

EL DORADO COUNTY GRAND JURY 2018-2019



A FAIR REVIEW

CASE 18-06 • MAY 23, 2019

Public Release

MAY 29, 2019

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INTRODUCTION

There is an agreement between El Dorado County (County) and the El Dorado County Fair Association (Association) that outlines their mutual understanding for the conduct of the Agricultural Fair and other activities on the County-owned Fairgrounds property. This agreement is outdated, largely disregarded and ignored by the County, and as a result, does not provide the full potential financial benefit to El Dorado County.

BACKGROUND

Under California Government Code Section 25905:

“The board of supervisors may contract with a nonprofit corporation or association for the conducting of an agricultural fair, as agent of the county, for a period not exceeding five years.”

The Association known as The El Dorado County Fair Association was created in April 1952, and through its Articles of Incorporation, states these specific and primary purposes:

“To sanction and promote an annual county fair in El Dorado County in cooperation with the County of El Dorado, and to contract from time to time with said County for the conduct and sponsorship of such annual fair by the corporation in conformity with and any and all provisions of law which authorize the counties of this State to conduct fairs through the instrumentality of nonprofit corporations or associations organized for such purpose”

The Association Board is made up of eleven (11) members, with six (6) members from the membership of the Association at large, and five (5) members appointed at large by the County Board of Supervisors.

The most recent agreement between the County and the Association is dated April 1, 2005. There was an amendment in May of 2017 to allow payments on a debt owed by the Association, however, it did not modify any other terms of the 2005 Agreement. The 2005 document will be referred to as *the Agreement* in this report. A copy of the Agreement is attachment A.

The Association conducts an annual agricultural fair. In addition, the Association leases out the facilities on the County-owned property for a variety of activities and events, including theatrical productions, dirt track car races, concerts, community events and charity fundraisers. The Agreement preamble states it is the mutual desire of the parties that the Association will act as an agent for the County:

“...for the purpose of holding and conducting such fair, and have the use, possession and management of the fairground for the period of this Agreement;”

As a part of the Agreement, the County is indemnifying the Association to the extent that:

“Claims of any type made against the Association shall be deemed to be claims against the County.”

Also, the Agreement acknowledges that the County owns the property, specifically:

“The buildings, tenant improvements, and all other fixed assets are property of County...”

The Agreement further states:

“...the fair and other activities shall be conducted in accordance with the highest standards for the benefit of County and the State of California.”

Through interviews with various County employees and elected officials, the Grand Jury ascertained the County government is not receiving any direct financial gain from the execution of the Agreement. Further, it appears that the County is being charged by the Association when the County makes use of the facilities it actually owns.

The Association’s cost for all maintenance of the fairgrounds provides their justification of charging for use of the County owned facilities, however, the agreement is somewhat ambiguous regarding the maintenance responsibility.

METHODOLOGY

- Attended a County Fair Association board meeting

Interviewed

- El Dorado County Fair Association personnel
- Various El Dorado County personnel and elected officials

Reviewed

- The Agreement between El Dorado County and the El Dorado County Fair Association and the most current revision
- The Articles of Incorporation for the El Dorado County Fair Association
- The By-Laws of the El Dorado County Fair Association
- The applicable State codes governing administration of county fairs
- Financial submissions by the El Dorado County Fair Association
- Claims against the El Dorado County Fair Association
- Contracts between the El Dorado County Fair Association and various concessionaires
- El Dorado County Fair Association Statement of Operations (STOP) submitted to the State

DISCUSSION

The Agreement was executed in 2005, with a five (5) year term and included automatic renewals each year after the five-year period expired. It requires a Notice of Intent be filed when either party intends to not renew the Agreement. This seems inconsistent with California Government Code §25905, which states that the Agreement cannot exceed five years.

Conditions have changed. The Agreement is outdated, and many sections are ignored. For example:

- The State no longer provides funds through the County for the operation of the County Fair.
- The County can no longer provide CalPERS benefits to the Association.
- The County no longer provides payroll services for the Association's employees.
- The Association does not deposit their funds in the County's treasury.
- The Association does not provide notice to the County of their expenditures under section 16 of the Agreement.
- The Association has not provided "certified" copies of their minutes to the Clerk of the Board, as required by section 17 of the Agreement.
- The Association has not provided the County with a complete cash audit of its operations, as required under section 27 of the Agreement.
- The Association has not provided a five (5) year plan projection to the County, as required under section 28 of the Agreement.

