

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

502



**FROM:** Economic Development Agency

**SUBMITTAL DATE:**  
September 14, 2009

**SUBJECT:** 2010-2012 Riverside County Fair & National Date Festival Carnival Operator

**RECOMMENDED MOTION:** That the Board of Supervisors approve and authorize the Chairman to execute the attached contract between Butler Amusements and the Riverside County Fair & National Date Festival.

**BACKGROUND:** On May 4, 2009, the Riverside County Fair & National Date Festival Fairgrounds released a Letter of Intent inviting all interested parties who meet the required qualifications to respond and compete in the RFP process. The deadline for all responses to the Letter of Intent was Tuesday, May 26, 2009. One response was submitted and received. The EDA reviewed the response by Butler Amusements and recommends the Board award Butler Amusements the contract due to their being the only response submitted meeting all required qualifications.

The contract has been reviewed and approved as to form by County Counsel.

Robert Field  
Assistant County Executive Officer/EDA

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2009-2012

**COMPANION ITEM ON BOARD OF DIRECTORS AGENDA:** N/A

**SOURCE OF FUNDS:** N/A

<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE

BY: Jennifer L. Sargent

**County Executive Office Signature**

FORM APPROVED COUNTY COUNSEL  
BY: NEAL R. KIPNIS DATE

Departmental Concurrence

Consent  
 Policy  
 Consent  
 Policy  
 Dept't Recomm.:  
 Per Exec. Ofc.:

SEP 14 2009 10:05 AM

**Prev. Agn. Ref.:**  
I:\EDA Administration\Fair Form 11's\EDA-Form 11 (Carnival Operator)9614

**District:** 4<sup>th</sup>

**Agenda Number:**

**ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD**

**3.27**

1                                   **AGREEMENT BETWEEN THE COUNTY OF RIVERSIDE AND**  
2                                                           **BUTLER AMUSEMENTS, INC. FOR**  
3                                   **THE PROVISION OF A CARNIVAL ATTRACTION AT THE RIVERSIDE COUNTY**  
4                                                           **FAIR AND NATIONAL DATE FESTIVAL**

5  
6 **THIS AGREEMENT**, dated as of 7 / 15 / 2009 (hereinafter referred to as  
7 "AGREEMENT"), is entered into by and between the **COUNTY OF RIVERSIDE**  
8 (hereinafter referred to as "COUNTY"), a public body, and **BUTLER AMUSEMENTS,**  
9 **INC.**, (Hereinafter referred to as "CONTRACTOR").

10  
11                                                           **WITNESSETH**

12  
13                   **WHEREAS, COUNTY** owns certain real property (hereinafter referred to as  
14 "FAIRGROUNDS") In the City of Indio for the purpose of providing a site for the  
15 production of the annual Riverside County Fair and National Date Festival (hereinafter  
16 referred to as "FAIR"); and

17                   **WHEREAS, COUNTY** wishes to provide a carnival attraction (hereinafter referred  
18 to as "CARNIVAL") at the FAIR; and

19                   **WHEREAS, COUNTY** wishes to hire CONTRACTOR for the purposes and under  
20 the conditions set forth herein; and

21                   **NOW, THEREFORE**, in consideration of the mutual covenants and agreements  
22 herein contained and for the good and valuable consideration, the receipt and  
23 sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

24  
25                   **SECTION 1. Purpose.** The aforementioned parties for the purpose of providing a  
26 **CARNIVAL** at the annual Riverside County Fair and National Date Festival hereby enter  
27 into this contract. The number and kind of attractions and rides to be provided by  
28 **CONTRACTOR** are described in more detail in Exhibit "A" Statement of Work to be  
29 Performed, which is attached hereto and incorporated herein by this reference.  
30

1           SECTION 2. **Division of Fairs and Expositions.** CONTRACTOR does hereby  
2 represent that he or she, has been placed on the Early Qualification List by the State of  
3 California Department of Food and Agriculture, Division of Fairs and Expositions per the  
4 Division's current qualification criteria or has alternatively submitted all carnivals early  
5 qualification documents to the COUNTY.

6  
7           SECTION 3. **Facility.** The COUNTY hereby agrees to provide CONTRACTOR  
8 space at the FAIRGROUNDS, subject to the terms hereof and subject to any conditions,  
9 reservations, exceptions, and rights of way which are of record, for the purpose of  
10 providing a carnival attraction during the annual FAIR. The CONTRACTOR spaces are  
11 as follows:

12  
13           a.) **Adult Carnival Area** – The Adult Carnival Area is approximately 300,000 square  
14 feet located in the center of the FAIRGROUNDS, proper, adjacent to Arabia Street.

15           b.) **Kiddie Carnival Area** – The Kiddie. Carnival Area is approximately 70,000  
16 square feet in size located at the NW corner of the FAIRGROUNDS, or other mutually  
17 agreeable location.

18           c.) **Parking Area** – COUNTY shall inform CONTRACTOR of where trucks and  
19 equipment not in use must be parked. Parking shall be in very close proximity to, or on  
20 FAIRGROUNDS property.

21           d.) **Concession Area** – The portions of the CARNIVAL area not occupied or used  
22 for rides or shows may be used to operate food and game concessions subject to  
23 terms, conditions and provisions contained herein and in accordance with which layout  
24 will afford best utilization of space.

25  
26           SECTION 4. **Public Benefit.** The COUNTY finds and determines that this  
27 AGREEMENT and the use of the property is in the public interest and will not  
28 substantially conflict with other uses of the property.

