

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

133



SUBMITTAL DATE:
October 23, 2014

FROM: Economic Development Agency

SUBJECT: Riverside County Fair & National Date Festival – Approval of Fiscal Year 2015-2017 Carnival Operator Agreement, District 4/District 4, [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Agreement between Riverside County Fair and National Date Festival and Butler Amusements, Inc. (Butler); and
2. Authorize the Chairman of the Board to execute the attached Agreement.

BACKGROUND:

Summary

On March 27, 2014, in accordance with California Food and Agricultural Code Section 4511, the Economic Development Agency (acting on behalf of the Riverside County Fair and National Date Festival) released a Letter of Intent inviting all interested parties who meet the required qualification to respond and compete in the Request for Proposal (RFP) process. The deadline for all responses to the Letter of Intent was Friday, April 17, 2014. Only one response was submitted and received.
(Continued)


Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
SOURCE OF FUNDS: N/A				Budget Adjustment: No	
				For Fiscal Year: 2015-2017	

C.E.O. RECOMMENDATION:

APPROVE

BY: 
Rohini Dasika

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

Prev. Agn. Ref.: 3.27 of 10/20/09, 3.13 of 07/03/12

District: 4/4

Agenda Number:

3-9

FORM APPROVED COUNTY COUNSEL
BY: 
GREGORY P. PRIAMOS
DATE: 10/16/14

Departmental Concurrence

FISCAL PROCEDURES APPROVED
PAUL LANGUHO, CPA, AUDITOR-CONTROLLER
BY: 
Esteban Hernandez
10/23/14

☐ A-30
☐ 4/5 Vote
☐ Positions Added
☐ Change Order

Fiscal Year SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

Economic Development Agency

FORM 11: Riverside County Fair & National Date Festival – Approval of Fiscal Year 2015-2017 Carnival Operator Agreement, District 4/District 4, [\$0]

DATE: October 23, 2014

PAGE: 2 of 2

BACKGROUND:

Summary

The Economic Development Agency reviewed the response by Butler and recommends the Board of Supervisors award the Agreement to Butler. The agreement specifies that Butler guarantees a minimum of \$700,000 in revenue to the Fairgrounds for the 2015, 2016, and 2017 Fairs. Butler was the only qualified respondent, and has successfully operated the amusements at the Riverside County Fair and National Date Festival for the past five years.

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

Impact on Citizens and Businesses

The Riverside County Fair & National Date Festival draws approximately 300,000 people during the 10 days of operation, which is a benefit to the local economy, residents, and businesses. The agreement with Butler guarantees a minimum of \$700,000 revenue for each of the three years that it is in effect, which helps pay the annual operating costs for the Fair.

SUPPLEMENTAL:

Additional Fiscal Information

This contract is within the established 2015 Fair budget.

Carnival Revenue by Fiscal Year			
2015	2016	2017	Total
\$700,000	\$700,000	\$700,000	\$2,100,000

Contract History and Price Reasonableness

Butler Amusements, Inc. was awarded the contract for the 2010-2012 Riverside County Fair & National Date Festival with the option to extend the contract through 2013-2014. The following revenue schedule was established: 2010- \$550,000, 2011- \$575,000, 2012- \$600,000, 2013- \$700,000, 2014- \$700,000.

Attachments:

- Agreements (2 original copies)

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 & NATIONAL DATE FESTIVAL**

5
6 **THIS AGREEMENT**, dated as of ____ / ____ / 2014 (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 & 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 & 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.

1 SECTION 2. **Facility**. The COUNTY hereby agrees to provide CONTRACTOR
2 space at the FAIRGROUNDS, subject to the terms hereof and subject to any conditions,
3 reservations, exceptions, and rights of way which are of record, for the purpose of
4 providing a carnival attraction during the annual FAIR. The CONTRACTOR spaces are
5 as follows:

6
7 a.) **Adult Carnival Area** – The Adult Carnival Area is approximately 300,000 square
8 feet located in the center of the FAIRGROUNDS, proper, adjacent to Arabia Street.

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

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

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

19
20 SECTION 3. **Public Benefit**. The COUNTY finds and determines that this
21 AGREEMENT and the use of the property is in the public interest and will not
22 substantially conflict with other uses of the property.

