

**AGREEMENT BETWEEN THE
ANTELOPE VALLEY FAIR AUTHORITY AND THE CITY OF
LANCASTER**

This agreement (Agreement) is made between the ANTELOPE VALLEY FAIR AUTHORITY, a California joint powers authority (FAIR) AND THE CITY OF LANCASTER (CITY).

RECITALS

WHEREAS, pursuant to that certain Administrative Services Agreement dated January 1, 2012, FAIR provides administrative services to the Antelope Valley Fair Authority, including operation of facilities for educational, entertainment and business needs as well as year-round community events for the public; and

WHEREAS, the FAIR agrees to contract from the CITY certain managerial services as described in Exhibit A (Services); and

WHEREAS, the CITY agrees to provide the Services consistent with all applicable laws and regulations pursuant to the provisions of this Agreement; and

In consideration of the mutual covenants and conditions the FAIR and the CITY agree as follows:

TERMS AND CONDITIONS

1. PURPOSE

The purpose of this Agreement is for the FAIR to contract from the CITY certain administrative and operations services as FAIR and the CITY have determined are necessary and more particularly described in Exhibit A hereto.

2. TERM OF AGREEMENT

The term of this Agreement shall be for a period of four (4) years commencing on July 1, 2025 and ending on June 30, 2029, with an option to continue for two (2) more years under the same terms and conditions, unless earlier terminated, extended, or modified as provided herein.

3. SCOPE OF SERVICES

The CITY agrees to provide the human resource, staffing and fiscal administration, as specified in "Scope of Materials and Services" (Exhibit "A"), attached and incorporated by this reference (collectively, the "Services"). The CITY and FAIR will mutually agree upon an annual

budget for the Services based on a best estimate of the costs to provide such Services and historical data, which budget will be adopted by FAIR prior to the commencement of each fiscal year (“Annual Budget”). The Annual Budget for the fiscal year inclusive of _____, _____, is attached hereto as Exhibit “B”. The Annual Budget will be subject to amendment in accordance with changes in the actual costs of goods and services provided by the CITY as described in Section 5(c). Exhibit A may be amended in whole or in part to reflect any changes or adjustments as directed by the actions of the governing bodies of the FAIR and/or the CITY . For purposes of interpretation of the scope and nature of the Services, the governing order of document precedence shall be first Exhibit A and second the current fiscal year budget for the FAIR, as amended. For all subsequent fiscal years the annual budget will be effective July 1-June 30 of each year.

4. COMPENSATION

The CITY shall perform its obligations under this Agreement in accordance with the approved Annual Budget, as amended, each fiscal year during the term of this Agreement or until the termination or expiration of this Agreement. Compensation is based on the cost matrix as described below:

- A. The CITY may purchase materials and supplies which will be reimbursed by the FAIR at the actual cost of the material or supplies;
- B. The FAIR shall pay the pro rata portion of the base salary and associated employment benefits for all time spent by Staff (as defined in Section 11) on FAIR matters as described in the Annual Budget.
- C. The CITY agrees to provide the following products and services in the scope of this Agreement to the level used by the CITY in the scope of its regular business practices: financial, payroll, and HRIS systems as needed to provide human resource, staffing and fiscal support. Where the FAIR has purchased and/or owns user licenses or enhancements, or chooses to enhance any of these services beyond the level used by the CITY, the FAIR agrees to pay the costs for the enhancements and related maintenance.
- D. Except as provided in Paragraph C above, the CITY may make available certain services or products for which they are the sole owner, or certain services or purchases from which both the CITY and FAIR derive relevant benefits. The CITY may assess a proportionate share of the purchase cost and/or service costs to the FAIR not to exceed a proportionate amount based on the ratio of Full-Time Equivalents or any other relevant use metric between both agencies at the end of current fiscal year or period of software use.
- E. If additional services are required or requested over and above the services described in Exhibit A or which exceed the Annual Budget, as amended, then such services and associated costs shall be provided when directed and approved by the FAIR Governing Board.
- F. FAIR will further pay a charge to cover administrative overhead and compensate the CITY for the indirect costs of delivering the services described herein. Said charge will be calculated as 10% of the total billed each month for services and will be added to the

invoice.