29  
30           SECTION 5. **Electric Service and Lighting.** CONTRACTOR shall provide lighting  
31 for the rides, shows, and concessions and surrounding area to the satisfaction of

1 COUNTY which may be neon, fluorescent, or incandescent lights on the rides, shows,  
2 and concessions, and neon, fluorescent or incandescent light towers. All cables, cords,  
3 electrical cords and hoses shall be bundled and ramped if in the public right of way and  
4 compliant with all ADA regulations. CONTRACTOR shall provide generators for all  
5 rides and or concessions.  
6

7 SECTION 6. **Term.** The term is a three (3) year contract with two (2) one year  
8 options. CONTRACTOR shall be required to provide all items listed in Part IV  
9 "STATEMENT OF WORK TO BE PERFORMED" at least nine months prior to the next  
10 scheduled FAIR date, for each year of the contact. Failure to do so may result in the  
11 loss of any and all rights contained herein. CONTRACTOR shall have met all the terms,  
12 or amended terms, of this AGREEMENT to the satisfaction of the COUNTY during the  
13 previous year prior to any renewal of this AGREEMENT. This Agreement may be  
14 extended beyond the initial three (3) year term by mutual written consent of the parties  
15 hereto.  
16

17 SECTION 7. **Carnival Ride Tickets and Wristbands.** COUNTY will provide all  
18 CARNIVAL ride tickets and wristbands during the run of the FAIR. Said tickets and  
19 wristbands shall be audited by COUNTY and the CONTRACTOR prior to the opening of  
20 the FAIR and upon closing of the FAIR. A reconciliation of ride tickets and wristbands  
21 sold will be made available for inspection by 10:00 a.m. the morning after the close of  
22 the FAIR by CONTRACTOR. Financial settlement between CONTRACTOR and  
23 COUNTY shall be completed on that date during each year of this AGREEMENT. 2010  
24 Carnival Wristband prices are \$25.00 and \$20.00 pre-sale.  
25

26 SECTION 8. **Pre-sale Carnival Tickets.** CONTRACTOR and COUNTY shall meet  
27 annually at least one-hundred-eighty (180) days prior to the FAIR, if not sooner, and  
28 agree on the pre-sale terms of CARNIVAL tickets. Pre-sale of carnival tickets shall end  
29 on the first day of the FAIR at 10:00 a.m. COUNTY shall be responsible for all pre-sale  
30 of CARNIVAL tickets and shall retain all pre-sale funds each year until financial  
31 settlement occurs pursuant to Sections 7 and 10 herein. Any commissions associated

1 with pre-sale carnival tickets shall be borne by both CONTRACTOR and COUNTY  
2 equally.

3  
4 SECTION 9. **Mandatory Riverside County Sheriff's Department Carnival**  
5 **Security**. CONTRACTOR shall provide Forty Five-Thousand Dollars (\$45,000) in  
6 Sheriff's Department carnival security during the three (3) year term of this  
7 AGREEMENT, in installments of Fifteen-Thousand Dollars (\$15,000) per year, or as  
8 otherwise agreed to by both parties in writing.

9  
10 SECTION 10. **Compensation**. CONTRACTOR agrees to pay COUNTY a  
11 guarantee of Five Hundred Fifty Thousand Dollars (\$550,000) for 2010, a guarantee of  
12 Five Hundred Seventy-Five Thousand Dollars (\$575,000) for 2011 and a guarantee of  
13 Six Hundred Thousand Dollars (\$600,000) for 2012 for the rights and privileges granted  
14 herein, or a guarantee percentage of the amounts in the manner set forth below,  
15 whichever amount is ultimately greater:

16 a) Forty one percent (41%) of ride gross ticket sales during the FAIR and Forty  
17 percent (40%) of gross advance ticket sales; and

18 b) One Thousand Two Hundred Dollars (\$1,200) for each food concession and  
19 Four Hundred Fifty Dollars (\$450) for each additional non-food concession in place  
20 during the FAIR.

21  
22 SECTION 11. **Deposit**. CONTRACTOR shall pay COUNTY a deposit of Fifty  
23 Thousand Dollars (\$50,000) on or before November 6<sup>th</sup> during each year of this  
24 contract. Said deposit shall be credited against payments required pursuant to Section  
25 10.

26  
27 SECTION 12. **FAIR Scholarship Program**. CONTRACTOR shall provide  
28 funding in the amount of Ten Thousand Dollars (\$10,000.00) annually for the Riverside  
29 County Fair and National Date Festival Scholarship Program.

1 SECTION 13. Price List and Ride List. CONTRACTOR shall provide to  
2 COUNTY, no later than forty (40) calendar days prior to the opening day of the FAIR in  
3 each year of the operation of this contract, a list of rides and prices to be charged for  
4 each ride. Said list and prices to be subject to approval by COUNTY. CONTRACTOR  
5 shall provide a fully operational carnival including quality rides, games, shows, and  
6 concessions. The following minimum number of rides are to be supplied:

- 7 a) Spectacular Rides 10
- 8 b) Major Rides 20
- 9 c) Kiddie Rides 21
- 10 d) A maximum of 55 games shall be supplied with a minimum of 40.
- 11 e) A maximum of 10 food concessions including cook shack.

12  
13 SECTION 14. Specific Admission Price. All attractions operated by the  
14 CONTRACTOR under the executed contract shall require a specific admission price  
15 which can be translated to an appropriate number of tickets. Each ticket must have a  
16 standard monetary value. The admission price for rides, games, and shows may not be  
17 less than the value of one ticket.