23
24 SECTION 4. **Electric Service and Lighting**. CONTRACTOR shall provide lighting
25 for the rides, shows, and concessions and surrounding area to the satisfaction of
26 COUNTY which may be neon, fluorescent, or incandescent lights on the rides, shows,
27 and concessions, and neon, fluorescent or incandescent light towers. All cables, cords,
28 electrical cords and hoses shall be bundled and ramped if in the public right of way and
29 compliant with all ADA regulations. CONTRACTOR shall provide generators for all
30 rides and or concessions.

1 SECTION 5. **Term**. The term is a three (3) year contract with two (2) one year
2 options. CONTRACTOR shall be required to provide all items listed in Exhibit "A"
3 "STATEMENT OF WORK TO BE PERFORMED" at least nine months prior to the next
4 scheduled FAIR date, for each year of the contract. Failure to do so may result in the
5 loss of any and all rights contained herein. CONTRACTOR shall have met all the terms,
6 or amended terms, of this AGREEMENT to the satisfaction of the COUNTY during the
7 previous year prior to any renewal of this AGREEMENT. This Agreement may be
8 extended beyond the initial three (3) year term by mutual written consent of the parties
9 hereto.

10
11 SECTION 6. **Carnival Ride Tickets and Wristbands**. COUNTY will provide all
12 CARNIVAL ride tickets and wristbands during the run of the FAIR. Said tickets and
13 wristbands shall be audited by COUNTY and the CONTRACTOR prior to the opening of
14 the FAIR and upon closing of the FAIR. A reconciliation of ride tickets and wristbands
15 sold will be made available for inspection by 10:00 a.m. the morning after the close of
16 the FAIR by CONTRACTOR. Financial settlement between CONTRACTOR and
17 COUNTY shall be completed on that date during each year of this AGREEMENT.
18 Carnival Wristband prices for 2015 are \$25.00 for Tuesday through Friday, \$28 on
19 Saturdays, Sundays and Monday and \$22.00 pre-sale.

20
21 SECTION 7. **Pre-sale Carnival Tickets**. CONTRACTOR and COUNTY shall meet
22 annually at least one-hundred-eighty (180) days prior to the FAIR, if not sooner, and
23 agree on the pre-sale terms of CARNIVAL tickets. Pre-sale of carnival tickets shall end
24 on the first day of the FAIR at 10:00 a.m. COUNTY shall be responsible for all pre-sale
25 of CARNIVAL tickets and shall retain all pre-sale funds each year until financial
26 settlement occurs pursuant to Sections 7 and 10 herein. Any commissions associated
27 with pre-sale carnival tickets shall be borne by both CONTRACTOR and COUNTY
28 equally.

29
30 SECTION 8. **Mandatory Riverside County Sheriff's Department Carnival**
31 **Security**. CONTRACTOR shall provide Forty Five-Thousand Dollars (\$45,000) in

1 Sheriff's Department carnival security during the three (3) year term of this
2 AGREEMENT, in installments of Fifteen-Thousand Dollars (\$15,000) per year, or as
3 otherwise agreed to by both parties in writing.

4
5 SECTION 9. **Compensation.** CONTRACTOR agrees to pay COUNTY a
6 guarantee of Seven Hundred Thousand Dollars (\$700,000) for 2015, a guarantee of
7 Seven Hundred Thousand Dollars (\$700,000) for 2016 and a guarantee of Seven
8 Hundred Thousand Dollars (\$700,000) for 2017 for the rights and privileges granted
9 herein, or a guarantee percentage of the amounts in the manner set forth below,
10 whichever amount is ultimately greater:

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

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

16
17 SECTION 10. **Deposit.** CONTRACTOR shall pay COUNTY a deposit of Fifty
18 Thousand Dollars (\$50,000) on or before November 6th during each year of this
19 contract. Said deposit shall be credited against payments required pursuant to Section
20 9.

21
22 SECTION 11. **FAIR Scholarship Program.** CONTRACTOR shall provide
23 funding in the amount of Ten Thousand Dollars (\$10,000.00) annually for the Riverside
24 County Fair & National Date Festival Scholarship Program.

25
26 SECTION 12. **Price List and Ride List.** CONTRACTOR shall provide to
27 COUNTY, no later than forty (40) calendar days prior to the opening day of the FAIR in
28 each year of the operation of this contract, a list of rides and prices to be charged for
29 each ride. Said list and prices to be subject to approval by COUNTY. CONTRACTOR
30 shall provide a fully operational carnival including quality rides, games, shows, and
31 concessions. The following minimum number of rides are to be supplied:

- 1 a) Spectacular Rides 19
- 2 b) Major Rides 13
- 3 c) Kiddie Rides 21
- 4 d) A maximum of 55 games shall be supplied with a minimum of 40.
- 5 e) A maximum of 10 food concessions including cook shack.

