) days and diligently proceeds to complete such cure within ninety (90) days after notice is given to Contractor, provided such time period may be extended by written agreement between the parties.

April 6, 2000
Section 13.04 If any default by Contractor shall continue uncured, following notice of default as required by this Agreement, for the period applicable to the default under the applicable provision of this Agreement, County may terminate this Agreement and pursue all other remedies available at law or in equity.

Section 13.05 County shall not be considered to be in default under this Agreement unless (1) Contractor has given notice specifying the default and (2) County has failed for sixty (60) days to cure the default, if it is curable, or to institute and diligently pursue reasonable corrective or ameliorative acts for non-curable defaults.

ARTICLE 14. NO WAIVER

Section 14.01 The failure of County or Contractor to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies that party or any other such party may have and shall not be deemed a waiver of any rights or remedies that party or any other such party may have and shall not be deemed a waiver of any subsequent breach or default in any terms, covenants or conditions.

ARTICLE 15. NOTICES

Section 15.01

(a) Whenever it is provided herein that notice, demand, request, consent, approval or other communication ("Notice") shall or may be given to either of the parties by the other, it shall be in writing and, any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless same shall be given or served (i) by registered or certified mail, postage prepaid, return receipt requested, or (ii) by personal service or (iii) by recognized delivery service (such as Federal Express), addressed and received as follows:

If to Contractor:

Santa Clara County Fairgrounds Management Corporation
344 Tully Road
San Jose, CA 95111
Attn: Executive Director

With a copy to:
Catherine C. Sprinkles
McPharlin & Sprinkles
10 Almaden Blvd., Suite 1460
San Jose, CA 95113

April 6, 2000
If to County:

County of Santa Clara
Office of the County Executive
County Government Center, East Wing
70 West Hedding Street
San Jose, Ca 95110

With a copy to:

William I. Anderson
Assistant County Counsel
County of Santa Clara
70 West Hedding Street
San Jose, CA 95110

(b) Any Notice hereunder shall be deemed to have been given or served on the date of actual receipt, or the date delivery is rejected, as evidence by return receipt, or records of the delivery service, as the case may be.

ARTICLE 16. IMPROVEMENTS AND FIXTURES

Section 16.01 All repairs, improvements and alterations made by Contractor upon the Residual Property shall be and remain the property of County throughout the Term.

Section 16.02 All trade fixtures and leased equipment installed by Contractor on the Residual Property, regardless of the manner or mode of attachment, including but not limited to flooring, lighting, counters, shelves, racks, and general fixtures, shall be and remain the property of Contractor, subject, however, to the rights of any equipment lessor, and may be removed by Contractor or equipment lessor or other person or entity entitled to remove the same at any time during or at the end of the Agreement, or the Residual Property caused by removal of any such trade fixtures by Contractor or its sub-contractors or licensees.

ARTICLE 17. ASSIGNMENT

Section 17.01 Contractor may grant permits, licenses and concessions for the one time conduct of events permitted under this Agreement upon the Residual Property so long as such are consistent with historically approved uses for the Residual Property. Except as permitted by the preceding sentence, Contractor shall not assign this Agreement without the prior written consent of County, nor allow any enterprise or activity on the Residual Property that is inconsistent with all the requirements of this Agreement. County shall have the right to revoke and/or restrict and limit the use of such permit, license or concession allowing such enterprise or activity.

April 6, 2000
ARTICLE 18. RELATIONSHIP OF PARTIES

Section 18.01 Nothing contained in this Agreement shall be constructed to create the relationship of principal and agent, partnership, joint venture or any other relationship between the parties hereto other than the relationship of County and Contractor. Nothing contained herein shall in any way impose any liability upon the officers, directors or supervisors of County or members, officers, directors or trustees of Contractor.

Section 18.02 Contractor will affirmatively represent, both orally and in writing, in every contract or agreement entered into by Contractor, including but not limited to, agreements or contracts with vendors, service providers, performers, independent contractors, and employees, that County has only a contractual relationship with Contractor, and that Contractor is not an agency of County. Further, Contractor shall affirmatively represent that County has no responsibility whatsoever for any debts, encumbrances or agreements made by Contractor. The following shall discharge Contractor’s disclosure obligation under this Section:

“The Santa Clara County Fair Management Corporation is a private not-for-profit organization. The Contractor is a Contractor of Santa Clara County and is NOT an agent or representative of the County. The County has no responsibility whatsoever for any debts, encumbrances or agreements of the Contractor.”

ARTICLE 19. CAPTIONS AND SECTION NUMBERS

Section 19.01 The captions, section numbers, and index appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such section or articles nor in any way affect this Agreement.

ARTICLE 20. APPLICABLE LAW/SEVERABILITY

Section 20.01 This Agreement shall be governed by, and construed in accordance with the laws of the State of California. If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each provision of the Agreement shall be valid and enforceable to the fullest extent permitted by the law.

ARTICLE 21. ADDENDA

Section 21.01 The following exhibits have been agreed to by the parties and annexed hereto or initialed by the parties prior to the execution hereof, it being the intention of the parties that they shall become a binding part of this Agreement as if fully set forth
herein. Nothing in this Agreement shall preclude County and Contractor from modifying any of the conditions set forth under the Addenda to this Agreement; provided, however, modifications to said Addenda shall require the express written consent of Contractor.

Exhibit A- Description of Residual Property

Exhibit B - Policies re: Use

ARTICLE 22. TIME OF THE ESSENCE

Section 22.01 Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

ARTICLE 23. LIMITATION OF LIABILITY

Section 23.01 No supervisor, member, official or employee of County shall be personally liable to Contractor, or any successor in interest to Contractor, in the event of any default or breach by County, or for any amount which may become due to Contractor or Contractor’s successor on any obligation under the terms of this Agreement.

Section 23.02 No board member or employee of Contractor shall be personally liable to County, or any successor in interest to County, in the event of any default or breach by Contractor, or for any amount which may become due to County or County’s successor or any obligation under the terms of this Agreement, including without limitation Article 8 and Article 10. Contractor has entered into this Agreement with the understanding that County’s sole remedy for Contractor’s default under this Agreement is to the assets of Contractor’s corporation and specifically not the assets of any board members or employees of Contractor.

ARTICLE 24. CUMULATIVE REMEDIES

Section 24.01 No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies of law or in equity.

ARTICLE 25 COVENANTS AND CONDITIONS

Section 25.01 Each provision of this Agreement performable by County and Contractor shall be deemed both a covenant and a condition.

ARTICLE 26 BINDING EFFECT
Section 26.01 Subject to Article 17 and the provisions hereof-restricting assignment, this Agreement shall bind the parties, their personal representatives, successors and assigns.

ARTICLE 27. SINGULAR AND PLURAL

Section 27.01 When required by the context of this Agreement, the singular shall include the plural.

ARTICLE 28. FURTHER ASSURANCES

Section 28.01 The parties hereby agree, to the extent permitted by law, from time to time, as and when requested by any other party hereto or by its successors or assigns, to execute and deliver, or cause to be executed and delivered, all such instruments, and to take, or cause to be taken, all such further or other actions, as may be reasonably necessary or desirable in order to implement the provisions hereof and otherwise to effect the intent and purpose hereof.
ARTICLE 29. ENTIRE AGREEMENT

Section 29.01 This Agreement and the Exhibits Rider, if any, attached hereto and forming a part hereof, set forth all the covenants, promises, agreements, conditions and understandings between County and Contractor. No modification, amendment, change or addition to this Agreement shall be binding upon County or Contractor unless reduced to writing and signed by each party.

IN WITNESS WHEREOF, County and Contractor have executed this Agreement as of the date above written.

COUNTY OF SANTA CLARA

[Signature]

Donald F. Gage, Chair
Board of Supervisors

ATTEST: Phyllis A. Perez, Clerk

[Signature]

Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

[Signature]

William I. Anderson
Assistant County Counsel

SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a California nonprofit corporation

By: [Signature]

Its: Executive Director

April 3, 2000
All that certain real property situate in the Unincorporated Area, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

Beginning at a stake marked H.5 on the Southeastern line of that 52.969 acre tract described in the Deed from William Dunphy to Patrick Carroll, dated December 8, 1882, recorded December 13, 1882 in Book 66 of Deeds, page 86, said stake H.5 being at the Westernmost corner of that certain 24.12 acre tract described in the Deed from S. C. Baroni, et ux, to Ruth I. Brown Parry, et al, dated January 3, 1927, recorded January 10, 1927 in Book 284 O.R. page 584, from which stake H.5 a stake marked H.4 on the Southwesterly line of Senter Road at the Easternmost corner of the above mentioned 52.969 acre tract bears North 51° East 16.109 chains; thence along the Southwestern line of said 24.12 acre tract, South 36° 34' East 15.105 chains to a stake marked H.2 at the Southwestern corner thereof; said stake H.2 being on the Northwesterly line of that certain 9 acre tract described in the Deed from Wilma K. Clark, et al, to Frank Leslie Wilson, dated October 24, 1938, recorded November 14, 1938 in Book 899 O.R. page 599, from which stake H.2 a stake marked H.3 on the Southwestern line of Senter Road at the Easternmost corner of said 24.12 acre tract bears North 50° 14' East 16.099 chains: thence along the Northwestern line of the 9 acre tract and continuing along the Northwestern line of the Frank Mats Tract as shown upon the Map thereof recorded May 22, 1906 in Book L of Maps, page 36, and along the Northwestern line of that certain 38.11 acre tract described in the Deed from Frank A. Vargas to Lion Ranch Company, dated and recorded June 1, 1927 in Book 316 O.R. page 499, and along the Northwesterly line of that 6.56 acre tract of land described in the Deed from D. L. Holt to Ada Maude Holt, dated October 18, 1932, recorded June 30, 1933 in Book 655 O.R. page 127, South 50° 14' West 43.742 chains to a fence post marked H.1 at the Westernmost corner of the above mentioned 6.56 acre tract on the Northeastern line of the Southern Pacific Railroad Company's Right of Way; thence along said last named Northeastern line North 32° 42' West 15.602 chains to a stake marked H.8 on the Southeastern line of that certain 10 acre tract of land described in the Deed from Francis E. Spencer, et al, as Commissioners of the Funded Debt of the City of San Jose to Samuel McGinnes, dated June 5, 1865, recorded June 29, 1865 in Book T of Deeds, page 733; thence along the Southeastern line of the said 10 acre tract, North 50° 37' East 23.386 chains to a stake marked D.C.M. at the Easternmost corner thereof, said stake D.C.M. also being at the Southernmost corner of the 52.969 acre tract conveyed to Carroll above referred to; thence along the Southeastern line of said 52.969 acre tract North 50° 53' East 6.76 chains to a stake marked P.C. 3 and North 51° East 12.52. chains to the point of beginning.

EXCEPTING THEREFROM that portion granted to The State of California, by Deed recorded February 8, 1963 in Book 5898 of Official Records, page 548 more particularly described as follows:
COMMENCING at the most westerly corner of that certain 6.56 acre tract of land conveyed to Ada Maude Holt by deed recorded June 30, 1933 in Book 655 at page 127, Official Records of Santa Clara County; thence along the northwesterly line of said tract N. 50° 06' 21" E., 12.43 feet; thence N. 37° 34' 37" W., 150.55 feet to the line common to the lands, now or formerly, of County of Santa Clara and of Southern Pacific Company; thence along said common line S. 32° 52' 45" E., 151.56 feet to the point of commencement.

PARCEL TWO:

BEGINNING at a point distant N. 49° 49' E. 416.2 feet along the Northerly line of Umbarger Road from the Easterly line of the Monterey Road, said point of beginning being distant N. 49° 49' E. 416.2 feet on said Northerly line of said Umbarger Road from the Southwesterly corner of J. H. Dougherty's 48.16 acre tract as conveyed to Alice Farran by Deed of December 3, 1895 and recorded in Book 187 of Deeds, page 93, Santa Clara County Records; thence from said point N. 49° 49' E. along the Northerly line of Umbarger Road 2257.4 feet; thence N. 37° 02' W. 728.7 feet along the dividing line between Lots 4 and 5 of Frank Matts Tract as of record in Book L of Maps page 36, Santa Clara County Records; thence S. 49° 47' W. 2303.6 feet to a point 360.5 feet distant N. 49° 47' E. from the Easterly right of way line of the Southern-Pacific Railroad Co., thence S. 40° 31' E. 726.85 feet to the point of beginning.

EXCEPTING THEREFROM portion of Lot 4 as shown upon that certain Map entitled, "Map of the Subdivision of the Frank Matts Tract", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on May 22, 1906 in Book L of Maps, page 36, and more particularly described as follows:

BEGINNING at a point on the Northwesterly line of Umbarger Road where the same is intersected by the dividing line between Lots 4 and 5, as said Road and Lots are shown upon the Map above referred to; thence along the Northwesterly line of Umbarger Road S. 49° 49' W. 119.78 feet; thence parallel with the dividing line between said Lots 4 and 5, N. 37° 03' W. 728.30 feet to the Northwesterly line of said Lot 4; thence along the Northwesterly line of said Lot 4, N. 49° 45 1/2' E. 119.79 feet to the Northernmost corner of said Lot 4; thence along the northeasterly line of said Lot 4, S. 37° 03' E. 728.42 feet to the point of beginning.