5. PAYMENT OF COSTS

On a monthly basis or as necessary, the CITY shall deliver to the FAIR an invoice for materials and services provided. The invoice shall include a description of the materials and services provided.

- A. Payment for the costs of services and materials provided by the CITY to the FAIR pursuant to this Agreement shall be made at the direction of the FAIR Governing Board, according to the regular check approval process.
- B. Professional services of CITY staff will be billed monthly at 1/12 of the contracted amount approved in the annual FAIR Budget as set forth in the line item, "Program Staff".
- C. Not less than quarterly, the CITY will reconcile the actual costs to deliver the Services against the estimates approved in the Annual Budget. If the actual cost to deliver the Services exceeds the estimate in the Annual Budget, then the CITY will be entitled to invoice FAIR for such excess cost. If the actual cost to deliver the Services is less than the estimate in the Annual Budget, then the CITY will credit FAIR for such cost saving. If an increase or decrease in actual cost is expected to continue for the remainder of the fiscal year, then the Annual Budget and the monthly billing will be modified accordingly, provided however, that with respect to increases in the Annual Budget, the CITY will cooperate with FAIR to find ways to mitigate such increases.
- D. The FAIR shall pay the amount indicated on the invoice within forty-five (45) days of the date of the invoice. If the FAIR does not pay the amount indicated on the invoice with forty-five (45) days, interest may accrue on the unpaid amount at the legal rate of interest per annum or such rate as allowed by any subsequent amendment to California Law.

In the event the FAIR disputes an amount indicated on an invoice, such dispute shall be resolved in accordance with the conflict resolution procedures as set forth in Section 8 below. In the event of such a dispute, interest will accrue on only that part of the disputed amount which is determined to be due and owing to the CITY as provided in Section 4 above. In the event of a breach or termination of this Agreement, the CITY is entitled to payment for Services actually performed and materials actually provided as of the date of the breach or termination. In such event the CITY shall provide a final invoice as set forth above detailing the materials and services provided and hours expended for the period between the last date indicated on the previous invoice to the date of the breach or termination. The final invoice will include the cost of the CITY to transition all Dedicated Staff, as defined in Section 11, and for FAIR to assume all Personnel Costs as set forth in Section 11.

6. INDEMNITY AND LIABILITY

- A. The FAIR and the CITY shall, to the extent authorized by law, indemnify and hold harmless each other, their agents and employees against all liabilities arising out of or connected with

the performance of this Agreement.

- B. In the event litigation is threatened or commenced by a third party regarding negligent acts or omissions of the CITY, its officers, volunteers and authorized agents while performing services for the FAIR to which the FAIR becomes a party, the CITY shall retain and bear all litigation expenses (inclusive of attorneys' fees and costs) of the FAIR engendered by such litigation.
- C. In the event litigation is threatened or commenced by a third party regarding negligent acts or omissions of the FAIR, its officers, employees, volunteers and authorized agents while performing services for the CITY to which the CITY becomes a party, the FAIR shall retain and bear all litigation expenses (inclusive of attorneys' fees and costs) of the CITY engendered by such litigation.
- D. In addition to the defense and indemnity obligations set forth in Section 6.C., above, FAIR shall further defend, indemnify and hold the CITY harmless from and against any claim by any person or entity that the CITY is or has become a joint employer of one or more employees of the FAIR pursuant to this Agreement and/or provision of the services provided hereunder.
- E. For the purposes of this section, negligent acts and omissions include, but are not limited to, the failure to lawfully perform the Services. Notwithstanding the foregoing the CITY staff will not be considered to be acting negligently if they properly carry out the rules, regulations, plans and policies adopted by FAIR. FAIR remains solely responsible for such rules, regulations, permit issuance, grant activities, plans and policies, as well as defending any third-party claim which challenges the enforceability and/or legality of same.

