

cc: Co. Clerk
Auel
S.O.

MARIPOSA COUNTY

AGENDA

DATE: April 21, 1998

BOARD OF SUPERVISORS

ACTION FORM

AGENDA ITEM NO.: CA-5

DEPARTMENT: SHERIFF

BY: Undersheriff Richards

PHONE: 966-3615

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes ___ No X)

Authorize the Chairperson to sign the attached "Fairtime Rental Agreement". Request that two originals are signed, one completed original to be returned to Mariposa County.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has approved this contract for the last several years.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve, the Department will not be able to display community purchased items and to network with the community in which it serves.

COSTS: (X) Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

SOURCE: () 4/5ths Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve for Contingencies, if approved: \$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

CLERK'S USE ONLY:

Res. No.: 98-136 Ord. No. _____

Vote - Ayes: 5 Noes: _____

Absent: _____ Abstained: _____

() Approved () Denied

() Minute Order Attached () No Action Necessary

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

Recommended

Not Recommended

For Policy Determination

Submitted with Comment

Returned for Further Action

Comment: _____

A.O. Initials: JR

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____

ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

FAIRTIME RENTAL AGREEMENT 98-5E

March 31, 1998

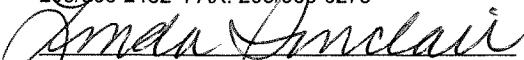
Page 1 of 5
RES. NO. 98-136

THIS AGREEMENT by and between the 35-A District Agricultural Association, hereinafter called the Association and **MARIPOSA COUNTY BOARD OF SUPERVISORS** hereinafter referred to as RENTER. WITNESSETH

