

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



**ITEM: 3.10
(ID # 11132)**

MEETING DATE:
Tuesday, December 17, 2019

FROM : ECONOMIC DEVELOPMENT AGENCY (EDA):

SUBJECT: ECONOMIC DEVELOPMENT AGENCY (EDA): Approval of Personal Service Agreement for Carnival Attraction at the Riverside County Fair and National Date Festival Professional Service Agreement with Butler Amusements, Inc. through June 30, 2024. District 4, (\$0)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Personal Service Agreement for Carnival Attraction at the Riverside County Fair and National Date Festival through June 30, 2024 and authorize the Chairman of the Board to execute said Agreement on behalf of the County;

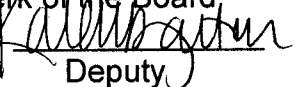
ACTION:

Robert Field, Assistant County Executive Officer/ECD 11/27/2019

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Hewitt and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: December 17, 2019
xc: EDA

Kecia R. Harper
Clerk of the Board
By 
Deputy

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STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Revenue Agreement 100%			Budget Adjustment: No	
			For Fiscal Year: 2019/20-2023/24	

C.E.O. RECOMMENDATION: [CEO use]

BACKGROUND:

Summary

The Purchasing Department released a Request for Proposal #EDARC-075 (“RFP”) for Carnival Operator Services at the Riverside County Fair and National Date Festival on August 15, 2019. Butler Amusements Inc. (“Butler”) was the only respondent to the RFP. Butler has successfully operated the amusements at the Riverside County Fair & National Date Festival since 2001.

EDA reviewed the response by Butler and recommends the Board of Supervisors award the agreement to them. The agreement specifies that for each fair during the term of the agreement (i.e., 2020 to 2024 fairs), Butler will pay the County the greater of the following amounts: (a) \$700,000, or (b) the sum total of the following amounts: (i) 41% of ride gross ticket sales during each fair and 41% of gross pre-sale ticket sales for each fair, and (ii) \$1,200.00 for each food concession and \$450.00 for each additional non-food concession operating during each fair.

Impact on Residents and Businesses

The Riverside County Fair & National Date Festival draws approximately 250,000 – 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 in revenue for each of the five years that it is in effect, and Butler will provide the latest and most popular carnival rides, shows, games and food and beverage concessions for the benefit of fair attendees.

Additional Fiscal Information

There are no costs associated with this revenue agreement. Below is a summary of the minimum carnival revenue by fiscal year under this agreement.

Carnival Revenue by Fiscal Year					
FY19/20	FY20/21	FY21/22	FY22/23	FY23/24	Total
\$700,000	\$700,000	\$700,000	\$700,000	\$700,000	\$3,500,000

Contract History and Price Reasonableness

The Purchasing Department (“Purchasing”) released a Request for Proposal #EDARC-075 (RFP) for Carnival Operator Services at the Riverside County Fair and National Date Festival on

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August 15, 2019. The RFP was advertised on PublicPurchase.com as well as Purchasing's website and notification was sent to eight (8) companies including the current incumbent. Only one response was received from the current incumbent, Butler Amusements Inc. EDA/Fair evaluators reviewed the information provided and feel confident in recommending awarding the agreement to Butler based on their previous performance and extensive knowledge of the Riverside County Fair and National Date Festival operations.

Attachments

- Personal Service Agreement with Butler Amusements Inc.


Mark Whitesell, Procurement Services Manager.

12/6/2019


Gregory V. Priaplos, Director County Counsel

12/9/2019

PERSONAL SERVICE AGREEMENT

for

CARNIVAL ATTRACTION AT THE

RIVERSIDE COUNTY FAIR & NATIONAL DATE FESTIVAL

between

COUNTY OF RIVERSIDE

and

BUTLER AMUSEMENTS, INC.



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This Agreement made and entered into this 17th day of December, 2019, by and between BUTLER AMUSEMENTS, INC., a California corporation, (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY").

RECITALS

WHEREAS, COUNTY owns certain real property located at 82-503 Hwy 111, Indio CA 92201 (hereinafter referred to as "FAIRGROUNDS") for the purpose of providing a site for the production of the annual Riverside County Fair & National Date Festival (hereinafter referred to as "FAIR"); and

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

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

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

1. Description of Services

1.1 CONTRACTOR shall provide a CARNIVAL at the annual Riverside County Fair & National Date Festival as specified in the attached Exhibit A, Scope of Services, at the agreed upon compensation set forth in Section 3 of the Agreement and the attached Exhibit B, and within the area specified in the attached Exhibit C, all of which are attached hereto and incorporated herein by reference.

1.2 CONTRACTOR represents that it has the skills, experience, and knowledge necessary to perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms that it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the agreed upon terms and revenue sharing structure stated in Section 3 and Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

1.5 CONTRACTOR's temporary use of the FAIRGROUNDS during the periods specified herein shall be limited to the purposes and activities allowed under this Agreement. It is expressly understood and agreed to by the parties hereto that by authorizing use of the FAIRGROUNDS as specified herein for said purposes and activities, no estate or interest in real property is being conveyed to CONTRACTOR by COUNTY and that the right of use acquired is only an exclusive, revocable and unassignable permission and privilege to occupy in accordance with the provisions of this Agreement. See Exhibit C for CARNIVAL Area.

2. Period of Performance

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continues in effect through June 30, 2024, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter. The Riverside County Board of Supervisors is the only authority that may obligate the County for a non-cancelable multi-year agreement.

3. Compensation

3.1 Compensation: For the rights and privileges granted in this Agreement and for each FAIR period specified in Section A2.0 of Exhibit A, CONTRACTOR agrees to pay COUNTY one of the following amounts, whichever is greater:

(a) Seven Hundred Thousand Dollars (\$700,000); or

(b) the sum total of the following amounts:

(i) 41% of ride gross ticket sales during each FAIR and 41% of gross pre-sale ticket sales for each FAIR, and (ii) \$1,200.00 for each food concession and \$450.00 for each additional non-food concession operating during each FAIR.