7. INSURANCE

Within thirty (30) days from the execution of this Agreement and for the term of this Agreement: the CITY will include the FAIR as an additional named insured on the CITY policies for workers' compensation insurance, and employment practices insurance.

The FAIR shall obtain and maintain general liability insurance, property insurance, vehicle comprehensive and collision insurance, errors and omissions insurance, and other insurance as approved by the FAIR Governing Board at the expense of the FAIR.

In the event the FAIR directly obtains the services of officers and employees outside the scope of this Agreement the FAIR shall obtain and maintain workers' compensation and employment practices insurance at the expense of the FAIR. Such additional insurance shall be obtained within thirty (30) days from the employment of officers or employees outside the scope of this Agreement. The FAIR will, as necessary, include the CITY as an additional named insured on such policies.

8. CONFLICT RESOLUTION

Conflicts regarding the terms, provisions, nature, scope, delivery, provision of specific services or materials, or arising as a result of the implementation of this Agreement shall be resolved in the following manner:

- A. The chair of the Governing board of the FAIR (the “Chair”) or the Mayor of the CITY (the “Mayor”) shall contact the other, inform him or her of the nature and scope of the conflict and attempt to resolve the conflict.
- B. If the Chair and Mayor cannot resolve the conflict by discussion, each shall place an item on the agenda of the next regularly scheduled meetings for their respective Governing Board/City Council, respectively, regarding the conflict and appointment of Governing Board/City Council members to a Conflict Resolution Committee.
- C. The FAIR Governing Board and the City Council shall each appoint two (2) members to the Conflict Resolution Committee.
- D. The Conflict Resolution committee shall schedule a meeting to occur within fifteen (15) days of the later of the FAIR or the CITY Governing Board/City Council meeting at which members were appointed to the Conflict Resolution Committee. The Conflict Resolution Committee shall have fifteen (15) days from the date of the first meeting of the committee to attempt to resolve the conflict.
- E. If the Conflict Resolution Committee fails to resolve the conflict within the time stated above, the matter shall be submitted to non-binding arbitration by either Party. Each Party agrees to bear one-half (1/2) the cost of obtaining such non-binding arbitration. An impartial arbitrator shall be selected by alternately striking from a list provided by the California State Mediation and Conciliation Service who shall hear the matter and render a decision.
- F. If either of the Governing Board/City Council elects not to accept the decision of the arbitrator at its next regularly scheduled meeting or the arbitrator fails to resolve the matter, either the FAIR or the CITY may terminate this Agreement in accordance with the terms set forth herein
- G. Each party reserves its rights and remedies to enforce the terms of this Agreement at law or in equity.

9. DUE DILIGENCE

Upon commencement of the term of this Agreement the CITY agrees to perform with due diligence the services specified herein.

10. EQUIPMENT

Equipment owned by the FAIR at the expiration or termination of this Agreement shall remain the property of the FAIR.

Equipment owned by the CITY prior to the expiration or termination of this Agreement but used in the performance of services under this Agreement shall remain the property of the CITY.

Equipment purchased and billed to the FAIR pursuant to the terms of this Agreement shall be the property of the FAIR.

The CITY agrees that upon expiration or termination of this Agreement, any property of the

FAIR which is in the possession of the CITY shall be returned to the FAIR at a location designated by the FAIR within fifteen (15) days of the expiration or termination of this Agreement.

11. STAFF

The CITY will provide professional officers and employees of the CITY to perform the Services for FAIR pursuant to the terms of this Agreement. It is intended that the CITY will use both (a) existing CITY staff; and (b) staff which has been hired by the CITY solely to perform the Services (“Dedicated Staff”). All officers and employees of the CITY, including the Dedicated Staff, shall remain the officers and employees of the CITY. Notwithstanding the provisions of paragraph 4 above, the CITY shall remain solely responsible for the payment of all salaries and benefits, including but not limited to salary, health and dental benefits, employment related taxes and pension contributions (collectively, “Personnel Costs”), for its officers and employees when such officers and employees are performing the Services.

