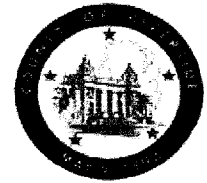


**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

667 A



**FROM:** Agricultural Commissioner's Office

**SUBMITTAL DATE:**  
April 7, 2010

**SUBJECT:** European Grapevine Moth Detection Program

**RECOMMENDED MOTION:** That the Board of Supervisors:

- 1) Approve California Department of Food and Agriculture Agreement No. 09-0803 in the amount of \$41,548 for FY 09/10; and
- 2) Authorize the chairman to sign the agreement.

**BACKGROUND:** Agricultural production in Riverside County contributes an estimated \$4.4 billion to the local and regional economy. Among the rich and varied assortment of agricultural commodities produced, grape production alone represents 8% of this economic contribution, with about 11,400 planted acres.

This program will fund early detection of this invasive insect species which was recently detected for the first time within the United States, in California's Napa Valley. Establishment of the European Grapevine Moth within Riverside County would eliminate a large proportion of our export markets and would present a serious threat to the continued viability of local grape production. This agreement was approved as to form by County Counsel.

*John Snyder*

**John Snyder, Agricultural Commissioner/  
Sealer of Weights and Measures**

**FINANCIAL DATA**

Current F.Y. Total Cost:	\$ 41,548	In Current Year Budget:	Yes
Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
Annual Net County Cost:	\$ 0	For Fiscal Year:	2009/2010

**SOURCE OF FUNDS:** California Department of Food and Agriculture

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE

BY: *Michael R. Shetler*  
Michael R. Shetler

**County Executive Office Signature**

Prev. Agn. Ref.:

District: III & IV | Agenda Number:

3.14

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

FORM APPROVED BY COUNTY COUNSEL (10/10)  
 BY: *Neal R. Kipnis*  
 NEAL R. KIPNIS DATE  
 Departmental Concurrence

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

STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 STD 213 (Rev 10/05)

AGREEMENT NUMBER <b>09-0803</b>
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:  
 STATE AGENCY'S NAME  
**DEPARTMENT OF FOOD AND AGRICULTURE**  
 CONTRACTOR'S NAME  
**COUNTY OF RIVERSIDE**
2. The term of this Agreement is: March 1, 2010 Through June 30, 2010
3. The maximum amount of this Agreement is: \$41,548.00  
 Forty-one Thousand Five Hundred Forty-eight Dollars and No Cents
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A – Scope of Work	1 Page(s)
Attachment 1	3 Page(s)
Attachment 2	2 Page(s)
Attachment 3	4 Page(s)
Exhibit B – Budget Detail and Payment Provision	1 Page(s)
Attachment 1	2 Page(s)
Exhibit C – General Terms and Conditions - GTC 307	3 Pages
Check mark one item below as Exhibit D:	
<input checked="" type="checkbox"/> Exhibit D-Special Terms and Conditions (Attached hereto as part of this Agreement)	1 Page(s)
<input type="checkbox"/> Exhibit D*-Special Terms and Conditions	
<input checked="" type="checkbox"/> Exhibit E – Additional Terms and Conditions	1 Page(s)

5. Name of Program: European Grapevine Moth

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

<b>CONTRACTOR</b>		California Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)		
<b>COUNTY OF RIVERSIDE</b>		
BY (Authorized Signature)	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
4080 Lemon Street, Room 19, PO Box 1089, Riverside, CA 92502-1089		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME		
<b>DEPARTMENT OF FOOD AND AGRICULTURE</b>		
BY (Authorized Signature)	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING		
JANICE L. PRICE, CONTRACTS MANAGER		
ADDRESS		
1220 N STREET, ROOM 115, SACRAMENTO, CA 95814		

FORM APPROVED COUNTY COUNSEL  
 BY NEAL R. KIPNIS

Exempt per: DGS Ltr 28.6

**EXHIBIT A  
(County Agreement)**

**SCOPE OF WORK**

1. Contractor agrees to provide the services described herein:

The Contractor shall provide labor and materials necessary for the placing and servicing of traps for the detection of the European Grapevine Moth.

Services shall be provided within the County of Riverside.

2. The program contract managers for this Agreement are:

<b>FOR CDFA, THE PROGRAM CONTRACT MANAGER IS:</b>	<b>FOR CONTRACTOR:</b>
Name: Debby Tanouye, Branch Chief	Name: John Snyder
Section/Unit: Pest Detection/Emergency Projects	Section/Unit: Agricultural Commissioner
Address: 1220 N Street, Room 315	Address: 4080 Lemon Street, Rm 19 PO Box 1089
City/Zip: Sacramento, CA 95814	City/Zip: Riverside, CA 92502-1089
Phone: 916-654-1211	Phone: 951-955-3000
Email: dtanouye@cdfa.ca.gov	Email: agdept@rivcoag.org

3. See Attachment 1 to this Scope of Work for a detailed description of work to be performed and duties of all parties.

## SCOPE OF WORK

### CONTRACT SPECIFICATIONS FOR STATE-COUNTY EUROPEAN GRAPEVINE MOTH (EGVM) TRAPPING

March 1, 2010

#### Section 1 -- The California Department of Food and Agriculture shall:

1. Provide trapping materials for European Grapevine Moth (EGVM) detection: including traps, lures and handouts.
2. Provide technical assistance and training to county agricultural commissioner personnel on the use of traps and detection procedures.
3. Provide GPS units or reimbursement for GPS units up to \$250. Reimbursement will require a copy of the receipt.
4. Ensure timely payment of invoices following confirmation of contract compliance.
5. Provide quality assurance of program.

