

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

\$ 30



SUBMITTAL DATE:
September 12, 2013

FROM: Economic Development Agency

SUBJECT: Mecca Comfort Station Professional Services Agreement

RECOMMENDED MOTION: The Board of Supervisors:

1. Approve the attached Professional Services Agreement between Desert Alliance for Community Empowerment, a California Non-Profit Corporation and the County of Riverside, a political subdivision of the State of California;
2. Authorize the Chairman of the Board to execute the attached Professional Services Agreement on behalf of the County of Riverside; and

Continued

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 106,500	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 106,500	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2013/14

COMPANION ITEM ON BOARD AGENDA: Yes

SOURCE OF FUNDS: Riverside County Department of Public Social Services General Fund	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

BY: Jennifer Sargent

FISCAL PROCEDURES APPROVED
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER
 BY: *Lisette Rose* 9/11/13
 DATE: *9/3/13*
 CONCURRENT CONCURRENCE OF: Lisette Rose
 FORM APPROVED COUNTY COUNSEL
 BY: *Annie T. Sahhar* 9/3/13
 ANNIE T. SAHHAR

Policy Policy
 Consent Consent
 Per Exec. Ofc.: Per Exec. Ofc.:

Prev. Agn. Ref.: 3.13 of 5/24/2011 | District: 4/4 | Agenda Number: **3-28**

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

RECOMMENDED MOTION: (Continued)

3. Authorize the Assistant County Executive Officer/EDA, or designee, to implement the attached Professional Services Agreement and sign any subsequent and relevant documents necessary to implement the Professional Services Agreement.

BACKGROUND:

On May 24, 2011, the Board of Supervisors approved a Professional Services Agreement (Services Agreement) by and between the County of Riverside (County) and Desert Alliance for Community Improvement (DACE) in order to meet conditions agreed to by the County in May 2000, in an Enforcement and Voluntary Compliance Agreement (Compliance Agreement) entered into by the County. One of the conditions of the Compliance Agreement required that the County provide restroom, shower, laundry and adequate parking facilities, for the benefit of migrant farm workers in the eastern Coachella Valley.

The Services Agreement has since expired and DACE and the County wish to enter into a new Professional Services Agreement (Professional Services Agreement) for the purpose of having DACE continue to provide uninterrupted restroom, shower, laundry facilities, transportation services and parking facilities.

DACE currently owns property, described as approximately twenty-five acres located at the southeast corner of Avenue 68 and Hammond Road within the Riverside County unincorporated community of Mecca, and referred to as assessor parcel number 729-050-002 (Site). Pursuant to the original Services Agreement with the County, DACE is currently using the area at the most northwest corner of the Site to provide the temporary shower, restroom and parking facilities. Under the terms of the new Professional Services Agreement, DACE will continue to provide similar, uninterrupted facilities and services on the same DACE-owned Site. The term of the new Service Agreement will be 12 months, ending 9/30/14.

County Counsel has reviewed and approved the Professional Services Agreement as to form.

FINANCIAL DATA:

The source of funds that will be utilized to fund this activity is being contributed by Riverside County's Department of Public Social Services, through a Memorandum of Understanding. Riverside County has budgeted this expense in the FY 2013/14 budget.

Attachments:
Professional Services Agreement

1 PROFESSIONAL SERVICES AGREEMENT

2
3 This Professional Services Agreement ("AGREEMENT"), made and entered into this ____
4 day of _____, 2013, by and between Desert Alliance for Community Empowerment, a
5 California Nonprofit Corporation, ("DACE"), and the COUNTY OF RIVERSIDE, a political
6 subdivision of the State of California ("COUNTY"). Both the COUNTY and DACE are
7 sometimes hereinafter referred collectively as the "Parties". The effective date of this
8 AGREEMENT shall be the date this AGREEMENT is executed by the COUNTY (the
9 "EFFECTIVE DATE").