6

7 SECTION 13. **Specific Admission Price.** All attractions operated by the

8 CONTRACTOR under the executed contract shall require a specific admission price

9 which can be translated to an appropriate number of tickets. Each ticket must have a

10 standard monetary value. The admission price for rides, games, and shows may not be

11 less than the value of one ticket.

12

13 SECTION 14. **Safety Inspections.** The schedule of fair-time CARNIVAL

14 operations shall include a CONTRACTOR performed mechanical and ride safety

15 inspection (documented in writing, stating what was inspected, when, by whom, and the

16 findings) when 30% and 70% of the total anticipated number of hours of operation have

17 elapsed. Said inspector must demonstrate his or her qualifications as such to the

18 satisfaction of COUNTY and CONTRACTOR. CONTRACTOR shall provide and pay for

19 said inspection.

20

21 SECTION 15. **Down-Time of Attractions.** The daily schedule for operation of all

22 proposed rides, games, and shows, shall ensure, barring major power outages or acts

23 of God, that no more than five percent (5%) of the total CARNIVAL operation is down,

24 or otherwise not in operation at any given time during the hours the FAIR is proposed to

25 be open to the public, with the following exception: This portion of this AGREEMENT

26 shall only apply to rides, games, shows, or other attractions which are in safe working

27 order. CONTRACTOR shall not, under any circumstances, operate any rides, games,

28 shows, or other attractions which are not in safe working order.

29

30 SECTION 16. **Equipment, Ride, and Attraction Maintenance.** Fair-time

31 maintenance procedures for CARNIVAL grounds, equipment, and attractions shall be

1 established to include routine CONTRACTOR inspection by supervising personnel with
2 such frequency to ensure no unsightly conditions (e.g., litter, trash accumulation,
3 marred surfaces of any kind on CONTRACTOR or COUNTY Property within the defined
4 CARNIVAL area) will exist without attempt to correct the problem within a reasonable
5 period of time. Reasonable time must be defined according to the severity of the
6 condition. CONTRACTOR will maintain clean, attractive, brightly lit rides.
7 CONTRACTOR will provide ride report maintenance records to COUNTY upon request.
8

9 SECTION 17. **Monitoring and Inspection.** The following monitoring and
10 inspection activities will be performed by COUNTY:

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

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

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

18 d.) These monitoring and inspection activities by COUNTY shall in no way release
19 CONTRACTOR from its own obligations under this Agreement.
20

21 SECTION 18. **Carnival Set-up and Take-down.** CARNIVAL must be set up and
22 ready for inspection by 6:00 p.m. one day before the first day of each annual Fair.
23 CONTRACTOR shall not operate amusement ride unless a current permit to operate
24 has been issued by the Division of Occupational Safety and Health. Amusement rides
25 inspected and covered by a valid permit to operate in the preceding year may continue
26 to operate until further inspected, providing the owner/operator of the ride has made
27 written application to the Division for an inspection at least ten days prior to its operation
28 indicating where such ride will be available for inspection and the application remains
29 unacted upon. All CARNIVAL equipment shall be removed from FAIRGROUNDS within
30 72 hours of closing of FAIR. CONTRACTOR shall provide security for all CARNIVAL
31 equipment during take-down period per the terms and conditions of this Agreement.

1
2 SECTION 19. **Hours of Operation.** Daily hours of CARNIVAL operation shall be
3 as follows: Monday 10:00 am until 11:00 pm, Tuesday through Thursday 11:00 a.m.
4 until 11:00 p.m.; Friday, Saturday and Sunday 10:00 a.m. until midnight.
5

6 SECTION 20. **Failure to Perform.** COUNTY has established terms to be imposed
7 on failure to perform during the contract performance period. Penalties for failure to
8 provide rides shall be as follows:

9 a.) One Thousand Dollars (\$1,000.00) per day, per each Spectacular ride;

10 b.) Seven Hundred and Fifty Dollars (\$750.00) per day, per each adult ride, major
11 and family ride; and,

12 c.) Five Hundred Dollars (\$500.00) per day, per each kiddie ride.

