

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



763

FROM: Economic Development Agency

SUBMITTAL DATE:
April 21, 2011

SUBJECT: Professional Services Agreement with Desert Alliance for Community Empowerment

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Professional Services Agreement with Desert Alliance for Community Empowerment;
2. Approve the attached Memorandum of Understanding between the County of Riverside and the Redevelopment Agency for the County of Riverside;
3. Authorize the Chairman of the Board to execute the proposed Professional Services Agreement and MOU on behalf of the County of Riverside;

BACKGROUND: (Continued)

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 127,500.00	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0.00	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0.00	For Fiscal Year:	2010 / 2011

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: Yes

SOURCE OF FUNDS: RDA Non Housing Desert Community Project Area Funds	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature

FISCAL PROCEDURES APPROVED
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER
 BY: SAMUEL WONG
 DATE: 5-10-11
 ANITA C. WILLIS

FORM APPROVED COUNTY COUNSEL
 BY: ANITA C. WILLIS
 DATE: 5-10-11

Dept's Recomm.: Consent Policy Policy
 Per Exec. Ofc.: Consent Policy Policy

Prev. Agn. Ref.: N/A

District: 4

Agenda Number:

3.13

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

4. Authorize the Assistant County Executive Officer / EDA to take the necessary steps to implement the proposal Professional Services Agreement;
5. Find and determine that the proposed professional services agreement benefits the Desert Communities Project Area by eliminating blight created by homelessness;
6. Find and determine that there are no other reasonable sources of funds available for the proposed Professional Services Agreement;
7. Find and determine that the payment of funds for the cost of the proposed Professional Services Agreement is consistent with the Implementation Plan for the Desert Communities Project Area and is necessary to effectuate the proposed project area's redevelopment plan; and
8. Consent to the use of redevelopment non housing Desert Communities Project Area funds for the proposed Professional Services Agreement.

BACKGROUND:

In May 2000 the County of Riverside entered into an Enforcement and Voluntary Compliance Agreement ("Agreement") as settlement to litigation. One of the conditions of settlement included an obligation of the County of Riverside to ensure that "restroom, shower, laundry, and adequate parking facilities", be provided for the benefit of migrant farm workers of the Eastern Coachella Valley. The attached Professional Services Agreement proposes to contract with the Desert Alliance for Community Empowerment (DACE) for the provision of the required services on a temporary basis until such time as a permanent facility can be developed.

The site is currently at the corner of Avenue 68 and Hammond within the unincorporated Riverside County community of Mecca, which is adjacent to the Desert Communities Project Area boundaries but not within it. However, the provision of the proposed services benefits the project area by alleviating blight created by homelessness.

The project is currently managed by DACE and has been offered as compliance with the Agreement since 2000. The proposed attached agreement expands the use to two seasons per year and to include laundry facilities.

The Redevelopment Agency for the County of Riverside proposes to fund this effort with non housing Desert Communities Project Area funds as permitted by Section 33021.1 of the California Community Redevelopment Law which states that "In a city and county, redevelopment includes improving, increasing, or preserving emergency shelters for homeless persons or households. These shelters may be located within or outside of established redevelopment project areas. Notwithstanding any other provision of law, only redevelopment funds other than those available pursuant to Section 33334.3 may be used to finance these activities".

County Counsel has reviewed and approved this Agreement. Staff recommends approval

1 PROFESSIONAL SERVICES AGREEMENT

2
3 This Professional Services Agreement ("AGREEMENT"), made and entered into this ____ day
4 of _____, 2011, by and between Desert Alliance for Community Empowerment, a California
5 Non Profit Corporation, ("DACE"), and the COUNTY OF RIVERSIDE, a public agency
6 organized pursuant to the laws of the State of California ("COUNTY"). The effective date of
7 this AGREEMENT shall be the date this AGREEMENT is executed by the COUNTY (the
8 "EFFECTIVE DATE").

9 I. WHEREAS, the COUNTY entered into that specific Title VI Voluntary Compliance
10 Agreement and Title VII Enforcement Agreement ("SETTLEMENT AGREEMENT") by
11 and between the United States Department of Housing and Urban Development
12 ("HUD"), Maria Hernandez, et al. and the County of Riverside dated May 2, 2000; and

13
14 II. WHEREAS, the Paragraph 34, Page 12, Section IV, Enforcement Agreement of the
15 SETTLEMENT AGREEMENT imposes an obligation on COUNTY to provide or cause
16 to be provided restroom, shower, laundry and adequate parking facilities available to
17 the otherwise homeless migrant farm working population of the Eastern Coachella
18 Valley and in and around the Riverside County unincorporated community of Mecca;
19 and