10 RECITALS

- 11 I. WHEREAS, DACE currently owns approximately twelve (12) acres of real property
12 located at the southeast corner of Avenue 68 and Hammond Road within the Riverside
13 County unincorporated community of Mecca, referred to as 92125 Ave 68 (the
14 "Property").
- 15 II. WHEREAS, the COUNTY and DACE entered into a certain Professional Services
16 Agreement ("PSA") on June 14, 2011, for DACE to provide restroom, shower, laundry
17 and adequate parking facilities on the Property so that such services are available to
18 the otherwise homeless migrant farm working population of the Eastern Coachella
19 Valley and in and around the Riverside County unincorporated community of Mecca;
- 20 III. WHEREAS, DACE is currently using the area at the most northwest corner of the
21 Property to provide the shower, restroom and parking facilities and services thereto,
22 pursuant to the PSA;
- 23 IV. WHEREAS, DACE and COUNTY have been cooperating to continuously provide the
24 facilities and services, at the DACE Property;
- 25 V. WHEREAS, such PSA expired on June 13, 2013;
- 26 VI. WHEREAS, the COUNTY desires to ensure that the above-mentioned services at the
27 DACE property continue to be provided on an uninterrupted basis;
- 28 VII. WHEREAS, DACE and COUNTY desire to continue this cooperative and mutual effort

1 the same staff person as mentioned above for the restroom facility and
2 must be on-site during all times that the facility is open to the public.

3 4. ABILITY TO PERFORM: DACE represents and maintains that its staff has the skills
4 necessary to perform all services, duties and obligations required by this
5 AGREEMENT in order to fully and adequately operate the facilities and provide the
6 services described in this AGREEMENT. DACE affirms it is fully apprised of all of the
7 work to be performed under this agreement and DACE agrees it can properly perform
8 this work at the fee stated in Section 6 herein below.

9 5. TERM OF THIS AGREEMENT: It is the intent of the parties to have DACE operate
10 the facilities and provide the services described in this AGREEMENT throughout the
11 term of this AGREEMENT which shall commence on the EFFECTIVE DATE of this
12 AGREEMENT and continue in effect for twelve (12) months thereafter, unless earlier
13 terminated as specified in this AGREEMENT. The term of this AGREEMENT may be
14 extended for additional periods, at the discretion of the Parties hereto, only upon
15 written agreement executed by both COUNTY and DACE. All applicable
16 indemnification provisions in this AGREEMENT shall remain in effect following the
17 termination of this AGREEMENT.

18 6. COMPENSATION:

19 6.1. The COUNTY shall pay DACE \$106,500 annually for the full operation of the
20 balance of the facilities and all the services, including all expenses, called for in
21 Section 3 of this AGREEMENT. COUNTY shall pay DACE the annual amount
22 of \$106,500 as identified in this Section in bi-annual installments (for each
23 identified Season) each eligible for disbursement after verification of inception
24 of service on July 30 and March 30 by visual inspection by COUNTY staff as
25 described in Section 7 of this AGREEMENT. Two installments shall be in
26 made in the amounts of \$61,000.00 (for the Nov-March period or Winter
27 Season) and \$45,500.00 (for the May- July period or Summer Season),
28 respectively.

1 to provide the facilities and services on an uninterrupted basis.

2 **NOW THEREFORE**, in consideration of the mutual covenants contained herein, the parties
3 hereto agree as follows:

4 1. PURPOSE OF THIS AGREEMENT: DACE and COUNTY enter into this
5 AGREEMENT for the purpose of having DACE continue to provide uninterrupted
6 restroom, shower, laundry facilities, transportation services and adequate parking
7 facilities to the otherwise homeless migrant farm working population of the Eastern
8 Coachella Valley and in and around the Riverside County unincorporated community
9 of Mecca as more particularly set forth in Section 3 herein.

10 2. THE FACILITIES SITE: DACE currently owns the Property, described as
11 approximately twelve (12) acres located at the southeast corner of Avenue 68 and
12 Hammond Road within the Riverside County unincorporated community of Mecca, and
13 referred to as 92125 Ave 68, Mecca, California. Pursuant to the PSA with the
14 COUNTY, DACE is currently using the area at the most northwest corner of the
15 Property to provide the shower, restroom and parking facilities ("SUBJECT SITE").
16 DACE and COUNTY agree that this same SUBJECT SITE will continue to house the
17 existing facilities and services described in this AGREEMENT.