18  
19 SECTION 15. Safety Inspections. The schedule of fair-time CARNIVAL  
20 operations shall include a CONTRACTOR performed mechanical and ride safety  
21 inspection (documented in writing, stating what was inspected, when, by whom, and the  
22 findings) when 30% and 70% of the total anticipated number of hours of operation have  
23 elapsed. Said inspector must demonstrate his or her qualifications as such to the  
24 satisfaction of COUNTY and CONTRACTOR. CONTRACTOR shall provide and pay for  
25 said inspection.

26  
27 SECTION 16. Down-Time of Attractions. The daily schedule for operation of all  
28 proposed rides, games, and shows, shall ensure, barring major power outages or acts  
29 of God, that no more than five percent (5%) of the total CARNIVAL operation is down,  
30 or otherwise not in operation at any given time during the hours the FAIR is proposed to  
31 be open to the public, with the following exception: This portion of this AGREEMENT

1 shall only apply to rides, games, shows, or other attractions which are in safe working  
2 order. CONTRACTOR shall not, under any circumstances, operate any rides, games,  
3 shows, or other attractions which are not in safe working order.  
4

5 SECTION 17. **Equipment, Ride, and Attraction Maintenance**. Fair-time  
6 maintenance procedures for CARNIVAL grounds, equipment, and attractions shall be  
7 established to include routine CONTRACTOR inspection by supervising personnel with  
8 such frequency to ensure no unsightly conditions (e.g., litter, trash accumulation,  
9 marred surfaces of any kind on CONTRACTOR or COUNTY Property within the defined  
10 CARNIVAL area) will exist without attempt to correct the problem within a reasonable  
11 period of time. Reasonable time must be defined according to the severity of the  
12 condition. CONTRACTOR will maintain clean, attractive, brightly lit rides.  
13 CONTRACTOR will provide ride report maintenance records to COUNTY upon request.  
14

15 SECTION 18. **Monitoring and Inspection**. The following monitoring and  
16 inspection activities will be performed by COUNTY:

17 a.) Immediately prior to the initial opening of the FAIR each year, the COUNTY will  
18 do a complete walk-through with the CONTRACTOR, or his or her authorized designee,  
19 and the Riverside County Fire Marshall;

20 b.) During each FAIR day, COUNTY will do a complete walk-through with the  
21 CONTRACTOR, or his or her authorized designee; and

22 c.) At the completion of CARNIVAL take-down each year COUNTY will do a  
23 complete walk-through with the CONTRACTOR, or his or her authorized designee.

24 d.) These monitoring and inspection activities by COUNTY shall in no way release  
25 CONTRACTOR from its own obligations under this Agreement.  
26

27 SECTION 19. **Carnival Set-up and Take-down**. CARNIVAL must be set up and  
28 ready for inspection by 6:00 p.m. one day before the first day of each annual Fair.  
29 CONTRACTOR shall not operate amusement ride unless a current permit to operate  
30 has been issued by the Division of Occupational Safety and Health. Amusement rides  
31 inspected and covered by a valid permit to operate in the preceding year may continue

1 to operate until further inspected, providing the owner/operator of the ride has made  
2 written application to the Division for an inspection at least ten days prior to its operation  
3 indicating where such ride will be available for inspection and the application remains  
4 unacted upon. All CARNIVAL equipment shall be removed from FAIRGROUNDS within  
5 72 hours of closing of FAIR. CONTRACTOR shall provide security for all CARNIVAL  
6 equipment during take-down period per the terms and conditions of this Agreement.  
7

8 SECTION 20. **Hours of Operation**. Daily hours of CARNIVAL operation shall be  
9 as follows: Monday through Thursday 10:00 a.m. until 11:00 p.m.; Friday, Saturday and  
10 Sunday 10:00 a.m. until midnight.  
11

12 SECTION 21. **Failure to Perform**. COUNTY has established terms to be imposed  
13 on failure to perform during the contract performance period. Penalties for failure to  
14 provide rides shall be as follows:

- 15 a.) One Thousand Dollars (\$1,000.00) per day, per each Spectacular ride;
- 16 b.) Seven Hundred and Fifty Dollars (\$750.00) per day, per each adult ride, major  
17 and family ride; and,
- 18 c.) Five Hundred Dollars (\$500.00) per day, per each kiddie ride.

19 The aforementioned penalties will be assessed at the time of the performance failure  
20 and payable not later than the last payment for the Fair-time during which the non-  
21 performance occurred. Said penalties shall be in addition to all other compensation paid  
22 to COUNTY by CONTRACTOR. Said penalties shall be included in the rides and  
23 concessions gross sales when determining the payment method set forth in Section 10a  
24 and 10b.  
25

26 SECTION 22. **Vacation of Premises**. CONTRACTOR shall be sure that all rides,  
27 games, and paraphernalia shall be removed from FAIRGROUNDS no later than 72  
28 hours after the close of each annual FAIR. Failure to remove any and all articles shall  
29 result in a fine of not less than \$250.00 per day and/or market storage price if articles or  
30 equipment must be stored, unless other arrangements are made in writing prior to the  
31 closing of the FAIR.

1  
2 SECTION 23. Authorized Carnival Representative. CONTRACTOR must  
3 maintain one or more representatives who are authorized to take immediate action upon  
4 any request of COUNTY at all times when CONTRACTOR's property is on the  
5 FAIRGROUNDS. This person(s) must be identified to COUNTY as the  
6 CONTRACTOR's authorized representative(s).