20
21 III. WHEREAS, the COUNTY desires to fully comply with the SETTLEMENT
22 AGREEMENT; and

23 IV. WHEREAS, the COUNTY continues in its effort to identify and develop the permanent
24 site for the provision of the shower, restroom, laundry and parking facilities as
25 described above; and

1 V. WHEREAS, the COUNTY desires to ensure that the above required facilities are
2 provided immediately on a temporary solution basis and while the COUNTY continues
3 to effort the identification and development of the permanent site; and

4 VI. WHEREAS, DACE identified a site at the corner of Avenue 68 and Hammond within
5 the unincorporated community Mecca for the temporary provision of the required
6 facilities; and

7 VII. WHEREAS, DACE and COUNTY have been cooperating for the provision of the
8 temporary facilities, which included parking, shower and restroom services, at the
9 above DACE identified site; and

10 VIII. WHEREAS, DACE and COUNTY desire to continue this cooperative and mutual effort
11 to provide the facilities required by the SETTLEMENT AGREEMENT on a temporary
12 basis while the permanent site is identified and developed.

13
14 NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties
15 hereto agree as follows:

16 1. PURPOSE OF THIS AGREEMENT: DACE and COUNTY enter into this agreement
17 with the specific intent of ensuring compliance with the second part of Paragraph 34,
18 Page 12, Section IV, Enforcement Agreement of the SETTLEMENT AGREEMENT
19 which imposes an obligation on COUNTY to provide or cause to be provided restroom,
20 shower, laundry and adequate parking facilities available to the otherwise homeless
21 migrant farm working population of the Eastern Coachella Valley and in and around
22 the Riverside County unincorporated community of Mecca during such temporary
23 period as the COUNTY may need to identify and develop the permanent site and
24 facility. DACE agrees to operate the facilities and provide the services described in
25 this AGREEMENT to ensure compliance with the above specific requirement under the
26 SETTLEMENT AGREEMENT.
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1 2. THE TEMPORARY FACILITIES SITE: DACE currently owns approximately
2 twenty-five (25) acres of real property located at the southeast corner of Avenue 68
3 and Hammond Road within the Riverside County unincorporated community of Mecca.
4 This site is referenced with assessor parcel number of 729-050-002. DACE is
5 currently using the area at the most northwest corner of the site to provide the
6 temporary shower, restroom and parking facility as required by the SETTLEMENT
7 AGREEMENT. DACE and COUNTY agree that this same site will continue to house
8 the temporary facilities and services described in this AGREEMENT. The site
9 described in this paragraph 2 of this AGREEMENT shall be herein referred to as the
10 SUBJECT SITE.
11

12 3. DESCRIPTION OF FACILITIES AND SERVICES: DACE shall establish temporary
13 shower, restroom, laundry and parking facilities on SUBJECT SITE. DACE shall
14 maintain the site in good, clean and working condition throughout year regardless of its
15 operation season prior to or following the date of this AGREEMENT. The parties
16 hereto agree that the facilities and services described in this AGREEMENT are of a
17 temporary nature and shall operate during the interim time while a permanent facility is
18 developed and placed into service. DACE shall offer services of the shower facilities
19 described above during each of the two traditionally recognized migrant farm worker
20 seasons in the Eastern Coachella Valley. All facilities and services described in this
21 Section 3 will be open and available to the general public starting on May 1 of each
22 year and progressing through and closing on July 30 of each year (Summer Season).
23 All facilities and services described in this Section 3 will reopen and available again to
24 the general public starting on November 1 of each year and progressing through and
25 closing on March 30 (Winter Season) of each subsequent year. Services and
26 facilities will be available Monday through Sunday, with operating hours on Monday–
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1 Friday from 2 p.m. to 8 p.m. and on Saturday and Sunday from 12 noon to 6 p.m.
2 DACE will operate the SUBJECT SITE and all the facilities located thereon and will
3 include at least one (1) on site staff person during all times that the facilities are open
4 to the public. On site health and community service providers will offer on-site
5 services and referrals. First aid supplies, including sunscreen, band aids and other
6 hygienic supplies will be available free of charge.