18 3. DESCRIPTION OF FACILITIES AND SERVICES: The COUNTY and DACE hereby
19 understand and agree that DACE has established shower, restroom, laundry and
20 parking facilities on the SUBJECT SITE. DACE shall maintain the SUBJECT SITE in
21 good, clean and working condition throughout the calendar year regardless of its
22 operation season prior to or following the EFFECTIVE DATE of this AGREEMENT.
23 DACE shall not materially alter the SUBJECT SITE during the term of this
24 AGREEMENT without the written consent of COUNTY. Further, DACE understands
25 and agrees that it shall undertake any necessary repair or replacement of any
26 equipment, structures and/or facilities on the SUBJECT SITE to maintain the SUBJECT
27 SITE in the same good, working condition as it exists as of the EFFECTIVE DATE of
28 this AGREEMENT. The parties hereto agree that the facilities and services described

1 in this AGREEMENT shall operate during the entire term of this AGREEMENT. DACE
2 shall offer services of the shower facilities described above during each of the two
3 traditionally recognized migrant farm worker seasons in the Eastern Coachella Valley.
4 All facilities and services described in this Section 3 will be open and available to the
5 general public starting on May 1 of each year and progressing through and closing on
6 July 30 of each year (Summer Season). All facilities and services described in this
7 Section 3 will reopen and available again to the general public starting on November 1
8 of each year and progressing through and closing on March 30 (Winter Season) of
9 each subsequent year. Services and facilities will be available Monday through
10 Sunday, with operating hours on Monday–Friday from 2 p.m. to 8 p.m. and on Saturday
11 and Sunday from 12 noon to 6 p.m. DACE will operate the SUBJECT SITE and all the
12 facilities located thereon and will include at least one (1) on site staff person during all
13 times that the facilities are open to the public. First aid supplies, including sunscreen,
14 band aids and other hygienic supplies will be available free of charge.

15 3.1. Shower/Restroom Facilities and Services. In cooperation with the COUNTY,
16 DACE has purchased and installed a modular shower/restroom facility, on the
17 SUBJECT SITE, that includes three (3) mobile shower/restroom units. Each
18 unit includes three (3) shower stalls, one (1) restroom stall and a hand sink.
19 Two (2) of the mobile shower units are for the exclusive use of men and one (1)
20 of the mobile shower units is for the exclusive use of women. DACE will
21 continue to properly maintain and operate above described shower facilities
22 and offer shower services as described below. All shower facilities will operate
23 in full, complete and clean working condition. Each shower facility will offer hot
24 and cold water with the normal water pressure expected for a normal
25 residential shower and sink. The exterior and installation of the shower facility
26 will be maintained in full, complete and working condition including all
27 underground systems. DACE will provide at least one (1) attendant to ensure
28 proper working and clean condition of the facility. This attendant may be the

1 same staff person as mentioned above and must be on-site during all times
2 that the facility is open to the public.

3 3.2. Parking Facilities and Services. In cooperation with the COUNTY, DACE has
4 purchased and installed an outdoor parking and visiting area that includes
5 parking for twenty (20) cars and a shade structure with a misting system,
6 television, videos and games. DACE will continue to maintain and operate
7 above described parking facilities and outdoor visiting areas and offer services
8 as described below. All parking and outdoor visiting areas will operate in full,
9 complete and clean working condition. The exterior and installation of the
10 parking facility and visiting area will be maintained in full, complete and working
11 condition including all underground systems. DACE will provide at least one
12 (1) attendant to ensure proper working and clean condition of the facility. This
13 attendant may be the same staff person as mentioned above and must be on-
14 site during all times that the facility is open to the public.