After interviewing County staff, elected officials, and Association officers, the Grand Jury could not identify one specific person responsible for monitoring and administering the Agreement between the Association and the County. The interactions and execution of the Agreement between the County and the Association are divided between The Office of Risk Management, the Treasurer/Tax Collector, the CAO's office, and the Auditor-Controller. Because there is no single point of contact within the County government, there is no accountability for overall compliance with the terms and conditions of the Agreement.

Under section 6 of the Agreement, the fairgrounds property consists of Assessor's parcel numbers 152-240-11, 352-240-12, 352-280-02 and 352-280-04. A review of County Assessor's maps showed the parcel numbers delineated in the agreement are incorrect. We assume that this is most likely a typographical error; the book numbers should be 325 for all the parcels. Title to these parcels is held by El Dorado County and under section 12 of the Agreement, the buildings, tenant improvements and all other fixed assets are property of the County. It was noted upon review of the Association's Internal Revenue Service (IRS) Form 990 filing that the Association's return included depreciation of facilities on the fairgrounds. The Grand Jury has not made a determination if this affects the County's net worth, nor have we made an assessment of the legality of the Association's IRS submission.

The Grand Jury asked both Association and County officials if there was any item in the Agreement that, by law, precludes the County from profiting from its ownership of the fairgrounds property. The general answer was there was nothing that prevents the County from such a benefit. The Association leases out various venues within the fairgrounds to for-profit companies. The agreements with the for-profit companies are negotiated by the Association, and do not include the provision that any of the receipts from the events be paid to the County. It appears that the County receives no direct financial benefit, even though the County owns the property and facilities, and has accepted the risk for the Association's undertakings.

FINDINGS

- F1. The Agreement between El Dorado County and the El Dorado County Fair Association is outdated. Many of the provisions are no longer applicable and others are not enforced.
- F2. El Dorado County does not appear to have a single point of contact responsible for administration, monitoring, and enforcing provisions of the existing Agreement.
- F3. El Dorado County holds title to the property on which the El Dorado County Fair Association conducts the annual agricultural fair, as well as a variety of other events.
- F4. The El Dorado County Fair Association was formed for the purpose of conducting the annual agricultural fair.
- F5. By delegating to the El Dorado County Fair Association, the year-round management of the fairgrounds, El Dorado County has missed opportunities to receive revenue from events held on the fairground property.
- F6. El Dorado County is inattentive to the El Dorado County Fair Association's management of the fair and fairgrounds.
- F7. El Dorado County Government has assumed liability for all fair activities and operations without any direct financial benefit.

RECOMMENDATIONS

- R1. The County should designate a specific department or person that is directly responsible for management of the agreement between the Association and the County.
- R2. The County should decide how it wishes to move forward relative to the Fairgrounds with one of these options:
 - a) Assuming direct control of the Fairgrounds and Agricultural Fair or,
 - b) Continuing the relationship with the Association and updating the agreement incorporating the changed conditions since the 2005 Agreement or,
 - c) Modifying the relationship whereby the Association is only responsible for conducting the agricultural fair and the County assuming management of all other activities held on the Fairgrounds.
- R3. In drafting a new agreement or assuming direct responsibility for operations of the fair and fairgrounds, the County should look into potential revenue opportunities for the County arising from activities outside the Agricultural Fair.

ATTACHMENT A

Agreement between the County of El Dorado and the El Dorado County Fair Association, Inc. A general non-profit corporation

REQUEST FOR RESPONSES

This Grand Jury report is an account of an investigation or review. It contains findings and recommendations, and names those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

Responses are requested in accordance with California Penal Code §933 and §933.05.

- **Responses to all findings and recommendations are requested from the County Board of Supervisors**

The written response of each named respondent will be reprinted in a publication to the citizens of El Dorado County. Each must include the name of the Grand Jury report along with the name and official title of the respondent.

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to review the Penal Code sections and carefully read the pertinent provisions included below before preparing your official response. Each respondent must use the formats below for each separate finding and recommendation identified above.

Please pay attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

Response to Findings

Finding F# *[Retype the text of the finding as written in the Grand Jury report, # is the finding number in the report.]*

Response: *[Review California Penal Code section 933.05 (a) (1) and (2). Respondents must specify one of three options – a) Respondent agrees with finding, b) Respondent disagrees wholly with finding or c) Respondent disagrees partially with finding. If respondent uses option b or c then the response shall specify the portion of the finding that is disputed and shall include an explanation.]*

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

Grand Jury Findings are derived from testimony and evidence. All testimony and evidence given to the Grand Jury is confidential by law, and it is the Grand Jury's responsibility to maintain it. California Penal Code §929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released." Further, 86 Ops. Cal. Atty. Gen. 101 (2003) prohibits grand jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.