3.2 Reconciliation: A final reconciliation of the amounts set forth in Section 3.1 above will be conducted between CONTRACTOR and COUNTY on the day following the last day of each FAIR period to determine the compensation owed by CONTRACTOR to COUNTY. A reconciliation of ride tickets and wristbands sold will be made available for inspection by 10:00 a.m. the morning after the close of the each

FAIR by CONTRACTOR. CONTRACTOR agrees to provide all documentation, receipts, and records reasonably requested by COUNTY in order to determine the amounts owed hereunder.

3.2 Deposit: CONTRACTOR agrees to pay COUNTY a good faith deposit of \$50,000 on or before January 1, 2020 for the 2020 FAIR and on or before November 1st for each FAIR year thereafter for the rights and privileges granted in this Agreement, including the use of the FAIRGROUNDS, and said deposit will be credited against compensation payments owed to COUNTY by CONTRACTOR under section 3.1.

3.3 FAIR Scholarship Program: CONTRACTOR shall provide funding in the amount of ten thousand dollars (\$10,000) annually during the reconciliation process for the Riverside County Fair & National Date Festival Scholarship Program.

4. Alteration or Changes to the Agreement

4.1 The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

4.2 Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

5. Termination

5.1 COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

5.2 COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the

event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

5.3 After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

5.4 After termination, a final reconciliation will be conducted between CONTRACTOR and COUNTY to determine if any payments are owed between the parties, which shall be paid forthwith by the party owing such payment.

5.5 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

5.6 If the Agreement is federally or State funded, CONTRACTOR cannot be debarred from the System for Award Management (SAM). CONTRACTOR must notify the COUNTY immediately of a debarment. Reference: System for Award Management (SAM) at <https://www.sam.gov> for Central Contractor Registry (CCR), Federal Agency Registration (Fedreg), Online Representations and Certifications Application, and Excluded Parties List System (EPLS)). Excluded Parties Listing System (EPLS) (<http://www.epls.gov>) (Executive Order 12549, 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17). The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of CCR/FedReg, ORCA, and EPLS.

5.7 The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

6. Ownership/Use of Contract Materials and Products

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY. The material, reports or products may be used

by the COUNTY for any purpose that the COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports, or products without prior written authorization of the COUNTY.

7. Conduct of Contractor

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

8. Inspection of Service; Quality Control/Assurance

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected; the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to

ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

9. Independent Contractor/Employment Eligibility

9.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

9.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.

10. Subcontract for Work or Services

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

11. Disputes

11.1 The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

11.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

12. Licensing and Permits

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

13. Use By Other Political Entities

The CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

14. Non-Discrimination

CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Records and Documents

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State, or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

16. Confidentiality

16.1 The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

16.2 The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particulars assigned to the individual, such as finger or voice print or a photograph.

17. Administration/Contract Liaison

The COUNTY FAIR Manager, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement. The COUNTY FAIR Manager is Veronica Casper with the following contact information: Email: vcasper@rivco.org / Office: 760.863.8242.

18. Notices

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

COUNTY OF RIVERSIDE

Economic Development Agency (EDA)
Riverside County Fair & National Date Festival
82-503 Hwy 111
Indio, CA 92201

CONTRACTOR

Butler Amusements, Inc.
P.O. Box 2210
Fairfield, CA 94533

19. Force Majeure

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

20. EDD Reporting Requirements

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent Contractor(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at www.edd.ca.gov.

21. Hold Harmless/Indemnification

21.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees,

cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

21.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.

21.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

21.4 The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

22. Insurance

22.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

A. Workers' Compensation:

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside.

B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S

performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$5,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability:

If vehicles or mobile equipment is used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned, or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

D. General Insurance Provisions - All lines:

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

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives,

prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier shall sign the original endorsements for each policy and the Certificate of Insurance.

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

8) CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

23. General

23.1 CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

23.2 Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full, and complete compliance with any

terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

23.3 In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

23.4 CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

23.5 CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims, or encumbrances.

23.6 Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

23.9 CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

23.10 CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).


23.11 This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for

a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.


23.12 This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political subdivision of the State of California

By: 
Kevin Jefferies, Chairman
Board of Supervisors


BUTLER AMUSEMENTS, INC., a California corporation

By: 
Name: Lance Moyer
Title: Executive Vice President

Dated: DEC 17 2019

Dated: 11/20/19

ATTEST:
Kecia R. Harper
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:
Gregory P. Priamos
County Counsel

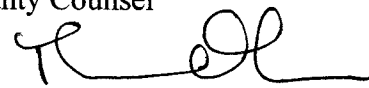
By: 
Thomas Oh
Deputy County Counsel

EXHIBIT A

Scope of Services

A1.0 GENERAL INFORMATION: CONTRACTOR is a carnival operator who shall provide the latest and most popular carnival rides, shows, games and food and beverage concessions; related equipment such as ticket booths, generators, rest areas, benches and plant material; and full-time personnel trained and experienced in management, safety, marketing, public relations and promotions. CONTRACTOR will provide said services during each of the FAIR periods in section A2.0.

A2.0 FAIR Dates and Hours of Operation: The 2020 Riverside County Fair & National Date Festival will be held for ten consecutive days, February 14 through February 23.

Future Fair FAIR dates:

2021: February 12-21

2022: February 18-27

2023: February 17-26

2024: February 16-25

A2.1 Fair Hours: Friday through Monday: 10:00 am – 10:00 pm PST and Tuesday through Thursday: 12:00 pm – 10:00 pm PST

A2.2 Carnival Hours of Operation: Tuesday through Thursday: 12:00 pm – 11:00 pm PST and Friday through Monday: 10:00 am – 12:00 am (midnight), including Presidents Day Mondays.