15 3.3. Transport Facilities and Services. DACE shall provide shuttle vehicle service
16 to and from the SUBJECT SITE during the term of this AGREEMENT. DACE
17 will continue to maintain and operate the shuttle vehicle and offer services as
18 described below. The shuttle vehicle will operate in full, complete and clean
19 working condition during the term of this AGREEMENT with all servicing to be
20 provided for such vehicle by DACE. DACE shall provide insurance for such
21 vehicle as set forth in Section 10.3 below. DACE will provide at least one (1)
22 shuttle vehicle driver to ensure properly working shuttle services. This
23 attendant may not be the same staff person as mentioned above and must be
24 available for shuttle services during all times that the facility is open to the
25 public. DACE will provide shuttle services during all times that the SUBJECT
26 SITE and facilities are open to the public. The shuttle will provide transport
27 directly to and from downtown Mecca locations where workers are
28 congregating, such as, but not limited to, the Mecca Church or Toro Loco

1 parking lot every two (2) hours.

2 3.4. Laundry Facilities. The Parties agree and understand that DACE has
3 purchased a retrofitted modular unit, of approximately 200 square feet, and
4 installed it upon the SUBJECT SITE. The retrofitted modular unit includes:

5 3.4.1. Exterior and interior reconditioning including paint, paneling and
6 flooring;

7 3.4.2. Plumbing, propane, ventilation and air conditioning systems, all in good
8 working order;

9 3.4.3. Four coin operated new commercial grade clothing washers, in good
10 working order;

11 3.4.4. Four coin operated new commercial grade clothing dryers, in good
12 working order;

13 3.4.5. Exterior steps;

14 3.4.6. Exterior water storage tank and booster pump to ensure adequate
15 water pressure to service the existing parking, restroom, shower and
16 the added laundry facility;

17 3.4.7. Tables and chairs for customer use;

18 3.4.8. A vending machine available for customers to purchase laundry
19 supplies;

20 3.4.9. DACE will continue to maintain and operate above described laundry
21 facilities and offer laundry services as described below. All laundry
22 facilities will operate in full, complete and clean working condition. Each
23 laundry facility will offer warm water with the normal water pressure
24 expected for a normal residential laundry and sink use. The exterior
25 and installation of the laundry facility will be maintained in full, complete
26 and working condition including all underground systems. DACE will
27 provide at least one (1) attendant to ensure proper working and clean
28 condition of the facility. This attendant for the laundry facility may be

1 7. ENFORCEMENT: COUNTY shall visually inspect the SUBJECT SITE on the first of
2 May and the first of November to ensure that the facilities are in operation, that the
3 services are being provided and that the SUBJECT SITE is in good, clean and working
4 condition. COUNTY shall also visually inspect the SUBJECT SITE on a monthly basis
5 during the two periods of operation. DACE shall also provide a weekly report to
6 COUNTY, directly to the Deputy Director/EDA Housing, at the address listed in Section
7 26 herein below, due each Thursday at 5 p.m., identifying the weekly hours of
8 operation, number of staff hours worked, number people using each of the facilities,
9 number of people using the transport service and the general condition of each of the
10 facilities and SUBJECT SITE. Additionally, DACE shall utilize a one-time questionnaire
11 form, provided by County, which may be updated from time to time, to inquire at least
12 one time of each client regarding the client's use of services related to the shower
13 and laundry facilities. DACE shall provide the originals of such completed
14 questionnaire forms to the County's Deputy Director/EDA Housing on a weekly basis.
15 Failure in performance at any of the site visits or in the provision of the reports and/or
16 questionnaire forms, after notice and a five (5) day opportunity to cure shall be good
17 cause for termination and withholding of any subject compensation.