Response to Recommendations

Response R# [*Retype the text of the recommendation as written in the Grand Jury report, # is the recommendation number in the report.*]

Response: [*Review California Penal Code section 933.05 (b) (1) - (4). Respondents must specify one of four options – a) recommendation has been implemented, b) recommendation has not been implemented but will be implementing noting a timeframe, or c) recommendation requires further analysis or study noting a timeframe not to exceed six months from date Grand Jury Report was issued or d) recommendation will not be implemented because it is not warranted or reasonable, with an explanation.*]

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public.

ELECTIVE OFFICERS OR AGENCY HEADS

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public.

Failure to Respond

Failure to respond as required to a grand jury report is a violation of California Penal Code Section 933.05 and is subject to further action that may include further investigation on the subject matter of the report by the grand jury.

Where to Respond

All responses must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe CA 96150

Response via Email to courtadmin@eldoradocourt.org is preferred.

The Court requests that you respond electronically with a Word or PDF document file to facilitate economical and timely distribution.

California Penal Code Section 933

933.

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

California Penal Code Section 933.05

933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

ATTACHMENT A

1 AGREEMENT BETWEEN THE COUNTY OF EL DORADO AND
2 THE EL DORADO COUNTY FAIR ASSOCIATION, INC.
3 A GENERAL NON-PROFIT CORPORATION

4 THIS AGREEMENT, made and entered into by and between the COUNTY OF EL
5 DORADO, a political subdivision of the State of California (hereinafter "County") and the EL
6 DORADO COUNTY FAIR ASSOCIATION, INC., a general non-profit corporation (hereinafter
7 "Association") the 1st day of April, 2005.

8 WITNESSETH:

9 WHEREAS, County proposes to hold and conduct an annual county fair in El Dorado County
10 at the location hereinafter specified, and acting by and through its duly elected, qualified and acting
11 Board of Supervisors, in regular session assembled, on the 3rd day of April, 1973, by resolution, did
12 so announce and declare such purpose, and likewise on the same day by resolution named and
13 designed the fair as the EL Dorado County Fair; and

14 WHEREAS, the State of California has appropriated certain monies for the encouragement
15 of county fairs and said monies are apportioned to such fairs in accordance with rules and regulations
16 prescribed by the Department of Food and Agriculture of said state pursuant to section 4401, et seq.
17 of the Food and Agricultural Code of said state; and

18 WHEREAS, Association will, by terms of this Agreement, have facilities available to hold
19 said fair on the County Fairgrounds, such dates as may be hereafter designated by Association which
20 shall establish the date for the purpose of exhibiting and advertising the agriculture, livestock,
21 lumber products and other domestic industry of County and the State of California; and

22 WHEREAS, it is the mutual desire of the parties hereto that Association act as an agent of
23 County pursuant to Government Code section 25906 for the purpose of holding and conducting said
24 fair, and have the use, possession and management of the fairgrounds for the period of this
25 Agreement; and

26 WHEREAS, it is mutually understood by and between the parties hereto that the laws of the
27 State of California vest in County and its duly elected and appointed officials, the sole power and
28 authority to hold and conduct a county fair annually; and that records required by state law must be

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1 kept in connection therewith, which said records constitute County records; and that all money
2 constituting gross receipts from or in connection with the operation, holding and conducting of said
3 fair, and through the use, possession and management of the fairgrounds, constitute County monies.

4 NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

5 1. Association as agent for County under the authority of law applicable thereto, pursuant
6 to Government Code section 25906 will hold and conduct said fair on County Fairgrounds on the
7 dates designated by the Board of Directors of Association.

8 2. Association during the term hereof will annually present to the State Department of Food
9 and Agriculture the premium list and those other documents for said fair, which said list and
10 presentation hereof has constituted or shall constitute an application on the part of County to the
11 Department of Food and Agriculture of the State of California, for the apportionment, if such has
12 not heretofore been made, for the disbursement to County of monies from the State of California,
13 Fairs and Expositions Fund of the full amount as by law allowed.

14 3. Association will pay all premiums awarded by the judges at said fair, subject to the prior
15 approval of the premium list by the Department of Food and Agriculture and the necessary
16 apportionment and disbursement of the required funds by the State of California provided:

17 A. That all premium awards are made in accordance with a published premium list,
18 approved by the Department of Food and Agriculture as aforesaid, and applicable rules and
19 regulations of the Department of Food and Agriculture; and

20 B. That certification of the awards of said premiums by said judges has been duly
21 and regularly made and presented to County.