A3.0 CARNIVAL ATTRACTIONS:

A3.1 List of rides currently available: CONTRACTOR must own and/or operate a minimum of fifty-one (51) rides, eighteen (18) of which are designated spectacular, twelve (12) of which are designated as major and twenty-one (21) of which are designated as kiddie and/or family. All rides will be available to the CONTRACTOR for the full run of each the FAIR each year. See list below (A3.1.1) for the rides available to CONTRACTOR including name of ride, owner's name, manufacture date, type of ride (spectacular, etc.) and California Permit number. If equipment is owned by another entity, a copy of the independent contractor agreement must be available to COUNTY upon request at any time during the period of performance of this Agreement.

A3.1.1 Rides:

**EXHIBIT 1
ADULT & KIDDIE RIDES**

NAME OF RIDE	OWNER'S NAME	MANUFACTURE DATE	TYPE OF RIDE (Spectacular, etc.)	CALIFORNIA PERMIT NO.
Giant Gondola Wheel	Butler Amusements, Inc P.O. Box 2210 Fairfield, CA 94533-0220	Chance 1988	Spectacular	C12455
White Water Flume	Butler Amusements, Inc	Reverchon 2003	Spectacular	C19035
Pole Position Coaster	Butler Amusements, Inc	Fabbri 2005	Spectacular	C18184
Century Wheel	Butler Amusements, Inc	Chance 1994	Spectacular	C18252
Turbo	Butler Amusements, Inc	KMG 2018	Spectacular	C19511
Inversion	Butler Amusements, Inc	KMG 2015	Spectacular	C19401
Hawaiian Express	Butler Amusements, Inc	Wisdom 2019	Spectacular	Applied For
Wave Swinger	Butler Amusements, Inc	Zierer 1984	Spectacular	C8985
Super Shot Drop Tower	Butler Amusements, Inc	A.R.M. 2007	Spectacular	C18800
Mega Flip	Butler Amusements, Inc	KMG 2000	Spectacular	C17922
Vertigo	Butler Amusements, Inc	A.R.M 2014	Spectacular	C19084
Flying Bobs	Butler Amusements, Inc	Chance 1982	Spectacular	C7171
Giant Scooters	Butler Amusements, Inc	Majestic 1999	Spectacular	C17715
Himalaya	Butler Amusements, Inc	Wisdom 1999	Spectacular	C17708
Orbiter	Butler Amusements, Inc	Tivoli 1988	Spectacular	C18986
Quazar	Butler Amusements, Inc	A.R.M 2016	Spectacular	C19591
1001 Nachts	Butler Amusements, Inc	A.R.M 1999	Spectacular	C18017
Ring of Fire	Butler Amusements, Inc	LMC 2001	Spectacular	C17686
Grand Carousel	Butler Amusements, Inc	Chance 1993	Spectacular	C17109
Big Top Funhouse	Butler Amusements, Inc	Barbisan 1998	Spectacular	N/A
Zombie Carnival	Butler Amusements, Inc	Christiani 1998	Major	C17713
Zipper	Butler Amusements, Inc	Chance 1991	Major	C14518

NAME OF RIDE	OWNER'S NAME	MANUFACTURE DATE	TYPE OF RIDE (Spectacular, etc.)	CALIFORNIA PERMIT NO.
Eagle 16	Butler Amusements, Inc	Eli Bridge 1989	Major	C15243
Alien Invasion	Butler Amusements, Inc	Wisdom 1989	Major	C18801
Tilt A Whirl	Butler Amusements, Inc	Sellner 1994	Major	C17179
State Fair Slide	Butler Amusements, Inc	Fredricksen 2000	Major	N/A
Scrambler	Butler Amusements, Inc	Eli Bridge 1982	Major	C14215
Eagle 16	Butler Amusements, Inc	Eli Bridge 1991	Major	C18056
Kite Flyer	Butler Amusements, Inc	Zamperla 2000	Major	C17867
Super Slide	Butler Amusements, Inc	Kilinski 1981	Major	N/A
Starship 3000	Butler Amusements, Inc	Wisdom 1993	Major	C17110
Mardi Gras Funhouse	Butler Amusements, Inc	Owens 1996	Major	N/A
Carousel	Butler Amusements, Inc	Chance Herschell 1998	Major	C14846
Wacky Worm Coaster	Butler Amusements, Inc	Fajune 2002	Family	C17959
Firehouse	Butler Amusements, Inc	Wisdom 1987	Family	N/A
Jungle of Fun	Butler Amusements, Inc	Kid Power 1987	Family	N/A
Wacky Tracks Funhouse	Butler Amusements, Inc	Kid Power 1991	Family	N/A
Renegade	Butler Amusements, Inc	Wisdom 2000	Family	C17777
Dizzy Dragon	Butler Amusements, Inc	Sellner 1999	Family	C17740
Berry Go Round	Butler Amusements, Inc	Sellner 1991	Family	C15262
Pirate of the Midway	Butler Amusements, Inc	Kidpower 1985	Family	N/A
Rockin Tug	Butler Amusements, Inc	Zamperla 2004	Family	C18098
Big Foot Trucks	Butler Amusements, Inc	SBF 2001	Family	C17915
Looney Tooter Train	Butler Amusements, Inc	SDF 2002	Family	C17996
Chopper Hopper	Butler Amusements, Inc	Fabbri 2006	Kiddie	C18740
1st Squadron	Butler Amusements, Inc	Wisdom 2000	Family	C17826

NAME OF RIDE	OWNER'S NAME	MANUFACTURE DATE	TYPE OF RIDE (Spectacular, etc.)	CALIFORNIA PERMIT NO
Jumping Jumbo	Butler Amusements, Inc	Sellner 2001	Family	C17914
Jumping Jungle	Butler Amusements, Inc	Funtech 2008	Family	N/A
Dragon Wagon	Butler Amusements, Inc	Wisdom 1990	Kiddie	C14014
Kid Wheel	Butler Amusements, Inc	Eli Bridge 1984	Kiddie	C8106
Pirate Jet	Butler Amusements, Inc	Visa 2015	Kiddie	C19330
Wet Boat	Butler Amusements, Inc	Herschell 1989	Kiddie	C18970
Quad Runner	Butler Amusements, Inc	Dalton 2008	Kiddie	C18426
Cycle Jump	Butler Amusements, Inc	Hampton 1985	Kiddie	C10096
Jet Ski	Butler Amusements, Inc	Hampton 1986	Kiddie	C10164
Roadsters	Butler Amusements, Inc	Hampton 1987	Kiddie	C11730
Frog Hopper	Butler Amusements, Inc	S&S Worldwide 2009	Kiddie	C18581
Minimum 51 rides, 18 minimum Spectacular, 12 minimum Major, 21 minimum Kiddie/Family				

A3.1.2 Price List and Ride List: CONTRACTOR shall provide to COUNTY, no later than forty (40) calendar days prior to the opening of the each FAIR in each year of this Agreement, a list of rides and prices to be charged for each ride. Said list and prices to be subject to approval by COUNTY.