ALSO EXCEPTING THEREFROM portion of Lot 4 as shown upon that certain Map entitled, "Map of the Subdivision of the Frank Matts Tract", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on May 22, 1906 in Book L of Map, page 36, and more particularly described as follows:
BEGINNING at a point in the Northwesterly line of Umbarger Road distant thereon S. 49° 49' W. 119.78 feet from a 3/4 inch pipe at the most Easterly corner of Lot 4, as said road and lot are shown on the Map above referred to; and running thence along the Northwesterly line of the Umbarger Road S. 49° 49' W. 119.82 feet; thence parallel with the Northeasterly line of said Lot 4, of the Frank Matts Tract N. 37° 03' W. 728.19 feet to the Southeasterly line of the lands of the County of Santa Clara, thence along said Southeasterly line N. 49° 45' 30" E. 119.83 feet to a point which bears S. 49° 45' 30" W. 119.79 feet from a 3/4 inch pipe at the most Northerly corner of said Lot 4 of the Frank Matts Tract thence parallel with the Northeasterly line of said Lot 4, of the Frank Matts Tract S. 37° 03' E. 728.31 feet to the point of beginning.

ALSO EXCEPTING THEREFROM portion of Lots 3 and 4, as shown upon that certain Map entitled, "Map of the Subdivision of the Frank Matts Tract", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California on May 22, 1906 in Book L of Maps, page 36, and more particularly described as follows:

BEGINNING at a point in the Northwesterly line of Umbarger Road distant thereon S. 49° 49' W. 239.60 feet from the point of intersection of the Northwesterly line of Umbarger Road with the Southwesterly line of Lot 5 of the Frank Matts Tract above referred to; and running thence along the Northwesterly line of Umbarger Road S. 49° 49' W. 137.71 feet; thence N. 39° 03' 1/2" W. 727.04 feet to the Southeasterly line of the lands of the County of Santa Clara, thence along said Southeasterly line N. 49° 49' 30" E. 163.37 feet; thence parallel with the Southwesterly line of Lot 5 of the Frank Matts Tract. S. 37° 03' E. 728.19 feet to the place of beginning.

PARCEL THREE:

BEGINNING at the Easternmost corner of Lot 3 of the Parkhurst Partition, as said Lot 3 is shown on Map filed in Proceedings had in the Superior Court of the County of Santa Clara in that certain Partition action entitled, "W.A. Parkhurst, et al, plaintiffs vs. Benjamin Chaboya, et al, defendants, in Case No. 8094", said point of beginning also being the Southernmost corner of the 15.75 acre tract described in the Deed from Clarence B. Goodwin, as City Manager of the City of San Jose, to Frances Agnes Fellom dated December 7, 1920, recorded December 7, 1920 in Book 525 of Deeds, page 329; thence running South 18° 29' East 4.02 chains to a 8" x 8" x 30" sandstone monument on the Northwestern line of that certain 66.20 acre tract of land described in the Deed from Maurice A. Hall to H.J. Macomber, dated April 22, 1920, recorded August 11, 1920 in Book 521 of Deeds, page 241; thence along the Northwestern line of said 66.20 acre tract North 50° 30' East 17.23 chains to a stake marked D.C.M. at the Southernmost corner of that certain 52.969 acre tract described in the Deed from William Dunphy to Patrick Carroll dated December 8, 1882 and recorded December 13, 1882 in Book 66 of Deeds, page 86; thence along the Southwestern line of said 52.969 acre tract North 38° 18' West 3.77 chains to the Easternmost corner of the 15.75 acre tract so described in the Deed to Fellom above referred to; thence along the Southeastern line of said 15.75 acre tract South 50° 29' West 15.88 chains to the point of beginning.
PARCEL FOUR:

BEGINNING at a point on the center line of Tully Road, distant thereon North 50° 8' East 13.45 chains from its intersection with the Northeastern line of Monterey Road as the same existed prior to November 8, 1937, said point of beginning being at the Northernmost corner of Lot 8 of the Parkhurst Partition, as said Lot is shown upon the Map filed in Proceedings had in the Superior Court of the County of Santa Clara in that certain Partition action entitled, "W. A. Parkhurst, et al, plaintiffs vs. Benjamin Chaboya, et al, defendants," Case No. 8094; thence along the center line of Tully Road, North 50° 08' East 11.72 chains more or less, to the Northwestern prolongation of the Southwestern line of that certain 52.969 acre tract of land described in the Deed from William Dunphy to Patrick Carroll, dated December 8, 1882, recorded December 13, 1882 in Book 66 of Deeds, page 86; thence along said last named prolongation and along the Southwestern line of said 52.969 acre tract, South 36° 45' East 11.46 chains to the Northernmost corner of that certain 10 acre tract of land described in the Deed from Frances E. Spencer et al, as Commissioners of the Funded Debt of the City of San Jose to Samuel Meginnes, dated June 5, 1865 and recorded June 29, 1865 in Book T of Deeds, page 733; thence along the Northwestern line of said last named 10 acre tract South 50° 29' West 15.79 chains to the Easternmost corner of Lot 3 of the Parkhurst Partition above referred to; thence along the Northeastern line of said Parkhurst Partition North 18° 32' West 12.25 chains to the point of beginning.

EXCEPTING THEREFROM so much thereof as lies within the bounds of Tully Road as described in the Deed from J. A. Quimby as Mayor of the City of San Jose to County of Santa Clara, dated December 22, 1866, recorded January 3, 1867 in Book W of Deeds, page 210.

PARCEL FIVE:

BEGINNING at a stake marked D.C.M at the Southernmost corner of that certain 52.969 acre tract described in the Deed from William Dunphy to Patrick Carroll, dated December 8, 1882, recorded December 13, 1882 in Book 66 of Deeds, page 86, said point of beginning also being on the Northwestern line of the 66.20 acre tract of land described in the Deed from Maurice A. Hall to H. J. Macomber, dated April 22, 1920 and recorded August 11, 1920 in Book 521 of Deeds, page 241; thence along the Southwestern line of said 52.969 acre tract North 38° 18' West 14.70 chains to the Westernmost corner thereof on the Southeastern line of Tully Road also known as Stevenson Road; thence along the Southeastern line of Tully Road, North 49° 45' East 6.75 1/2 chains to a stake marked P.C. 6 at the Westernmost corner of the 6.56 acre tract of land described in the Deed from James J. Carroll, et al, to Franklin School District, dated and recorded June 4, 1930 in Book 519 O.R. page 235; thence along the Southwestern line of said 6.56 acre tract South 38° 18' East 14.85 chains to a stake marked P.C. 3 at the Southernmost corner thereof on the Northwestern line of the above mentioned 66.20 acre tract; thence along the said northwestern line South 51° 8' West 3.37 1/2 chains to a stake marked P.C. 2 and South 50° 10' West 3.39 chains to the Point of beginning.
EXCEPT that portion described as follows:

BEGINNING at a stone monument standing in the Southeasterly line of Tully Road at the Northernmost corner of that certain 10 acre tract of land described in the Deed from Maurice A. Hall to H. J. Macomber, dated March 30, 1920, recorded April 1, 1920 in Book 513 of Deeds, page 145; running thence along said Southeastern line of Tully Road South 49° 45' West 167.50 feet to a 4" x 5" corner fence post marked C.1; thence leaving said road and running parallel with the Northeastern line of above mentioned 10 acre tract South 38° 18' East 379.48 feet to an iron pipe set 1 foot below the surface of the ground; thence parallel with the Southeastern line of Tully Road North 49° 45' East 167.50 feet to an iron fence post 2" in diameter standing in the Northeastern line of the above mentioned 10 acre tract: thence along the Northeastern line of said 10 acre tract North 38° 18' West 379.48 feet to the point of beginning.

PARCEL SIX:

BEGINNING at a stone monument standing in the Southeasterly line of Tully Road at the Northernmost corner of that certain 10 acre tract of land described in the Deed from Maurice A. Hall to H. J. Macomber, dated March 30, 1920, recorded April 1, 1920 in Book 513 of Deeds, page 145; running thence along said Southeastern line of Tully Road South 49 degrees 45' West 167.50 feet to a 4" x 5" corner fence post marked C.1; thence leaving said road and running parallel with the Northeastern line of above mentioned 10 acre tract South 38 degrees 18' East 379.48 feet to an iron pipe set 1 foot below the surface of the ground; thence parallel with the Southeastern line of Tully Road North 49 degrees 45' East 167.50 feet to an iron fence post 2" in diameter standing in the Northeastern line of the above mentioned 10 acre tract; thence along the Northeastern line of said 10 acre tract North 38 degrees 18' West 379.48 feet to the point of beginning.

PARCEL SEVEN:

BEGINNING at a point on the Southeasterly line of Tully Road, distant thereon South 49° 03' West 499.83 feet from the point of intersection of said line of Tully Road with the Southwesterly line of Senter Road; thence leaving said line of Tully Road and running South 38° 05' 30" East 991.70 feet to a point on the Northerly line of that certain 24.12 acre tract of land described in the Deed from S. E. Baroni, et ux, to Ruth L. Brown Parry, et al, dated January 3, 1927, recorded January 10, 1927 in Book 284 O.R. page 584, Santa Clara County Records; thence along the Northwesterly line of said 24.12 acre tract and its prolongation Southwesterly, South 49° 28' West 1095.69 feet to a nail driven in the concrete at the Easternmost corner of that certain 6.56 acre tract of land described in the Deed from James J. Carroll, et al; to Franklin School District, dated June 4, 1930 recorded June 4, 1930 in Book 519 O.R. page 235, Santa Clara County Records; running thence along the Northeasterly line of said 6.56 acre tract, North 39° 00' 45" West 983.06 feet to a nail driven in the concrete at the Northernmost corner of said 6.56 acre tract on the Southeasterly line of Tully Road; thence along the Southeasterly line of Tully Road, North 49° 03' East 1111.88 feet to the point of beginning.
EXCEPTING THEREFROM that portion granted to Franklin-McKinley School District by Deed recorded August 2, 1948 in Book 1655 of O.R. page 378 described as follows:

BEGINNING at a nail driven in concrete in the southeasterly line of Tully Road at the northernmost corner of that certain 6.56 acre tract of land described in deed from James J. Carrol, et al, to Franklin School District, dated June 4, 1930, recorded June 4, 1930 in Volume 519, page 235 of the Official Records of Santa Clara County, California, said point of beginning also being the most westerly corner of that certain 25.00 acre tract of land described in Deed from Peter F. McKinney, et al, to Santa Clara County, recorded in Volume 1403 page 391, of said Official Records running thence along the Southeasterly line of Tully Road, N. 49° 03' E. 350 feet to a point; thence parallel to the northeasterly line of said 6.56 acre tract of land S. 39° 00' 45" W. 985.61 feet to the Southeasterly line of said 25.00 acre tract of land thence along the Southeasterly line of said 25.00 acre tract of land, thence along the Southeasterly line of said 25.00 acre tract of land; S. 49° 28' W. 349.92 feet to a 3/4 inch pipe at the most easterly corner of said 6.56 acre tract of land; thence along the northeasterly line of said 6.56 acre tract of land N. 39° 00' 45" W. 983.06 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion granted to the City of San Jose, by Deed recorded September 21, 1979 in Book E807 of O.R., page 117, more particularly described as follows:

(a) BEGINNING at a point on the southeasterly line of the Tully Road which is distant thereon S. 49° 03' W. 499.83 feet from the point of intersection of the southeasterly line of Tully Road with the southwesterly line of Senter Road, said point of beginning being the most northerly corner of that certain 25.0 acre tract of land deeded by Peter F. McKinney and wife and Francis J. McKinney (a single man) to Santa Clara County and recorded in Book 1403 Official Records, at page 391, Official Records of Santa Clara County; thence leaving said Tully Road and running S. 38° 05' 30" E. 250 feet to a point in the easterly line of said 25 acre tract above referred to; thence S. 49° 03' W. and parallel with the southeasterly line of Tully Road 125 feet to a point; thence N. 38° 05' 30" W. and parallel to the easterly line of said 25 acre tract 250 feet to a point in the southeasterly line of Tully Road; thence N. 49° 03' E. 125 feet along the southeasterly line of said road to the place of beginning.

(b) BEGINNING at an iron pipe in the southerly line of Tully Road, said pipe being the most westerly corner of that certain tract of land deeded by County of Santa Clara to the Central Fire Protection District Santa Clara County August 16, 1948, and recorded in Book 1663 at page 333 Records of Santa Clara County; thence along said southerly line of Tully Road S. 49° 03' W. 15 feet to a point; thence leaving said Road and running S. 38° 05' 30" E. and parallel to the westerly line of said tract above referred to 250 feet to a point; thence N. 49° 03' E. 15 feet to the southwesterly corner of said tract; thence N. 38° 05' 30" W. along the westerly line of said tract 250 feet to the place of beginning.
PARCEL EIGHT:

BEGINNING at the underground stake standing in the center of the Tully Road and at the common corner for Lands now or formerly of C. J. Fellom and the tracts partitioned in the Action of W. A. Parkhurst, et al, Plaintiffs, against Benjamin Chaboya, et al, Defendants, brought in the Superior Court of the State of California, in and for the County of Santa Clara, on June 6, 1888 which said Action is Numbered 8094 and running thence along the center line of road South 50° 8' W., 4.68 chains to an underground stake standing at the Northernmost corner of Lot 7 of the land partitioned and from which a 3" x 4" witness post standing in the Southerly line of said road bears South 39° 52' East 45 links; thence leaving said road and running at right angles to it and along the Easterly line of Lots 7, 6, 5 and 4 of the land partitioned South 39° 52' East, 7.50 chains to the Easternmost corner of Lot 4 and in the Northerly line of Lot 3 of the land partitioned; thence along the Northernly line of said Lot 3, North 50° 8' East, 1.75 chains to the Northernmost corner of said Lot 3 in the Westerly fence line of lands now or formerly of C. J. Fellom; thence along said fence North 18° 32' West, 8.04 chains to the place of beginning, and being designated upon the Map accompanying the report of the sole referee in the action above mentioned as Lot 8, Courses true, Mag. Var. 16 3/4° East.