7 a) CONTRACTOR will be responsible for employees having training as specified  
8 by the Division of Industrial Safety, Department of Industrial Relations.

9 b) During all FAIR operating hours, experienced and adequate personnel must be  
10 on duty.

11 c) The number of employees hired during Fair-time operations shall be sufficient to  
12 ensure that no CARNIVAL ride, game, or show will be without a minimum of one  
13 qualified attendant at all times during scheduled hours of operation.

14  
15 SECTION 24. Concessions. CONTRACTOR shall:

16 a) Be required to meet any and all applicable Riverside County Health Department  
17 standards for the transportation, handling, processing, storage, cooking, refrigeration,  
18 and otherwise selling or providing food and drink to the public; and

19 b.) Maintain high quality control standards for food and drink concessions at all  
20 times; and

21 c.) Not sell, distribute, or otherwise provide any alcoholic beverages, including  
22 beer or wine, cigarettes and tobacco on or around the FAIRGROUNDS or on any  
23 adjacent COUNTY-owned property, at any time during the term of this AGREEMENT.

24  
25 d.) No food concession booth is allowed on any exterior edge of the carnival  
26 grounds. All food concession booths must be located at a minimum distance of 50  
27 linear feet from the exterior line. Carnival rides must be on the exterior and concession  
28 booths must be on the interior.

29  
30 SECTION 25. Limitations on Sales/Concessions. No novelty concessions will be  
31 allowed, as well as no straight sales operations (i.e., computer portraits, jewelry, antique

1 photo booths, etc.), without the written permission of COUNTY. Any such novelty  
2 concessions approved by COUNTY shall require additional compensation to the  
3 COUNTY.

4  
5 SECTION 26. **Prohibitions**. CONTRACTOR shall not:

- 6 a) Operate games of chance; nor  
7 b) Sell cigarettes, tobacco, beer, wine, or other alcoholic beverages; nor  
8 c) Offer cash prizes or re-purchase prizes awarded in any game; nor  
9 d) Offer as prizes: live ducks, chicks, or other live animals (except goldfish); soft  
10 drinks in other than plastic containers; knives, firearms, or any items which could be  
11 used as a weapon; posters or merchandise featuring nudity or promoting the use of  
12 drugs; nor  
13 e) Use or employ "Capers," "Shills," and/or any person posing as patrons; nor  
14 f) Employ or use anyone, under the age of eighteen (18) years of age, in the  
15 operation of any rides; nor  
16 g) Employ or use anyone, under the age of sixteen (16) years of age, in the  
17 operation of any games or other CARNIVAL attractions.

18  
19 SECTION 27. **Other General Requirements**. CONTRACTOR will ensure the  
20 following:

- 21 a.) Employees who have regular public contact shall be attired in **clean** uniformed  
22 clothing; and  
23 b.) The assigned area for CARNIVAL operations shall be arranged to protect the  
24 public from safety hazards, equipment and maintenance operations; CONTRACTOR is  
25 responsible for barricading all equipment and maintenance areas.  
26 c.) Procedures shall be established to ensure reasonable security of all rides,  
27 games, concessions, and other CARNIVAL equipment when not in use so that no  
28 attractive nuisance or negligent conditions exists.  
29 d.) All staff provided by CONTRACTOR shall be uniformly dressed in clean, new  
30 or near new show shirts with show's logo. No shirts with other fair's logo may be worn.  
31 All shirts must be tucked in at the waist.

1 e.) All staff provided by CONTRACTOR will wear uniform slacks, trousers or dress  
2 shorts. No cutoffs, rag bottoms or rips in materials will be allowed.

3 f.) All staff provided by CONTRACTOR will be required to have neatly trimmed  
4 hair. Any facial hair must also conform with a trim look.

5 g.) There shall be no smoking or chewing of tobacco in view of the public by any  
6 employee or volunteer of CONTRACTOR. All smoking must be done in designated  
7 smoking areas away from patrons. There shall be a \$50.00 fine for each infraction.

8 h.) Cart permit fees (including mopeds and golf carts) will be charged at FAIR  
9 rates; however, CONTRACTOR will be provided two (2) complimentary golf cart permits  
10 for the duration of the FAIR. Only electric carts are allowed. Golf carts are considered  
11 a safety hazard. **Golf carts are prohibited on the Fairgrounds during Fair hours of**  
12 **operation 10:00 a.m. to 10:00 p.m.** Only licensed drivers may operate a golf cart on  
13 the grounds. An insurance certificate must be on file showing coverage for all carts.  
14 Any cart that does not have an operating parking brake or works without a key will be  
15 declared unsafe and must be removed from the grounds. Golf carts are to be driven at  
16 a reasonable speed and with extreme caution at all times. If COUNTY/FAIR observes a  
17 cart being driven in an unsafe manner, the permit will be revoked and the cart will be  
18 removed from the grounds for the duration of the FAIR. Do not park in doorways or in  
19 front of any concession or exhibit. Bicycles, skateboards, scooters and/or skates are  
20 not permitted on the Fairgrounds.

21  
22 **SECTION 28. Termination by COUNTY.** COUNTY shall have the right to  
23 terminate this AGREEMENT forthwith:

24 a) In the event a petition is filed for voluntary or involuntary bankruptcy for the  
25 adjudication of CONTRACTOR as a debtor; or

26 b) In the event that CONTRACTOR makes a general assignment, or  
27 CONTRACTOR's interest hereunder is assigned involuntarily, or by operation of law, for  
28 the benefit of creditors; or

29 c) In the event CONTRACTOR fails or refuses to perform, keep or observe any of  
30 CONTRACTOR's duties or obligations hereunder.