18 8. INDEPENDENT CONTRACTOR: COUNTY retains DACE on an independent
19 contractor basis. DACE is not, and shall not be considered to be in any manner, an
20 employee, agent or representative of the COUNTY. Personnel performing the
21 services under this AGREEMENT on behalf of DACE shall not be employees,
22 representatives or agents of the COUNTY and shall at all times be under DACE's
23 exclusive direction and control. DACE shall pay all wages, salaries and other amounts
24 due such personnel in connection with their performance of service and as required by
25 law. DACE shall be responsible for all reports and obligations respecting such
26 personnel, including but not limited to, social security taxes, income tax withholdings,
27 unemployment insurance, and workers compensation insurance. DACE shall defend,
28 indemnify and hold harmless COUNTY from any and all claims that may be made

1 against COUNTY based upon any contention by a third party that an employer-
2 employee relationship exists by reason of this AGREEMENT. It is further understood
3 and agreed by the Parties that DACE, in the performance of this AGREEMENT, is
4 subject to the control or direction of COUNTY merely as to the results to be
5 accomplished and not as to the means and methods for accomplishing the results.

6 9. INDEMNIFICATION.

7 9.1. DACE shall indemnify and hold harmless the County of Riverside, all Agencies,
8 Boards, Districts, Special Districts and Departments of the County of Riverside,
9 their respective Board of Directors, directors, officers, Board of Supervisors,
10 elected and appointed officials, employees, agents and representatives
11 ("Indemnified Parties") from any liability whatsoever, based or asserted upon
12 any services of DACE, its officers, employees, subcontractors, agents or
13 representatives arising out of or in any way relating to this AGREEMENT,
14 including but not limited to property damage, bodily injury, or death or any other
15 element of any kind or nature whatsoever and resulting from any reason
16 whatsoever arising from the performance of DACE, its officers, agents,
17 employees, subcontractors, agents or representatives from this AGREEMENT;
18 and DACE shall defend, at its sole expense, all costs and fees including but not
19 limited to attorney fees, cost of investigation, defense and settlements or
20 awards, the Indemnified Parties in any claim or action based upon such alleged
21 acts or omissions.

22 9.2. With respect to any action or claim subject to indemnification herein by DACE,
23 DACE shall, at its sole cost, have the right to use counsel of its own choice and
24 shall have the right to adjust, settle, or compromise any such action or claim
25 without the prior consent of COUNTY; provided, however, that any such
26 adjustment, settlement or compromise in no manner whatsoever limits or
27 circumscribes DACE's indemnification to COUNTY as set forth herein. DACE's
28 obligation to defend, indemnify and hold harmless the Indemnified Parties shall

1 be subject to COUNTY having given DACE written notice within a reasonable
2 period of time of the claim or of the commencement of the related action, as the
3 case may be, and information and reasonable assistance, at DACE's expense,
4 for the defense or settlement thereof. DACE's obligation hereunder shall be
5 satisfied when DACE has provided to COUNTY the appropriate form of
6 dismissal relieving COUNTY from any liability for the action or claim involved.

7 9.3. The specified insurance limits required in this AGREEMENT shall in no way
8 limit or circumscribe DACE's obligations to indemnify and hold harmless the
9 COUNTY herein from third party claims.

10 10. INSURANCE: Without limiting DACE'S indemnification, DACE shall maintain in force
11 at all times during the performance of this AGREEMENT, insurance policies
12 evidencing coverage during the entire term of the AGREEMENT as follows:

13 10.1. Workers' Compensation: If DACE has employees as defined by the State of
14 California, DACE shall maintain Workers' Compensation Insurance (Coverage
15 A) as prescribed by the laws of the State of California. The Workers'
16 Compensation Policy shall include Employers' Liability (Coverage B) including
17 Occupational Disease with limits not less than \$1,000,000 per person per
18 accident. The Workers' Compensation Policy shall be endorsed to waive
19 subrogation in favor of the COUNTY; and, if applicable, to provide a Borrowed
20 Servant/Alternate Employer Endorsement.

21 10.2. Commercial General Liability: Commercial General Liability insurance
22 coverage, including but not limited to, premises liability, contractual liability,
23 completed operations, personal and advertising injury covering claims which
24 may arise from or out of DACE's performance of its obligations hereunder. The
25 Commercial General Liability Policy shall name the County of Riverside, its
26 Agencies, Boards, Districts, Special Districts, and Departments, their
27 respective directors, officers, Board of Supervisors, Board of Directors, elected
28 officials, employees, agents or representatives as Additional Insureds. The

1 Commercial General Liability Policy's limit of liability shall not be 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.