PARCEL NINE:

BEGINNING at a 4" x 4" stake standing in the Northerly line of Lot 3 of the Partition hereinafter referred to; and being distant thereon North 50° 8' East, 0.61 chains from the Westernmost corner of said Lot 3 in the Easterly line of lands of the Southern Pacific Company, said point of beginning being in the Easterly line of Healey Avenue and running thence along the Northerly line of said Lot 3 of said Partition and parallel with the Tully Road, North 50° 8' East 5.90 chains to a 4" x 4" stake, Standing at the southernmost corner of Lot 8 of said Partition; thence at right angles and along the Westerly line of said Lot 8, North 39° 52' West, 2.38 chains to a stake standing at the Easternmost corner of Lot 5 of said Partition; thence along the Southerly line of said Lot 5 and parallel with the first course of this description; South 50° 8' West, 5.62 chs to the Southernmost corner of said Lot 5 on the Easterly line of Healey Avenue; thence along the Easterly line of Healey Avenue, South 33° East, 2.395 chains to the place of beginning.

PARCEL TEN:

All of Lots 5 and 6 as laid down, designated and delineated upon the Map accompanying the report of the Sole Referee in the Action of W. A. Parkhurst et al, vs. Benjamin Chaboya, et al, appointed in the Superior Court of the County of Santa Clara, State of California, to make partition of certain real estate and more particularly described as follows, to wit:
BEGINNING at a 4" x 4" post standing at the Westernmost corner of Lot 4 of the land partitioned and on the Easterly side of the road laid out for the purposes of said partition and being distant N. 50° 8' E., 0.61 chs., and S. 33° E., 5.15 1/2 chs. from the intersection of the Stevens or Tully Road with the Easterly line of the land of the Southern Pacific Company and running thence along the North line of Lot 4 of the land partitioned and parallel to the center of the Tully Road, N. 50° 8' E., 5.62 chs. to a 4" x 4" stake standing at the Northernmost corner of said Lot 4 and in the Westerly line of Lot 8 of the Partition; thence at right angles and along the Easterly line of said Lot 8, N. 30° 52' W., 2.52 chs. to a 4" x 4" stake standing at the Northwesterly line of the land of the Southern Pacific Company and numbered 8094, wherein W. A. Parkhurst, et al., were plaintiffs, and Benjamin Chaboya, et al., were defendants, South 33° East 2.61 1/2 chains to a 4" x 4" stake standing at the Westernmost corner of Lot 6 of said partition; thence along the Northerly line of said Lot 6 and parallel with the center of the Tully Road North 50° 8' East 5.31 chains to a 4" x 4" stake standing at the Northernmost corner of Lot 6 and in the Westerly line of Lot 8 of said partition; thence along the Westerly line of said Lot 8, North 39° 52' West 2.60 chains, to the center of the Tully Road at the Westernmost corner of said Lot 8 and thence along the center of said Road South 50° 8' West 5 chains to the place of beginning.

PARCEL ELEVEN:

BEGINNING at a stake standing in the center of the Tully Road and being distant North 50° 8' East 0.61 chains from the intersection of the center line of said road with the Easterly line of the lands of the Southern Pacific Company, and running thence along the Easterly line of Healy Way, 40 feet wide, as granted by Julia Martins et al, to the County of Santa Clara by Deed dated August 22, 1938, recorded October 11, 1938 in Book 898 of Official Records, page 250, and the Northwesterly prolongation thereof, being the road laid out for the purposes of partition in the action brought in the Superior Court of the State of California in and for the County of Santa Clara, and numbered 8094, wherein W. A. Parkhurst, et al., were plaintiffs, and Benjamin Chaboya, et al., were defendants, South 33° East 2.61 1/2 chains to a 4" x 4" stake standing at the Westernmost corner of Lot 6 of said partition; thence along the Northerly line of said Lot 6 and parallel with the center of the Tully Road North 50° 8' East 5.31 chains to a 4" x 4" stake standing at the Northernmost corner of Lot 6 and in the Westerly line of Lot 8 of said partition; thence along the Westerly line of said Lot 8, North 39° 52' West 2.60 chains, to the center of the Tully Road at the Westernmost corner of said Lot 8 and thence along the center of said Road South 50° 8' West 5 chains to the place of beginning.

PARCEL TWELVE:

BEGINNING at a point on the Northwesterly line of that certain 0.529 acre tract of land described in the Deed from Southern Pacific Railroad Company, a corporation and its lessee, Southern Pacific Company, a corporation, to the County of Santa Clara, State of California, recorded January 19, 1954 in the Office of the County Recorder, County of Santa Clara, State of California, in Book 2797 of Official Records, at page 215, distant thereon North 57° 07' 15" East, 34.79 feet from the Westernmost corner thereof; thence from said point of beginning running along the Northwesterly line of the aforesaid lands of the County of Santa Clara North 57° 07' 15" East, 25.21 feet to a point in the Northeast corner of the Southern Pacific Railroad Company's right-of-way (60.00 feet wide); thence running along said Northeast corner of that certain 0.34 acre tract of land described in the Deed from Samuel Maginess, to Southern Pacific Railroad company,
recorded June 13, 1868 in the Office of the Recorder, County of Santa Clara, in Book 9 of Deeds, at page 322; thence running along the Southeasterly line of said 0.34 acre tract South 57° 07' 15" West, 60.00 feet to the Southernmost corner thereof; thence running along the Southwesterly line of the Southern Pacific Railroad Company's right-of-way (60.00 feet wide) South 32° 52' 45" East, 176.64 feet to a point North 37° 34' 37" West 424.79 feet to the point of beginning; thence South 37°34'37" East, 424.79 feet to the point of beginning.


PARCEL THIRTEEN:

A portion of that parcel of land described in Deed No. 27585 to the State of California recorded February 7, 1963 in Volume 5896, Page 232, Official Records Of Santa Clara County, described as follows:

COMMENCING at the northerly corner of said parcel; thence along the northwesterly line of last said parcel S. 50° 51' 23" W., 11.91 feet; thence S. 37° 34' 37" E., 144.52 feet to the northeasterly line of said parcel; thence along last said line N. 32° 52' 45" W., 145.34 feet to the point of commencement.

PARCEL FOURTEEN:

Lying in and being a portion of Lot 4 of the Frank Matts Tract as recorded in Book L of Maps, page 36 of the Official Records of Santa Clara County, California, also being a portion of that certain parcel of land conveyed by Robert B. Culbertson, et ux, to O.K. James, as recorded in Volume 1352, page 88 of said Official Records, more particularly described as follows:

BEGINNING at a point in the dividing line between said Frank Matts Tract and that certain parcel of land conveyed by H. Kirke Macomber to the County of Santa Clara, a body politic and corporate and a Political Subdivision of the State of California, as recorded in Volume 1009, page 295 of said Official Records, from which the common corner of Lots 4 and 5 of said Tract in said dividing line bears N. 49°49'30" E. 119.78 feet, said point of beginning being the Northwesterly corner of that certain parcel of land conveyed by Eugene S. Grady, et ux, to Arthur M. Dyer, et ux, as recorded in Volume 1373, page 276 of said Official Records running thence along the North line of said Frank Matts Tract S. 49°49'30" W. 119.83 feet to the Northeasterly corner of that certain parcel of land conveyed by T. A. Minardi, et ux, to Ralph Curtis Acord, et ux, as recorded in Volume 1290, page 467 of said Official Records; thence along the Easterly line of the land so conveyed to said Acord S. 37°03' E. 35.02 feet to a point; thence along a line parallel to the Northerly line of said Frank Matts Tract N. 49°49'30" E., 119.83 feet to the Westerly line of the lands so conveyed to said Dyer; thence along the Westerly line of the lands of said Dyer N. 37°03' E. 35.02 feet to the point of beginning.
PARCEL FIFTEEN:

Lying in and being a portion of Lots 3 and 4 of the Frank Matts Tract as recorded in Book L of Maps, page 36 of the Official Records of Santa Clara County, California, and also being a portion of the land conveyed by T. A. Minardi, et ux, to Ralph Curtis Acord, et ux, as recorded in Volume 1290, page 467, of said Official Records, more particularly described as follows:

Beginning at a point in the dividing line between said Frank Matts Tract and that certain parcel of land conveyed by H. Kirke Macomber to the County of Santa Clara, a body politic and corporate, and a Political Subdivision of the State of California, as recorded in Volume 1009, page 295 of said Official Records, from which the common corner of Lots 4 and 5 of said Frank Matts Tract bears N. 49°49'30" E. 239.61 feet, said point of beginning also being the Northwesterly corner of that certain parcel of land conveyed by Robert B. Culbertson, et ux, to O.K. James, as recorded in Volume 1352, page 88 of said Official Records, running thence along the Northerly line of said Frank Matts Tract S. 49°49'30" W. 163.37 feet to the Easterly line of that certain parcel of land conveyed by Robert B. Cimino and Sarah A. Cimino to said County of Santa Clara, as recorded in Volume 1391, page 187 of said Official Records; thence along the Easterly line of the lands so conveyed by said Cimino to said County S. 39°03'30" E. 35.00 feet to a point; thence parallel to the Northerly line of said Frank Matts Tract N. 49°49'30" E. 162.16 feet to the Westerly line of the lands so conveyed to said O.K. James; thence along the Westerly line of the land of said O.K. James N. 37°03' W. 35.02 feet to the point of beginning.

PARCEL SIXTEEN:

Lying in and being a portion of Lot 4 of the Frank Matts Tract as recorded in Book L of Maps, page 36 of the Official Records of Santa Clara County, California, also being a portion of the land conveyed by Eugene S. Grady, et ux, to Arthur M. Dyer, et ux, as recorded in Volume 1373, page 267, of said Official Records, more particularly described as follows:

Beginning at a point in the dividing line between said Frank Matts Tract and that certain parcel of land conveyed by H. Kirk Macomber to the County of Santa Clara, a body politic and corporate, and a political Subdivision of the State of California, as recorded in Volume 1009, page 295 of said Official Records, from which the common corner of Lots 4 and 5 of said Tract in said dividing line bears N. 49°49'30" E. 59.89 feet said point of beginning also being the Northeasterly corner of the lands conveyed by said Grady to said Dyer, running thence along the Northerly line of said Frank Matts Tract S. 49°49'30" W. 59.89 feet to the Northeasterly corner of that certain parcel of land conveyed by Robert
B. Culbertson, et ux, to O.K. James as recorded in Volume 1352, page 88 of said Official Records; thence along the Easterly line of the land so conveyed to said James S. 37°03' E. 35.02 feet; thence parallel to the Northerly line of said Frank Matts Tract N. 49°49'30" E. 59.89 feet to the Easterly line of the lands so conveyed to said Dyer; thence along the Easterly line of the lands of said Dyer N. 37°03' W. 35.02 feet to the point of beginning.
EXHIBIT "A"

LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS

Note: This Exhibit reflects the matters which are excluded and excepted from coverage in the 1990 CLTA Standard Coverage Policy and the 1992 ALTA Extended Coverage Loan Policy with ALTA endorsement - Form 1 Coverage. If the issuance of any other type of policy is anticipated, the escrow officer should be contacted to determine the applicable exclusions and exceptions.

1992 AMERICAN LAND TITLE ASSOCIATION EXTENDED COVERAGE LOAN POLICY WITH ALTA ENDORSEMENT - FORM 1 COVERAGE

EXCLUSIONS FROM COVERAGE

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or locations of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land had been recorded in the public records at Date of policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at date of policy.

2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at date of policy, but not excluding from coverage any taking which has occurred prior to Date of policy which would be binding on the rights of a purchaser for value without knowledge.

Defects, liens, encumbrances, adverse claims or other matters:
(a) created, suffered, assumed or agreed to by the insured claimant;
(b) not known to the Company, not recorded in the public records at date of policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
(c) resulting in no loss or damage to the insured claimant;
(d) attaching or created subsequent to date of policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory liens for services, labor or materials, or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at date of policy); or
(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.

4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at date of policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.

5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.

6. Any statutory lien for services, labor or materials (or the claim or priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from the improvement or work related to the land which is contracted for and commenced subsequent to date of policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at date of policy the insured has advanced or is obligated to advance.

7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws that is based on
(i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
(ii) subordination of the interest of the insured mortgagee as the result of the application of the doctrine of equitable subordination; or
(iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer accept where the preferential transfer results from the failure:
(a) to timely record the instrument of transfer; or
(b) of such recordation to impart notice to purchaser for value or a judgment or lien creditor.
EXHIBIT "A" - continued
CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990

EXCLUSIONS FROM COVERAGE

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or locations of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land had been recorded in the public records at date of policy.

(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land had been recorded in the public records at date of policy.

2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at date of policy, but not excluding from coverage any taking which has occurred prior to date of policy which would be binding on the rights of a purchaser for value without knowledge.

3. Defects, liens, encumbrances, adverse claims or other matters:
   (a) whether or not recorded in the public records at date of policy, but created, suffered, assumed or agreed to by the insured claimant;
   (b) not known to the Company, not recorded in the public records at date of policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
   (c) resulting in no loss or damage to the insured claimant;
   (d) attaching or created subsequent to date of policy; or
   (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or the estate of interest insured by this policy.

4. Unenforceability of the lien of the mortgage because of the inability or failure of the insured at date of policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.

5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.

6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

EXCEPTIONS FROM COVERAGE

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.

3. Liens, liens or encumbrances, or claims thereof, which are not shown by the public records.

4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.