13 The aforementioned penalties will be assessed at the time of the performance failure
14 and payable not later than the last payment for the Fair-time during which the non-
15 performance occurred. Said penalties shall be in addition to all other compensation paid
16 to COUNTY by CONTRACTOR. Said penalties shall be included in the rides and
17 concessions gross sales when determining the payment method set forth in Section 9a
18 and 9b.
19

20 SECTION 21. **Vacation of Premises.** CONTRACTOR shall be sure that all rides,
21 games, and paraphernalia shall be removed from FAIRGROUNDS no later than 72
22 hours after the close of each annual FAIR. Failure to remove any and all articles shall
23 result in a fine of not less than \$250.00 per day and/or market storage price if articles or
24 equipment must be stored, unless other arrangements are made in writing prior to the
25 closing of the FAIR.
26

27 SECTION 22. **Authorized Carnival Representative.** CONTRACTOR must
28 maintain one or more representatives who are authorized to take immediate action upon
29 any request of COUNTY at all times when CONTRACTOR's property is on the
30 FAIRGROUNDS. This person(s) must be identified to COUNTY as the
31 CONTRACTOR's authorized representative(s).

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

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

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

8
9 SECTION 23. **Concessions**. CONTRACTOR shall:

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

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

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

18 d.) No food concession booth is allowed on any exterior edge of the carnival
19 grounds. All food concession booths must be located at a minimum distance of 50
20 linear feet from the exterior line. Carnival rides must be on the exterior and concession
21 booths must be on the interior.

22
23 SECTION 24. **Limitations on Sales/Concessions**. No novelty concessions will be
24 allowed, as well as no straight sales operations (i.e., computer portraits, jewelry, antique
25 photo booths, etc.), without the written permission of COUNTY. Any such novelty
26 concessions approved by COUNTY shall require additional compensation to the
27 COUNTY.

28
29 SECTION 25. **Prohibitions**. CONTRACTOR shall not:

30 a) Operate games of chance; nor

31 b) Sell cigarettes, tobacco, beer, wine, or other alcoholic beverages; nor

- 1 c) Offer cash prizes or re-purchase prizes awarded in any game; nor
- 2 d) Offer as prizes: live ducks, chicks, or other live animals (except goldfish); soft
- 3 drinks in other than plastic containers; knives, firearms, or any items which could be
- 4 used as a weapon; posters or merchandise featuring nudity or promoting the use of
- 5 drugs; nor
- 6 e) Use or employ "Capers," "Shills," and/or any person posing as patrons; nor
- 7 f) Employ or use anyone, under the age of eighteen (18) years of age, in the
- 8 operation of any rides; nor
- 9 g) Employ or use anyone, under the age of sixteen (16) years of age, in the
- 10 operation of any games or other CARNIVAL attractions.

11

12 SECTION 26. **Other General Requirements.** CONTRACTOR will ensure the

13 following:

- 14 a.) Employees who have regular public contact shall be attired in **clean** uniformed
- 15 clothing; and
- 16 b.) The assigned area for CARNIVAL operations shall be arranged to protect the
- 17 public from safety hazards, equipment and maintenance operations; CONTRACTOR is
- 18 responsible for barricading all equipment and maintenance areas.
- 19 c.) Procedures shall be established to ensure reasonable security of all rides,
- 20 games, concessions, and other CARNIVAL equipment when not in use so that no
- 21 attractive nuisance or negligent conditions exists.
- 22 d.) All staff provided by CONTRACTOR shall be uniformly dressed in clean, new
- 23 or near new show shirts with show's logo. No shirts with other fairs' logo may be worn.
- 24 All shirts must be tucked in at the waist.
- 25 e.) All staff provided by CONTRACTOR will wear uniform slacks, trousers or dress
- 26 shorts. No cutoffs, rag bottoms or rips in materials will be allowed.
- 27 f.) All staff provided by CONTRACTOR will be required to have neatly trimmed
- 28 hair. Any facial hair must also conform with a trim look.
- 29 g.) There shall be no smoking or chewing of tobacco in view of the public by any
- 30 employee or volunteer of CONTRACTOR. All smoking must be done in designated
- 31 smoking areas away from patrons. There shall be a \$50.00 fine for each infraction.