7 3.1. Shower Facilities and Services. In cooperation with the COUNTY, DACE
8 has purchased and installed a modular shower facility, on the SUBJECT SITE,
9 that includes three (3) mobile shower units. Each unit includes three (3)
10 shower stalls, one (1) restroom and a hand sink. Two (2) of the mobile shower
11 units are for the exclusive use of men and one (1) of the mobile shower units is
12 for the exclusive use of women. DACE will continue to properly maintain and
13 operate above described shower facilities and offer shower services as
14 described below. All shower facilities will operate in full, complete and clean
15 working condition. Each shower facility will offer hot and cold water with the
16 normal water pressure expected for a normal residential shower and sink. The
17 exterior and installation of the shower facility will be maintained in full, complete
18 and working condition including all underground systems. DACE will provide at
19 least one (1) attendant to ensure proper working and clean condition of the
20 facility. This attendant may be the same staff person as mentioned above and
21 must be on-site during all times that the facility is open to the public.
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23
24 3.2. Restroom Facilities and Services. In cooperation with the COUNTY, DACE
25 has purchased and installed one (1) modular restroom facility, on the
26 SUBJECT SITE, which includes three (3) stalls and one hand sink on each side
27 with separate entrances for men and women. DACE will continue to maintain
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1 and operate above described restroom facilities and offer restroom services as
2 described below. All restroom facilities will operate in full, complete and clean
3 working condition. Each restroom facility will offer hot and cold water with the
4 normal water pressure expected for a normal residential restroom and sink.
5 The exterior and installation of the restroom facility will be maintained in full,
6 complete and working condition including all underground systems. DACE will
7 provide at least one (1) attendant to ensure proper working and clean condition
8 of the facility. This attendant may be the same staff person as mentioned
9 above and must be on-site during all times that the facility is open to the public.
10

11 3.3. Parking Facilities and Services. In cooperation with the COUNTY, DACE
12 has purchased and installed an outdoor parking and visiting area that includes
13 parking for twenty (20) cars and a shade structure with a misting system,
14 television, videos and games. DACE will continue to maintain and operate
15 above described parking facilities and outdoor visiting areas and offer services
16 as described below. All parking and outdoor visiting areas will operate in full,
17 complete and clean working condition. The exterior and installation of the
18 parking facility and visiting area will be maintained in full, complete and working
19 condition including all underground systems. DACE will provide at least one
20 (1) attendant to ensure proper working and clean condition of the facility. This
21 attendant may be the same staff person as mentioned above and must be on-
22 site during all times that the facility is open to the public.
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24 3.4. Transport Facilities and Services. In cooperation with the COUNTY, DACE
25 has purchased a shuttle vehicle. DACE will continue to maintain and operate
26 the shuttle vehicle and offer services as described below. The shuttle vehicle
27 will operate in full, complete and clean working condition with all servicing to be
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1 provided by the COUNTY. DACE will provide at least one (1) shuttle vehicle
2 driver to ensure properly working shuttle services. This attendant may not be
3 the same staff person as mentioned above and must be available for shuttle
4 services during all times that the facility is open to the public. DACE will
5 provide shuttle services during all times that the SUBJECT SITE and facilities
6 are open to the public. The shuttle will provide transport directly to and from
7 the Mecca church (where meal services are provided by the church) every two
8 (2) hours.

9
10 3.5. Laundry Facilities. In cooperation with the COUNTY, DACE shall purchase
11 a retrofitted modular unit, of at least 200 square feet, and install it upon the
12 SUBJECT SITE. The retrofitted modular unit shall include:

13 3.5.1. Exterior and interior reconditioning including paint, paneling and
14 flooring;

15 3.5.2. New plumbing, propane and central heating, ventilation and air
16 conditioning systems;

17 3.5.3. Four coin operated new commercial grade clothing washers;

18 3.5.4. Four coin operated new commercial grade clothing dryers;

19 3.5.5. Exterior steps;

20 3.5.6. Exterior water storage tank and booster pump to ensure adequate water
21 pressure to service the existing parking, restroom, shower and the
22 added laundry facility;

23 3.5.7. Tables and chairs for customer use;

24 3.5.8. A vending machine available for customers to purchase laundry
25 supplies;
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1 3.5.9. DACE will continue to maintain and operate above described laundry
2 facilities and offer laundry services as described below. All laundry
3 facilities will operate in full, complete and clean working condition. Each
4 laundry facility will offer hot and cold water with the normal water
5 pressure expected for a normal residential laundry and sink use. The
6 exterior and installation of the laundry facility will be maintained in full,
7 complete and working condition including all underground systems.
8 DACE will provide at least one (1) attendant to ensure proper working
9 and clean condition of the facility. This attendant for the laundry facility
10 may be the same staff person as mentioned above for the restroom
11 facility and must be on-site during all times that the facility is open to the
12 public.
13

14 4. ABILITY TO PERFORM: DACE represents and maintains that its staff has the
15 skills necessary to perform all services, duties and obligations required by this
16 AGREEMENT in order to fully and adequately operate the facilities and provide the
17 services described in this AGREEMENT.