5. (a) Unpatented mining claims;
   (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof;
   (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
EXHIBIT B

1. Car Show Policy
2. Smoking Ordinance
3. Reservation of Helicopters
4. Bingo Guidelines for Fair
INDEMNIFICATION AGREEMENT BY AND BETWEEN
THE COUNTY OF SANTA CLARA AND THE CITY OF SAN JOSE

This is an Indemnification Agreement by and between the County of Santa Clara, a political subdivision of the State of California, hereinafter referred to as "County" and the City of San Jose, a municipal corporation, hereinafter referred to as "City".

RECITALS

WHEREAS, County is the owner of the fairgrounds property located at 384 Tulip Road, San Jose, California 95111, which property is currently being managed by the Santa Clara County Fair Association pursuant to a written agreement dated April 19, 1987; and

WHEREAS, under paragraph 9B of the Agreement, County retained the right to revoke and/or restrict any enterprise or activity conducted on the fairgrounds property that, after a duly noticed public hearing, was determined to be "unlawful, hazardous, or constitutes an unreasonable nuisance"; and

WHEREAS, City requested that County prohibit car shows from the fairgrounds property that create an unreasonable nuisance; and

WHEREAS, after duly noticed public hearings held on August 25, 1992 and February 23, 1993, County determined that car shows, with some exceptions, created an unreasonable nuisance and prohibited those car shows from the fairgrounds property. The exceptions are:

1. Single model car shows of a specific make;

2. Pre 1950 antique car shows; and

3. Car shows intended to display new makes and models.

The parties hereby agree as follows:
1. INDEMNIFICATION

City shall indemnify, hold harmless, reimburse and defend County from any and all liability, damages, loss, costs, and obligations, including court costs and reasonable attorneys' fees, if any, arising out of any claim, suit, or judgment as a result of an action, lawsuit or claim challenging the County's February 23, 1993 prohibition of the non-exempt car shows at County's fairgrounds property and/or seeking damages as a result of said prohibition. It is understood that City's indemnification obligation shall be concurrent with County's maintenance of the February 23, 1993 prohibition.

2. WAIVER OF CONFLICT

The County agrees that the City may fulfill its obligation to defend the County pursuant to provision 1, above, through use of attorneys in the San Jose City Attorney's Office. If the City Attorney's Office assumes the County's defense in any such lawsuit, action or claim, the County agrees to waive any and all conflicts of interest.

3. ENTIRE AGREEMENT

This Agreement represents the entire agreement by and between the parties with respect to City's indemnification of County for the prohibition of certain car shows at County's fairgrounds property. Any prior or contemporaneous oral or written agreements by and between the parties or their agents and representatives with respect to such indemnification are revoked and extinguished by this Agreement.

IN WITNESS WHEREOF, the parties have executed this Indemnification Agreement as follows:

COUNTY
Date: 3-29, 1993

Chairperson, Board of Supervisors
County of Santa Clara
RON GONZALEZ

CITY
Date: April 14, 1993

City Clerk
City of San Jose

5550c/0216c
ATTEST: PHYLLIS A. PEREZ, Clerk

APPROVED AS TO FORM AND LEGALITY:

HARRISON D. TAYLOR,
Deputy County Counsel

3-26-63

APPROVED AS TO FORM:

GEORGE RIOS,
Assistant City Attorney
CHAPTER V. SMOKING POLLUTION CONTROL*

Sec. B13-79. Findings and intent.

The board of supervisors of the County of Santa Clara does hereby find that studies have shown tobacco smoke is a major contributor to air pollution and is detrimental to non-smokers' health, welfare and comfort, especially to elderly people, children, individuals with cardiovascular disease, impaired respiratory function, or allergies, and those who suffer ill effects of breathing secondhand smoke may experience a loss of job productivity, or may be forced to take periodic sick leave because of reactions to secondhand smoke.

The intent of this chapter is (1) to protect the public health and welfare by prohibiting or limiting smoking in public places as hereinafter set forth and (2) to strike a reasonable balance between the need of persons who smoke and the need of nonsmokers to breathe smoke-free air and to recognize that where these needs conflict, the need to breathe smoke-free air should have priority.

(Ord. No. NS-625.4, § 2, 1-4-94)

Sec. B13-80: Compliance required.

(a) No person shall smoke where smoking is prohibited by this chapter.

(b) It shall be unlawful for any person who owns or controls a building or structure to permit, suffer, or allow smoking in violation of this chapter.

(c) Owners, operators, property managers and officers of homeowners' associations for residential properties will be deemed to not be in violation of the requirements of subsection (b) by posting notices in accordance with the provisions of this chapter and by notifying violators that their actions are in violation of the law.

(Ord. No. NS-625.4, § 2, 1-4-94)


The definitions set forth in this section shall govern the application and interpretation of this chapter.

(a) **Bar** means an area which is devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

(b) **Bingo game** means a game conducted by operators licensed pursuant to the provisions of the Santa Clara County Ordinance Code.

(c) **Employee** means any person who is employed by any employer in consideration for direct or indirect monetary wages or profits, including but not limited to temporary, permanent, part-time, and full-time employees and independent contractors.

(d) **Employer** means any person, as defined in this section, who employs the services of one (1) or more persons.

(e) **Enclosed** means closed in by a roof and four (4) walls with appropriate openings for ingress and egress.

(f) **Hotel** means hotel, motel, motor inn, bed and breakfast, boarding house, and other similar establishments in which the operator has the status of an "innkeeper."

(g) **Person** means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, municipal corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(h) **Place of employment** means any area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, offices, work areas, hallways, lobbies, employee lounges, conference rooms, employee cafeterias, locker rooms, dressing areas, or eating places. A private residence is not a place of employment for purposes of this chapter, unless it is used as a child care facility, health care facility, or community care facility.
(i) *Smoke or smoking* means and includes the combustion of any lighted pipe, or lighted cigar or lighted cigarette of any kind or the lighting of a pipe, cigar or a cigarette of any kind, or any similar article or any other combustible substance in any manner or in any form.

(j) *Smoke free area* means any location in which smoking is prohibited by this chapter.

(k) *Sports arena* means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, pool halls, and other similar places where members of the public assemble indoors to engage in physical exercise, participate in athletic competition, or witness sports events.

(Ord. No. NS-625.4, § 2, 1-4-94)

Sec. B13-82. General prohibition.

(a) Smoking shall be prohibited within any enclosed structure owned or leased by Santa Clara County, wherever located, and in all enclosed public places within the unincorporated areas of Santa Clara County as follows:

(1) Elevators.
(2) Restrooms.
(3) Service lines.
(4) Laundromats.
(5) Retail stores and all areas in shopping malls inside and outside of retail stores, restaurants, bars, restrooms, and offices.
(6) Areas available to or open to and customarily used by the general public in all business and nonprofit entities, including but not limited to, offices, such as the offices of attorneys, doctors, accountants, other professionals, and service providers, banks, and churches.
(7) Restaurants.
(8) Bars.
§ 213-82

OFFENSES—MISCELLANEOUS

(9) Motels, motels, motor inns, bed and breakfasts, boarding houses, and other establishments in which the operator has the status of an "innkeeper."

(10) Aquariums, amusement parks, galleries, libraries, arcades, or museums when open to the public.

(11) Facilities primarily used as theaters, auditoriums, or halls; or which are used for exhibiting motion pictures, stage dramas, musical performances, ballets, lectures, debates or other similar performances, except when smoking is part of any such performance.

(12) Waiting rooms, hallways, wards, and rooms and offices of health facilities, including but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.

(13) Sports arenas, convention halls, bingo halls, banquet rooms, and meeting rooms.

(14) Retail food marketing establishments, including grocery stores, convenience stores, warehouse stores, and supermarkets.

(15) Rooms, chambers, places of meeting or public assembly, including, but not limited to school buildings under the control of any board, council, commission, committees including joint committees, or agencies of the county during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the county.

(16) Lobbies, hallways, and other common areas in apartment buildings, condominiums, senior citizen residences, nursing homes, and other multiple-unit residential facilities.

(17) Polling places.

(18) Private clubs.

(b) Except as otherwise provided in section B13-84, smoking shall be prohibited in all enclosed places of employment within the unincorporated areas of Santa Clara County.

(Ord. No. NS-325.4, § 2, 1-4-94)
§ B13-83  SANTA CLARA COUNTY CODE  § B13-84


Smoking is prohibited in motor vehicles for hire (such as taxicabs) or which are operated in the course of employment for the use of more than one person at a time during the time of employment. Smoking is prohibited in:

(a) All county buses and county light rail vehicles wherever located within the county; and

(b) Any other form of public transit located within the unincorporated areas of the county.

(Ord. No. NS-625.4, § 2, 1-4-94)

Sec. B13-84. Exceptions.

(a) Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter, unless smoking or the use of combustible materials is otherwise regulated by any other provision of law or regulation.

(1) Private residences, except when used as a child care facility, health care facility, or community care facility.

(2) Hotel rooms rented to guests, except meeting and banquet facilities.

(3) Retail stores that deal exclusively in the sale of tobacco and smoking paraphernalia. (Insignificant sales of tobacco items shall not disqualify a retail store under this provision.)

(4) An enclosed place of employment that is not accessible to the public, which employs only the owner and no other employee, provided that the enclosed place of employment does not share a ventilation system with any other enclosed place of employment or public place.

(5) Any portion of a place of employment which is not enclosed.

(b) Notwithstanding any other provision of this chapter, any owner, operator, manager or other person who controls any prop-
any may prohibit smoking within the entire property or a portion of the property.
(Ord. No. NS-625.4, § 2, 1-4-94)


(a) Within ninety (90) days of the effective date of this chapter, each employer having an enclosed place of employment located within the unincorporated areas of Santa Clara County shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements: shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employees lounges, stairs, restrooms, locker rooms, dressing areas, and all other enclosed facilities.

(b) The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.

(c) All employers shall comply with these nonsmoking provisions and shall be responsible for implementation in their place(s) of employment.

(d) "No smoking" signs shall be conspicuously posted at building entrances and in employee lounges, restrooms, locker rooms, dressing areas, cafeterias, and lunchrooms.

(e) All employers shall supply a written copy of the smoking policy to all employees.

(f) Places of employment exempt from the prohibition on smoking in section B13-84 of this chapter shall also be exempt from this section.
(Ord. No. NS-625.4, § 2, 1-4-94)

Sec. B13-86. Retaliation prohibited.

It shall be unlawful for any person to take any retaliatory action against any person who has asserted a right to a smoke-free environment pursuant to this chapter.
(Ord. No. NS-625.4, § 2, 1-4-94)

(a) "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it), shall be conspicuously posted in every building, where smoking is prohibited pursuant to this chapter, by the owner, operator, manager or other person having control of such room, building, or other place.

(b) Every enclosed restaurant and bar shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(c) Owners, operators, property managers and officers of homeowners' associations for residential properties will be deemed to not be in violation of the requirements of this section, and of their obligation to enforce the prohibition in section B13-82, if they have posted signs in accordance with the provisions of this section and have given written notice to violator(s) of this chapter that the violator(s)' actions are in violation of the law of the county. (Ord. No. NS-625.4, § 2, 1-4-94)


(a) Enforcement of this chapter shall be implemented by the county executive or his/her designee. The fire marshal or his/her designee or the health department shall have the right, in connection with any regular annual inspection of a business located in the unincorporated area of the county, to require that the owner, manager, operator or other person having control of such establishment certify that all applicable requirements of this chapter have been complied with.

(b) Any citizen may initiate enforcement of this chapter by notifying the county executive or his/her designee of an alleged violation.

(c) Any owner, manager, operator or employee of any establishment controlled by this chapter shall have the right to inform persons violating this chapter of the requirements of the provisions being violated and the consequences of such violation. (Ord. No. NS-625.4, § 2, 1-4-94)
Sec. B13-89. Violations.

(a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the restrictions of this chapter to fail to comply with its provisions.

(b) It shall be unlawful for any person to smoke in any area restricted by the provisions of this chapter.

(c) Infraction(s). Any person who violates any provision of this chapter shall be guilty of an infraction, punishable by:

(1) A fine not exceeding one hundred dollars ($100.00) for a first violation.

(2) A fine not exceeding two hundred dollars ($200.00) for a second violation.

(3) A fine not exceeding five hundred dollars ($500.00) for each additional violation within one (1) year.

(d) Misdemeanor(s). Any person, owner, operator, employer or manager of any establishment, subject to this chapter, who violates section B13-86, or who violates any other provision of this chapter, in excess of three (3) violations within one (1) year, shall be deemed guilty of a misdemeanor. Upon conviction of a misdemeanor violation of this chapter, a person shall be subject to payment of a fine not to exceed one thousand dollars ($1,000.00), and shall be subject to incarceration in the county jail for a period not to exceed six (6) months.

(e) Each day that a violation of section B13-85 and B13-87 continues shall constitute a separate violation of this chapter.

(f) The county executive or his/her designee is hereby authorized to institute and pursue, in the name of the county, pursuant to the provisions of section 25132 of the Government Code, civil actions for the recovery of fines for violations of this chapter.

(Ord. No. NS-625.4, § 2, 1-4-94)

Sec. B13-90. Severability.

If any provision, clause, section, sentence or paragraph of this chapter or the application thereof to any person or circumstances
§ B13-90  SANTA CLARA COUNTY CODE  § B13-93

shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application; and to this end the provisions of this section are declared to be severable.

(Ord. No. NS-625.4, § 2, 1-4-94)


The county executive or his/her designee shall engage in a continuing program to inform and clarify the purposes of this chapter to citizens affected by it, and to guide owners, operators and managers in their compliance.

The county executive or his/her designee shall leave responsibility of conducting a public education campaign, regarding the health consequences of smoking to other governmental and health agencies, including any county health agency, equipped with the needed expertise to conduct such campaigns.