22 4. County will and does hereby constitute and appoint Association as agent of County
23 pursuant to Government Code section 25906 for the following purposes: To manage, use and
24 possess and to operate and conduct said fair, fairgrounds property and fairgrounds activities for the
25 term of this Agreement, under the by-laws in force and effect on the date of this contract as indicated
26 in Exhibit "A". The term of this Agreement shall commence the date first set forth above, and shall
27 run through June 30, 2010, at which time it shall expire, unless extended pursuant to the terms of
28 this Paragraph. Commencing April 1, 2006, and each April 1" thereafter (the "Renewal Date")

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1 during the term of this Agreement, the term of this Agreement shall be extended automatically,
2 without action of the parties, for a period of one (1) beyond its then current expiration date, unless,
3 prior to any Renewal Date, either party to this Agreement gives written notice to the other of its
4 intent not to renew this Agreement. In the event such notice is given prior to any Renewal Date, then
5 the term of the Agreement shall not be extended upon that or any subsequent Renewal Date and the
6 Agreement shall expire at the end of its then remaining term, it being the intent of the parties that
7 notice of nonrenewal be given not less than four (4) years prior to expiration of the Agreement.

8 5. Association will, subject to the laws of the State of California and County ordinances,
9 rules and regulations, use and possess said fair and fairgrounds, and operate and conduct said fair
10 and other activities within the limits and provisions of this Agreement to the end that said fair and
11 other activities shall be conducted in accordance with the highest and best standards for the benefit
12 of County and the State of California.

13 6. The real property known as the fairgrounds subject to this Agreement consists of APN
14 Nos. 152-240-11, 352-240-12, 352-280-02 and 352-280-04.

15 7. Association agrees to bear, assume, pay and discharge all expenses and obligations
16 incurred by it in connection with said fair from the funds provided to Association by County.

17 8. County shall pay to Association such sums as have been or may be appropriated by the
18 State Department of Food and Agriculture to County from the Fairs and Expositions Fund of the
19 State of California for the purpose of said fair and fairgrounds. County is not obligated to provide
20 general fund monies for any activity contemplated by this Agreement.

21 9. Claims of any type made against Association shall be deemed to be claims against County.
22 Association agrees that upon receipt of any document which purports to be a claim, it will forthwith
23 forward such documents to the office of the clerk of the Board of Supervisors.

24 10. County agrees to defend and indemnify Association, its officers and employees against
25 any claims made against such persons for personal injuries or property damage resulting from the
26 negligence or willful misconduct of such persons occurring in the course of official duties.
27 Association, its officers and employees shall cooperate in the defense of any action against County.

28 As part of its annual budget, the Board of Supervisors shall determine a direct services charge

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1 for Association which will reimburse County for its costs of such general liability risks of loss as
2 arise from operation of the County Fair. By March 1 each year, County shall notify Association in
3 writing of the amount of this charge. County shall compute and determine the amount of this charge
4 using the same computational methods as it employs to develop and budget similar internal charges
5 for the other departments of County Government. Association shall pay this charge in October of
6 each year, or in the month immediately following adoption of County's final budget.

7 11. It is understood that at this time vehicles used by Association in connection with official
8 duties are registered with the Department of Motor Vehicles in the name of Association. County
9 agrees that it shall defend and indemnify Association, its officers and employees resulting from
10 injuries to persons and property as the result of the negligence of willful misconduct of such persons.

11 Property damage to Association vehicles, whether caused by third persons or otherwise, shall
12 be the sole responsibility of Association. By mutual agreement with County, Association may
13 transfer title to such vehicles to County for management within County's fleet management program.
14 In that event only, Association shall remit to County the mileage based internal charges applicable
15 to the County departments. Fleet managed vehicles are replaced or repaired at County expense when
16 depreciated or damaged.

17 12. The buildings, tenant improvements and all other fixed assets on the fairgrounds are
18 property of County, and shall be financially protected against sudden and accidental loss or damage
19 to the same extent as County insures or self-insures against these same risks of loss to other County
20 owned properties and assets.

21 As part of its annual budget, the Board of Supervisors shall determine a direct service charge
22 for Association that will reimburse County for its costs of such risk of property losses. By March
23 1 each year, County shall notify Association in writing of the amount of this charge. County shall
24 compute and determine the amount of this charge using the same computational methods as it
25 employs to develop and budget similar internal charges for the other departments of County
26 government. Association shall pay this charge in October of each year or in the month immediately
27 following adoption of County's final budget.