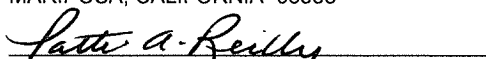
1. THAT WHEREAS RENTER desires to secure from the Association certain rights and privileges and to obtain permission from the Association to use Association premises from ~~September 4, 1998 through September 7, 1998.~~
2. NOW THEREFORE Association hereby grants RENTER the right to occupy space as designated by management and subject to the terms and conditions of this agreement: ~~OUTSIDE AS DESIGNATED BY MANAGEMENT~~
3. THE PURPOSE of occupancy shall be limited to ~~SHERIFF'S DEPARTMENT INFORMATIONAL DISPLAY~~ and shall be or no other purpose or purposes whatsoever without prior written permission from Association management. Any items to be given away must be approved by fair management and listed on this contract.
4. RENTER AGREES TO PAY to Association for the rights and privileges hereby granted, the amounts in the manner set forth below:
~~NO FEE IN LIEU OF SECURITY PROVIDED DURING FAIR~~
~~0.00 NON-REFUNDABLE DEPOSIT DUE BY MAY 1, 1998.~~
5. RENTER AGREES TO PAY fees required by Association as set forth above and to guarantee payment of:
 - a. Any money which may be payable to Association under this agreement.
 - b. Any damage to fairgrounds property and extra utility and/or clean-up charges, if any.
 - c. Removal of all property of RENTER and the leaving of the premises in a condition satisfactory to the Association no later than Tuesday, September 3, 1996 by 4:30 PM.
6. ASSOCIATION shall have the right to audit and monitor any and all sales as well as gain access to inspect the premises at any time.
7. RENTER SHALL PROVIDE, as required by the Association, original certificate of authorized insurance for the term of this agreement as outlined on attached FE-13 (Insurance Requirements for Users of State Supported Fair Facilities).
8. RENTER FURTHER AGREES to indemnify and save harmless Association and the State of California, their officers, agents, servants and employees from any and all claims, causes of action and suits accruing or resulting from any damage, injury or loss to any person or persons, including all persons to whom RENTER may be liable under any Workers Compensation law and RENTER himself and from any loss, damage, cause of action, claims or suits for damages including but not limited to loss of property, goods, wares or merchandise caused by, arising out of or in any way connected with the exercise by RENTER of the privileges herein granted.
9. RENTER FURTHER AGREES that he will not sell, exchange or barter or permit his employees to sell, exchange or barter any permits issued to RENTER or his employees hereunder.
10. IT IS MUTUALLY AGREED that this contract or the privileges granted herein, or any part thereof, cannot be assigned, sublet or otherwise disposed of without the written consent of the Association.
11. IT IS MUTUALLY UNDERSTOOD AND AGREED that no alteration or variation of the terms of this contract shall be valid, unless made in writing and signed by the parties hereto, and that no oral understanding or agreements not incorporated herein and no alterations of the terms hereof, unless made in writing and signed by the parties hereto, shall be binding upon any of the parties hereto.
12. ADDITIONAL RULES AND REGULATIONS continued and attached to this agreement hereto are made a part of this agreement as though fully incorporated herein, and RENTER agrees that s/he has read this agreement and the said rules and regulations and understands that they shall apply, unless amended by mutual consent in writing of the parties hereto.
13. IN THE EVENT RENTER FAILS TO COMPLY in any respect with the terms of this agreement and the rules and regulations referred to herein, all payments for facilities used shall be deemed earned and non-refundable by the Association and the Association shall have the right to occupy the space in any manner deemed for the best interest of Association.
14. SPECIAL PROVISIONS. Concessions and commercial exhibits shall be evaluated on product attractiveness, design of stand, appearance, sanitation, reasonable pricing, service to fairgoers, management, cooperation with Association staff, etc. Evaluation will be used as a basis for determining which concessions and commercial exhibits will be asked to return the following year. Activities, exhibits and/or items deemed inappropriate, unlawful, or harmful will be prohibited at the sole discretion of Association management and shall be immediately ceased or removed from the premises.
15. THIS AGREEMENT IS NOT BINDING upon Association until deposit and required proof of insurance has been received and agreement has been duly accepted and signed by its authorized representative and approved (if required) by the Department of Food and Agriculture and the Department of General Services.
16. **PARTICIPANT WAIVERS.** For hazardous participant events, the contractor/renter agrees to obtain a properly executed Release and Waiver of Liability Agreement (available from fair office) from each participant prior to his/her participation in the event(s) sponsored by contractor/renter. Hazardous participant events include but are not limited to all athletic team events; all equestrian related events; race car, motorcycle or demolition derby type events; and stunt bike, skateboard or roller blade events.

IN WITNESS WHEREOF, this agreement (pages 1 through 5) has been executed in duplicate by and on behalf of the parties hereto, the day and year first above written.

35-A DISTRICT AGRICULTURAL ASSOCIATION
5007 Fairgrounds Road
Mariposa, California 95338
209/966-2432 FAX: 209/966-6273