1 SECTION 29. **Termination by CONTRACTOR.** CONTRACTOR shall have the  
2 right to terminate this AGREEMENT in the event COUNTY fails to perform, keep, or  
3 observe any of its duties or obligations hereunder provided, however, that COUNTY  
4 shall have fifteen (15) days in which to correct its breach or default after written notice  
5 thereof has been served upon COUNTY.

6  
7 SECTION 30. **Taxes.** COUNTY shall require and CONTRACTOR shall pay before  
8 delinquency, any and all taxes, assessments, license fees, and other public charges  
9 which may be levied, assessed, or imposed by any governmental entity whatever,  
10 whether federal, state, local, or otherwise, upon any interest of CONTRACTOR, upon  
11 CONTRACTOR's business and any income derived there from, or upon any property of  
12 CONTRACTOR. COUNTY shall in no way be responsible for deduction or payment of  
13 any taxes related to CONTRACTOR's operations.

14  
15 SECTION 31. **Assignment.** CONTRACTOR cannot assign or otherwise transfer in  
16 any manner, any of its rights, duties, or obligations hereunder to any person or entity  
17 without the prior written consent of COUNTY.

18  
19 SECTION 32. **Right of Entry.** The COUNTY reserves the right for any of its duly  
20 authorized representatives to examine the CARNIVAL facilities and grounds at any  
21 time.

22  
23 SECTION 33. **Signs.** CONTRACTOR shall not erect, maintain, or display any  
24 signs or other forms of advertising upon any COUNTY property without first obtaining  
25 the written approval of COUNTY. CONTRACTOR is responsible for obtaining any and  
26 all necessary permits and paying any and all applicable fees in order to obtain said  
27 permits.

28  
29 SECTION 34. **Hold Harmless.**  
30 a) CONTRACTOR represents that it has inspected the FAIRGROUNDS, accepted  
31 the condition thereof, and fully assumes any and all risks incidental to the use thereof.

1 COUNTY shall not be liable to CONTRACTOR, its officers, agents, employees, guests,  
2 subcontractors, or independent contractors for any personal injuries or property damage  
3 suffered by them which may result from hidden, latent or other dangerous conditions on  
4 or upon FACILITY; provided however, that such dangerous conditions are not caused  
5 by the sole negligence of COUNTY, its officers, agents or employees.

6 b) CONTRACTOR shall indemnify and hold harmless COUNTY, its Agencies,  
7 Districts, Special Districts and Departments (including FAIR and CORAL), their  
8 respective directors, officers, Board of Supervisors, elected and appointed officials,  
9 employees, agents and representatives from any liability, claim, damage or action  
10 whatsoever, based or asserted upon any act or omission of CONTRACTOR, its officers,  
11 employees, subcontractors, agents or representatives arising out of or in any way  
12 relating to this Agreement or relating to the use of the FAIRGROUNDS or the condition  
13 thereof, including but not limited to property damage, bodily injury, or death  
14 (CONTRACTOR's) employees or contractors included). CONTRACTOR shall defend,  
15 at its sole cost and expense, including but not limited to attorney fees, cost of  
16 investigation, defense and settlements or awards, COUNTY, its Agencies, Districts,  
17 Special Districts and Departments, their respective directors, officers, Board of  
18 Supervisors, elected and appointed officials, employees, agents and representatives in  
19 any such action or claim. With respect to any action or claim subject to indemnification  
20 herein by CONSULTANT, CONTRACTOR shall, at its sole cost, have the right to use  
21 counsel of its own choice and shall have the right to adjust, settle, or compromise any  
22 such action or claim without the prior consent of COUNTY; provided, however, that any  
23 such adjustment, settlement or compromise in no manner whatsoever limits or  
24 circumstances CONSULTANT's indemnification of COUNTY. CONSULTANT's  
25 obligations hereunder shall be satisfied when CONTRACTOR has provided to COUNTY  
26 the appropriate form of dismissal (or similar document) relieving the COUNTY from any  
27 liability for the action or claim involved. The specified insurance limits required in this  
28 Agreement shall in no way limit or circumscribe CONSULTANT's obligations to  
29 indemnify and hold harmless the COUNTY.

1 SECTION 35. **Insurance.** CONTRACTOR shall, during the entire term of this  
2 AGREEMENT:

3 a) Procure and maintain applicable Workers' Compensation Insurance as required  
4 by the laws of the State of California; and

5 b) Procure and maintain automotive bodily injury and property damage liability  
6 insurance and shall protect CONTRACTOR and COUNTY, listing those entities  
7 described in Section 37 herein as additionally insured entities, from claims for damages  
8 for personal injury, including accidental and wrongful death, as well as from claims for  
9 property damage, which may arise from the performance of any actions associated with  
10 this AGREEMENT. Such insurance shall provide for combined coverage limits of not  
11 less than \$1,000,000 per occurrence; and

12 c) Procure and maintain commercial general liability insurance with combined  
13 coverage limits of not less than \$5,000,000 per occurrence.

14 d) All insurance shall be purchased from companies authorized to do business in  
15 the State of California.

16  
17 SECTION 36. **COUNTY's Reserved Rights – Insurance.** COUNTY reserves the  
18 right to adjust the monetary limits of insurance coverage as required above in Section  
19 35 above, commencing on the first anniversary of this AGREEMENT and on every  
20 additional year thereafter during the remaining term of this AGREEMENT and any  
21 extensions beyond the original year term.