(Ord. No. NS-625.4, § 2, 1-4-94)


The county executive or his/her designee shall annually request such governmental and educational agencies having offices within the unincorporated areas of the county to establish local operating procedures to cooperate and comply with this chapter. In federal, state and special school districts within the county, the county executive shall urge enforcement of their existing no smoking prohibitions and request cooperation with this chapter.

(Ord. No. NS-625.4, § 2, 1-4-94)

Sec. B13-93. Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable health, safety or fire codes.

(Ord. No. NS-625.4, § 2, 1-4-94)
RESOLUTION OF THE BOARD OF SUPERVISORS
RESTRICTING HELICOPTERS FROM USE AT THE
SANTA CLARA COUNTY FAIRGROUNDS

WHEREAS, on July 31, 1990, this Board of Supervisors conducted a public hearing pursuant to paragraph 96 of the Lease-Management Agreement by and between the County of Santa Clara and the Santa Clara County Fair Association, Inc.; to determine whether the County of Santa Clara should restrict helicopters from use at the fairgrounds because such activity may be unlawful, hazardous, or constitute an unreasonable nuisance; and

WHEREAS, notice of the hearing was given to the Santa Clara County Fair Association, Inc.; after complaints were received on or about July 29; 1990; by the County and the City of San Jose regarding a newly established helicopter operation at the Santa Clara County Fairgrounds; and

WHEREAS, CHARLES PEROTTA appeared at the hearing on behalf of the Fair Association; and the helicopter operator also appeared; and

WHEREAS, after the hearing the Board determined to restrict helicopters from use at the fairgrounds; and

WHEREAS, this Board does hereby make the following findings of fact:

1. The Santa Clara County Fair is scheduled from July 26 through August 12, 1990.

2. Neighboring residents; including mobile home parks near the fairgrounds; have complained about the helicopter operation at the fairgrounds due to the frequency of the helicopter rides and the noise, interference, and hazard such activity creates.

3. There is concern as to the safety of the helicopter operation at the fairgrounds which attracts large crowds of people
and has nearby residential communities.

4. Commercial aircrafts approach the San Jose International Airport in the vicinity of the fairgrounds.

5. This activity has not been reviewed under the California Environmental Quality Act.

6. The FAA has not inspected or reviewed the helicopter operation including the landing area, boarding procedures, or flight pattern.

7. The ALUC has not reviewed this helicopter operation.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Clara, State of California that based upon the information presented that helicopters are restricted from use at the Santa Clara County Fairgrounds as such activity may be hazardous and constitutes an unreasonable nuisance.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on AUG 3 1990 by the following vote:

AYES: Supervisors, DIRidon, GONZALES, LOFGREN, MCKEi, WILSc
NOES: Supervisors, NONE
ABSENT: Supervisors, NONE

Chairperson SUSANNE WILSON
Board of Supervisors

ATTEST: Donald M. Reins, Clerk
Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:
SUSAN G. LEVENBERG
Chief Deputy County Counsel
March 2, 1994

Kim Petersen
General Manager
Santa Clara County Fair Association, Inc.
344 Tully Rd.
San Jose, CA 95111

Subject: Licenses to conduct Bingo Games at the Santa Clara County Fairgrounds

Dear Mr. Petersen:

This letter is written to call to your attention to the terms of Section 11 of the association’s lease-management agreement with the Board of Supervisors which requires prior consent of the County before any gambling, wagering or betting activities are authorized, allowed, permitted or conducted on the fairgrounds property.

Since October 1993 there have been three applications for Bingo Administrative Licenses to conduct games at the Santa Clara County Fairgrounds. These were received by the Current Planning Office and referred to the me for processing per Sections B3-92 & 93 (County Ordinance Code, Div. B3, Chapter V, BINGO). Two of these applications for bingo licenses (File No. 5684-93AP, American Diabetes Association, California Affiliates Inc., and File No. 5696-93AP, Santa Clara County Fair Association) were processed and approved before I was aware of the provisions of Section 11 of the lease-management agreement which required prior consent of the County of Santa Clara. These two bingo licenses expired on December 31, 1993 in accordance with the provisions of the bingo ordinance Section B3-98.

Currently there are no licenses in effect for bingo games on the fairgrounds property. We have, however, received a letter from the American Diabetes Association, California Affiliates Inc. (File No. 5684-93AP) that they did not conduct any games in 1993 and have asked that their request for a license be designated for calendar year 1994. Also an application for a bingo license was received on February 8, 1994 from the Milpitas High School Marching Band Boosters, Inc. (File No. 5731-94AP) but is being held pending receipt of the information requested below and the consent of the Board of Supervisors which will allow us to proceed with the processing of license application(s).
Please submit correspondence directed to the Clerk of the Board of Supervisors containing:

1. A request by the Santa Clara County Fair Association, Inc., to receive the consent of the County of Santa Clara per paragraph 11 of the lease-management agreement to conduct bingo games on the Santa Clara County Fair Grounds.

2. The proposed two days of the week and the proposed hours of operation of the bingo games.

3. The names of the organizations and their officers who will be responsible for the conduct of the games.

4. Copies of all contracts, license agreements, equipment rental or other types of agreements between all parties involved with the conduct of the games.

5. A spreadsheet showing all expenses and revenues, including but not limited to room rental, equipment rental, admission fees, food sales, door prizes, and game payouts incurred by or accruing to all parties involved with the games.

If you have any questions regarding this matter, please feel free to call me at (408) 299-2454.

Sincerely,

MICHAEL M. LOPEZ
SECRETARY, PLANNING COMMISSION

cc: George Newell, Acting Co. Exec.
    Ann Ravel, Asst. Co. Counsel
    Sally Logothetti, OBA

MML:WP
WP/DocFiles/AP5696Bingo
Sec. B3-64. Confiscation of machine.

(a) In addition to the penalty provided by this Code, any pinball or marble machine may be seized by any law enforcement officer of the state, and notice of intention summarily to destroy such machine must thereupon be posted in a conspicuous place upon the premises in or upon which such machine was seized. Such machine shall be held by such officer for thirty (30) days after such posting, and if no action is commenced to recover possession of such machine within such time, the same shall be summarily destroyed by such officer; or if such machine is held by the court in any civil or criminal action to have been used in violation of this article, the same shall be destroyed by such officer immediately after the decision of the court has become final.

(b) Any and all money seized in or in connection with such machine immediately after such machine has been seized, is to be paid into the treasury of the county, and upon said machine being destroyed in accordance with the foregoing provisions of this chapter, is to be credited to the general fund, otherwise to be returned to the person who was in possession of said machine when it was seized. (Code 1954, § 6.3.2-3)


Sec. B3-65. Provisions supplementary to state law.

The provisions of this chapter are not intended to conflict with, but shall supplement all laws of the State of California prohibiting lotteries, gaming or gambling. (Code 1954, § 6.3.2-4)

Secs. B3-66—B3-74. Reserved.

CHAPTER V. BINGO*

Sec. B3-75. Authority.

Pursuant to section 19(c) of article IV of the California Constitution and section 326.5 of the California Penal Code, the County

*Editor's note—Section 1 of Ord. No. NS-512.3, enacted Oct. 25, 1986, repealed former ch. V, §§ B3-75—B3-110 and § 2 of the ordinance enacted in lieu Supp. No. 7 2662
of Santa Clara establishes the following requirements for the conduct of bingo games in the unincorporated area of the county.

(Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-76. Definition.

As used in this chapter, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. The game of bingo shall include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All such preprinted cards shall bear the legend: "For sale or use only in a bingo game authorized under California law and pursuant to local ordinance."

(Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-77. Organizations permitted to conduct bingo games.

No person, organization or other entity shall be permitted to conduct bingo games in the unincorporated area of the county unless such person, organization or other entity:

1. Possesses a valid certificate or letter from the franchise tax board evidencing that they are exempted from the payment of the bank and corporation tax by sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g and 23701l of the California Revenue and Taxation Code; or

2. Is a mobile home park association; or

3. Is a senior citizens' organization;

and provided that the receipts of such games are used only for charitable purposes, and provided further that the organization possesses a valid license issued pursuant to the provisions of this chapter. As used herein the term "charitable purposes" shall mean purposes that are beneficial to the public interest. (Ord. No. NS-519.3, § 2, 10-28-86)
Sec. B3-78. Minors.

No minors shall be allowed to participate in any bingo game. (Ord. No. NS-519.3, § 2, 10-23-86)

Sec. B3-79. Open to the public.

All bingo games shall be open to the public, not just to the members of the organization to which a license has been issued pursuant to this chapter.

No person who is obviously intoxicated shall be allowed to participate in a bingo game. (Ord. No. NS-519.3, § 2, 10-23-86)

Sec. B3-80. Staffing and operation.

A bingo game shall be operated and staffed only by members of the organization holding the license authorizing such game. Such members shall not receive a profit, wage or salary from any bingo game. Any person operating or staffing a bingo game shall wear an identification badge which is clearly visible and states such person’s full name and function at the bingo game. Only an organization authorized to conduct a bingo game by license issued pursuant to this chapter shall operate such game, or engage in the promotion, supervision, or any other phase of such game. This section does not preclude the employment, by an organization holding a bingo license, or licensed security personnel, a member of a law enforcement agency or other persons approved by the sheriff who are not members of the organization, to serve as security personnel at bingo games. (Ord. No. NS-519.3, § 2, 10-23-86)

Sec. B3-81. No profit, wage or salary.

No person or agent of such person shall receive a profit, wage, salary, or other income from any bingo game, except for a bona fide prize received as a participant in such bingo game, or except for wages or salaries paid to security personnel hired in connection with a bingo game by the organization sponsoring such game. (Ord. No. NS-519.3, § 2, 10-23-86)
Sec. B3-82. Where bingo may be conducted.

An organization authorized to conduct bingo games shall conduct such games only on property owned or leased by it or donated to it and which property is used by such organization for an office or for performance of the purposes for which the organization is organized. Nothing in this section shall be construed to require that the property owned or leased by, or the use of which is donated to the organization, be used or leased exclusively by or donated exclusively to such organization, provided, however, if bingo games are conducted in residential zoning districts, no more than one (1) bingo license shall be issued to any one (1) organization for bingo games at any one (1) location. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-83. Bingo equipment.

All equipment used in the operation of bingo games must be owned by the organization authorized by license to conduct such bingo game. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-84. Financial interest.

No individual, corporation, partnership, or other entity, except the organization authorized by license to conduct a bingo game, shall hold a financial interest in the conduct of such bingo game. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-85. Proceeds.

All proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such proceeds shall be used only for charitable purposes except as follows:

(a) Subject to the limitations contained in section B3-87, proceeds may be used for prizes to be awarded at authorized bingo games.

(b) A portion of such proceeds, not to exceed twenty (20) percent of the total proceeds before deduction for prizes, or one thousand dollars ($1,000.00) per month, whichever is less, may be used for:

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(1) Rental of the property upon which the authorized bingo games are conducted;
(2) The purchase of bingo equipment;
(3) Wages for security personnel hired in connection with an authorized game; or
(4) Any combination of the foregoing;

provided the total expenditure for all such items shall not exceed the maximum amount stated above.

(c) Such proceeds may be used to pay license fees.

(d) The provisions of sections B3-85(a) through B3-85(c) shall not apply to organizations exempt from payment of the bank and corporation tax under Revenue and Taxation Code, section 23701d, which organizations may use profits from bingo games only for charitable purposes. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-86. Records.

Each organization conducting a bingo game shall maintain detailed records of all proceeds, expenditures, prizes and other expenses associated with the operation of a bingo game. These records shall be retained for such period of time as required by state and federal law, but in no event for less than three (3) years and shall be used in preparing the reports required pursuant to section B3-100. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-87. Total value of prizes.

The total value of prizes awarded during the conduct of any bingo game shall not exceed two hundred fifty dollars ($250.00) in cash or kind, or both, for each separate game which is held. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-88. Physical presence at bingo game required.

No person shall be allowed to participate in a bingo game unless such person is physically present at the time and place the bingo game is being conducted. (Ord. No. NS-519.3, § 2, 10-28-86)

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Sec. B3-89. Hours of operation.

All bingo games may be conducted between the hours of noon to midnight, and subject to such other limitations on hours of operation as may be specified in the bingo license. In no event shall any license authorize bingo games more than two (2) days in any seven-day period. (Ord. No. NS-519.3, § 2, 10-23-86)

Sec. B3-90. Parking.

The secretary of the planning commission may require that adequate off-street parking be provided for bingo game participants. If such a requirement is imposed, the organization sponsoring, and the person or persons responsible for the operation of a bingo game shall have an affirmative duty to require players to use off-street parking and may deny admission to a bingo game of any person not complying with the parking requirements. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-91. License required.

No person or organization shall conduct a bingo game without first obtaining a license from the secretary of the planning commission. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-92. License fee.

The fee for each bingo license shall be fifty dollars ($50.00), one-half (½) of which is payable at the central permit office at the time the license application is submitted, and one-half (½) of which is payable at the central permit office upon issuance of the bingo license. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-93. Application for license and renewal.

Written application for the license required by this chapter and any renewal thereof shall be filed with the central permit office at least ninety (90) days prior to the proposed date of the first bingo game or the expiration date of a current license, as the case may be. The secretary of the planning commission may, depending upon unusual circumstances and as long as all required notice requirements are complied with, waive the application time
limits and accelerate the process set forth herein. Such application shall be (i) signed by the president and secretary of the organization proposing to conduct the bingo games and the owner or owners of the premises upon which the games are proposed to be conducted, if the premises are not owned by the organization, (ii) verified in accordance with California Code of Civil Procedure provisions specifying the method of verification of pleadings in a civil action, and (iii) accompanied by a portion of the license fee as specified in section B3.92. Such application shall contain:

(a) The name of the organization, the address and telephone number for its principal place of operation, and the name, address, date of birth and driver's license number of each officer of the organization.