Linda Sinclair, General Manager

MARIPOSA COUNTY BOARD OF SUPERVISORS
ATTN: SHERIFF'S DEPARTMENT
P.O. BOX 276
MARIPOSA, CALIFORNIA 95338


Signature and Title of Renter

16. RENTER will not be allowed to open until all the preliminary requirements herein set forth have been complied with.
17. RENTER will conduct his business in a quiet and orderly manner, will deposit all rubbish, garbage, tin cans, paper, etc. in receptacles provided by the Association for such purpose.
18. All buildings, tents, enclosures or decorative materials erected or used under the terms of this agreement shall have prior approval of Association and the local fire suppression authorities. All decorative materials must be incombustible or flameproofed. State Fire Marshal inspects premises for compliance with Health & Safety Code. Contact State Fire Marshal's Office in Sacramento at 916/427-4325 for more information on compliance requirements.
19. RENTER will furnish Association with a list of all sales prices and other charges of any kind whatsoever to be charged by RENTER in said area, if any.
20. RENTER must furnish receipts for license fees, tax deposits, insurance, etc. as requested by Association prior to event.
21. RENTER will conduct the privileges granted in this agreement according to all the rules and requirements of the State Department of Health Services and local health authorities and will not engage in any other business whatsoever upon or within said premises except that which is herein expressly stipulated and contracted for in this agreement.
22. RENTER will cause to be posted in a conspicuous manner at the front entrance to the facilities used a sign showing the prices to be charged for all articles offered for sale to the public under this agreement. The size, manner and placing of said sign to be approved by Association.
23. Association will furnish necessary janitorial services for all aisles, streets, roads, and areas used by the public but RENTER must, at his own expense, keep the space and adjacent areas used properly arranged and clean. Receptacles will be provided at various locations to receive trash, and such trash must not be swept into the aisles or streets or any other public place.
24. All sound producing devices used by RENTER within or outside his space must be of such nature and must be so operated as not to cause annoyance or inconvenience to his patrons or to others. The decision of Association as to the desirability of any such sound-producing device shall be final and conclusive. Sound-amplification equipment may be installed within or outside any space only by first obtaining written permission thereof from Association.
25. RENTER agrees that there will be no games, gambling or any other activities within the confines of his space in which money is used as a prize or premium and that he will not buy and/or permit "buy backs" for cash, and any prizes or premiums given away to patrons in connection with the use of the space. Only straight merchandising methods shall be used and all methods of operation, demonstration, and sale shall be subject to the approval of the Association and local law enforcement officials.
26. RENTER is entirely responsible for the facilities allotted to RENTER and agrees to reimburse Association for any damage caused in conjunction with said facilities with the exception of reasonable wear and tear and damage beyond the control of RENTER.
27. Association may provide watchman service which will provide for reasonable protection of the property of RENTER but Association shall not be responsible for loss or damage to the property of RENTER.
28. Each and every article including boxes, crates, packing material and debris of whatsoever nature used in connection with the space and owned by RENTER must be removed from the grounds by RENTER at his own expense not later than the date specified by Association. In the event of RENTER'S failure to vacate said premises, unless permission in writing is first obtained, Association is hereby authorized and made the agent of RENTER to remove and store materials of any nature whatsoever at the RENTER'S risk and expense and RENTER shall reimburse Association for any expenses incurred.
29. RENTER will not be permitted to sell or dispose of alcoholic beverages anywhere of the Fairgrounds as defined in the Alcoholic Beverage Code Act except in authorized areas. Even such limited sales are not to be made unless RENTER is authorized in writing by Association and unless he holds a lawful license authorizing such sales on said premises which is posted in a conspicuous place.
30. All safety orders of the Division of Industrial Safety, Department of Industrial Relations, etc. must be strictly observed.
31. Failure of Association to insist on any one or more instances upon the observance and/or performance of any of these rules and regulations shall not constitute a waiver of any subsequent breach of any such rules and regulations.
32. This rental agreement shall be subject to termination by either party at any time during the term hereof by giving the other party notice in writing at least 30 days prior to the date when such termination shall become effective. Such termination shall relieve the Association of any further performance of the terms of this agreement.
33. RENTER recognizes and understands that this rental may create a possessory interest subject to property taxation and that RENTER may be subject to the payment of property taxes levied on such interest.
34. The Association shall have the privilege of inspecting the premises covered by this agreement at any time or all times.

35. The parties hereto agree that RENTER and any agents and employees of RENTER in the performance of this agreement shall act in an independent capacity and not as officers or employers or agents of Association.

36. Time is of the essence of each and all provisions of this agreement and the provisions of this agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, and assigns of the respective parties hereto.

STANDARD CONTRACT TERMS AND CONDITIONS

37. Renter, by signing this contract, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a Federal Court has been issued against Renter within the immediately preceding two-year period because of the Renter's failure to comply with an order of a Federal Court which orders the Renter to comply with an order of National Labor Relations Board (Public Contract Code Section 10296).