28 13. Association will implement such loss control policies and procedures and keep records

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1 appropriate to the operations and management of the fairgrounds as are properly required of County
2 departments. At least once annually association officer shall meet with County officers to review
3 these policies and procedures.

4 14. In connection with any fair functions or fair sponsored function, Association shall require
5 all concessionaires and sublessees to provide appropriate insurance and indemnity agreements to
6 indemnify County and Association from any and all liability or loss due to negligent acts or willful
7 misconduct of the concessionaires or sublessees. Risk Management shall provide to Association an
8 annual schedule of all required insurance parameters with respect to type of coverage. County
9 Counsel will provide the required indemnity language.

10 15. Association will accurately make and keep all records substantially in agreement with
11 the accounting and procedures as illustrated in the FAIRS ADMINISTRATION MANUAL, issued
12 by the Department of Food and Agriculture, Division of Fairs and Expositions, of all its transactions
13 as an agent hereunder, and will, among other things, require and procure serially numbered receipts
14 for any and all money received and detailed itemized invoices or other supporting documents for any
15 and all money disbursed or expended by Association in connection with its executive management
16 and control of said fair and fairgrounds. Association hereby agrees that all books, records and
17 documents pertaining to said management and control shall be subject to examination by the State
18 Department of Food and Agriculture and that all such books, records and documents shall be
19 preserved by Association and remain public records.

20 16. Association shall retain and use all monies received by it from the conducting of said
21 fair, and from the use, possession and management of said fair, and from the use, possession and
22 management of fairgrounds, and shall pay therefrom all expenses incurred in connection with both.
23 Association shall carry out all provisions of law relating to county fairs. In accordance with
24 Government Code section 25906, Association agrees that an annual budget shall be submitted by it
25 to and approved by the Department of Food and Agriculture after approval by the County Board of
26 Supervisors, showing the estimated revenues and the proposed expenditures from all sources during
27 the ensuing calendar year, and no funds shall be expended by such Association except pursuant to
28 such budget.

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1 17. Association agrees to file with the clerk of the Board of Supervisors of County, and with
2 the Department of Food and Agriculture, a certified copy of the minutes of each meeting of the
3 Board of Directors of Association within twenty (20) business days after each meeting.

4 18. Association agrees to include and maintain within the text of its governing by-laws
5 provision for the establishment and reservation of County directorships, upon its governing board
6 of directors, which shall be five (5) in number.

7 19. County agrees that, in the matter of selecting its nominees for service on Association's
8 governing board, it will follow the criteria contained within Association's current by-laws wherein
9 the qualification of directors is set forth.

10 20. It is mutually agreed that County hereby delegates to Association the matter of hiring,
11 terms of employment, discharge and all other personnel matters and shall be employees of
12 Association. Such employees of Association shall not be members of the classified service of
13 County and shall not be listed in the County Authorized Personnel Allocation Resolution. However,
14 such employees shall be treated as County employees for the purpose of membership in CALPERS
15 retirement programs as allowed by law. County agrees to provide, and Association agrees to pay for,
16 the following employee benefits:

17 A. Workers' Compensation as required by statutes of the State of California, through
18 County's Workers' Compensation Program.

19 B. The same health benefits as provided to County employees, through County's
20 program, pursuant to the currently in force Memorandum of Understanding with the recognized
21 employee organization representing the General, Professional and Supervisory Bargaining Units,
22 excluding any benefits under the county's retiree health defined contribution plan.

23 C. Unemployment Insurance as required by statutes of the State of California.

24 D. Payment of payroll taxes due for participation in the Medicare portion of Social
25 Security as required by federal law.

26 E. Long Term Disability and Life Insurance as provided to County employees
27 pursuant to the currently in force Memorandum of Understanding with the recognized employee
28 organization representing the General, Professional and Supervisory Units.

ATTACHMENT A

1 F. County's Employee Assistance Program as provided to County employees
2 pursuant to the currently in force Memorandum of Understanding with the recognized employee
3 organization representing the General, Professional and Supervisory Bargaining Units.

4 As part of its annual budget, the Board of Supervisors shall determine a direct service charge
5 for Association which will reimburse County for its costs of such workers' compensation risks of
6 loss as arise on account of Association's employees. By March 1 each year, County shall notify
7 Association in writing of the amount of this charge. County shall compute and determine the amount
8 of this charge using the same computational methods as it employs to develop and budget similar
9 internal charges for the other departments of County government. Association shall pay this charge
10 in October of each year, or in the month immediately following adoption of County's final budget.