18 5. TERM OF THIS AGREEMENT: It is the intent of the parties to have DACE
19 operate the facilities and provide the services described in this AGREEMENT
20 temporarily until the COUNTY can identify, develop and operate, or cause to identify,
21 develop and operate, a permanent facility offering similar services as identified in this
22 AGREEMENT. The term of this AGREEMENT shall commence on the EFFECTIVE
23 DATE of this AGREEMENT and continue in effect twenty-four (24) months thereafter,
24 unless earlier terminated as specified in this AGREEMENT. The term of this
25 AGREEMENT may be extended for additional periods, at the discretion of the parties
26 hereto, only upon written agreement executed by both County and DACE.. All
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1 applicable indemnification provisions in this AGREEMENT shall remain in effect
2 following the termination of this AGREEMENT.

3 **6. COMPENSATION:**

4 6.1. The Laundry Facility. The COUNTY shall pay DACE \$21,000 for services
5 performed and expenses incurred in accordance with the purchase and
6 installation of the laundry facility as identified in Section 3.7 of this
7 AGREEMENT. This amount shall be paid to DACE within thirty (30) days of
8 the COUNTY's receipt of an invoice from DACE for services completed and
9 performed.

10
11 6.2. All Other Compensation. The COUNTY shall pay DACE \$106,500 annually
12 for the full operation of the balance of the facilities and all the services called
13 for in Section 3 of this AGREEMENT. COUNTY shall pay DACE the annual
14 amount of \$106,500 for "all other compensation," as identified in this Section
15 6.2 in bi-annual installments (for each identified Season) each eligible for
16 disbursement after verification of inception of service on July 30 and March
17 30 by visual inspection by COUNTY staff as described in Section 7 of this
18 AGREEMENT. Two installments shall be in made in the amounts of
19 \$61,000.00 (for the Nov-March period or Winter Season) and \$45,500.00 (for
20 the May- July period or Summer Season), respectively.

21
22 **7. ENFORCEMENT:** COUNTY shall visually inspect the SUBJECT SITE on the first of
23 May and the first of November to ensure that the facilities are in operation, that the
24 services are being provided and that the SUBJECT SITE is in good, clean and working
25 condition. COUNTY shall also visually inspect the SUBJECT SITE on a monthly basis
26 during the two periods of operation. DACE shall also provide a weekly report to
27 COUNTY, due each Thursday at 5 p.m., identifying the weekly hours of operation,
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1 number of staff hours worked, number people using each of the facilities, number of
2 people using the transport service and the general condition of each of the facilities and
3 SUBJECT SITE. Failure in performance at any of the site visits or in the provision of
4 the reports, after notice and a five (5) day opportunity to cure shall be good cause for
5 termination and withholding of any subject compensation.

6 8. INDEPENDENT CONTRACTOR: COUNTY retains DACE on an independent
7 contractor basis. DACE is not, and shall not be considered to be in any manner, an
8 employee, agent or representative of the COUNTY. Personnel performing the services
9 under this AGREEMENT on behalf of DACE shall not be employees, representatives or
10 agents of the COUNTY and shall at all times be under DACE's exclusive direction and
11 control. DACE shall pay all wages, salaries and other amounts due such personnel in
12 connection with their performance of service and as required by law. DACE shall be
13 responsible for all reports and obligations respecting such personnel, including but not
14 limited to, social security taxes, income tax withholdings, unemployment insurance, and
15 workers compensation insurance.

16
17 9. INDEMNIFICATION.

18 9.1. DACE shall indemnify and hold harmless the County of Riverside, all Agencies,
19 Districts, Special Districts and Departments of the County of Riverside, their
20 respective Board of Directors, directors, officers, Board of Supervisors, elected
21 and appointed officials, employees, agents and representatives ("Indemnified
22 Parties") from any liability whatsoever, based or asserted upon any services of
23 DACE, its officers, employees, subcontractors, agents or representatives
24 arising out of or in any way relating to this AGREEMENT, including but not
25 limited to property damage, bodily injury, or death or any other element of any
26 kind or nature whatsoever and resulting from any reason whatsoever arising
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1 from the performance of DACE, its officers, agents, employees, subcontractors,
2 agents or representatives from this AGREEMENT; and DACE shall defend, at
3 its sole expense, all costs and fees including but not limited to attorney fees,
4 cost of investigation, defense and settlements or awards, the Indemnified
5 Parties in any claim or action based upon such alleged acts or omissions.