A3.2 List of food and beverage concession stands currently available: CONTRACTOR must provide a list of food and beverage concession stands available to CONTRACTOR including name of stand, owner's name, manufacture date and items offered. See list below (A3.2.1) for list of concessions. If stand is owned by another entity, a copy of the independent contractor agreement must be made available to COUNTY upon request at any time during the period of performance of this Agreement. All concession stands are to be available to the CONTRACTOR for the full run of eachthe FAIR each year.

A3.2.1 Concessions:

**EXHIBIT 2
FOOD CONCESSIONS**

NAME OF STAND	OWNER'S NAME	MANUFACTURE DATE	ITEMS OFFERED
Kandytown	Butler Amusements, Inc P.O. Box 2210 Fairfield, CA 94533-0220	Uniglide 2001	corn dog, hot dog, nacho carmel& candy apple cotton candy, Popcorn churros, Sno cone, pickle fountain soda,bottle water
Rainbow's End	Butler Amusements, Inc	Hitchhiker 2013	Same as above
Candy Stand	Butler Amusements, Inc	Hitchhiker 2010	Same as above
J&L Sweeties	Butler Amusements, Inc	Hitchhiker 2012	Same as above
The Dog House	Butler Amusements, Inc	Meissner Manu 2015	Same as above
Marty's Treats	Butler Amusements, Inc	Quincey 1989	Same as above
Hawaiian Shaved Ice	Butler Amusements, Inc	Custom J. Needham 2004	Shaved Ice, Bottle Water
Pizza	Butler Amusements, Inc	Uniglide 2015	Pizza,Nacho,Churro Pretzel, soda, B.water
Kettle Korn	Butler Amusements, Inc	Ye Olde Kettle Korn 2018	Kettle Korn, bottle water
Brit's Best Cakes & Cone	Butler Amusements, Inc	Waymatic 2006	Funnel Cake, Ice cream cones,Sundae,Floats shakes,Churros, fried treat fountain soda,bottle water
Nate's Corn	Butler Amusements, Inc	Waterloo 2018	Corn on the cob and flavors Cup of corn, hot cheeto cup Jarritos, gatorade,b.water
Monster Cookie	Butler Amusements, Inc	Shantz Manu 2015	cookies, coffee, slushie ice tea,fountain soda, water
Kyle's Lemonade	Butler Amusements, Inc	Cavallero Conces. 2010	lemonade, lemon slushee,
Chili Pepper Cookhouse	Jerry Hill Jerry Hill Enterprises 7558 W Thunderbird #1 Peoria, AZ 85381	Southern Dimensions 2016 & Otterbacher	burger,fries, chili fries cheese fries, asada fries chicken wings, tacos burritos, quesadilla, nacho,taco salad, omlette eggs,bacon,ham,sausage biscuit & gravy, pancake french toast, energydrink fountain soda,coffee tea,hot chocolate,water

A3.3 List of games currently available: CONTRACTOR must own and/or operate a maximum of fifty-five (55) games with a minimum of forty (40) games with 15% of the total number of games designed for children as part of the Kid's Carnival. See list below (A3.3.1) for list of games available to CONTRACTOR, including the name of game, owner's name, category (adult or child) and manufacture date. If equipment is owned by another entity, a copy of the independent contractor agreement must be made available to COUNTY upon request at any time during the period of performance of this Agreement. All games are to be available to the CONTRACTOR for the full run of each the FAIR each year.

A3.3.1 Games:

EXHIBIT 3 GAMES			
NAME OF GAME	OWNER'S NAME	CATEGORY (Adult or Child)	MANUFACTURE DATE
Water Race	Butler Amusements, Inc P.O. Box 2210 Fairfield, CA 94533-0220	Adult & Child	Bobs SpaceRacer 2009
Hangman	Butler Amusements, Inc	Adult & Child	Waterloo 2019
BlockBuster	Butler Amusements, Inc	Adult & Child	Waterloo 2009
Water Race	Butler Amusements, Inc	Adult & Child	Denny's Electric 2013
Duck Pond	Butler Amusements, Inc	Child	Waterloo 2018
Rope Ladder	Butler Amusements, Inc	Adult & Child	Wapello Fabrication 2014
Balloon	Greg Jewell	Adult & Child	Gautier 2010
Balloon	Greg's Family Fun P.O. Box 292506 Phelan, CA 92329	Adult & Child	Gautier 2017
Hoops	Greg's Family Fun	Adult & Child	Gautier 2012
Mini Ball	Greg's Family Fun	Adult & Child	Gautier 2010
Mini Basketball	Greg's Family Fun	Adult & Child	Gautier 2010
Bouy	Greg's Family Fun	Child	Waterloo Canvas 2007
Catch A Fish	Greg's Family Fun	Child	Bobs Space Racer 2007
Machine Guns	Robert Ellis Jr.	Adult	Denny's Electric 2003
Water Race	B. Ellis Concessions 243 Birchwood St. Manteca, CA 95336	Adult & Child	Benny's Electric 2003
Water Race	B. Ellis Concessions	Adult & Child	Denny's Electric 2005
Tubs	B. Ellis Concessions	Adult & Child	Waterloo 2018
Balloon	B. Ellis Concessions	Adult & Child	Waterloo 2018