(b) The proposed days and hours of operation of bingo games.

(c) If applicable, an attached copy of a certificate or letter from the franchise tax board evidencing the exemption of the organization from the payment of the bank and corporation tax under the heretofore designated appropriate section of the California Revenue and Taxation Code. A copy of a yearly updated exemption letter shall be submitted at the time of license renewal. If the applicant is a mobile home association or senior citizens association, a copy of any articles, charter or bylaws must be attached.

(d) The address and assessor's parcel number of the premises where bingo games will be conducted.

(e) A statement that the organization either:

(1) Owns the premises on which the bingo games shall be conducted; or

(2) Leases such premises, in which event the name, address and telephone number of the owner of the premises shall be specified and the date and term of the lease shall be set forth; or

(3) Has received a donation of the use of such premises, in which event the name, address and telephone number of the owner and donor shall be specified and the terms of such donation described.
(f) The name, address and telephone number of the person responsible for preparing the report required pursuant to section B3-100.

(g) The name of any other organization or organizations using the same premises for the conduct of bingo games and the days and hours of operation of such other bingo games.

(h) A statement of ownership of bingo equipment used in the operation of bingo games.

(i) A statement of consent to any duly authorized representative of the county inspects, upon demand, during normal business hours, while a bingo license is in effect and for a period of three (3) years thereafter, any and all books, records, reports and accounts maintained pursuant to this chapter or in connection with bingo games; or inspecting the premises where the bingo games are to be conducted.

(j) The name, address, telephone number, date of birth and driver's license number of the person or persons responsible for the operation of the bingo games.

(k) The number of games the applicant intends to conduct under the license for which application is made.

(l) The names and addresses of all owners of real property located within three hundred (300) feet of the premises where the bingo games are proposed to be conducted.

(m) Such further information as may be required by the secretary of the planning commission. (Ord. No. NS-519.3, § 2. 10-28-86)

Sec. B3-94. Summary license issuance.

Upon the filing of a sufficient and proper application and payment of the license fee, the central permit office shall refer an application for a bingo license or renewal thereof to the secretary of the planning commission. The secretary of the planning commission shall either approve the application and issue the license, or notify the applicant that a referral and a public hearing pursuant to section B3-96 is required. A public hearing shall be required when the secretary of the planning commission, on the
basis of the completed application and supporting documentation, cannot determine with reasonable certainty the following:

(a) The fitness of the applicant to possess such a license; and,

(b) The proposed bingo location does not pose a health or safety threat; and,

(c) The bingo activity does not create a substantial negative impact upon the immediate neighborhood.

Should a bingo license or renewal thereof be approved under this section, such license or renewal thereof may contain restrictions and conditions pursuant to section B3-96(d). (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-95. Referral, notice and hearing.

(a) In the event there is a determination that a public hearing is required, the central permit office shall refer an application for a bingo license or renewal thereof for recommendation and investigation to the sheriff with respect to the applicant's background, the health officer with respect to health and sanitary conditions at the game location, the manager of the building inspection office with respect to fire hazard and life safety at the game location, and to fire agencies and other persons, entities or agencies deemed appropriate.

The sheriff shall have the authority to obtain background information for each person operating or assisting in the operation of a bingo game for purposes of his/her investigation. If he/she finds that such operators or persons assisting in the operation of a bingo game have been convicted within the past five (5) years of crimes involving lotteries, gambling, larceny, perjury, bribery, extortion, fraud or similar crimes involving moral turpitude, he/she may not recommend issuance of the license.

(b) The secretary of the planning commission shall set the time and place for public hearing on each application for a bingo license or renewal thereof, which hearing shall be held no later than forty-five (45) days following submittal of a complete application. Notice of such hearing shall be mailed, at least ten (10) days prior to the hearing, to the applicant, to the property owner.

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if the premises are not owned by the applicant, to all owners of real property located within three hundred (300) feet of the premises where the bingo games are proposed to be conducted using the addresses shown on the application, and to any other person who has filed a written request for such notice.

(c) Each applicant and any other interested person shall have the opportunity to review all records, papers, files and any other evidence relating to the application for a bingo license or renewal thereof, except background information on individuals, at least five (5) days prior to the time set for public hearing on such application. (Ord. No. NS-519.3, § 2, 10-25-86)

Sec. B3-96. Action by the secretary of the planning commission.

(a) At the time and place set for public hearing on the application for a bingo license or renewal thereof, the secretary of the planning commission shall consider the recommendations of the sheriff and the county officials investigating the license pursuant to section B3-95(a), records, papers, files and any other relevant evidence, whether the use complies with the county zoning ordinance and shall either continue the hearing, hold the matter under advisement, or render his/her decision either granting or denying the license.

(b) The secretary of the planning commission may refuse to issue a bingo license or grant a renewal thereof, after consideration of the application, the recommendations of the sheriff and the county officials investigating the license pursuant to section B3-95(a), and any other relevant papers, records and files, on any of the following grounds:

(1) The operation of a bingo game would be injurious to the health, safety or welfare of the people of the county, or would not be in compliance with the applicable zoning regulations; or

(2) The proposed mode of operation of the bingo games is not in compliance with the requirements of this chapter; or

(3) The organization applying for the license or renewal or any officer or member thereof has previously violated the

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provisions of this chapter or any similar ordinance, law, rule or regulation of the county or other public agency which regulates the operation of bingo games; or

(4) The applicant knowingly made a material misstatement of fact in the license or renewal application.

(c) The secretary of the planning commission shall deny a license or renewal application if a potential fire hazard or threat to life safety exists at the premises where the bingo games are proposed to be conducted.

(d) If the license or renewal is approved, the secretary of the planning commission may include such restrictions and conditions in the license as he/she deems reasonable and necessary under the circumstances to ensure compliance with the purposes and intent of this chapter, including without limitation, the frequency of bingo games, hours of operation, days of the week upon which bingo games may be held, maximum number of participants and parking requirements. In no event shall the secretary of the planning commission permit an organization to conduct bingo games more than two (2) days per site in any seven-day period.

(e) Upon approval of a bingo license or renewal thereof, the secretary of the planning commission shall prepare and forward to the applicant written notice that the license or renewal thereof has been granted and a statement of any conditions attached to the license. A copy of such notice shall be sent to the sheriff and the county officials investigating the application pursuant to section B3-95(a) and a request for the issuance of a bingo license, plus a copy of the notice, shall be sent by the secretary to the central permit office. No decision of the secretary of the planning commission upon an application for a bingo license or renewal thereof shall become final until the fifteen (15) calendar-day period in which an appeal may be made to the board of supervisors has elapsed without an appeal having been filed. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-97. Appeal.

(a) Within fifteen (15) calendar days after the decision of the secretary of the planning commission pursuant to a public hear-
ing on an application for a bingo license or renewal thereof, any person dissatisfied with such decision may appeal to the board of supervisors by filing an appeal application with the central permit office. Such application shall be accompanied by a nonrefundable fee in an amount established by the board of supervisors. A copy of the appeal application shall be forwarded to the sheriff and the county officials investigating the application pursuant to section B3-95(a).

(b) The clerk of the board of supervisors shall fix the time and place for the appeal to be heard by the board of supervisors. Notice of such hearing shall be mailed, at least ten (10) days prior to the hearing, to all owners of real property located within three hundred (300) feet of the premises where the bingo games are proposed to be conducted, the appellant, the license applicant, the owner of the premises, if the applicant or appellant is not the owner, and any other person who has filed a written request for such notice.

(c) The appeal shall be heard by the board of supervisors within thirty (30) days after filing of the appeal; provided that the board of supervisors may continue from time to time any hearing held by it.

(d) The secretary of the planning commission shall transmit to the board of supervisors all records, minutes, papers and files which constitute the record in the action from which the appeal is made.

(e) The board of supervisors shall hear and decide the bingo license or renewal application as if no other hearing had been held and may approve, disapprove or conditionally approve the application. The decision of the board upon an appeal is final.

(f) The clerk of the board of supervisors will inform the appellant, the applicant, the secretary of the planning commission, the central permit office, and the county officials investigating the application pursuant to section B3-95(a), whether the appeal has been granted or denied. (Ord. No. NS-519.3 § 2, 10-23-56)

Sec. B3-98. Issuance of license.

Following the grant of a bingo license or renewal thereof and, in the case of approval by means of a public hearing, the lapse of Supp. No. 7
the fifteen (15) calendar-day period in which to appeal such grant, the central permit office shall issue a license in accordance with the following provisions of this section B3-98.

Licenses shall be granted on a calendar-year basis with each license expiring on December 31 of the calendar year in which issued without proration of fees. Licenses may be renewed for successive one-year periods.

Upon issuance of a bingo license the central permit office shall hold it for pick up by the licensee. A bingo license shall become effective upon payment of the balance of the license fee. (Ord. No. NS-519.3. § 2, 10-28-86)

Sec. B3-99. Further investigation by sheriff.

(a) Any changes as to the staff operating or assisting in the operation of a bingo game or any other changes in the information furnished under section B3-93 made subsequent to the issuance of a bingo license shall be reported to the sheriff, within ten (10) days after such change or addition, for any further investigation which he deems necessary and appropriate.

(b) If after such investigation, the sheriff finds that the changes require suspension or revocation of the bingo license, such determination shall be transmitted to the secretary of the planning commission for appropriate action. (Ord. No. NS-519.3. § 2, 10-28-86)

Sec. B3-100. Filing of reports.

During the term of its license, each organization shall file a monthly report and three (3) copies made under penalty of perjury with the central permit office containing the following information:

(a) Any changes in or additions to the information required under section B3-93.

(b) The total amount of money received from the operation of bingo games since the previous report was filed.

(c) The total amount paid out in prizes since the previous report was filed.
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(d) Detailed costs to the organization for the operation of bingo games during the period covered by the report.

The monthly reports required pursuant to this section shall be filed no later than the fifteenth day of the month next following the month covered by the report. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-101. Licenses nontransferable.

Licenses granted under this chapter shall not be transferable, either as to the licensee or the location. Any attempt to transfer shall render the license in question invalid. It shall be deemed automatically revoked and no further bingo games may be conducted under such license. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-102. Authority to inspect premises and records.

(a) Any authorized representative of the county shall have the authority to inspect the premises where bingo games are conducted in order to ensure that the operation of bingo games at the premises does not constitute a violation of any state or federal law, or provision of this Code.

(b) Any authorized representative of the county may inspect all books, records, reports, accounts and bank accounts maintained for funds derived from bingo games of any organization conducting bingo games, whenever deemed reasonable and appropriate to ensure compliance with the provisions of this chapter. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-103. Summary suspension of license.

Whenever it appears to the sheriff or his/her designee or any authorized representative of the county that the holder of a bingo license is conducting a bingo game in violation of any provision of this chapter, this Code or federal or state law and such violation endangers public health or safety, the sheriff or his/her designee or any authorized representative of the county may summarily suspend the bingo license and order the holder of the license to immediately cease and desist conducting bingo games. Following issuance of such order and within thirty (30) calendar days thereafter, a hearing to revoke, conditionally reaffirm, or reaffirm the

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license shall be held in accordance with section B3-104. The
sheriff or his/her designee or the authorized representative of the
county shall forward his/her report on the suspension to the
secretary of the planning commission prior to the hearing. Any
license holder whose bingo license is suspended pursuant to this
section shall not conduct bingo games under such license unless
and until the secretary of the planning commission, or the board
of supervisors on appeal, reaffirms or conditionally reaffirms the
license under section B3-104. (Ord. No. NS-519.3, § 2, 10-23-86)

Sec. B3-104. Revocation, reaffirmation or conditional reaffirma-
tion.

Any license issued under this chapter may be conditionally
reaffirmed, reaffirmed, or revoked by the secretary of the plan-
ning commission on his/her own motion or on application of the
board of supervisors or the sheriff or district attorney or other
county officer or department head. Except as provided in section
B3-103, public hearing on such revocation, reaffirmation, or con-
ditional reaffirmation shall be held and notice thereof shall be
given by the secretary of the planning commission in accordance
with section B3-95. The secretary of the planning commission
may revoke, or conditionally reaffirm any bingo license on one (1)
or more of the following grounds:

(a) That such license was obtained by fraud; or

(b) That any person making use of such license is violating or
has violated any conditions of such license; or

(c) That the detriment to the public health or safety, or the
nuisance arising from the bingo game or from changed
circumstances necessitates the revocation of the license or
the modification of or addition to license conditions; or

(d) That an inadvertent error or omission in establishing the
original conditions requires modifying or adding to the
license conditions, but a license shall not be revoked be-
cause of such error or omission; or

(e) That the conduct of such bingo game is in violation of the
provisions of this chapter or any provisions of this Code or
of federal or state law; or

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shall not be applied in the construction or enforcement of any other provision of law. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-108. Posting of license.

A bingo license shall be posted in a conspicuous place in the premises where the games are conducted. (Ord. No. NS-519.3, § 2, 10-28-86)

Secs. B3-109, B3-110. Reserved.

CHAPTER VI. ENTERTAINMENT EVENTS AND CIRCUSES*

Sec. B3-111. Definitions.