6 9.2. With respect to any action or claim subject to indemnification herein by DACE,
7 DACE shall, at its sole cost, have the right to use counsel of its own choice and
8 shall have the right to adjust, settle, or compromise any such action or claim
9 without the prior consent of COUNTY; provided, however, that any such
10 adjustment, settlement or compromise in no manner whatsoever limits or
11 circumscribes DACE's indemnification to COUNTY as set forth herein. DACE's
12 obligation to defend, indemnify and hold harmless the Indemnified Parties shall
13 be subject to COUNTY having given DACE written notice within a reasonable
14 period of time of the claim or of the commencement of the related action, as the
15 case may be, and information and reasonable assistance, at DACE's expense,
16 for the defense or settlement thereof. DACE's obligation hereunder shall be
17 satisfied when DACE has provided to COUNTY the appropriate form of
18 dismissal relieving COUNTY from any liability for the action or claim involved.
19

20 9.3. The specified insurance limits required in this AGREEMENT shall in no way limit
21 or circumscribe DACE's obligations to indemnify and hold harmless the
22 COUNTY herein from third party claims.
23

24 9.4. In the event there is conflict between this clause and California Civil Code
25 Section 2782, this clause shall be interpreted to comply with Civil Code 2782.
26 Such interpretation shall not relieve DACE from indemnifying the COUNTY to
27 the fullest extent allowed by law.
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1 10. INSURANCE: Without limiting DACE'S indemnification, DACE shall maintain in force
2 at all times during the performance of this AGREEMENT, insurance policies evidencing
3 coverage during the entire term of the AGREEMENT as follows:

4 10.1. Workers' Compensation: If DACE has employees as defined by the State of
5 California, DACE shall maintain Workers' Compensation Insurance (Coverage
6 A) as prescribed by the laws of the State of California. The Workers'
7 Compensation Policy shall include Employers' Liability (Coverage B) including
8 Occupational Disease with limits not less than \$1,000,000 per person per
9 accident. The Workers' Compensation Policy shall be endorsed to waive
10 subrogation in favor of the COUNTY; and, if applicable, to provide a Borrowed
11 Servant/Alternate Employer Endorsement.
12

13 10.2. Commercial General Liability: Commercial General Liability insurance coverage,
14 including but not limited to, premises liability, contractual liability, completed
15 operations, personal and advertising injury covering claims which may arise
16 from or out of DACE's performance of its obligations hereunder. The
17 Commercial General Liability Policy shall name the County of Riverside, its
18 Agencies, Districts, Special Districts, and Departments, their respective
19 directors, officers, Board of Supervisors, Board of Directors, elected officials,
20 employees, agents or representatives as Additional Insureds. The Commercial
21 General Liability Policy's limit of liability shall not be less than \$1,000,000 per
22 occurrence combined single limit. If such insurance contains a general
23 aggregate limit, it shall apply separately to this AGREEMENT or be no less
24 than two (2) times the occurrence limit.
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26 10.3. Vehicle Liability: If vehicles or mobile equipment are used in the
27 performance of the obligations under this AGREEMENT, DACE shall maintain
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1 liability insurance for all vehicles owned by DACE in an amount not less than
2 \$1,000,000 per occurrence combined single limit. If such insurance contains a
3 general aggregate limit, it shall apply separately to this AGREEMENT or be no
4 less than two (2) times the occurrence limit. The Vehicle Liability Policy shall
5 name the County of Riverside, its Agencies, Districts, Special Districts, and
6 Departments their respective directors, officers, Board of Supervisors, Board of
7 Directors, elected officials, employees, agents, or representatives as Additional
8 Insureds.

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10 10.4. General Insurance Provisions - All lines:

11 10.4.1. Any insurance carrier providing insurance coverage hereunder shall be
12 admitted to the State of California and have an A.M. BEST rating of not
13 less than an A: VIII (A: 8) unless such requirements are waived, in
14 writing, by the COUNTY Risk Manager. If the COUNTY's Risk Manager
15 waives a requirement for a particular insurer such waiver is only valid
16 for that specific insurer and only for one policy term.

17 10.4.2. DACE's insurance carrier(s) must declare their self-insured retentions.
18 If such self-insured retentions exceed \$500,000 per occurrence, such
19 retentions shall have the prior written consent of the COUNTY Risk
20 Manager before the commencement of operations under this
21 AGREEMENT. Upon notification of self-insured retentions which are
22 deemed unacceptable to the COUNTY, at the election of the COUNTY's
23 Risk Manager, DACE's carriers shall either: 1) reduce or eliminate such
24 self-insured retentions as respects this AGREEMENT with the
25 COUNTY, or 2) procure a bond which guarantees payment of losses
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1 and related investigations, claims administration, defense costs and
2 expenses.