38. Renter shall provide a Worker's Compensation Insurance certificate if Worker's Compensation is required for this contract. This determination will be made by the fair.

39. If, during the performance of this agreement, a dispute arises between renter and fair management which cannot be settled by discussion, the renter shall submit a written statement within eight hours of the incident giving rise to the dispute to fair management. A decision by fair management shall be made to the renter within four hours, in writing, and shall be final and conclusive. Renter shall continue to perform contract requirements without interruption during the dispute period.

40. It is understood and agreed that this contract shall be governed by the laws of the State of California both as to interpretation and performance.

41. During the performance of this contract, renter shall not unlawfully discriminate harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Renters shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. Renters shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.) and the applicable regulations promulgated thereunder (California code of Regulations, Title 2, Section 7285, et seq.). The applicable regulations of the Fair Employment and Housing commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. Renter shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. This renter shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this contract.

42. Renter by signing this contract hereby certifies, unless specifically exempted, compliance with Gov. Code Section 12990 (a-f) and CA Code of Regulations, Title 2, Div. 4, Ch. 5 in matters relating to reporting requirements and the development, implementation and maintenance of a Nondiscrimination Program. Prospective contractor agrees not to unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave.

43. Payment to be made in advance unless otherwise specified.

44. The Fair reserves the right to make all decisions regarding use of the property, unless otherwise agreed.

ADDITIONAL CONTRACT TERMS AND CONDITIONS

45. Eight (8) single-day passes will be issued to each RENTER. Additional single-day passes will be available until the official opening of Fair (Friday at 4 PM) at a charge of \$3.50 per pass and may be purchased at time of arrival at the Fairgrounds.

46. A charge of \$50 per unit will be made for the limited number of RV parking spaces available inside the grounds for hook-up during the Fair. Charges cover space for the period of Wednesday noon preceding fair through Tuesday noon following fair. A charge of \$10 per vehicle per day will be made for arrival prior to Thursday and/or departure after Tuesday. Utility hook-ups are available on a RESERVATION ONLY basis with first priority given to refrigerated food units. Electrical hook-up is for lights only and WILL NOT operate air conditioners and other such equipment. Spaces for RV parking with no hook-ups are available at \$40 for the duration of the Fair. A limited number are located inside the grounds and the rest located in the back parking lot. RENTER TO CHECK IN AT OFFICE BEFORE PARKING TO OBTAIN ASSIGNED LOCATION AND PARKING PERMIT. VEHICLES PARKED IN NON-ASSIGNED AREAS OR WITHOUT VALID PERMIT WILL BE TOWED.

47. Vehicles will be allowed on the fairgrounds until 3 PM of Friday and 9 AM on Saturday, Sunday and Monday. This includes food suppliers and delivery trucks. Exception made for ice and Pepsi Cola Company delivery only. RENTERS servicing their booths must enter and leave the grounds through the livestock entrance. A special vehicle pass for RENTERS needing to service their booths during the Fair is available free of charge.

48. RENTER may purchase a passenger vehicle season parking pass for \$10. This enables vehicle to park in concessionaire lot. If no season parking pass is desired, charges for parking a passenger vehicle will be assessed at the current rate for daily parking each time vehicle enters the public parking lot. UNDER NO CIRCUMSTANCES WILL SUPPLY TRUCKS, TRAILERS, ETC. BE PARKED IN THE MAIN PARKING AREAS.

49. RENTERS must provide electrical adapters to fit Fair receptacles as well as own electrical cords, hoses, etc. Standard service is 50-amp for each space. Overamping standard service results in blown breakers. **NOTE: a 50-amp service will carry a load of only 40-amps or 80%.** Units requiring more amps **MUST MAKE PRIOR ARRANGEMENTS WITH FAIR MANAGEMENT.** In such cases, an additional charge will be made for utilities used. RENTERS will be spot checked throughout the Fair to determine number of amps being used. RENTER will also need leveling blocks for outside spaces and must provide their own. Any maintenance services provided by Fair personnel will be charged to RENTER at the rate of \$12 per man-hour plus cost of materials and/or equipment required.