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

15 SECTION 27. **Termination by COUNTY.** COUNTY shall have the right to
16 terminate this AGREEMENT forthwith:

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

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

22 c) In the event CONTRACTOR fails or refuses to perform, keep or observe any of
23 CONTRACTOR's duties or obligations hereunder.
24

25 SECTION 28. **Termination by CONTRACTOR.** CONTRACTOR shall have the
26 right to terminate this AGREEMENT in the event COUNTY fails to perform, keep, or
27 observe any of its duties or obligations hereunder provided, however, that COUNTY
28 shall have fifteen (15) days in which to correct its breach or default after written notice
29 thereof has been served upon COUNTY.
30

1 SECTION 29. **Taxes.** COUNTY shall require and CONTRACTOR shall pay before
2 delinquency, any and all taxes, assessments, license fees, and other public charges
3 which may be levied, assessed, or imposed by any governmental entity whatever,
4 whether federal, state, local, or otherwise, upon any interest of CONTRACTOR, upon
5 CONTRACTOR's business and any income derived there from, or upon any property of
6 CONTRACTOR. COUNTY shall in no way be responsible for deduction or payment of
7 any taxes related to CONTRACTOR's operations.
8

9 SECTION 30. **Assignment.** CONTRACTOR cannot assign or otherwise transfer in
10 any manner, any of its rights, duties, or obligations hereunder to any person or entity
11 without the prior written consent of COUNTY.
12

13 SECTION 31. **Right of Entry.** The COUNTY reserves the right for any of its duly
14 authorized representatives to examine the CARNIVAL facilities and grounds at any
15 time.
16

17 SECTION 32. **Signs.** CONTRACTOR shall not erect, maintain, or display any
18 signs or other forms of advertising upon any COUNTY property without first obtaining
19 the written approval of COUNTY. CONTRACTOR is responsible for obtaining any and
20 all necessary permits and paying any and all applicable fees in order to obtain said
21 permits.
22

23 SECTION 33. **Hold Harmless.**

24 a) CONTRACTOR represents that it has inspected the FAIRGROUNDS, accepted
25 the condition thereof, and fully assumes any and all risks incidental to the use thereof.
26 COUNTY shall not be liable to CONTRACTOR, its officers, agents, employees, guests,
27 subcontractors, or independent contractors for any personal injuries or property damage
28 suffered by them which may result from hidden, latent or other dangerous conditions on
29 or upon FACILITY; provided however, that such dangerous conditions are not caused
30 by the sole negligence of COUNTY, its officers, agents or employees.

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

25
26 SECTION 34. **Insurance**. CONTRACTOR shall, during the entire term of this
27 AGREEMENT:

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

30 b) Procure and maintain automotive bodily injury and property damage liability
31 insurance and shall protect CONTRACTOR and COUNTY, listing those entities

1 described in Section 37 herein as additionally insured entities, from claims for damages
2 for personal injury, including accidental and wrongful death, as well as from claims for
3 property damage, which may arise from the performance of any actions associated with
4 this AGREEMENT. Such insurance shall provide for combined coverage limits of not
5 less than \$1,000,000 per occurrence; and

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

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

10
11 SECTION 35. **COUNTY's Reserved Rights – Insurance**. COUNTY reserves the
12 right to adjust the monetary limits of insurance coverage as required above in Section
13 35 above, commencing on the first anniversary of this AGREEMENT and on every
14 additional year thereafter during the remaining term of this AGREEMENT and any
15 extensions beyond the original year term.

16
17 SECTION 36. **Certificate of Insurance and Additional Insured**. CONTRACTOR
18 shall provide COUNTY with certificates of insurance demonstrating that insurance
19 limitations have been obtained from an insurance carrier authorized to sell insurance in
20 the State of California. Said certificates of insurance shall list the "Riverside County Fair
21 & National Date Festival, The County of Riverside, The Economic Development Agency
22 of the County of Riverside, the County of Riverside Asset Leasing Corporation
23 (CORAL)" and their officers, employees and agents as additionally insureds.

24
25 SECTION 37. **Maintenance**. CONTRACTOR shall continuously maintain the area
26 around each ride, show, and game and food concession in a clean, neat and safe
27 condition. After the FAIR, CONTRACTOR shall also clean up all areas used to the
28 satisfaction of COUNTY.