NAME OF GAME	OWNER'S NAME	CATEGORY (Adult or Child)	MANUFACTURE DATE
Bank A Ball	B. Ellis Concessions	Adult & Child	Waterloo 2018
Balloon	B. Ellis Concessions	Adult & Child	Custom B Ellis 1996
Mid Range Basketball	B. Ellis Concessions	Adult	Denny's Electric 2017
Coke Ring	B. Ellis Concessions	Adult & Child	Waterloo 2018
Gold Fish	B. Ellis Concessions	Adult & Child	Waterloo 2018
Basketball	B. Ellis Concessions	Adult & Child	Custom B Ellis 2003
Water Race	B. Ellis Concessions	Adult & Child	Denny's Electric 2005
Coke Ring	B. Ellis Concessions	Adult	Waterloo 2018
Derby	Brian Brandon Brandon Concession	Adult & Child	Hampton 1995
Balloon	8518 Karron Drive Pico Rivera, CA 90660	Adult & Child	Wells Cargo 1995
Tubs	Brandon Concession	Adult & Child	Academy 2008
Balloon	Brandon Concession	Adult & Child	Bob's Space Racer 2009
Frogger	Brandon Concession	Child	Academy 2009
Gold Fish	Brandon Concession	Adult & Child	Conventional Tents 2016
Basketball	Brandon Concession	Adult & Child	Custom B Brandon 2004
Bank A Ball	Brandon Concession	Adult & Child	Conventional Tents 2016
Machine Gun	Brandon Concession	Adult & Child	Denny's Electric 2010
Gold Fish	Brandon Concession	Child	Academy 2008
Ring A Duck	Jesse Bogue Bougey Concessions	Child	Waterloo 2009
Bottle Up	422150 Washington St. Ste A428 Palm Desert, CA 92211	Adult	Anchor 2009
One Ball	Bougey Concessions	Adult & Child	Waterloo 2009

NAME OF GAME	OWNER'S NAME	CATEGORY (Adult or Child)	MANUFACTURE DATE
Balloon	Bougey Concessions	Adult & Child	Bobs Space Racer 2003
Bank A Ball	Bougey Concessions	Adult & Child	Anchor 2006
Beer Bust	Sergio Ortiz Ortiz Concessions	Adult	Quitter 2002
Mini Basketball	38413 Pond Ave. Palmdale, CA 93550	Adult & Child	Otterbacher 1991
Bank A Ball	Ortiz Concessions	Adult & Child	Conventional Tent 2019
Tubs	Ortiz Concessions	Adult & Child	Conventional Tents 2019
Balloons	Ortiz Concessions	Adult & Child	Otterbacher 1993
Ring A Duck	Ortiz Concessions	Child	Conventional Tent 2019
Bouy	Danny Armour Armour Concessions	Adult & Child	Waterloo 2016
Ring A Duck	4089 Vista Calaveras St. Oceanside, CA 92056	Child	Waterloo 2015
Turtle Pond	Armour Concessions	Child	Waterloo 2016
Balloon	Armour Concessions	Adult & Child	Waterloo 2015

Minimum Games 40, Maximum Games 55, 15% child games

A3.4 Price List and Ride List: CONTRACTOR shall provide to COUNTY, no later than forty (40) calendar days prior to the opening day of the each FAIR in each year of this Agreement, a list of rides and prices to be charged for each ride. Said list and prices will be subject to approval by COUNTY.

A3.5 Specific Admission Price: All attractions operated by CONTRACTOR under this Agreement shall require a specific admission price which can be translated to an appropriate number of tickets. Each ticket must have a standard monetary value. The admission price for rides, games and shows may not be less than the value of one ticket.

A4.0 CONTRACTOR RESPONSIBILITIES:

A4.1 Electrical and Lighting: CONTRACTOR will provide lighting for rides, shows, concessions and surrounding areas to the satisfaction of the COUNTY. Lighting may be neon, fluorescent or incandescent lights on the rides, shows, concessions and light towers. All cables, cords, electrical cords and

hoses shall be bundled and ramped if in an area or walkway used by the public and compliant with all ADA regulations.

A4.2 Safety Inspections: CONTRACTOR will be responsible for all mechanical and ride safety inspections and documentation, including ongoing monitoring and ride, equipment and attraction repair and maintenance. When 30% and 70% of the total anticipated number of hours of operations have elapsed for each ride, CONTRACTOR shall perform mechanical and ride safety inspections and shall document in writing what was inspected for each ride, the date and time of inspection, the person(s) performing the inspection, and the findings of the inspection. Said inspections must be completed by the California Department of Industrial Relations (DIR). CONTRACTOR shall provide and pay for all inspections.

A4.3 Down Time of Attractions: The daily schedule for operation of all proposed rides, games, and shows shall ensure, barring major power outages or acts of God, that no more than five percent (5%) of the total CARNIVAL operations is down or otherwise not in operation at any given time during the hours that the FAIR is proposed to be open to the public.

A4.3.1 Exception: This section shall only apply to rides, games, shows and other attractions which are in safe working order. CONTRACTOR shall not, under any circumstances, operate any rides, games, shows or other attractions which are not in safe working order. For those rides, games, shows, or other attractions that are not in safe working order, CONTRACTOR shall immediately repair and bring them to safe working order or shall immediately replace them with rides, games, shows, or other attractions that are approved by the COUNTY.

A4.4 Equipment, Ride and Attraction Repair and Maintenance: CONTRACTOR shall inspect CARNIVAL grounds, equipment, and attractions on a regular basis and with such frequency to ensure that all CARNIVAL grounds, equipment, and attractions are in safe working order or condition and all repair and maintenance issues are quickly addressed, and that no unsightly conditions (e.g., litter, trash accumulation, marred surfaces of any kind on COUNTY or CONTRACTOR property within the defined CARNIVAL area) will exist on CARNIVAL grounds, equipment, and attractions. Except as set forth in Section A4.3.1, CONTRACTOR shall correct the said issues, conditions, or problems within a reasonable period of time, which shall depend on the issue or problem or the severity of the condition. CONTRACTOR will maintain clean, attractive, brightly lit rides, games, shows, and other attractions. CONTRACTOR will provide ride report repair and maintenance records to COUNTY upon request.