50. Booths are to be designed as follows: Inside buildings or Indian Area; No solid walls above 4 feet. Booths located against a wall may go as high on back side as desired. Open type framework may be used to hang items but may not totally block the view through the booth, (must be at least partially see through).

51. It is at the prerogative of Association management to move location of RENTER from year to year as deemed necessary.

52. All RENTERS paying space fee on a percentage of gross sale basis shall have a cash register **with tape** in good working order. No RENTER shall work from an open cash drawer at any time. RENTERS reports of gross daily sales and fees due the Fair must be received immediately after closing on the last night of the Fair and no later than 11 PM **unless prior arrangements are made with the management.** Grounds close at 4.:30 PM and office closes a 5 PM **SHARP** on Tuesday. Daily sales reports as required are to be maintained for each day RENTER is open including prior to official opening of Fair. **ALL RENTERS ARE SUBJECT TO AUDIT AT ANY TIME WITHOUT PRIOR NOTICE.**

53. State Board of Equalization requires RENTERS to be responsible for collecting sales tax on all items sold on the Fairgrounds. A State representative will check resale numbers prior to the opening day of Fair. **ALL RENTERS MUST HAVE A VALID RESALE NUMBER AND NOTE SAME ON BOTTOM OF THIS AGREEMENT.**

54. All RENTERS with a food concession are required to file an Application for Food Handling Permit with the Mariposa County Health Department, P.O. Box 5, Mariposa, CA 95338. Health Department officials will be on-site to inspect all food preparation facilities. All food concessions are required to comply with all Health Department regulations and to post Food Handling Permit issued by Health Department. Those in non-compliance will not be permitted to operate.

55. RENTERS having space inside buildings will be allowed to start setting up Wednesday preceding Fair beginning at 10 AM. RENTERS having outside space may begin setting up at 1 PM on the Wednesday preceding Fair. **ASSOCIATION PERSONNEL WILL PLACE CONCESSION TRAILERS IN THEIR ASSIGNED SPACE AS DESIGNATED BY THE MANAGEMENT.**

56. RENTERS will not paint on or nail directly to Fairground structures. Drop cloths must be used to protect floors when any inside painting is conducted of RENTER'S own materials.

57. RENTER will not extend beyond space allotted by Association Management. No hawking privileges will be permitted outside allotted space.

58. RENTERS having space inside buildings are encouraged to man their areas during the entire time buildings are open. RENTERS having outside spaces are required to maintain their space during all hours the fair is open. RENTER may begin tear down at 9 PM on Monday. Gates will be opened to vehicle traffic when deemed safe and appropriate by management. Estimated time vehicles may enter grounds is between 10 PM and 11 PM depending upon crowd conditions on the fairgrounds.

59. RENTERS may not use fair's public address system to make announcements of any kind; fair personnel will not make announcements for RENTER.

60. No metal or glass containers are allowed on the grounds. All beverages must be served in paper or foam cups.

61. NO DOMESTICATED PETS OF ANY KIND WILL BE ALLOWED ON THE FAIRGROUNDS WITH THE EXCEPTION OF SEEING EYE DOGS, EXHIBITS, AND ENTERTAINMENT APPROVED BY FAIR MANAGEMENT.

FAIR HOURS

Friday: 4 PM to 1 AM
Saturday-Sunday: 10 AM to 1 AM
Monday: 10 AM to 9 PM

BUILDING HOURS

Friday: 4 PM to 10 PM
Saturday-Sunday : 11 AM to 10 PM
Monday: 11 AM to 9 PM

TO ASSIST ASSOCIATION IN ACCOMMODATING YOU PLEASE FILL OUT BELOW BY CHECKING APPROPRIATE BOX(S)

- Electrical hook-up for REFRIGERATION UNIT at \$50. (Wed-Tue)
- Electrical/water hook-up for RV. LIGHTS ONLY-NO AIR COND at \$50 (Wed-Tue)
- RV space inside grounds NO HOOK-UP at \$35.00 (Wed-Tue)
- RV space outside grounds NO HOOK-UP at \$35.00 for Fair
- Season parking pass at \$10.00
- RENTER delivery pass. No charge.