29
30 SECTION 38. **Toxic Materials**. During the term of this AGREEMENT,
31 CONTRACTOR shall not violate any federal, state, or local law, ordinance, or

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

19 SECTION 39. **COUNTY's Representative.** County hereby appoints the Economic
20 Development Agency Executive Director, or his or her successor, as its authorized
21 representative to administer this AGREEMENT.
22
23

24 SECTION 40. **CONTRACTOR's Representative.** CONTRACTOR hereby appoints
25 Lance Moyer, Executive Vice President of Butler Amusements, Inc as its authorized
26 representative to administer this LEASE.
27

28 SECTION 41. **Notices.** All notices, statements, demands, requests, consents,
29 approvals, authorizations, offers, agreements, appointments or designations hereunder
30 by either party to the other shall be in writing and shall be sufficiently given and served

1 upon the other party sent by United States registered mail, return receipt requested,
2 postage prepaid and addresses as follows:

3
4
5 COUNTY: Veronica Casper, Fair Manager
6 Riverside County Fair & National Date Festival
7 82-503 Hwy 111
8 Indio, CA 92201
9

10
11 CONTRACTOR: Lance Moyer, Executive Vice President
12 Butler Amusements, Inc.
13 P.O. Box 2210
14 Fairfield, CA 94533-0220
15

16 SECTION 42. **Discrimination or Segregation.**

17 a) CONTRACTOR shall not discriminate in CONTRACTOR's recruiting, hiring,
18 promotion, demotion or termination practice on the basis of sex, race, religious creed,
19 color, national origin, ancestry, age, physical handicap, medical condition, or marital
20 status with respect to its use of the FACILITY hereunder, and CONTRACTOR shall
21 comply with the provisions of the California Fair Employment and Housing Act
22 (Government Code Sections 1290 et seq.), the Federal Civil Rights Act of 1964 (P.L.
23 88-352), and all amendments thereto, Executive Order No. 11246 (30 CFR 12319), as
24 amended, and all Administrative Rules and Regulations issued pursuant to said acts
25 and orders with respect to its use of the FACILITY.

26 b) CONTRACTOR shall not discriminate against or cause the segregation of any
27 person or group of persons on account of sex, race, religious creed, color, national
28 origin, ancestry, age, physical handicap, medical condition, or marital status, in the use,
29 tenure or enjoyment of the premises, nor shall CONTRACTOR establish a permit any
30 such practice or practices of discrimination or segregation with reference to the

1 selection, location, number, use or occupancy of any person or persons, within the
2 FACILITY.

3
4 SECTION 43. **Employees and Agents of CONTRACTOR**. It is understood and
5 agreed that all persons hired or engaged by CONTRACTOR shall be considered
6 employees, independent contractors or agents of CONTRACTOR and not of COUNTY.

7
8 SECTION 44. **Severability**. The invalidity of any provision in this AGREEMENT as
9 determined by a court of competent jurisdiction shall in no way effect the validity of any
10 other provision herein.

11
12 SECTION 45. **Free from Liens**. CONTRACTOR shall pay, when due, all sums of
13 money that may become due for any labor, services, material, supplies, or equipment,
14 alleged to have been furnished or to be furnished to CONTRACTOR, in, upon, or about
15 the FAIRGROUNDS, and which may be secured by a mechanics', material men's or
16 other lien against the FAIRGROUNDS or COUNTY's interest therein, and will cause
17 each such lien to be fully discharged and released at the time the performance of an
18 obligation secured by such lien matures or becomes due; provided, however, that if
19 CONTRACTOR desires to contest any such lien, it may do so, but not withstanding any
20 such contest, if such lien shall be reduced to final judgment, and such judgment or such
21 process as may be issued for the enforcement thereof is not promptly stayed, or if so
22 stayed, and said stay thereafter expires, then and in such event, CONTRACTOR shall
23 for with pay and discharge said judgment.

24 SECTION 46. **Ownership**. COUNTY represents and warrants that COUNTY is
25 the owner of, and holds title to, FAIRGROUNDS.