5 10.3. Vehicle Liability: If vehicles or mobile equipment are used in the
6 performance of the obligations under this AGREEMENT, DACE shall maintain
7 liability insurance for all vehicles owned by DACE in an amount not less than
8 \$1,000,000 per occurrence combined single limit. If such insurance contains a
9 general aggregate limit, it shall apply separately to this AGREEMENT or be no
10 less than two (2) times the occurrence limit. The Vehicle Liability Policy shall
11 name the County of Riverside, its Agencies, Boards, Districts, Special Districts,
12 and Departments their respective directors, officers, Board of Supervisors,
13 Board of Directors, elected officials, employees, agents, or representatives as
14 Additional Insureds.

15 10.4. General Insurance Provisions - All lines:

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

22 10.4.2. DACE's insurance carrier(s) must declare their self-insured retentions.
23 If such self-insured retentions exceed \$500,000 per occurrence, such
24 retentions shall have the prior written consent of the COUNTY Risk
25 Manager before the commencement of operations under this
26 AGREEMENT. Upon notification of self-insured retentions which are
27 deemed unacceptable to the COUNTY, at the election of the
28 COUNTY's Risk Manager, DACE's carriers shall either: 1) reduce or

1 eliminate such self-insured retentions as respects this AGREEMENT
2 with the COUNTY, or 2) procure a bond which guarantees payment of
3 losses and related investigations, claims administration, defense costs
4 and expenses.

5 10.4.3. DACE shall cause its insurance carrier(s) to furnish the COUNTY with
6 1) a properly executed original Certificate(s) of Insurance and certified
7 original copies of endorsements effecting coverage as required herein;
8 or, 2) if requested to do so orally or in writing by the COUNTY Risk
9 Manager, provide original Certified copies of policies including all
10 endorsements and all attachments thereto, showing such insurance is
11 in full force and effect. Further, said Certificate(s) and policies of
12 insurance shall contain the covenant of the insurance carrier(s) that
13 shall provide no less than thirty (30) days' written notice be given to the
14 COUNTY prior to any material modification or cancellation of such
15 insurance. In the event of a material modification or cancellation of
16 coverage, this AGREEMENT shall terminate forthwith, unless the
17 COUNTY receives, prior to such effective date, another properly
18 executed original Certificate of Insurance and original copies of
19 endorsements or certified original policies, including all endorsements
20 and attachments thereto evidencing coverage and the insurance
21 required herein is in full force and effect. Individual(s) authorized by the
22 insurance carrier to do so, on its behalf, shall sign the original
23 endorsements for each policy and the Certificate of Insurance. **DACE**
24 **shall not commence operations until the COUNTY has been**
25 **furnished original Certificate(s) of Insurance and certified original**
26 **copies of endorsements or policies of insurance including all**
27 **endorsements and any and all other attachments as required in**
28 **this Section.**

1 10.4.4. It is understood and agreed by the parties hereto and DACE's insurance
2 company(ies), that the Certificate(s) of Insurance and policies shall so
3 covenant and shall be construed as primary insurance, and the
4 COUNTY's insurance and/or deductibles and/or self-insured retentions
5 or self-insured programs shall not be construed as contributory.

6 10.4.5. If, during the term of this AGREEMENT or any extension thereof, there
7 is a material change in the scope of services or performance of work,
8 the Risk Manager of the COUNTY reserves the right to adjust the types
9 of insurance required under this AGREEMENT and the monetary limits
10 of liability for the insurance coverage required herein, or if, in the
11 COUNTY Risk Manager's reasonable judgment, the amount or type of
12 insurance carried by DACE has become inadequate. DACE shall report
13 to the COUNTY's Risk Manager about the carriers' response and work
14 with the COUNTY to effect a modification of coverage.

15 10.4.6. DACE shall pass down the insurance obligations contained herein to all
16 tiers of sub-contractors working under this AGREEMENT.

17 10.4.7. The insurance requirements contained in this AGREEMENT may be
18 met with a program(s) of self-insurance acceptable to the COUNTY.