The duties which the officers and employees of the CITY may be required to perform for the FAIR pursuant to this Agreement shall conform to the job descriptions of such officers and employees in their duties with the CITY. For the purposes of this Agreement “job description” shall be the current and most recent job descriptions or as subsequently amended by the CITY for the CITY’s officers and employees.

Upon expiration or termination of this Agreement with the CITY, it is intended that the Dedicated Staff and its office location will be transitioned to the FAIR. In the event the FAIR offers employment to such Dedicated Staff in the same or a similar capacity and subject to the personnel policies and procedures of the FAIR and other requirements as determined by the FAIR Governing Board, if any, the FAIR will assume all Personnel Costs of the Dedicated Staff transferred to the FAIR employment on the transition date. The CITY and FAIR will cooperate to transition any existing pension benefits to the extent permitted by applicable law. Following the expiration or termination, if services will be performed by a third-party contractor, then FAIR may request 1) that the third-party contractor offer position(s) to the Dedicated Employees; and 2) that the third-party contractor give priority offers of employment of same or similar positions to the Dedicated Employees. Notwithstanding the use of a third-party contractor, FAIR will remain financially responsible for the assumption of all Personnel Costs for transferred staff as of the transition date.

In the event that FAIR or any third-party contractor employed by FAIR fails to transition the Dedicated Staff, then the CITY will continue to treat the Dedicated Staff in accordance with the CITY’s normal existing policies and procedures and Dedicated Staff will have the same rights and seniority in the same manner and to the same extent as the CITY staff who have not been dedicated to provide services to FAIR. Notwithstanding the foregoing, the CITY reserves the right to terminate Dedicated Staff if no position(s) are available and FAIR will be responsible for all reasonable costs and expenses incurred by the CITY in connection with such termination.

12. INTENTIONALLY OMITTED

13. OPERATIONAL OVERSIGHT

The Governing Board of the FAIR reserves the right to contract separately for operation oversight of the FAIR office. The CITY will provide reasonable access to its records and personnel for such oversight. Such third party hired for oversight may direct day to day operations under this Agreement as well as oversee actions of staff to provide services under this Agreement, however such third party shall not have the right to change the scope or nature of Services under this Agreement nor exercise any personnel related authority under the CITY's policies and procedures including, but not limited to, performance reviews and discipline of CITY personnel. Nothing in this provision shall prevent either the FAIR Governing Board or any person contracted to provide operation oversight from providing input, advice and consultation regarding FAIR issues.

14. FEES, FINES, SUBVENTIONS, GRANTS AND OTHER REVENUE

All fees, fines, subventions, grants and other revenue owed to the FAIR pursuant to Federal, State or local law, rule, regulation, permit or order of a State or Federal Court of competent jurisdiction shall be received by the FAIR. In the event that any such fee, fine, subventions, grants and other revenue owed to the FAIR is received by the CITY, it shall be transferred to the FAIR immediately upon receipt and shall not affect payments made under this Agreement.

15. CONTRACT PERFORMANCE

The CITY agrees to make and maintain all records that are required by Federal or State law or local rule, regulation, permit or order or by an order of a State or Federal Court of competent jurisdiction and to transfer such records to the FAIR upon expiration or termination of this Agreement.

A Governing Board member of the respective Governing Boards of the FAIR and the CITY may attend any open session of Governing Board meetings of the other agency and any public meetings of the other agency which directly relate to the materials and services provided pursuant to this Agreement.

16. COPYRIGHT MATERIALS

The FAIR reserves the right to any copyrightable materials developed pursuant to this agreement. Upon acceptance of the copyrightable materials the FAIR shall have the right, title and interest including trade secret and copyright interest in the copyrightable materials. During the term of this Agreement, the CITY shall have a non-exclusive right to use, copy and otherwise benefit from such materials.