26
27 SECTION 47. **Governing Law and Venue**. Any action at law or in equity brought
28 by either of the parties hereto for the purpose of enforcing a right or rights provided for
29 by this AGREEMENT shall be tried in a court of competent jurisdiction in the County of
30 Riverside, State of California, and the parties hereby waive all provisions of law
31 providing for a change of venue in such proceedings to any other County. This

1 Agreement and any dispute arising hereunder shall be governed by and interpreted in
2 accordance with the laws of the State of California. The parties shall be obligated to
3 attend a mediation session prior to the filing of any legal action.
4

5 SECTION 48. **Paragraph Headings.** The paragraph headings herein are for the
6 convenience of the parties only, and shall not be deemed to govern, limit, modify or in
7 any manner affect the scope, meaning or intent of the provisions or language of this
8 AGREEMENT.
9

10 SECTION 49. **Waiver of Performance.** No waiver by COUNTY at any time of any
11 of the terms and conditions of this AGREEMENT shall be deemed or construed as a
12 waiver at any time thereafter of the same or of any other terms or conditions contained
13 herein or of the strict and timely performance of such terms and conditions.
14

15 SECTION 50. **Compliance with Laws and Regulations.** By executing this
16 Agreement, the CONTRACTOR hereby certifies that it will adhere to and comply with all
17 federal, state and local laws, rules and regulations.
18

19 SECTION 51. **Authority to Execute.** The persons executing this Agreement or
20 exhibits attached hereto on behalf of the parties to this Agreement hereby warrant and
21 represent that they have the authority to execute this Agreement and warrant and
22 represent that they have the authority to bind the respective parties to this Agreement to
23 the performance of its obligations hereunder.

24 SECTION 52. **Entire Agreement.** This AGREEMENT constitutes the entire,
25 complete and final expression of agreements between the parties. This AGREEMENT
26 may be changed or modified only upon the written consent of the parties hereto.
27
28

1 IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the day and
2 year first written above.

3
4 COUNTY OF RIVERSIDE

ATTEST:

5
6 By: _____

By: _____

7 Jeff Stone, Chairman
8 Board of Supervisors
9

10 CONTRACTOR

ATTEST:

11
12 By:  _____

By: _____

13 Rich Byrum, Vice President
14 Butler Amusements, Inc.
15
16

17 Approved as to Form:

18
19 FORM APPROVED COUNTY COUNSEL

20 BY:  DATE

21 By: _____

22 Deputy County Counsel
23
24
25
26
27

Exhibit "A"

STATEMENT OF WORK TO BE PERFORMED

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

RIDES:

Name of Ride	Manufacture Name and Year	Type of Ride
	Manufactured	
Super Shot Drop Tower	A.R.M. 2007	Spectacular
Pole Position Spinning Coaster	Fabbri 2005	Spectacular
Giant Wheel	Chance 1988	Spectacular
Wave Swinger	Zierer 1984	Spectacular
Fireball	KMG 2001	Spectacular
Evolution	SDC 1983	Spectacular
Freak Out	KMG 2013	Spectacular
Spin Out	Zier 1983	Spectacular
Starship 3000	Wisdom 1993	Spectacular
Music Express	SDC 1987	Spectacular
Himalaya	Wisdom 2007	Spectacular
Orbiter	Tivoli 1990	Spectacular
Flying Bobs	Larson 1998	Spectacular
Vertigo	ARM 2013	Spectacular
White Water Flume	Reverchon 2003	Spectacular
Zipper	Chance 1991	Spectacular

1	Century Wheel	Chance 1994	Spectacular
2	Giant Scooters	Majestic 1999	Spectacular
3	Grand Carousel	Chance 1993	Spectacular
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	Windsurfer	Wisdom 2008	Major
10	Big Top	Barbisan 1991	Major
11	Zombie Carnival	Christiani 1998	Major
12	State Fair Slide	Frederiksen 2001	Major
13	Viper	Wisdom 2007	Major
14	Circle of Champions	Sellner 1994	Major
15	Kite Flyer	Zamperla 2001	Major
16	Wacky Worm Coaster	Fajume 2002	Major
17	Looney Tooter Train	SDF 2002	Kiddie
18	Renegade	Wisdom 2000	Kiddie
19	Lolli Swings	Zamperla 2000	Kiddie
20	Chopper Hopper	Fabbri 2006	Kiddie
21	Bigfoot Trucks	SBF 2001	Kiddie
22	Toon Town	Kid Power 1991	Kiddie
23	Teacups	Zamperla 2007	Kiddie
24	Rock N Tug	Zamperla 2004	Kiddie
25	Jungle of Fun	Kid Power 1995	Kiddie
26	Jumping Jumbos	Sellner 2001	Kiddie