22  
23 SECTION 37. **Certificate of Insurance and Additional Insured.** CONTRACTOR  
24 shall provide COUNTY with certificates of insurance demonstrating that insurance  
25 limitations have been obtained from an insurance carrier authorized to sell insurance in  
26 the State of California. Said certificates of insurance shall list the "Riverside County Fair  
27 and National Date Festival, The County of Riverside, The Economic Development  
28 Agency of the County of Riverside, the County of Riverside Asset Leasing Corporation  
29 (CORAL)" and their officers, employees and agents as additionally insureds.  
30

1 SECTION 38. Maintenance. CONTRACTOR shall continuously maintain the area  
2 around each ride, show, and game and food concession in a clean, neat and safe  
3 condition. After the FAIR, CONTRACTOR shall also clean up all areas used to the  
4 satisfaction of COUNTY.  
5

6 SECTION 39. Toxic Materials. During the term of this AGREEMENT,  
7 CONTRACTOR shall not violate any federal, state, or local law, ordinance, or  
8 regulation, relating to industrial hygiene or to the environmental condition of including,  
9 but not limited to, soil and ground water conditions. Further, CONTRACTOR shall not  
10 use, generate, manufacture, produce, store or dispose of on, under or about the  
11 FACILITY or transport to or from the FACILITY, any flammable explosives, asbestos,  
12 radioactive materials, hazardous wastes, toxic substances or related injurious materials,  
13 whether injurious by themselves or in combination with other materials (collectively,  
14 "hazardous materials"). For the purpose of this AGREEMENT, hazardous materials  
15 shall include, but not limited to, substances defined as "hazardous substances", or "toxic  
16 substances" in the Comprehensive Environmental Response Compensation and  
17 Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous  
18 Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource  
19 Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; and those substances  
20 defined as "hazardous wastes" in Section 25117 of the California Health and Safety  
21 Code or as "hazardous substances" in Section 25316 of the California Health and  
22 Safety Code; and in the regulations adopted in publications promulgated pursuant to  
23 said laws. **THE CONTRACTOR shall not be liable for mitigation of any toxic  
24 materials located on the FACILITY prior to the execution of this AGREEMENT**  
25

26 SECTION 40. COUNTY's Representative. County hereby appoints the Economic  
27 Development Agency Executive Director, or his or her successor, as its authorized  
28 representative to administer this AGREEMENT.  
29  
30

1 SECTION 41. CONTRACTOR's Representative. CONTRACTOR hereby appoints

2 Richard Byrum Title Vice President

3 As its authorized representative to administer this LEASE.

4  
5 SECTION 42. Notices. All notices, statements, demands, requests, consents,  
6 approvals, authorizations, offers, agreements, appointments or designations hereunder  
7 by either party to the other shall be in writing and shall be sufficiently given and served  
8 upon the other party sent by United States registered mail, return receipt requested,  
9 postage prepaid and addresses as follows:

10  
11  
12 COUNTY: Daryl Shippy, Fair Manager  
13 Riverside County Fair and National Date Festival  
14 82-503 Hwy 111  
15 Indio, CA 92201

16  
17  
18 CONTRACTOR: Butler Amusements, Inc.  
19 % Richard Byrum  
20 PO Box 2210  
21 Fairfield, CA 94533  
22

23 SECTION 43. Discrimination or Segregation.

24 a) CONTRACTOR shall not discriminate in CONTRACTOR's recruiting, hiring,  
25 promotion, demotion or termination practice on the basis of sex, race, religious creed,  
26 color, national origin, ancestry, age, physical handicap, medical condition, or marital  
27 status with respect to its use of the FACILITY hereunder, and CONTRACTOR shall  
28 comply with the provisions of the California Fair Employment and Housing Act  
29 (Government Code Sections 1290 et seq.), the Federal Civil Rights Act of 1964 (P.L.  
30 88-352), and all amendments thereto, Executive Order No. 11246 (30 CFR 12319), as

1 amended, and all Administrative Rules and Regulations issued pursuant to said acts  
2 and orders with respect to its use of the FACILITY.

3 b) CONTRACTOR shall not discriminate against or cause the segregation of any  
4 person or group of persons on account of sex, race, religious creed, color, national  
5 origin, ancestry, age, physical handicap, medical condition, or marital status, in the use,  
6 tenure or enjoyment of the premises, nor shall CONTRACTOR establish a permit any  
7 such practice or practices of discrimination or segregation with reference to the  
8 selection, location, number, use or occupancy of any person or persons, within the  
9 FACILITY.

10  
11 **SECTION 44. Employees and Agents of CONTRACTOR.** It is understood and  
12 agreed that all persons hired or engaged by CONTRACTOR shall be considered  
13 employees, independent contractors or agents of CONTRACTOR and not of COUNTY.

14  
15 **SECTION 45. Severability.** The invalidity of any provision in this AGREEMENT as  
16 determined by a court of competent jurisdiction shall in no way effect the validity of any  
17 other provision herein.

18  
19 **SECTION 46. Free from Liens.** CONTRACTOR shall pay, when due, all sums of  
20 money that may become due for any labor, services, material, supplies, or equipment,  
21 alleged to have been furnished or to be furnished to CONTRACTOR, in, upon, or about  
22 the FAIRGROUNDS, and which may be secured by a mechanics', material men's or  
23 other lien against the FAIRGROUNDS or COUNTY's interest therein, and will cause  
24 each such lien to be fully discharged and released at the time the performance of an  
25 obligation secured by such lien matures or becomes due; provided, however, that if  
26 CONTRACTOR desires to contest any such lien, it may do so, but not withstanding any  
27 such contest, if such lien shall be reduced to final judgment, and such judgment or such  
28 process as may be issued for the enforcement thereof is not promptly stayed, or if so  
29 stayed, and said stay thereafter expires, then and in such event, CONTRACTOR shall  
30 for with pay and discharge said judgment.