For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms and phrases set forth in this section shall have the meanings given them in this section:

(a) Entertainment event means any entertainment or amusement event to which the public is admitted and which is organized or promoted for commercial or noncommercial purposes whether or not an admission fee or donation is requested or required. It shall include any entertainment or amusement for the purposes of listening, engaging in or participating in musical or theatrical type performances, or both, to which the public is admitted. Musical and theatrical type performances shall include musical or theatrical renderings by performers from a stage, platform, terrace or other place of central prominence with respect to the audience. "Entertainment event" shall not include any event described above which is conducted or held in any structure which has been constructed and designed for the conducting of public performances nor to any such event conducted entirely within a stadium, arena or amphitheater which has been constructed or designed, or both, for the conducting of public performances.


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2678
(f) The failure to file reports in accordance with section B3-100 in a timely and/or accurate manner.

An appeal to the board of supervisors from the decision of the secretary of the planning commission may be made within fifteen (15) calendar days after the decision and in accordance with section B3-97. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-105. Violations, penalties.

(a) Any violation of sections B3-77 through B3-89, B3-91, B3-93, B3-99, B3-100 and B3-101 shall be a misdemeanor and any person convicted of such misdemeanor shall be subject to the penalties provided for in section A1-25 of this Code.

(b) Notwithstanding anything to the contrary contained in the foregoing, a violation of section B3-81 shall be punishable by a fine not to exceed ten thousand dollars ($10,000.00), which fine shall be deposited in the county general fund.

(c) Any bingo game conducted in the unincorporated area of the county in violation of this chapter may be enjoined by the county. (Ord. No. NS-519.3, § 2, 10-28-86)

Sec. B3-106. Severability.

(a) If any section, subsection, sentence, clause or phrase of this chapter is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter.

(b) The board of supervisors hereby declares that it would have passed this chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be held invalid. (Ord. No. NS-519.3, § 2, 10-28-86)


The provisions of this chapter are not intended to conflict with, but shall supplement all laws of the State of California relating to lotteries, gaming or gambling, except that the definition of bingo in section B3-76 applies exclusively to this chapter and
FIRST AMENDMENT
TO MANAGEMENT AGREEMENT

THIS FIRST AMENDMENT (this "First Amendment"), dated as of this _____ day of December, 2005, (the "Effective Date"), is entered into by and between the SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a California non-profit corporation ("Contractor") and County of Santa Clara, a political subdivision of the State of California ("County"), with respect to that certain Management Agreement dated April 18, 2000 ("Management Agreement"). Capitalized terms used in this Amendment without definition shall have the meanings ascribed to such terms in the Management Agreement.

WITNESSETH

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. **TERM.** The first sentence of Article 2, Section 2.01 shall be amended to read as follows:

   "The term of the Agreement shall commence on the day of its execution by the County and shall end on December 31, 2006, (the "Term).

2. **FULL FORCE AND EFFECT.** Except as amended hereby, all of the other terms, covenants and conditions of the Lease remain in full force and effect.

3. **COUNTERPARTS.** This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same document.

4. **ENTIRE AGREEMENT.** This First Amendment contains the entire agreement between the parties pertaining to the above subject matter and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.
IN WITNESS WHEREOF, the undersigned have executed this First Amendment to be effective as of the day and year first hereinabove set forth.

COUNTY OF SANTA CLARA

By: [Signature]
Liz Knies, Chair
Board of Supervisors

Date: DEC 13 2005

Signed and certified that a copy of this document has been delivered by electronic or other means to the Chair, Board of Supervisors.

ATTEST: Phyllis A. Perez
Clerk of the Board of Supervisors

Date: DEC 13 2005

APPROVED AS TO FORM AND LEGALITY:

[Signature]
Deputy County Counsel

Date: 12-2-05

SANTA CLARA COUNTY
FAIRGROUNDS MANAGEMENT CORPORATION

By: [Signature]
Name: Arthur Troyer
Title: Executive Director

Date: DEC 13 2005

Approved
SECOND AMENDMENT
TO MANAGEMENT AGREEMENT

THIS SECOND AMENDMENT (this “Second Amendment”), dated as of this 14th day of November, 2006, (the “Effective Date”), is entered into by and between the SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a California non-profit corporation (“Contractor”) and County of Santa Clara, a political subdivision of the State of California (“County”), with respect to that certain Management Agreement dated April 18, 2000 and previously amended December 13, 2005 (“Management Agreement”). Capitalized terms used in this Amendment without definition shall have the meanings ascribed to such terms in the Management Agreement.

WITNESSETH

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. **TERM.** The first sentence of Article 2, Section 2.01 shall be amended to read as follows:

   “The term of the Agreement shall commence on the day of its execution by the County and shall end on December 31, 2007, (the “Term”).

2. **FULL FORCE AND EFFECT.** Except as amended hereby, all of the other terms, covenants and conditions of the Lease remain in full force and effect.

3. **COUNTERPARTS.** This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same document.

4. **ENTIRE AGREEMENT.** This Second Amendment contains the entire agreement between the parties pertaining to the above subject matter and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.
IN WITNESS WHEREOF, the undersigned have executed this Second Amendment to be effective as of the day and year first hereinabove set forth.

COUNTY OF SANTA CLARA

By: DONALD F. GAGE
Board of Supervisors

Date: NOV 4 2006

Signed and certified that a copy of this document has been delivered by electronic or other means to the Chair, Board of Supervisors.

ATTEST: Phyllis A. Perez
Clerk of the Board of Supervisors

Date: NOV 4 2006

APPROVED AS TO FORM AND LEGALITY:

SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION

By: Arthur Troyer
Name: Arthur Troyer
Title: Executive Director

Date: 11-7-06

Deputy County Counsel

Date: 11-7-06
THIRD AMENDMENT
TO MANAGEMENT AGREEMENT

THIS THIRD AMENDMENT (this "Third Amendment"), dated as of this \\
\"t\"t\"day of December, 2007, (the "Effective Date"), is entered into by and between the \\
SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a \\
California non-profit corporation ("Contractor") and County of Santa Clara, a political \\
subdivision of the State of California ("County"), with respect to that certain Management \\
Agreement dated April 18, 2000 and previously amended December 13, 2005 and November 14, \\
2006 ("Management Agreement"). Capitalized terms used in this Amendment without \\
definition shall have the meanings ascribed to such terms in the Management Agreement.

WITNESSETH

NOW THEREFORE, for valuable consideration, receipt of which is hereby 
acknowledged, the parties agree as follows:

1. **TERM.** The first sentence of Article 2, Section 2.01 shall be amended to read as 
follows:

"The term of the Agreement shall commence on the day of its execution by the 
County and shall end on December 31, 2008, (the "Term)."

2. **FULL FORCE AND EFFECT.** Except as amended hereby, all of the other 
terms, covenants and conditions of the Lease remain in full force and effect.

3. **COUNTERPARTS.** This Amendment may be executed in any number of 
counterparts, each of which shall be deemed an original, all of which together shall constitute 
one and the same document.

4. **ENTIRE AGREEMENT.** This Third Amendment contains the entire agreement 
between the parties pertaining to the above subject matter and fully supersedes all prior written 
or oral agreements and understandings between the parties pertaining to such subject matter.

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IN WITNESS WHEREOF, the undersigned have executed this Third Amendment to be effective as of the day and year first hereinabove set forth.

COUNTY OF SANTA CLARA

By: Donald F. Gage
Donald F. Gage, Chairperson
Board of Supervisors

Date: DEC 11 2007

SANTA CLARA COUNTY
FAIRGROUNDS MANAGEMENT
CORPORATION

By: Arthur Troyer
Name: Arthur Troyer
Title: Executive Director

Date: 11/21/07

ATTEST: Phyllis A. Perez
Clerk of the Board of Supervisors

Date: DEC 1 1 2007

APPROVED AS TO FORM AND LEGALITY:

Katherine Harasz
Deputy County Counsel

Date: 11/21/07
FOURTH AMENDMENT
TO MANAGEMENT AGREEMENT

THIS FOURTH AMENDMENT (this “Fourth Amendment”), dated as of this 16th day of December, 2008, (the “Effective Date”), is entered into by and between the SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a California non-profit corporation (“Contractor”) and County of Santa Clara, a political subdivision of the State of California (“County”), with respect to that certain Management Agreement dated April 18, 2000 and previously amended December 13, 2005, November 14, 2006, and December 11, 2007 (“Management Agreement”). Capitalized terms used in this Amendment without definition shall have the meanings ascribed to such terms in the Management Agreement.

WITNESSETH

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. **TERM.** The first sentence of Article 2, Section 2.01 shall be amended to read as follows:

   “The term of the Agreement shall commence on the day of its execution by the County and shall end on December 31, 2009, (the “Term).

2. **FULL FORCE AND EFFECT.** Except as amended hereby, all of the other terms, covenants and conditions of the Agreement remain in full force and effect.

3. **COUNTERPARTS.** This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same document.

4. **ENTIRE AGREEMENT.** This Fourth Amendment contains the entire Agreement between the parties pertaining to the above subject matter and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.

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IN WITNESS WHEREOF, the undersigned have executed this Fourth Amendment to be effective as of the day and year first hereinabove set forth.

COUNTY OF SANTA CLARA

By: Blanca Alvarado, Chair Pro Tem
Board of Supervisors

Date: DEC 16 2008

Signed and certified that a copy of this document has been delivered by electronic or other means to the Chair, Board of Supervisors.

ATTEST: Maria Marinos
Clerk of the Board of Supervisors

Date: DEC 16 2008

SANTA CLARA COUNTY
FAIRGROUNDS MANAGEMENT CORPORATION

By: [Signature]
Name: Arthur Troyer
Title: Executive Director

Date: 12/3/08

APPROVED AS TO FORM AND LEGALITY:

Katherine Harasz
Deputy County Counsel

Date: 12/2/08
FIFTH AMENDMENT
TO MANAGEMENT AGREEMENT

THIS FIFTH AMENDMENT ("Fifth Amendment"), dated as of this 15th day of December, 2009 (the "Effective Date"), is entered into by and between the SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a California non-profit corporation ("Contractor") and County of Santa Clara, a political subdivision of the State of California ("County"), with respect to that certain Management Agreement dated April 18, 2000, as amended ("Management Agreement"). Capitalized terms used in this Fifth Amendment without definition shall have the meanings ascribed to such terms in the Management Agreement.

WITNESSETH

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. TERM. The first sentence of Article 2, Section 2.01 shall be amended to read as follows:

"The term of the Agreement shall commence on the day of its execution by the County and shall end on February 28, 2010 (the "Term)."

2. COUNTY NO-SMOKING POLICY. The following is hereby added to the Management Agreement as Article 30, Section 30.01:

"ARTICLE 30. COUNTY NO-SMOKING POLICY.

Section 30.01 Contractor and its employees, agents and subcontractors, shall comply with the County’s No Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles."

3. FULL FORCE AND EFFECT. Except as amended hereby, all of the other terms, covenants and conditions of the Management Agreement remain in full force and effect.

4. COUNTERPARTS. This Fifth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same document.
5. **ENTIRE AGREEMENT.** Except as expressly set forth herein, all other terms and conditions of the Management Agreement, as amended by the First through Fourth Amendments, shall remain in full force and effect; provided, however, that if there is any conflict between the terms of this Fifth Amendment and the original Management Agreement or any of the prior amendments, the terms of this Fifth Amendment shall control.

**IN WITNESS WHEREOF,** the undersigned have executed this Fifth Amendment to be effective as of the day and year first hereinabove set forth.

**COUNTY OF SANTA CLARA**

By: [Signature]
Liz Kniss, President, Board of Supervisors

Date: **DEC 15 2009**

**ATTEST:**

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

Maria Marinos, Clerk of the Board

Date: **DEC 15 2009**

**SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION**

By: [Signature]

Name: Arthur Troyer
Title: Executive Director

Date: **12/01/09**

**APPROVED AS TO FORM AND LEGALITY:**

Shabad Puri, Deputy County Counsel

Date: **12/2/09**
SIXTH AMENDMENT
TO MANAGEMENT AGREEMENT

THIS SIXTH AMENDMENT ("Sixth Amendment"), dated as of this 23rd day of February, 2010 (the "Effective Date"), is entered into by and between the SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a California non-profit corporation ("Contractor") and County of Santa Clara, a political subdivision of the State of California ("County"), with respect to that certain Management Agreement dated April 18, 2000, as amended ("Management Agreement"). Capitalized terms used in this Sixth Amendment without definition shall have the meanings ascribed to such terms in the Management Agreement.

WITNESSETH

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. **TERM.** Article 2, Section 2.01 shall be deleted in its entirety and replaced with the following:

   "The term of the Agreement shall commence on the day of its execution by the County and shall end on December 31, 2010 (the "Term"). The County and Contractor may extend this Agreement beyond its termination date upon the approval of both parties and subject to Contractor’s satisfactory performance. County may immediately terminate this Agreement upon the default of Contractor. The County may also terminate the Agreement at its convenience at any time and for any reason or for no reason at all upon providing thirty (30) days prior written notice to Contractor."

2. **FULL FORCE AND EFFECT.** Except as amended hereby, all of the other terms, covenants and conditions of the Management Agreement remain in full force and effect.

3. **COUNTERPARTS.** This Sixth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same document.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
4. **ENTIRE AGREEMENT.** Except as expressly set forth herein, all other terms and conditions of the Management Agreement, as amended by the First through Fifth Amendments, shall remain in full force and effect; provided, however, that if there is any conflict between the terms of this Sixth Amendment and the original Management Agreement or any of the prior amendments, the terms of this Sixth Amendment shall control.

**IN WITNESS WHEREOF,** the undersigned have executed this Sixth Amendment to be effective as of the day and year first hereinabove set forth.