3 10.4.3. DACE shall cause its insurance carrier(s) to furnish the COUNTY with

4 1) a properly executed original Certificate(s) of Insurance and certified
5 original copies of endorsements effecting coverage as required herein;
6 or, 2) if requested to do so orally or in writing by the COUNTY Risk
7 Manager, provide original Certified copies of policies including all
8 endorsements and all attachments thereto, showing such insurance is
9 in full force and effect. Further, said Certificate(s) and policies of
10 insurance shall contain the covenant of the insurance carrier(s) that
11 shall provide no less than thirty (30) days' written notice be given to the
12 COUNTY prior to any material modification or cancellation of such
13 insurance. In the event of a material modification or cancellation of
14 coverage, this AGREEMENT shall terminate forthwith, unless the
15 COUNTY receives, prior to such effective date, another properly
16 executed original Certificate of Insurance and original copies of
17 endorsements or certified original policies, including all endorsements
18 and attachments thereto evidencing coverage and the insurance
19 required herein is in full force and effect. Individual(s) authorized by the
20 insurance carrier to do so, on its behalf, shall sign the original
21 endorsements for each policy and the Certificate of Insurance. **DACE**
22 **shall not commence operations until the COUNTY has been**
23 **furnished original Certificate(s) of Insurance and certified original**
24 **copies of endorsements or policies of insurance including all**
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1 **endorsements and any and all other attachments as required in**
2 **this Section.**

3 10.4.4. It is understood and agreed by the parties hereto and DACE's insurance
4 company(ies), that the Certificate(s) of Insurance and policies shall so
5 covenant and shall be construed as primary insurance, and the
6 COUNTY's insurance and/or deductibles and/or self-insured retentions
7 or self-insured programs shall not be construed as contributory.

8 10.4.5. If, during the term of this AGREEMENT or any extension thereof, there
9 is a material change in the scope of services or performance of work,
10 the Risk Manager of the COUNTY reserves the right to adjust the types
11 of insurance required under this AGREEMENT and the monetary limits
12 of liability for the insurance coverage required herein, or if, in the
13 COUNTY Risk Manager's reasonable judgment, the amount or type of
14 insurance carried by DACE has become inadequate. DACE shall report
15 to the COUNTY's Risk Manager about the carriers' response and work
16 with the COUNTY to effect a modification of coverage.

17 10.4.6. DACE shall pass down the insurance obligations contained herein to all
18 tiers of sub-contractors working under this AGREEMENT.

19 10.4.7. The insurance requirements contained in this AGREEMENT may be
20 met with a program(s) of self-insurance acceptable to the COUNTY.

21 10.4.8. DACE agrees to notify COUNTY of any claim by a third party or any
22 incident or event that may give rise to a claim arising from the
23 performance of this AGREEMENT.

24 11. TERMINATION: COUNTY may, by written notice to DACE, terminate this
25 AGREEMENT in whole or in part at any time. Such termination may be for COUNTY's
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1 convenience or because of DACE's failure to perform its duties and obligations under
2 this AGREEMENT including, but not limited to, the failure of DACE to timely perform
3 services pursuant to the schedule of services described in Section 3 to this
4 AGREEMENT. Termination for DACE's failure to perform shall be subject to Section 7
5 above, if the COUNTY's visual inspection has led to the written notice provided to
6 DACE.

7 11.1. Discontinuance of Services. Upon the effective date of a Termination of this
8 AGREEMENT, DACE shall discontinue all affected services and shall deliver to
9 the COUNTY within 30 days after the effective date of Termination all data,
10 estimates, graphs, summaries, reports, and other related materials as may
11 have been prepared or accumulated by DACE in performance of services,
12 whether completed or in progress.