A4.5 Monitoring and Inspection: The following monitoring and inspection activities will be performed by COUNTY:

A4.5.1 Immediately prior to the initial opening of the FAIR each year, the COUNTY will do a complete walk through with the CONTRACTOR, or his/her authorized designee, and the Riverside County Fire Marshal.

A4.5.2 Prior to the opening of each FAIR day at an agreed upon time between COUNTY and CONTRACTOR, COUNTY will do a complete walk through with the CONTRACTOR, or his/her authorized designee.

A4.5.3 At the completion of the CARNIVAL take down each year, COUNTY will do a complete walk through with the CONTRACTOR, or his/her authorized designee.

A4.5.4 These monitoring and inspection activities by COUNTY shall in no way release CONTRACTOR from its own obligations and responsibilities under this Agreement.

A4.6 Carnival Set-up and Take-down: CARNIVAL must be set up and ready for inspection by COUNTY by 6:00 pm on the day before the first day of each annual FAIR. For each FAIR period, CONTRACTOR shall provide prior written notice to COUNTY before entry onto the FAIRGROUNDS for set up. COUNTY will advise CONTRACTOR if entry date is acceptable. CONTRACTOR will not operate an amusement ride unless a current permit to operate that ride has been issued by the Division of Occupational Safety and Health of California. All CARNIVAL equipment shall be removed from the FAIRGROUNDS within seventy-two (72) hours of closing of each FAIR. CONTRACTOR will provide security for all CARNIVAL equipment during the take-down period.

A4.7 Failure to Perform: If CONTRACTOR fails to provide rides during the FAIR, CONTRACTOR shall pay the COUNTY as follows the following amounts for each day a ride is inoperable or out of service during the FAIR:

- a) One thousand dollars (\$1,000.00) per day for each day a Spectacular ride;
- b) Seven hundred fifty dollars (\$750.00) per day for each day a Major or Family ride; and
- c) Five hundred dollars (\$500.00) per day for each day a Kiddie ride.

CONTRACTOR shall pay the COUNTY any amounts owed under this section not later than the date on which the final reconciliation set forth in Section 3 of the Agreement takes place for the FAIR during which the non-performance occurred.

A4.8 Vacation of Premises: CONTRACTOR shall remove all rides, games, paraphernalia, and personal property of CONTRACTOR and its employees and contractors from the FAIRGROUNDS no later than seventy-two (72) hours after the close of each FAIR. Unless other arrangements are made in writing prior to the closing of the each FAIR, CONTRACTOR shall pay COUNTY two hundred fifty dollars

(\$250.00) per day for each day said items remain at the FAIRGROUNDS, and if COUNTY chooses to store said items with a third party, CONTRACTOR shall pay COUNTY the actual storage price and any additional costs incurred by the COUNTY due to CONTRACTOR's failure to comply with the terms in this section.

A4.9 Authorized CARNIVAL Representative(s): CONTRACTOR must maintain one or more representatives who are authorized to take immediate action on behalf of the CONTRACTOR upon any request by the COUNTY at all times when CONTRACTOR's property is on the FAIRGROUNDS. This person(s) must be identified to COUNTY as the CONTRACTOR's authorized representative(s), and CONTRACTOR must provide said representative(s) phone number and e-mail address prior to the beginning of each FAIR.

- a) CONTRACTOR will be responsible for all employees having the training required by applicable laws and specified by the California Department of Industrial Relations, and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.
- b) During all CARNIVAL operating hours, experienced and adequate personnel must be on duty to perform the obligations and responsibilities under this Agreement.
- c) The number of employees hired by CONTRACTOR during CARNIVAL operations shall be sufficient to ensure that no CARNIVAL ride, game, show, or other attraction will be without a minimum of one qualified attendant at all times during scheduled hours of operation.

A4.10 Concessions: CONTRACTOR will be responsible to ensure all applicable health standards and regulations for selling or providing food and drink to the public will be adhered to including, at a minimum, the following:

- a) Complying with all applicable laws and regulations, and meeting any and all applicable Riverside County Health Department standards, for the transportation, handling, processing, storage, cooking, refrigeration, and selling or providing of food and drink to the public; and
- b) Maintaining high quality standards for food and drink concessions at all times; and
- c) NOT selling, distributing or otherwise providing any alcoholic beverages, including but not limited to beer or wine, cigarettes, tobacco, and cannabis products on or around the FAIRGROUNDS or on any adjacent COUNTY owned property at any time during the period of this Agreement.

A4.11 Placement of Concessions and Rides: No food concession booth is allowed on any exterior edge of the CARNIVAL grounds. All food concession booths must be located, at minimum, a distance of fifty (50) linear feet from the exterior line. CARNIVAL rides must be on the exterior and concession booths on the interior of the CARNIVAL grounds.

A4.12 Limitations on Sales/Concessions: Only the concessions listed in Section A3.2.1 shall be allowed on the FAIRGROUNDS. No other concessions and no novelty concessions will be allowed as well as no straight sales operations such as computer portraits, jewelry, antique photo booths, etc. without the written permission of COUNTY. Any such novelty concessions approved by the COUNTY will require additional compensation to the COUNTY by CONTRACTOR as set forth in Section 3 of this Agreement.

A4.13 Prohibitions: CONTRACTOR shall not:

- a) Operate games of chance;
- b) Sell cigarettes, tobacco, beer, wine or other alcoholic beverages, or cannabis products;
- c) Offer cash prizes or re-purchase prizes awarded in any game;
- d) Offer as prizes live ducks, chicks or other live animals with the exception of gold fish, soft drinks in other than plastic containers, knives, firearms, or any item which could be used as a weapon, posters or merchandise featuring nudity or promoting the use of drugs;
- e) Use or employ "Capers," "Shills," and/or any person posing as patrons;
- f) Employ or use anyone under the age of eighteen (18) years of age in the operation of any ride;
- g) Employ or use anyone under the age of sixteen (16) years of age in the operation of any game or other CARNIVAL attraction.

