

## **CONTRACT POLICY AND RECOMMENDED BEST PRACTICES FOR CONTRACTING BY CALIFORNIA FAIRGROUNDS**

### I. Fundamental Contracting Policies

A. It is the policy of the Fair that all contracting for the use of its property shall be in writing, free of any type of illegal discrimination, and in compliance with applicable law.

B. Under any situation where the contract term is to be greater than one year, or is to grant a contractor an exclusive, or where there is known competition in the market place, the Fair recognizes sound public policy and therefore requires that all such contracts shall be competitively bid.

C. No contract which has been awarded pursuant to a competitive bid process may be assigned, renegotiated, or amended in any material respect without first complying with competitive bidding requirements.

D. Except for situations where the Board of Directors (Board) has expressly delegated limited authority to the General Manager, all contracts must be submitted and shall be approved by the Board in order to bind the Fair and be effective.

E. All contracts that require the Department of Food & Agriculture (Department) approval pursuant to Food & Agricultural Code section 4051 *et seq.* must be entered into and submitted to the Division of Fairs & Expositions (Division) for approval in accordance with the Division's guidelines and procedures.

F. For any event that is to be conducted or performed on Fair property, all contracts shall incorporate the Fair's Rules and Regulations.

### II. Recommended Best Practices for Contracting

#### A. Responsibility of Fair

1. The Board of Directors is responsible for the management, operations, and control of its fairgrounds and must make thoughtful and informed decisions concerning the appropriateness of the use of its property. Accordingly, when planning and contracting for events and activities that take place on its property, the Fair should operate in conformity with its goals, objectives, and mission statement. Moreover, the Fair must be aware of applicable federal, state, and local laws and measure the impact of fair events and activities on the community in which the Fair resides.

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2. Delegation of Authority-It is a common practice for the Board of Directors (Board) to delegate authority to the General Manager/Chief Executive Officer to enter into contracts without Board approval up to a certain maximum dollar limit. Nevertheless, the Board can not delegate its responsibility for any such contracts entered into by the General Manager/CEO without its prior consideration. With this in mind, it is recommended that the Board should condition and limit such delegations of authority to contract by the General Manager/CEO to include only events or activities that will not potentially involve large crowds, multiple days, incite local opposition, or the need for heightened security.
3. Consultation with Legal Counsel-Even though the law allows a Fair to contract for and reasonably regulate certain types of events or activities that take place on its property as to time, place and manner, it is advisable for the Fair to consult with legal counsel from the Attorney General's Office in determining whether a particular event is appropriate or whether certain safeguards might be required in order to hold a specific event or activity.

### **B. Necessity of a Written and Approved Contract**

1. All uses of Fair facilities and/or its equipment shall be covered by a written agreement approved by the Board of Directors.
2. In conducting its operations, Fairs are encouraged to establish minimum contract terms and conditions; for example, security deposits, payment schedules, minimum liability insurance, security and medical emergency plans, traffic and safety plans, etc. as conditions precedent that must be satisfied prior to an event/activity taking place.
3. In the event the Fair needs assistance in contracting, the Division of Fairs and Expositions (Division), as well as the Fair's legal counsel from the Attorney General's Office, are available for consultation and advice. For most contracting scenarios, the Division has sample contracts and forms, but Fairs are advised not to blindly fill in the blanks without adequately performing due diligence prior to contracting.

### **C. Oversight and Enforcement**

1. The Fair shall provide adequate oversight over the Contractor's performance of any contract.
2. To ensure adequate oversight, no contract shall be entered into unless the contract allows for Fair staff or Fair controlled security to have complete access to the premises at all times during an event or activity.

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### D. Due Diligence

1. No contract shall be entered into without conducting an appropriate due diligence inquiry involving the background of the contractor and the type of event or activity that is the subject of the proposed contract.

#### 2. Contractor-Background

- Name (Individual or type of Business Entity) and Status of Contractor
- Duration Contractor in business
- License and permit requirements (state and Local)
- Secretary of State (businesses and non-profits registration)
- Reference Checks

#### 3. Type of Contract or Event

- Determine type of contract (for example, fairtime, interim event, lease, purchase, revenue generating, or sponsorship)
  - \*Type of contract will determine form of contracting document and legal authority
  - \*Use approved Fairs & Exposition form, if applicable and appropriate
- Determine the type of event, the dates, and the hours of operation
  - \*If Alcohol is involved, consider the guidelines of the Alcohol Beverage Control agency, the type of license required, and age of attendees
  - \*Curfews and Fair's hours of operation
  - \*Compliance with the Fair's master plan and the California Environmental Quality Act
  - \*Hazardous activity or event-for example, gun shows, consider special statutes and requirements for conducting gun shows
  - \*Always provide for adequate Fair indemnification and insurance liability coverage by contacting the California Fair Services Authority
- Assess the potential impact on the Fair's rules and regulations, size of crowd, security issues, and local community standards and laws
- Perform financial benefit/cost analysis: unless the contract involves a charity type event, the Fair should obtain a reasonable rate of return for the use of its property or facilities

4. Due Diligence Assessment-After performing due diligence, the Fair may choose not to contract for an event or activity that it determines may adversely impact its mission or best interests.

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### **E. Security**

1. No event shall be permitted without adequate security.
2. As a minimum, any contract should provide that security levels will be determined by the Fair based on such factors as the nature of the event, duration, anticipated attendance, traffic, and other potential impacts on surrounding community.
3. Depending on attendance, duration of event, noise, and potential impact on the local community, it is advisable to consult with local law enforcement in assessing the need for potential security.

### **F. CFSA Insurance Requirements for Fair Contracts**

1. All events or activities taking place on a fairground must provide proof of liability insurance coverage prior to any event or activity taking place at the fairgrounds. This requirement reflects that there are risks involved in ALL uses of fair facilities. Proper liability insurance coverage protects the State of California, the fair and the contractors from these risks.
2. California Fair Services Authority (CFSA), a joint powers agency for California fairs, has established minimum acceptable requirements for all types of events and activities occurring on California fairgrounds. CFSA assists fairs by reviewing and determining the adequacy of the submitted proof of insurance coverage for fair contracts. This process assures that the proper insurance coverage is in place prior to the start of any event or activity.
3. For any Rave party event, proof of general liability insurance coverage with limits of at least \$2 million per occurrence must be submitted to the fair at least two weeks prior to the event. This proof is sent to CFSA for an insurance compliance review which determines the adequacy of the submitted proof.