1 SECTION 47. **Ownership**. COUNTY represents and warrants that COUNTY is  
2 the owner of, and holds title to, FAIRGROUNDS.  
3

4 SECTION 48. **Governing Law and Venue**. Any action at law or in equity brought  
5 by either of the parties hereto for the purpose of enforcing a right or rights provided for  
6 by this AGREEMENT shall be tried in a court of competent jurisdiction in the County of  
7 Riverside, State of California, and the parties hereby waive all provisions of law  
8 providing for a change of venue in such proceedings to any other County. This  
9 Agreement and any dispute arising hereunder shall be governed by and interpreted in  
10 accordance with the laws of the State of California. The parties shall be obligated to  
11 attend a mediation session prior to the filing of any legal action.  
12

13 SECTION 49. **Paragraph Headings**. The paragraph headings herein are for the  
14 convenience of the parties only, and shall not be deemed to govern, limit, modify or in  
15 any manner affect the scope, meaning or intent of the provisions or language of this  
16 AGREEMENT.  
17

18 SECTION 50. **Waiver of Performance**. No waiver by COUNTY at any time of any  
19 of the terms and conditions of this AGREEMENT shall be deemed or construed as a  
20 waiver at any time thereafter of the same or of any other terms or conditions contained  
21 herein or of the strict and timely performance of such terms and conditions.  
22

23 SECTION 51. **Compliance with Laws and Regulations**. By executing this  
24 Agreement, the CONTRACTOR hereby certifies that it will adhere to and comply with all  
25 federal, state and local laws, rules and regulations.  
26

27 SECTION 52. **Authority to Execute**. The persons executing this Agreement or  
28 exhibits attached hereto on behalf of the parties to this Agreement hereby warrant and  
29 represent that they have the authority to execute this Agreement and warrant and  
30 represent that they have the authority to bind the respective parties to this Agreement to  
31 the performance of its obligations hereunder.

1 SECTION 54. Entire Agreement. This AGREEMENT constitutes the entire,  
2 complete and final expression of agreements between the parties. This AGREEMENT  
3 may be changed or modified only upon the written consent of the parties hereto.

4  
5 IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the day and  
6 year first written above.

7  
8 COUNTY OF RIVERSIDE

ATTEST:

9  
10 By: \_\_\_\_\_

By: \_\_\_\_\_

11 Jeff Stone

12 Chair, Riverside County Board of Supervisors

13  
14 CONTRACTOR

ATTEST:

15  
16 By: [Signature]

By: \_\_\_\_\_

17  
18 Title: Vice President

19  
20  
21 Approved as to Form:

22 FORM APPROVED COUNTY COUNSEL

23 BY: [Signature] DATE

NEAL R. KIPNIS

24  
25 By: \_\_\_\_\_

26 Deputy County Counsel

1 Exhibit "A"

2 **STATEMENT OF WORK TO BE PERFORMED**

3  
4 Contractor shall provide a fully operational carnival including quality rides, games,  
5 shows and food concessions. The following are the equipment requirements for the  
6 Riverside County Fair and National Date Festival.  
7

8 **RIDES:**

9 <b>Name of Ride</b>	10 <b>Manufacture Name and Year</b>	11 <b>Type of Ride</b>
12 Super Shot Drop Tower	A.R.M. 2007	Spectacular
13 Pole Position Spinning Coaster	Fabbri 2005	Spectacular
14 Giant Wheel	Chance 1988	Spectacular
15 Wave Swinger	Zierer 1984	Spectacular
16 Fireball	KMG 2001	Spectacular
17 Evolution	SDC 1983	Spectacular
18 Century Wheel	ARM 2008	Spectacular
19 Spin Out	Zier 1983	Spectacular
20 1001 Nachts	Soriame 2005	Spectacular
21 Fireball Ring	Fabbri 1998	Spectacular
22 Himalaya	Wisdom 2007	Spectacular
23 Footloose	Tivoli 1999	Spectacular
24 Flying Bobs	Larson 1998	Spectacular
25 Vortex	Chance 1993	Spectacular
26 Crazy Train	Wisdom 1993	Spectacular
27 Zipper	Chance 1991	Spectacular

1	Starship 3000	Wisdom 1993	Spectacular
2	Giant Scooters	Majestic 1999	Spectacular
3	Grand Carousel	Chance 1993	Major
4	Tilt A Whirl	Sellner 1994	Major
5	Mardi Gras	Owens 1996	Major
6	Flying Swinger	Fabbri 2006	Major
7	Sky Diver	Chance 1974	Major
8	Scrambler	Eli Bridge 1982	Major
9	Eagel 16	Eli Bridge 1991	Major
10	Club Idol	Barbisan 1991	Major
11	Morbid Manor	Christiani 1998	Major
12	State Fair Slide	Frederiksen 2001	Major
13	Viper	Wisdom 2007	Major
14	Tornado	Wisdom 1997	Major
15	Chopper Hopper	Fabbri 2006	Kiddie
16	Kite Flyer	Zamperla 2001	Kiddie
17	Wacky Work Coaster	Fajume 2002	Kiddie
18	Looney Tooter Train	SDF 2002	Kiddie
19	Renegade	Wisdom 2000	Kiddie
20	Lolli Swings	Zamperla 2000	Kiddie
21	1 <sup>st</sup> Squadron	Wisdom 2000	Kiddie
22	Bigfoot Trucks	SBF 2001	Kiddie
23	Toon Town	Kid Power 1991	Kiddie
24	Super Slide	Darton 1996	Kiddie
25	Rock N Tug	Zamperla 2004	Kiddie
26	Kid Country	Hampton 1995	Kiddie