A4.14 Other General Requirements: CONTRACTOR will ensure the following:

- a) Employees who have regular public contact shall be attired in clean uniform clothing.
- b) CONTRACTOR is responsible for barricading all equipment and maintenance areas.
- c) Procedures will be established to ensure reasonable security of all rides, games, concessions and other CARNIVAL equipment when not in use so that no attractive nuisance or negligent conditions exist.
- d) All staff provided by CONTRACTOR will be uniformly dressed in clean, new or near new show shirts with the FAIR's logo. No shirts with other fairs' logo may be worn. All shirts must be tucked in at the waist.

- e) All staff provided by CONTRACTOR will wear uniform slacks, trousers or dress shorts. No cutoff, rag bottoms or rips in the material will be allowed.
- f) All staff provided by CONTRACTOR will be required to have neatly trimmed hair. Any facial hair must also conform with a trim look.
- g) There shall be no smoking or chewing tobacco in view of the public by any employee or volunteer of CONTRACTOR. All smoking must be done in designated smoking areas away from patrons. CONTRACTOR shall pay the COUNTY \$50.00 for each breach of the terms set forth in this section.
- h) Cart permit fees (including mopeds and golf carts) will be charged at FAIR rates. However, COUNTY will provide two (2) complimentary golf cart permits for the duration of eachthe FAIR. Only electric carts are allowed. Golf carts are considered a safety hazard and are prohibited on the FAIRGROUNDS during FAIR hours of operation. Only licensed drivers may operate a golf cart on the FAIRGROUNDS, an insurance certificate must be on file with COUNTY showing coverage for all carts used by CONTRACTOR. Any cart that does not have an operating parking brake or works without a key shall not be allowed on the FAIRGROUNDS. Golf carts are always to be driven at a reasonable speed and with extreme caution. If COUNTY observes a cart being driven in an unsafe manner, the permit will be revoked and the cart will be removed from the FAIRGROUNDS for the duration of the FAIR. Carts may not be parked in doorways or in front of attractions, concessions or exhibits. Bicycles, skateboards, scooters and/or skates are not permitted on the FAIRGROUNDS.
- i) CONTRACTOR shall provide fifteen thousand dollars (\$15,000) to COUNTY to be applied towards Sheriff's Department CARNIVAL security during each FAIR period. This amount will be paid during to COUNTY at the reconcilliation for each FAIR year as set forth in Section 3.2 of the Agreement.

A5.0 COUNTY RESPONSIBILITY: The COUNTY hereby agrees to provide the CONTRACTOR space at the FAIRGROUNDS located at 82-503 Highway 111, Indio CA 92201 subject to the terms of this Agreement for the purpose of providing a CARNIVAL attraction during each annual FAIR. (See Exhibit C Carnival CARNIVAL Area.)

A5.1 The COUNTY will provide to CONTRACTOR the following spaces:

- a) **Adult Carnival Area:** approximately 300,000 square feet located in the center of the FAIRGROUNDS adjacent to Arabia Street.
- b) **Kiddie Carnival Area:** approximately 70,000 square feet located at the northwest corner of the FAIRGROUNDS.
- c) **Concession Area:** the portion of the CARNIVAL area not occupied or used for rides or shows may be used to operate food and game concessions subject to mutually agreed upon space planning which will afford the best utilization of the available areas.

A5.2 The COUNTY will provide all CARNIVAL ride tickets and wristbands during the run of each the FAIR. Said tickets and wristbands shall be audited by COUNTY and CONTACTOR prior to the opening of each the FAIR and upon closing of each the FAIR. Carnival CARNIVAL Wristband prices for the 2020 2020 FAIR are twenty-five dollars (\$25.00) for Tuesday through Thursday, twenty-eight dollars (\$28.00) on Fridays, Saturdays, Sundays and Monday and twenty-two dollars (\$22.00) pre-sale. CARNIVAL wristband prices for subsequent years will be mutually agreed upon by the parties.

A5.3 COUNTY and CONTRACTOR shall meet annually at least one hundred eighty (180) days prior to each FAIR, if not sooner, and agree on the pre-sale term of CARNIVAL tickets. Pre-sale of CARNIVAL tickets shall end at midnight (PST) on the day prior to the first day of each FAIR. COUNTY shall be responsible for all pre-sale of CARNIVAL tickets and shall retain all pre-sale funds each year until financial settlement occurs pursuant to Section 3 of the Agreement. Any commissions associated with pre-sale CARNIVAL tickets shall be shared by both CONTRACTOR and COUNTY equally.

A5.4 Unless otherwise specifically stated in Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

B2.0 Pre-Sale Revenue: Below is the Total Carnival Advance (Pre-Sales) Revenue worksheet example. Should there be any inconsistencies between the example worksheet below and the other terms and conditions in this Agreement, the latter shall control. The example worksheet below is only for example purposes and will be completed and modified as necessary at the agreed upon percentages, prices, and/or costs set forth in this Agreement during the reconciliation period after the completion of each FAIR during the term of this Agreement, as agreed upon by COUNTY and CONTRACTOR.

2020 National Date Festival Total Carnival Advance (Pre-Sales) Revenue As of: FEBRUARY XX, 2020					
	Amount	Ticket Value	# Packs	# Tickets	Notes
Gross NPO Advance Sales	\$ -	\$ 22.00		0	1
Total Admin Office Sales-Gross	\$ -	\$ 22.00		0	1
E-Ticket Advance Sales	\$ -	\$ 22.00		0	
Bus Tour Group Tickets	\$ -	\$ 22.00		0	
Accounting & Finance	\$ -	\$ 22.00		0	
Gross Carnival Advance Sales	\$ -			0	
less: NPO Commissions	\$ -				2
Net Carnival Advance Sales	\$ -				
E-Ticket Advance Sales \$22	\$ -	\$ 22.00		0	
Family Fun Pack Sales Advance	\$ -	\$ 22.00	-	0	3
Total Online Advance Sales	\$ -		0	0	
E-Ticket Fairtime Sales	\$ -	\$ 22.00		0	4
Family Fun Pack Sales \$28	\$ -	\$ 28.00		0	4
Total Online Fairtime Sales	\$ -		0	0	