**COUNTY OF SANTA CLARA**

By: 
Ken Yeager, President, Board of Supervisors

Date: **FEB 23 2010**

**ATTEST:**

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

**MARIA MARINOS**

Maria Marinos, Clerk of the Board

Date: **FEB 23 2010**

**SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION**

By: 
Ray Lekeman, General Manager

Date: **7 SEP 2010**

**APPROVED AS TO FORM AND LEGALITY:**

Shabad Puri, Deputy County Counsel

Date: **MAR 17 2010**

-2-
SEVENTH AMENDMENT TO MANAGEMENT AGREEMENT

THIS SEVENTH AMENDMENT ("Seventh Amendment"), dated as of this 7th day of December, 2010 (the "Effective Date") is entered into by and between the SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a California non-profit corporation ("Contractor") and the County of Santa Clara, a political subdivision of the State of California ("County"), with respect to that certain Management Agreement dated April 18, 2000, as amended ("Management Agreement"). Capitalized terms used in this Seventh Amendment without definition shall have the meanings ascribed to such terms in the Management Agreement.

WITNESSETH

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. TERM. Article 2, Section 2.01 shall be deleted in its entirety and replaced with the following:

"The term of this Agreement shall commence on the day of its execution by the County and shall end on December 31, 2013 (the "Term"). The County and Contractor may extend this Agreement beyond its termination date upon the approval of both parties and subject to Contractor’s satisfactory performance. County may immediately terminate this Agreement upon the default of Contractor. The County may also terminate the Agreement at its convenience at any time and for any reason or for no reason at all upon providing ninety (90) days prior written notice to Contractor; provided, however that upon such termination, the County shall pay Contractor all amounts which are due under the Agreement (from the County to Contractor) as of the termination date (if any)."

2. SUSPENSION OF YOUTH FAIR. If Contractor determines that by providing the Annual Youth Fair, Contractor’s available cash would fall below a Critical Cash Requirement (defined below) or that Contractor would be required to utilize capital project reserve funds, Contractor shall have a one-time right to not provide the Annual Youth Fair provided that Contractor shall so notify the County in writing by September 30th of the year prior to the date the Annual Youth Fair would otherwise take place. By way of example, and not by way of limitation, if Contractor exercised its right not to provide the Annual Youth Fair in 2012, Contractor would need to provide written notice to the County by September 30, 2011.

Critical Cash Requirement shall mean an amount in available cash sufficient to meet: (1) Contractor’s short term liabilities; and (2) the obligations to Contractor’s employees which would otherwise be due upon the termination of their employment.
3. **ENTIRE AGREEMENT; AMENDMENT.** The Agreement, as amended by this Seventh Amendment, constitutes the full and complete agreement and understanding between the parties hereto and shall supersede all prior communications, representations, understandings or agreements, if any, whether oral or written, concerning the subject matter contained in the Agreement, as so amended, and may not be modified, amended, waived or discharged, in whole or in part, except by a written instrument executed by all of the parties hereto.

4. **FORCE AND EFFECT.** Except as modified by this Seventh Amendment, the terms and provisions of the Agreement are hereby ratified and confirmed and are and shall remain in full force and effect. Should any inconsistency arise between this Seventh Amendment and the Agreement as to the specific matters which are the subject of this Seventh Amendment, the terms and conditions of this Seventh Amendment shall control. This Seventh Amendment shall be construed to be a part of the Agreement and shall be deemed incorporated in the Agreement by this reference.

**IN WITNESS WHEREOF,** the parties hereto have executed this Seventh Amendment as of the Effective Date.

**COUNTY OF SANTA CLARA**

By: [Signature]

Ken Yeager, President, Board of Supervisors

Date: **DEC 7 2010**

**SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION**

By: [Signature]

Ray Beckerman, General Manager

Date: **12/29/10**

**ATTEST:**

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

**Maria Marinos, Clerk of the Board**

Date: **DEC 7 2010**
APPROVED AS TO FORM AND LEGALITY:

[Signature]

Miguel Moreno, Deputy County Counsel

Date: 11/19/10
EIGHTH AMENDMENT
TO MANAGEMENT AGREEMENT

THIS EIGHTH AMENDMENT ("Eighth Amendment"), dated as of this \_\_\_ day of September, 2012 (the "Effective Date") is entered into by and between the SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a California non-profit corporation ("Contractor") and the County of Santa Clara, a political subdivision of the State of California ("County"), with respect to that certain Management Agreement dated April 18, 2000, as amended ("Management Agreement" or "Agreement"). Capitalized terms used in this Eighth Amendment without definition shall have the meanings ascribed to such terms in the Management Agreement.

WITNESSETH

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. IMPROVEMENTS AND FIXTURES. Section 16.02 of ARTICLE 16, IMPROVEMENTS AND FIXTURES, is hereby deleted and replaced in its entirety with the following:

Section 16.02 All trade fixtures and leased equipment installed by Contractor on the Residual Property, regardless of the manner or mode of attachment, including but not limited to flooring, counters, shelves, racks and general fixtures, shall be and remain the property of Contractor, subject, however, to the rights of any equipment lessor, and may be removed by Contractor or equipment lessor or other person or entity entitled to remove the same at any time during or at the end of the Agreement, or the Residual Property caused by removal of any such trade fixtures by Contractors or its sub-contractors or licensees. The foregoing shall not apply to any and all upgrades to or replacement of lighting or refrigeration (the "Energy Upgrade Fixtures") installed or replaced by Contractor or on behalf of or for Contractor on the Residual Property using funds acquired from or through in whole or in part Pacific Gas & Electric ("PG&E"), in which case said Energy Upgrade Fixtures shall remain on and shall not be removed from the Residual Property and shall be deemed the exclusive property of County. Notwithstanding anything to the contrary stated elsewhere in this Agreement, County shall reimburse Contractor upon termination or expiration of this Agreement for the remaining PG&E loan balance, if any, justly due and owing to PG&E for the Energy Upgrade Fixtures, such amount not to exceed $100,000.00. Prior to any reimbursement by County, Contractor shall first provide evidence deemed sufficient to County demonstrating the remaining loan balance owed to PG&E and proof of payment to PG&E by Contractor of this remaining loan balance. The failure of Contractor to provide such evidence shall not excuse Contractor from its obligations to provide such evidence nor to pay the full loan amount owed to PG&E prior to seeking reimbursement from County and shall not waive...
or negate County’s right, ownership, title or possession in and to said Energy Upgrade Fixtures. This section shall survive termination or expiration of this Agreement.

2. **ENTIRE AGREEMENT; AMENDMENT.** The Agreement, as amended by this Eighth Amendment, constitutes the full and complete agreement and understanding between the parties hereto and shall supersede all prior communications, representations, understandings or agreements, if any, whether oral or written, concerning the subject matter contained in the Agreement, as so amended, and may not be modified, amended, waived or discharged, in whole or in part, except by a written instrument executed by all of the parties hereto.

3. **FORCE AND EFFECT.** Except as modified by this Eighth Amendment, the terms and provisions of the Agreement are hereby ratified and confirmed and are and shall remain in full force and effect. Should any inconsistency arise between this Eighth Amendment and the Agreement as to the specific matters which are the subject of this Eighth Amendment, the terms and conditions of this Eighth Amendment shall control. This Eighth Amendment shall be construed to be a part of the Agreement and shall be deemed incorporated in the Agreement by this reference.

**IN WITNESS WHEREOF,** the parties hereto have executed this Eighth Amendment as of the Effective Date.

COUNTY OF SANTA CLARA

By: [Signature]
George Shirakawa, President,
Board of Supervisors

Date: SEP 11 2012

SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION

By: [Signature]
Name: Delana Romero
Title: Interim Executive Director

Date: 8/30/12
ATTEST:

[Signature]
Lynn Regadanz
Interim Clerk of the Board

Date: SEP 11 2012

APPROVED AS TO FORM AND LEGALITY:

[Signature]
Shirley R. Edwards
Deputy County Counsel

Date: 08-30-2012
NINTH AMENDMENT
TO MANAGEMENT AGREEMENT

THIS NINTH AMENDMENT ("Ninth Amendment"), dated as of this 14th day of December, 2013 (the “Effective Date”) is entered into by and between the SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a California non-profit corporation ("Contractor" or "FMC") and the County of Santa Clara, a political subdivision of the State of California ("County"), with respect to that certain Management Agreement dated April 18, 2000, as amended ("Management Agreement"). Capitalized terms used in this Ninth Amendment without definition shall have the meanings ascribed to such terms in the Management Agreement.

WITNESSETH

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **TERM.** Article 2, Section 2.01 shall be deleted in its entirety and replaced with the following:

   The term of this Agreement shall commence on the day of its execution by the County and shall end on December 31, 2016 (the “Term”). The County and Contractor may extend this Agreement beyond its termination date upon the approval of both parties and subject to Contractor’s satisfactory performance, as solely determined by County. County may immediately terminate this Agreement upon the default, as solely determined by County, of Contractor. The County may also terminate the Agreement at its convenience at any time and for any reason or for no reason at all upon providing ninety (90) days prior written notice to Contractor; provided, however that upon such termination for convenience, the County shall pay Contractor all amounts which are due under the Agreement (from the County to Contractor) as of the termination date (if any).

2. **ENTIRE AGREEMENT; AMENDMENT.** The Agreement, as amended by this Ninth Amendment, constitutes the full and complete agreement and understanding between the parties hereto and shall supersede all prior communications, representations, understandings or agreements, if any, whether oral or written, concerning the subject matter contained in the Agreement, as so amended, and may not be modified, amended, waived or discharged, in whole or in part, except by a written instrument executed by all of the parties hereto.

3. **FORCE AND EFFECT.** Except as modified by this Ninth Amendment, the terms and provisions of the Agreement are hereby ratified and confirmed and are and shall remain in full force and effect. Should any inconsistency arise between this Ninth Amendment and the Agreement as to the specific matters which are the subject of this Ninth Amendment, the terms and conditions of this Ninth Amendment shall control. This Ninth Amendment shall be
construed to be a part of the Agreement and shall be deemed incorporated in the Agreement by this reference.

IN WITNESS WHEREOF, the parties hereto have executed this Ninth Amendment as of the Effective Date.

COUNTY OF SANTA CLARA

By: Ken Yeager, President, Board of Supervisors

SANTA CLARA COUNTY
FAIRGROUNDS MANAGEMENT CORPORATION

By: Delana Romero
Name: Delana Romero
Title: Interim Executive Manager

ATTEST:

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

Lynn Regadanz, Clerk of the Board

APPROVED AS TO FORM AND LEGALITY:

Shirley R. Edwards, Deputy County Counsel

Date: DEC 10 2013

Date: 11-7-13
TENTH AMENDMENT
TO MANAGEMENT AGREEMENT

THIS TENTH AMENDMENT ("Tenth Amendment"), effective as of the last date signed by all parties below (the "Effective Date"), is entered into by and between the SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION, a California non-profit corporation ("Contractor" or "FMC") and the County of Santa Clara, a political subdivision of the State of California ("County"), with respect to that certain Management Agreement dated April 18, 2000, as amended ("Agreement"). Capitalized terms used in this Tenth Amendment without definition shall have the meaning ascribed to such terms in the Management Agreement.

WITNESSETH

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **TERM.** Article 2, Section 2.01 shall be deleted in its entirety and replaced with the following:

   The term of this Agreement shall commence on the day of its execution by the County and shall end on December 31, 2019 (the "Term"). The County and Contractor may extend this Agreement beyond its termination date upon the approval of both parties and subject to Contractor's satisfactory performance, as solely determined by County. County may immediately terminate this Agreement upon the default, as solely determined by County, of Contractor. The County may also terminate the Agreement at its convenience at any time and for any reason or for no reason at all upon providing ninety (90) days prior written notice to Contractor; provided, however, that upon such termination for convenience, the County shall pay Contractor all amounts which are due under the Agreement (from the County to Contractor) as of the termination date (if any).

2. **ENTIRE AGREEMENT; AMENDMENT.** The Agreement, as previously amended, and as amended by this Tenth Amendment, constitutes the full and complete agreement and understanding between the parties hereto and shall supersede all prior communications, representations, understandings or agreements, if any, whether oral or written, concerning the subject matter contained in the Agreement, as so amended, and may not be modified, amended, waived or discharged, in whole or in part, except by a written instrument executed by all of the parties hereto.

3. **FORCE AND EFFECT.** Except as modified by this Tenth Amendment, the terms and provisions of the Agreement are hereby ratified and confirmed and are and shall remain in full force and effect. Should any inconsistency arise between this Tenth Amendment and the Agreement as to the specific matters which are the subject of this Tenth Amendment, the terms and conditions of this Tenth Amendment shall control. This Tenth Amendment shall be

TENTH AMENDMENT
TO FMC MANAGEMENT AGREEMENT
construed to be a part of the Agreement and shall be deemed incorporated in the Agreement by this reference.

4. **COUNTERPARTS.** This Tenth Amendment may be executed in several 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. Facsimile or electronic signatures shall have the same legal effect as original or manual signatures if followed by mailing of a fully executed original to both parties.

**IN WITNESS WHEREOF,** the parties hereto have executed this Tenth Amendment as of the Effective Date.

**COUNTY OF SANTA CLARA**

By: [Signature]

Dave Curtese, President,
Board of Supervisors

Date: **NOV 15 2016**

**SANTA CLARA COUNTY FAIRGROUNDS MANAGEMENT CORPORATION**

By: [Signature]

Name: Delana Romero
Title: Executive Manager

Date: **11/14/16**

**ATTEST:**

[Signature]

Megan Doyle, Clerk of the Board

Date: **NOV 15 2016**

**APPROVED AS TO FORM AND LEGALITY:**

[Signature]

Shirley R. Edwards, Deputy County Counsel

**APPROVED AS TO FORM AND LEGALITY:**

[Signature]

Sara Poncio, Deputy County Counsel