1	Jumping Jumbos	Sellner 2001	Kiddie
2	Demolition Derby	Zamperla 1998	Kiddie
3	Jet Ski	Hampton 1986	Kiddie
4	Dizzy Dragon	Sellner 1999	Kiddie
5	Crown Merry Go Round	Chance 2002	Kiddie
6	Balloon Samba	Zamperla 1995	Kiddie
7	Raiders	Wisdom 1987	Kiddie
8	Dragon Wagon	Wisdom 1991	Kiddie
9	Roadsters	Hampton 1974	Family
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			

1 Exhibit "B"

2 **GAMES:**

3	<b>Name of Game</b>	<b>Category (Adult/Child)</b>	<b>Manufacturer Date</b>
4			
5	Mirror	Adult	Denny's Electronics 2005
6	Basketball	Adult	Denny's Electronics 2005
7	Balloon	Adult/Child	Bobs Space Racers 2000
8	Machine Gun	Adult	Denny's Electronics 2008
9	Balloon	Adult/Child	Denny's Electronics 2006
10	Water Race	Adult/Child	Denny's Electronics 2002
11	Bank A Ball	Adult	Waterloo Canvas 2008
12	Bouy	Adult/Child	Waterloo Canvas 2008
13	Speed Pitch	Adult	Radar Sports 2003
14	Mini Basketball	Adult/Child	Waterloo Canvas 2008
15	Bouy	Child	Waterloo Canvas 2008
16	Fishing Pole	Child	Waterloo 2007
17	Bouy	Adult/Child	Waterloo 2005
18	Duck Pond	Child	Waterloo 2005
19	Mirrors	Adult/Child	D. Jones 1994
20	Balloons	Adult	D. Jones 1992
21	Glass	Adult/Child	Conventional 2007
22	One Ball	Adult/Child	Waterloo 2006
23	Tubs	Adult/child	Waterloo 2006
24	Balloons	Adult	Conventional 2008
25	Toy Factory	Child	Conventional 2007
26	One Ball	Adult/Child	Conventional 2008

1	Bank A Ball	Adult	Waterloo 2003/Academy Canvas 2006
2	Gold Fish	Child	Waterloo 2003/Academy Canvas 2006
3	Ring A Bottle	Adult	Waterloo 2003/Academy Canvas 2006
4	Long Range	Adult	Custom Built E. Rich 2003
5	Roll a Ball Derby	Adult	Bobs Space Racer 1989
6	Machine Gun	Adult	Denny's Electronic 2003
7	Balloon Water Race	Adult/Child	Denny's Electronic 2003
8	Basketball	Adult/Child	Custom Built B. Ellis 1996
9	Big Water Race	Adult/Child	Denny's Electronic 2005
10	Balloon Darts	Adult/Child	Custom Built B. Ellis 1992
11	Balloon Darts	Adult/Child	Denny's Electronic 2005
12	Duck Pond	Child	Waterloo Canvas 2006
13	Rainbow	Adult/Child	Waterloo Canvas 2006
14	Buoy	Adult/Child	Waterloo Canvas 2006
15	Start Dart	Adult/Child	Waterloo Canvas 2006
16	Machine Gun	Adults	Denny's Electronic 2003
17	Balloon Water Race	Adult/Child	Denny's Electronic 2003
18	Basketball	Adult/Child	Custom Built B. Ellis 1996
19	Big Water Race	Adult/Child	Denny's Electronic 2005
20	Balloon Darts	Adult/Child	Custom Built B. Ellis 1992
21	Balloon Darts	Adult/Child	Denny's Electronic 2005
22	Duck Pond	Child	Waterloo Canvas 2006
23	Buoy	Child	Waterloo Canvas 2006
24	Star Dart	Adult/Child	Waterloo Canvas 2006
25			
26			

1 Exhibit "C"

2 **FOOD CONCESSIONS:**

3	<b>Name of Stand</b>	<b>Owner's Name</b>	<b>Items Offered</b>
4			
5	J & S Sweeties	Butler Amusements, Inc.	Cotton Candy, Corn Dogs,
6			Popcorn
7	Candyland	Butler Amusements, Inc.	Hot dogs, Nachos, Peanuts
8	Sunshine Wagon	Butler Amusements, Inc.	Candy & Caramel Apples
9	Candytown	Butler Amusements, Inc.	Pink Popcorn, Caramel Corn
10			
11	Moyer Pizza	Butler Amusements, Inc.	Pizza, Nachos, Bottled Water
12			& Soda
13	Brits Best Cakes n Cones	Butler Amusements, Inc.	Funnel Cake, Ice Cream &
14			Soda
15	Cranium Freeze	Butler Amusements, Inc.	Flavored kids beverage,
16			Bottled water & Bottled Soda
17	Popcorn K-1	Butler Amusements, Inc.	Cotton Candy, Corn Dogs,
18			Popcorn, Hot dogs, Nachos,
19			Peanuts
20			
21	Popcorn K-9	Butler Amusements, Inc.	Candy & Caramel Apples
22			Pink Popcorn & Caramel
23			Corn

24

25

26

**END**