1	U Toob Funhouse	Funtech 2008	Kiddie
2	Jet Ski	Hampton 1986	Kiddie
3	Dizzy Dragon	Sellner 1999	Kiddie
4	Crown Merry Go Round	Chance 2002	Kiddie
5	Balloon Samba	Zamperla 1995	Kiddie
6	Raiders	Wisdom 1987	Kiddie
7	Dragon Wagon	Wisdom 1991	Kiddie
8	Roadsters	Hampton 1974	Kiddie
9	Frog Hopper	Rides 4 U 2010	Kiddie
10	Wet Boat	Allen Herschell 1977	Kiddie
11	Cycle Jump	Hampton 1985	Kiddie

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Exhibit "B"

GAMES:

Name of Game	Owner	Category (Adult/Child)	Manufacture Date
Goblet Pitch	Boguet Concessions	Adult	2010
Ring A Duck	Jesse Bogue	Adult	2012
Bank a Ball	"	Adult	2010
Ring a Bottle	"	Adult	2012
Ring a Bottle	"	Adult	2012
Bust One	"	Adult	2014
Beer Bust	"	Adult	2012
Basketball	"	Adult	2014
Water Race	"	Adult	2003
Machine Gun	"	Adult	2014
Roll A Ball	"	Adult	2003
Bottle Up	"	Adult	2014
One Ball	"	Adult	2014
Pick a Duck	"	Child	2010
Fish Till U Win	"	Child	2014
Fried Frog	"	Child	2014
Machine Gun	Ellis Concessions	Adult	2005
Lay Up	Robert Ellis	Adult	2000
Lay Up	"	Adult	2000
Balloons	"	Adult	2004
Balloons	"	Adult	2004
Balloons	"	Adult	2004
Water Race	"	Adult	2004

1	Water Race	"	Adult	2004
2	Water Race	"	Adult	2004
3	Tubs	"	Adult	2000
4	Frog Flip	"	Adult	2000
5	Ring A Bottle	"	Adult	2000
6	Bouy	"	Adult	2000
7	Duck Pond	"	Child	2000
8	Flip Chick	"	Child	2000
9	Machine Gun	Greg's Family Fun	Adult	2009
10	Balloons	Greg Jewell	Adult	2010
11	Balloons	"	Adult	2007
12	Bouy	"	Adult	2014
13	Bank A Ball	"	Adult	2014
14	Batter Up	"	Adult	2012
15	Basketball	"	Adult	2007
16	Roll Down	"	Adult	2007
17	Baseball	"	Adult	2007
18	Fish Game	"	Child	2014
19	Water Race	Paul's Concession	Adult	2001
20	Basketball	Paul Farnum	Adult	2000
21	Roll A Ball	"	Adult	1994
22	Bank A Ball	"	Adult	1998
23	Duck Pond	"	Child	2012
24	Gold Fish	"	Child	2000
25	Derby	Brian C. Brandon	Adult	1993
26	Lineup Balloons	"	Adult	2000

1	Center Balloons	"	Adult	2007
2	Tubs	"	Adult	2004
3	Bags	"	Child	2005
4	Gold Fish	"	Child	2004
5				
6				
7				
8				

Exhibit "C"

FOOD CONCESSIONS:

Name of Stand	Owner's Name	Items Offered
J & L Sweeties	Butler Amusements, Inc.	Cotton Candy, Corn Dogs, Popcorn
Rainbow's End	Butler Amusements, Inc.	Hot dogs, Nachos, Peanuts
Candy Factory	Butler Amusements, Inc.	Candy & Caramel Apples
Kandytown	Butler Amusements, Inc.	Pink Popcorn, Caramel Corn, Churros
Candystand	Butler Amusements, Inc.	Pink Popcorn, Caramel Corn, Churros
Andy's Wagon	Butler Amusements, Inc.	Pink Popcorn, Caramel Corn, Churros
Moyer Pizza	Butler Amusements, Inc.	Pizza, Nachos, Bottled Water & Soda
Kettle Korn	Butler Amusements, Inc.	Kettle Korn, bottled water, bottle soda
Brits Best Cakes n Cones	Butler Amusements, Inc.	Funnel Cake, Ice Cream & Fountain Soda
Cranium Freeze	Butler Amusements, Inc.	Flavored kids beverage, Bottled water & Bottled Soda
Kyle's Killer Lemonade	John Neeham (dba Polynesian Shaved Ice)	Squeezed Lemonade, Freezes and bottled water
Jerry's Cookhouse	Jerry & Susan Hill (dba Jerry Hill Enterprises)	Employee's meals (sandwiches, salads & drinks)

END