11 The Board of Supervisors shall from time to time establish the rates per pay period for the
12 cost of County sponsored health benefits. Association agrees to pay County at this established rate,
13 each pay period, for health benefits on the same basis as a County department.

14 As part of its annual budget, the Board of Supervisors shall determine a direct service charge
15 for Association which will reimburse County for its costs to provide the life insurance, long term
16 disability insurance and employee assistance programs specified above. County shall compute and
17 determine the amount of this charge using the same computational methods as it employs to develop
18 and budget similar internal charges for the other departments of County government. Association
19 shall pay this charge to County quarterly each year.

20 It is agreed that as to employees, the type and level of employee benefits, other than those
21 required by law, may be established by the Association board of directors.

22 21. As part of its annual budget, the Board of Supervisors shall determine a direct service
23 charge for Association which will reimburse County for its costs for PERS retirement by May 1 of
24 each year. County shall notify Association of the PERS cost for the following fiscal year.

25 22. That Association agrees that all routine contracts which it executes, including but not
26 limited to, exhibit space, concession services and non-fair usage shall have the approval of a quorum
27 of the Board of Directors of Association and shall be recorded in the minutes of the meeting.

28 23. Association and County agree that with respect to the commitment or expenditures of

ATTACHMENT A

1 any funds allocated by an executive order of the State Department of Food and Agriculture pursuant
2 to section 19630 of the Business and Professions Code, which provides regulations for the
3 expenditure of state monies in support of capital improvement projects at fairs, the regular County
4 procedure with respect to purchases and contracts must be followed.

5 24. It is mutually agreed that the solicitation, selection, supervision and any other
6 employment related matters of the County Fair employees shall be the sole responsibility of
7 Association, following such rules, agreements and policies established by Association.
8 Remuneration for employees shall be set by Association.

9 25. The criteria for the establishment of the number and categories of employees and degrees
10 of remuneration shall be in strict accord with the then-current state approved Association budget,
11 wherein authorized personnel requirements are outlined. The criterion for job descriptions of all
12 Association employees shall be in accord with those outlined by the State Personnel Board, which
13 recognizes the special category of "Fairgrounds Employees" within the state's system.

14 26. This Agreement shall be without force or effect unless it is approved by the State
15 Department of Food and Agriculture.

16 27. Association agrees to provide County with a complete cash audit of its operations under
17 this Agreement if during the term of this Agreement, the State of California fails to perform such an
18 audit.

19 28. The El Dorado County Fair Association Board of Directors shall annually, on or before
20 March 1, and in conjunction with its budget review, submit to County in writing a general briefing
21 and program review including a five (5) year plan projection.

22 29. That County Counsel be designed as legal advisor on an "as needed" basis for the Board
23 of Directors, and only to the extent that County Counsel determines there is no conflict of interest
24 between County and Association.

25 30. If any provision of this Agreement, or part thereof, is for any reason held to be invalid,
26 the remaining sections shall not be affected but shall remain in full force and effect and to this end,
27 the provisions of this Agreement are severable.

28 31. This Agreement supersedes and replaces that agreement entered into by the County and

ATTACHMENT A

1 the Association for the same purposes, the term of which was January 1, 2005 through June 30,
2 2005.

3 IN WITNESS WHEREOF, County has, by order of the Board of Supervisors, caused these
4 presents to be subscribed by the Chairman of the Board and to be attested by the clerk of the Board,
5 and Association has duly caused these presents to be subscribed by its duly authorized officers who
6 have affixed the corporation seal of Association hereof, the day, month and year written below.

7 Dated: COUNTY OF EL DORADO
8
9 By Charlie Paine
Chairman, Board of Supervisors 3/29/05

10 ATTEST:
11 CINDY KECK, Clerk of the
Board of Supervisors
12 By [Signature]
13 Deputy Clerk 3/29/05

15 Dated: 4/5/05
16 EL DORADO COUNTY FAIR ASSOCIATION
17 By [Signature]
President
18 By [Signature]
19 Secretary-Manager

20 Per paragraph __, this Agreement is approved:
21 Dated: DEPT. OF FOOD AND AGRICULTURE,
22 Division of Fairs and Expositions
23 By [Signature]
Assistant Director

24 LBG/km
25 s:\Fairgrounds\Agreements\Fair.agm 2005

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