FOR PLANNING PURPOSES, STATE SIZE OF VEHICLE, RV, OR REFRIGERATION UNIT TO BE PARKED IN RV AREA.
STATE BOARD OF EQUALIZATION RESALE NUMBER: _____

INSURANCE STATEMENT

The contractor/renter shall provide a signed original evidence of authorized insurance for the term of the agreement protecting legal liability of the State of California, District Agricultural Associations, County Fairs, or Citrus Fairs, their officers, agents, servants, and employees, from occurrences as to commercial general liability insurance (and automobile liability insurance, if applicable) which are limited to the operations of the contractor. This may be provided by:

I. **Insurance Certificate** - The contractor/renter providing the District with a signed original certificate of insurance (the ACORD form is acceptable), lawfully transacted, which sets forth the following:

- a. **List as the Additional Insured:** "That the State of California, the District Agricultural Association, County or Citrus Fairs, their agents, officers, servants, and employees are made additional insured, but only insofar as the operations under this contract are concerned."
- b. **Event Dates:** The dates of inception and expiration of the insurance. **For individual events, please list the specific dates on the insurance certificate. Be sure to include set-up and tear down dates.**
- c. **Coverage:** The amount of commercial general liability (and automobile liability, if applicable) coverage of not less than \$1,000,000.00 per occurrence for contracts deemed hazardous by the State of California; \$2,000,000.00 for amusement device (including carnival, bungee cord jumping, Orbitron and simulators) contracts; \$500,000.00 for other contracts for which liability insurance, (and liquor liability, if applicable) is required.
- d. **Cancellation Notice:** A statement by the insurance company that it will not cancel said policy or policies without giving 30 days prior written notice to the named certificate holder.
- e. **Certificate Holder:**
 - **For Individual Events Only** – List District along with an address as the certificate holder.
 - **For Master Insurance Certificates Only** – List the Division of Fairs & Expositions, 1010 Hurley Way, Suite 200, Sacramento, CA 95825, Contracts Office.
- f. **Company:** The company providing coverage must be acceptable to the California Department of Insurance.

OR

II. **Special Events Liability Insurance** - The contractor/renter purchasing special events liability insurance through the fairgrounds, when applicable.

OR

III. **Master Certificates** - A master certificate of insurance which the contractor/renter has submitted to the State of California, Division of Fairs and Expositions, and which has been approved and is on file at the Division.

OR

IV. **Self-Insurance** - In lieu of maintaining the insurance above, contractor/renter may be self-insured and will provide evidence of self-insurance upon request.

The contractor/renter agrees that the commercial general liability (and automobile, if applicable) insurance herein provided for shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times prior to or during the term of this contract, contractor/renter agrees to provide the District at least consistent with the provision of Item d., prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the State of California, Department of General Services, and contractor agrees that no work of services shall be performed prior to the giving of such approval. In the event the contractor/renter fails to keep in effect at all times insurance coverage as herein provided that District may, in addition to any other remedies it may have, terminate this contract upon the occurrence of such event.

Participant Waivers - For hazardous participant events, the contractor/renter agrees to obtain a properly executed Release and Waiver of Liability Agreement (CFS Form "Release. Lib") from each participant prior to his/her participation in the event(s) sponsored by contractor/renter. "Hazardous participant events include but are not limited to all athletic team events; all equestrian related events; race car, motorcycle or demolition derby type events; and stunt bike, skateboard, or roller blade events. Contact California Fairs Service Authority at (916) 921-2213 for further information.