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14 11.2. Effect of Termination For Convenience. If the termination is to be for the
15 convenience of the COUNTY, it shall be a minimum of 30 days prior to start of
16 a Season or anytime after an operating Season is completed and the COUNTY
17 shall compensate DACE for services satisfactorily provided through the
18 completion of that operating Season. . DACE shall provide documentation
19 deemed adequate by COUNTY's representative to show the services actually
20 completed by DACE prior to the date of termination. This Agreement shall
21 terminate seven (7) days following receipt by DACE of the written Notice of
22 Termination for Convenience. Nothing in this provision shall require DACE to
23 transfer, refund or reimburse any funds the COUNTY paid to DACE before the
24 effective date of termination. Further, the COUNTY shall not have the right to
25 obstruct operations or services for its own convenience, prior to the effective
26 date of termination.
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1 11.3. Effect of Termination for Cause. If the termination is due to the failure of
2 DACE to fulfill its obligations under this AGREEMENT, DACE shall be
3 compensated for those services which have been completed and accepted by
4 the COUNTY. Following discontinuance of services, the COUNTY may
5 arrange for a meeting with DACE to determine what steps, if any, DACE can
6 take to adequately fulfill its requirements under this AGREEMENT. In its sole
7 discretion, COUNTY's representative may propose an adjustment to the terms
8 and conditions of the AGREEMENT, including the contract price. Such
9 contract adjustments, if accepted in writing by the Parties, shall become
10 binding on the parties and shall be performed as part of this AGREEMENT.
11 Subject to the notice requirements of Section 7, in the event of the COUNTY's
12 termination for cause, unless otherwise agreed to in writing by the parties, this
13 AGREEMENT shall terminate thirty (30) days following the date the Notice of
14 Termination was mailed to DACE. Termination of this AGREEMENT for cause
15 may be considered by the COUNTY in determining whether to enter into future
16 agreements with DACE.
17

18 11.4. Cumulative Remedies. The rights and remedies of the parties provided in this
19 Section are in addition to any other rights and remedies provided by law or
20 under this AGREEMENT.
21

22 11.5. Completion of Services. Except when this AGREEMENT is terminated for
23 DACE's material breach, if COUNTY prevents or frustrates DACE's full
24 performance of the services then the COUNTY shall release and indemnify
25 DACE and its affiliated entities and individuals to the fullest extent allowed by
26 law from and concerning any and all claims, costs, losses and/or liability
27 concerning or related to the uncompleted services.
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1 11.6. Termination of Agreement by DACE. DACE shall have the right to terminate
2 this AGREEMENT if COUNTY fails to transmit funds timely hereunder or
3 breaches any material term or condition of this AGREEMENT. However,
4 DACE shall provide written notice of its intent to terminate for any reason and
5 COUNTY shall have five (5) days following its receipt of such notice to cure by
6 transmitting all payments due in full to DACE or otherwise curing COUNTY's
7 breach of the material term or condition(s) identified in the notice. If the
8 termination is due to the failure of COUNTY to fulfill its material obligations
9 under this AGREEMENT, DACE shall be compensated by COUNTY for those
10 services which have been completed and accepted by the COUNTY. In the
11 event of a termination by DACE, DACE shall cease all operations and services
12 at the SUBJECT SITE within five (5) days after its notice of termination is
13 deemed delivered to the COUNTY.
14

15 12. CONFLICT OF INTEREST: DACE shall have no interest, and shall not acquire any
16 interest, direct or indirect, which will conflict in any manner or degree with the
17 performance of services required under this AGREEMENT.
18

19 13. ADMINISTRATION: The Assistant County Executive Officer for the Riverside County
20 Economic Development Agency (or designee) shall administer this AGREEMENT on
21 behalf of COUNTY.

22 14. ASSIGNMENT: This AGREEMENT shall not be assigned by DACE, either in whole or in
23 part, without prior written consent of COUNTY. Any assignment or purported
24 assignment of this AGREEMENT by DACE without the prior written consent of
25 COUNTY will be deemed void and of no force or effect.

26 15. ALTERATION: No alteration or variation of the terms of this AGREEMENT shall be
27 valid unless made in writing and signed by the parties hereto, and no oral
28

1 understanding or agreement not incorporated herein shall be binding on any of the
2 parties hereto.

3 16. NONDISCRIMINATION: DACE represents that it is an equal opportunity employer
4 and it shall not discriminate against any employee or applicant for employment because
5 of race, religion, color, national origin, ancestry, sex, disability, age, or any other
6 category protected by state and/or federal law. Further, DACE shall not discriminate in
7 the provision of services provided pursuant to this AGREEMENT based upon race,
8 religion, national origin, color, ancestry, sex, disability, age or any other category
9 protected by state and/or federal law.

10 17. COMPLIANCE WITH LAWS: DACE certifies, upon execution of this AGREEMENT,
11 that it will act in compliance with any local, State, and Federal laws and regulations
12 relative to the scope of services to be performed under Section 3 of this AGREEMENT,
13 and that services(s) will be performed by properly trained and licensed staff, if
14 applicable. DACE further agrees to maintain a valid not for profit status during all times
15 under which this AGREEMENT continues.

16 18. CONFIDENTIALITY: DACE shall observe all Federal, State and County regulations
17 concerning confidentiality of records that are applicable to the services provided by
18 DACE to clients at the SUBJECT SITE. DACE shall refer all requests for information to
19 COUNTY.