17. FISCAL AUDIT

The FAIR shall designate an auditor and a fiscal audit shall be conducted annually by a qualified accountancy firm. The results of the audit shall be presented to the Governing Board on completion.

In the event this agreement expires or terminates, an audit shall be provided to the Governing Board of the FAIR within ninety (90) days of the expiration or termination of this Agreement.

The CITY agrees that the FAIR or its duly authorized representative shall have access and the right to examine, audit, excerpt, transcribe and copy the CITY's financial records, documents, papers and records which are related or pertinent to this Agreement. Such materials shall be retained for a period of at least two (2) years or such other longer period as required by State or Federal law, rule or regulation or by the CITY's policies or procedures.

The FAIR agrees that the CITY or its duly authorized representative shall have access and

the right to examine, audit, excerpt, transcribe and copy the FAIR's financial records, documents, papers and records which are related or pertinent to this Agreement. Such materials shall be retained for a period of at least two (2) years or such other longer period as required by State or Federal law, rule or regulation or by FAIR's policies or procedures.

18. PRIVILEGES AND IMMUNITIES

Pursuant to the provisions of Government Code 6513 and any other applicable law, all of the privileges and immunities from liability, exceptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of the CITY shall apply to the same degree and extent while such officers, agents or employees of the CITY are engaged in the performance of any of their functions and duties within the jurisdiction of the FAIR or the CITY .

19. SUCCESSORS

Neither party will assign or transfer any rights or obligations under this Agreement without the written consent of the other.

Each party and their successors, legal representatives and to the extent permitted herein, their assigns, are hereby bound to the other party and to the successors, legal representatives and the assigns of the other party in respect to all covenants, agreements and obligations of this Agreement.

20. AMENDMENT

This Agreement and its Exhibits, as amended from time to time in accordance with the terms of this Agreement, constitute the entire agreement between the Parties and will supersede all prior written or oral understandings. This Agreement and its Exhibits, as amended, may only be amended, supplemented and modified by an executed written instrument as approved the Governing Boards of the FAIR and the CITY. Notwithstanding the foregoing, the Governing Boards may specify a threshold for modifications to the Services and the Annual budget which are within the discretion of the General Managers of each entity.

For purposes of this Agreement, the annual adoption of the Annual Budget for each successive fiscal year until the expiration or termination of this Agreement as provided for in Paragraph 3 shall be deemed an amendment to Exhibit B of this Agreement upon mutual approval of the Annual Budget and its adoption by the Governing Board of the FAIR.

21. TERMINATION

The Governing Board of the FAIR or the CITY Council may terminate this Agreement at any time by giving written notice to the other party 180 days in advance of the proposed termination, but not less than ninety (90) days before the effective date of the proposed

termination.

In the event this Agreement is terminated, all finished and unfinished documents and other materials produced by the CITY pursuant to the terms of this Agreement shall be provided to the FAIR. If the Agreement is terminated by either party, the CITY shall be paid all amounts due and unpaid, whether or not such amounts had been billed to the FAIR, as of the date of the termination subject to the resolution of any disputed amounts pursuant to the conflict resolution procedure set forth in Section 8 above.

In the event this Agreement is terminated, FAIR Dedicated Staff will be transitioned in accordance with the terms of Section 11.

22. EFFECTIVE DATE

This Agreement shall be effective _____ for the term specified in Section 2 above.

23. VENUE

The venue for any claims or actions brought related to or regarding this Agreement shall lie in the County of Los Angeles, California.

This Agreement is executed in the city of Lancaster, County of Los Angeles.

ANTELOPE VALLEY FAIR AUTHORITY

CITY OF LANCASTER

BY: _____

BY: _____
Trolis Niebla, City Manager

DATED: _____

DATED: _____

Approved as to Legal Form



Allison Burns, City Attorney

EXHIBIT A
SCOPE OF SERVICES

[INSERT DESCRIPTION]

EXHIBIT B
BUDGET

END OF CONTRACT