19 10.4.8. DACE agrees to notify COUNTY of any claim by a third party or any
20 incident or event that may give rise to a claim arising from the
21 performance of this AGREEMENT.

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

1 DACE.

2 11.1. Discontinuance of Services. Upon the effective date of a Termination of this
3 AGREEMENT, DACE shall discontinue all affected services and shall deliver to
4 the COUNTY within 30 days after the effective date of Termination all data,
5 estimates, graphs, summaries, reports, and other related materials as may
6 have been prepared or accumulated by DACE in performance of services,
7 whether completed or in progress.

8 11.2. Effect of Termination For Convenience. If the termination is to be for the
9 convenience of the COUNTY, it shall be a minimum of 30 days prior to start of
10 a Season or anytime after an operating Season is completed and the COUNTY
11 shall compensate DACE for services satisfactorily provided through the
12 completion of that operating Season. If, for any reason, COUNTY
13 determines that, prior to the start of a Season, COUNTY will only need DACE's
14 facilities and services for a portion of the following season, COUNTY shall pay
15 DACE for the entirety of its pre-season costs for that following season, as
16 evidenced by documentation provided by DACE. COUNTY shall also
17 reimburse DACE for any ongoing costs, on a prorated basis, during the portion
18 of the season wherein DACE's facilities and services are utilized at the
19 SUBJECT SITE. DACE shall provide documentation deemed adequate by
20 COUNTY's representative to show the services actually completed by DACE
21 prior to the date of termination. This Agreement shall terminate seven (7) days
22 following receipt by DACE of the written Notice of Termination for
23 Convenience. Nothing in this provision shall require DACE to transfer, refund
24 or reimburse any funds the COUNTY paid to DACE before the effective date of
25 termination. Further, the COUNTY shall not have the right to obstruct
26 operations or services for its own convenience, prior to the effective date of
27 termination.

28 11.3. Effect of Termination for Cause. If the termination is due to the failure of

1 DACE to fulfill its obligations under this AGREEMENT, DACE shall be
2 compensated for those services which have been completed and accepted by
3 the COUNTY. Following discontinuance of services, the COUNTY may
4 arrange for a meeting with DACE to determine what steps, if any, DACE can
5 take to adequately fulfill its requirements under this AGREEMENT. In its sole
6 discretion, COUNTY's representative may propose an adjustment to the terms
7 and conditions of the AGREEMENT, including the contract price. Such
8 contract adjustments, if accepted in writing by the Parties, shall become
9 binding on the parties and shall be performed as part of this AGREEMENT.
10 Subject to the notice requirements of Section 7, in the event of the COUNTY's
11 termination for cause, unless otherwise agreed to in writing by the parties, this
12 AGREEMENT shall terminate thirty (30) days following the date the Notice of
13 Termination was mailed to DACE. Termination of this AGREEMENT for cause
14 may be considered by the COUNTY in determining whether to enter into future
15 agreements with DACE.

16 11.4. Cumulative Remedies. The rights and remedies of the parties provided in this
17 Section are in addition to any other rights and remedies provided by law or
18 under this AGREEMENT.

19 11.5. Completion of Services. Except when this AGREEMENT is terminated for
20 DACE's material breach, if COUNTY prevents or frustrates DACE's full
21 performance of the services then the COUNTY shall release and indemnify
22 DACE and its affiliated entities and individuals to the fullest extent allowed by
23 law from and concerning any and all claims, costs, losses and/or liability
24 concerning or related to the uncompleted services.

25 11.6. Termination of Agreement by DACE. DACE shall have the right to terminate
26 this AGREEMENT if COUNTY fails to transmit funds timely hereunder or
27 breaches any material term or condition of this AGREEMENT. However,
28 DACE shall provide written notice of its intent to terminate for any reason and

1 COUNTY shall have five (5) days following its receipt of such notice to cure by
2 transmitting all payments due in full to DACE or otherwise curing COUNTY's
3 breach of the material term or condition(s) identified in the notice. If the
4 termination is due to the failure of COUNTY to fulfill its material obligations
5 under this AGREEMENT, DACE shall be compensated by COUNTY for those
6 services which have been completed and accepted by the COUNTY. In the
7 event of a termination by DACE, DACE shall cease all operations and services
8 at the SUBJECT SITE within five (5) days after its notice of termination is
9 deemed delivered to the COUNTY.