Notes:

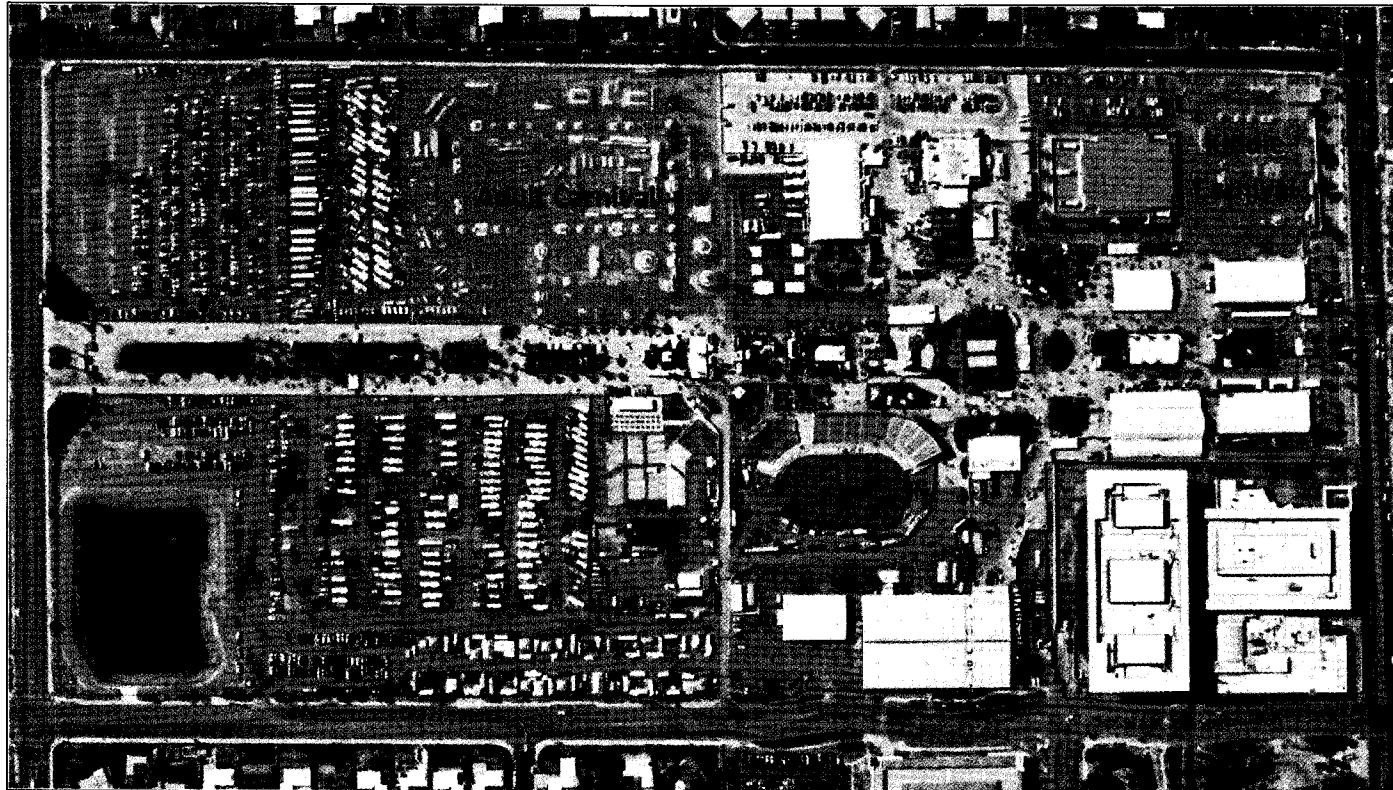
1. Data obtained from 2020 Fair Advance Sales Report.
2. Shared 50/50.
3. FFPaks =# Packs *2 =XX tickets
4. Not sold online at fairtime.

B3.0 Total Carnival Sales: Historic data obtained from previous reconciliations to project how much CONTRACTOR may owe so they do not overpay with their deposit; however, the data below shall not be controlling for purposes of complying with and enforcing the terms and conditions of this Agreement

2020 National Date Festival Total Carnival Sales					
As of: FEBRUARY XX, 2020					
	2020	2019	2018	2017	2016
2/14/2020 FRIDAY	\$	53,250.00	\$ 75,522.00	\$ 64,678.00	\$ 122,290.00
2/15/2020 SATURDAY	\$	129,330.00	\$ 153,137.00	\$ 53,924.00	\$ 152,088.00
2/16/2020 SUNDAY	\$	190,577.00	\$ 230,615.00	\$ 243,959.00	\$ 221,756.00
2/17/2020 MONDAY-HOLIDAY	\$	192,150.00	\$ 162,896.00	\$ 214,446.00	\$ 200,959.00
2/18/2020 TUESDAY	\$	46,547.00	\$ 48,681.00	\$ 48,269.00	\$ 49,020.00
2/19/2020 WEDNESDAY	\$	68,997.00	\$ 69,377.00	\$ 69,211.00	\$ 65,672.00
2/20/2020 THURSDAY	\$	19,270.00	\$ 67,534.00	\$ 74,710.00	\$ 68,676.00
2/21/2020 FRIDAY	\$	119,061.00	\$ 105,442.00	\$ 128,468.00	\$ 120,417.00
2/22/2020 SATURDAY	\$	302,884.00	\$ 305,355.00	\$ 337,832.00	\$ 331,376.00
2/23/2020 SUNDAY	\$	267,570.00	\$ 270,458.00	\$ 275,512.00	\$ 294,151.00
TOTAL FAIRTIME SALES		\$ 1,389,636.00	\$ 1,489,017.00	\$ 1,511,009.00	\$ 1,626,405.00
2020 SALES \$		-			
CHANGE FROM PRIOR YEAR		\$ (1,389,636.00)			

**EXHIBIT C
CARNIVAL Area**

Arabia Street



Oasis Street