20 21. WORK PRODUCT: All reports, preliminary findings, or data assembled or compiled
22 by DACE under this Agreement shall be the property of DACE, which hereby grants the
23 COUNTY a non-exclusive license to utilize such work product solely for purposes of this
24 project at the SUBJECT SITE. The COUNTY reserves the right to authorize others to
25 use or reproduce such materials; provided, however, if COUNTY uses such materials in
26 connection with another program in which DACE is not involved, COUNTY agrees to
27
28

1 indemnify, defend and hold DACE harmless to the fullest extent allowed by law from
2 and against any and all losses, liabilities, damages, actions, causes of action, costs and
3 expenses, including, without limitation, reasonable attorneys' fees and costs incurred by
4 DACE even in situations of active or passive negligence in such materials arising from
5 or related to such other program. Therefore, such materials shall not be circulated in
6 whole or in part, nor released to the public, without the direct authorization of the
7 Executive Director of DACE or an authorized designee.

8
9 20. DISPUTE RESOLUTION. If any dispute arises between the parties under this
10 AGREEMENT, the parties shall first meet and confer, and use their best efforts, to
11 resolve the dispute amicably. In the event that the parties are not able to resolve any
12 dispute, the parties shall submit their dispute to a neutral third party mediator, selected
13 by both parties, who shall attempt to facilitate a resolution. The mediator's fees shall be
14 borne equally by both parties. If the mediation is unsuccessful, the parties may proceed
15 with all available remedies, including judicial action.

16 21. JURISDICTION, VENUE, ATTORNEY'S FEES: This AGREEMENT shall be
17 construed pursuant to the laws of the State of California. The parties agree that the
18 jurisdiction and venue for disputes shall be the Superior Court for the County of
19 Riverside, State of California. Should action be brought to enforce or interpret the
20 provisions of the AGREEMENT, the prevailing party as determined by a court of law
21 shall be entitled to its reasonable attorney's fees and costs of suit in addition to
22 whatever other relief is granted.

23
24 22. WAIVER: Any failure to enforce or waiver by any party of any breach of any one
25 or more of the terms of this AGREEMENT shall not be construed to be a waiver of any
26 subsequent or other breach of the same or of any other term thereof. Failure on the
27 part of any party to require exact, full and complete compliance with any terms of this
28

1 AGREEMENT shall not be construed as in any manner changing the terms hereof, or
2 estop said party from enforcement hereof.

3 23. SEVERABILITY: If any provision in this AGREEMENT is held by a court of competent
4 jurisdiction to be invalid, void or unenforceable, the remaining provisions will
5 nevertheless continue in full force without being impaired or invalidated in any way.

6 24. ENTIRE AGREEMENT: This AGREEMENT constitutes the entire agreement between
7 the parties hereto with respect to the subject matter hereof and all prior or
8 contemporaneous agreements of any kind or nature relating to the same shall be
9 deemed to be merged herein. Any modifications to the terms of this AGREEMENT
10 must be in writing and signed by the parties herein.

11 25. SURVIVABILITY OF TERMS: Provisions of this AGREEMENT that are not fully
12 performed or are not capable of being fully performed as of the date of termination will
13 survive termination of this AGREEMENT.

14 26. NOTICES: All correspondence and notices required or contemplated by this
15 AGREEMENT shall be delivered to the respective parties at the addresses set forth
16 below and are deemed submitted one (1) day after their deposit in the United States
17 Mail, postage prepaid:
18
19

20
21 COUNTY
22 Emilio Ramirez
23 Assistant Director
24 Economic Development Agency
3403 Tenth Street, Suite 500
Riverside, CA 92501

DACE
Jeffrey Hays
Executive Director
DACE
53-990 Enterprise Way, Suite 1
Coachella, CA 92236

1 IN WITNESS WHEREOF, the parties hereto have caused their duly authorized
2 representatives to execute this AGREEMENT.

3 County of Riverside

Desert Alliance for Community
4 Empowerment ("DACE")

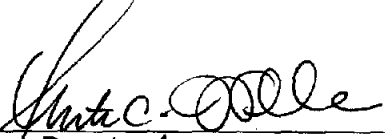
5
6
7 Bob Buster
Chairman, Board of Supervisors

Jeffrey Hays
Executive Director

8 Date:

9 Date: 5-2-11

10
11 Approved as to Form
12 Pamela J. Walls
13 COUNTY Counsel

14 
15 By Deputy ANITA C. WILLIS

16 Acknowledged by:

17
18
19 Clerk of Board