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

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

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

20 15. ALTERATION: No alteration or variation of the terms of this AGREEMENT shall be
21 valid unless made in writing and signed by the parties hereto, and no oral
22 understanding or agreement not incorporated herein shall be binding on any of the
23 parties hereto.

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

1 upon race, religion, national origin, color, ancestry, sex, disability, age or any other
2 category protected by state and/or federal law.

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

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

13 19. WORK PRODUCT: All reports, preliminary findings, or data assembled or compiled
14 by DACE under this Agreement shall be the property of DACE, which hereby grants
15 the COUNTY a non-exclusive license to utilize such work product solely for purposes
16 of this project at the SUBJECT SITE. The COUNTY reserves the right to authorize
17 others to use or reproduce such materials; provided, however, if COUNTY uses such
18 materials in connection with another program in which DACE is not involved, COUNTY
19 agrees to indemnify, defend and hold DACE harmless to the fullest extent allowed by
20 law from and against any and all losses, liabilities, damages, actions, causes of action,
21 costs and expenses, including, without limitation, reasonable attorneys' fees and costs
22 incurred by DACE even in situations of active or passive negligence in such materials
23 arising from or related to such other program. Therefore, such materials shall not be
24 circulated in whole or in part, nor released to the public, without the direct authorization
25 of the Executive Director of DACE or an authorized designee.

26 20. DISPUTE RESOLUTION. If any dispute arises between the parties under this
27 AGREEMENT, the parties shall first meet and confer, and use their best efforts, to
28 resolve the dispute amicably. In the event that the parties are not able to resolve any

1 dispute, the parties shall submit their dispute to a neutral third party mediator, selected
2 by both parties, who shall attempt to facilitate a resolution. The mediator's fees shall
3 be borne equally by both parties and each Party shall bear their own legal fees and
4 costs. If the mediation is unsuccessful, the parties may proceed with all available
5 remedies, including judicial action.

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

13 22. WAIVER: Any failure to enforce or waiver by any party of any breach of any one or
14 more of the terms of this AGREEMENT shall not be construed to be a waiver of any
15 subsequent or other breach of the same or of any other term thereof. Failure on the
16 part of any party to require exact, full and complete compliance with any terms of this
17 AGREEMENT shall not be construed as in any manner changing the terms hereof, or
18 estop said party from enforcement hereof.

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

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

27 25. SURVIVABILITY OF TERMS: Provisions of this AGREEMENT that are not fully
28 performed or are not capable of being fully performed as of the date of termination will

1 survive termination of this AGREEMENT.

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

6
7 COUNTY

DACE

8 John Aguilar
9 Deputy Director, Housing
10 Economic Development Agency
11 5555 Arlington Avenue
12 Riverside, CA 92504

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

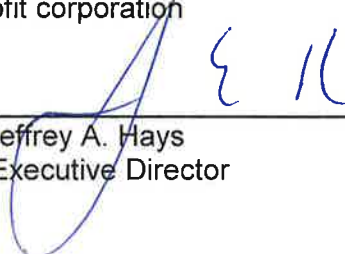
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24 (signatures on following page)
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28

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

3
4 County of Riverside, a political
5 Subdivision of the State of California

Desert Alliance for Community
Empowerment ("DACE"), a California
nonprofit corporation

6 By: _____
7 John J. Benoit, Chairman
8 Board of Supervisors

By:  _____
Jeffrey A. Hays
Executive Director

9 ATTEST:

10 KECIA HARPER-IHEM
11 Clerk of the Board

12 By: _____
13 Deputy

14
15 APPROVED AS TO FORM:
16 PAMELA J. WALLS, County Counsel

17 
18 By: _____
19 Annie T. Sahhar, Deputy County Counsel