#### Section 2 -- The County Agricultural Commissioner shall:

1. Submit a completed budget display (using the provided work plan).
  - o Napa County – Place 25 traps per square mile through November 30, 2010.
  - o Solano and Sonoma counties – place 25 traps per square mile within a five mile radius of any EGVM detection through November 30, 2010. Outside this area, place 16 traps per square mile where grapevines with flowers or berries are present (i.e., 1 trap per 40 acres) for three months (one flight season).
  - o All other counties - Place 16 traps per square mile where grapevines with flowers or berries are present (i.e., 1 trap per 40 acres) for three months (one flight season).
  - o If funding allows for extended trapping or if traps have not been deployed for three months, the contract may be amended.
2. Hire and/or train personnel.

3. Ensure that trapping procedures are followed.
4. Ensure that all documentation of work is complete and accurate.
5. Submit weekly reports using Report 2 to [dtanouye@cdfa.ca.gov](mailto:dtanouye@cdfa.ca.gov) due by the close of business the following Wednesday.
6. Submit monthly invoices no later than 30 days past the end of the month in which the invoiced activity occurred. Reimbursement will not occur unless weekly reports are submitted in a timely manner.
7. Provide one set of trapping records for all traps. This set, in the form of a "Trap Book," shall indicate the exact trap location using a site map and all information regarding trap placement, servicing, baiting, relocation and removal.
8. Allow state detection personnel and/or federal Plant Protection and Quarantine (PPQ) officers to perform quality control inspections on EGVM county trap lines.
9. Allow state detection personnel and/or federal PPQ officers to accompany trappers and/or supervisors in the field. This will be credited as field training for county personnel.
10. Provide and maintain trapping vehicles.
11. Submit samples to the Plant Pest Diagnostics Laboratory in Sacramento via approved method(s). See **Submitting Specimens for Identification** in the attachment, "European Grapevine Moth (EGVM) Trapping Guidelines."

### **Section 3 -- Description of Work**

1. Trapping activities will be conducted by County personnel following the guidelines and direction found in the attachment, "European Grapevine Moth (EGVM) Trapping Guidelines (March 1, 2010)."
2. Commercial trapping not in conjunction with any other detection activity will be fully reimbursed.
3. Mileage reimbursement is not allowed for EGVM traps piggybacked onto pest detection sites.

4. Delimitation trapping may be required upon detection of "new location" finds, but only with the approval of PD/EP project management.
5. If EGVM traps are piggybacked onto other detection sites, incorporate the documentation for EGVM traps into the books used for pest detection programs.
6. Complete a Daily Trapping Summary (DTS) (Form 60-210) for each trapper. This will serve as official documentation of work performed. This form must be available for review by the district entomologist or CDFA audit office for three years. To facilitate program audits, the DTS – whether completed daily, weekly or monthly – must be signed by the individual who performed the work indicated on that summary. This applies to hand completed or electronic summaries.

#### **Section 4 -- Basis for Payment**

1. Submit invoices by postal mail or e-mail to: Joanne Shimada at California Department of Food and Agriculture, 1220 N Street, Room 315, Sacramento, CA 95814, or to [jshimada@cdfa.ca.gov](mailto:jshimada@cdfa.ca.gov). If the invoice carries a signature block, the block must be signed. Invoices with blank signature blocks cannot be processed.
2. Payment is contingent upon receiving weekly reports, using Report 2.
3. Payment will be made monthly, in arrears, upon receipt and approval of invoice.
4. Invoice will conform to attached sample invoice.



Report Number 2  
 European Grapevine Moth -- Trap Service Data for Commercial Areas

County	Date	Trap Number		Location		Longitude	Latitude	Check Appropriate Boxes			Sample Collected (Yes or No)	Entered by Data Manager	
		Grid	Subgrid	Address	City			Placed	Removed	Relocated		Serviced	Skipped

Location -- enter all available data  
 \* The PDR number will be entered when the sample is submitted.

**NOTE:**  
 The latitude & longitude must be collected in Datum NAD83 in decimal degrees (e.g., 34.42331, -119.82505).

Agreement No. 09-0803  
 Exhibit A  
 Attachment Z  
 Page 2 of 2



## European Grapevine Moth (EGVM) Trapping Guidelines

March 1, 2010

### Trapping Seasons

- Commercial grape production areas:
  - Napa County –through November 30, 2010.
  - Solano and Sonoma counties – within a five mile radius of any EGVM detection, though November 30, 2010. Otherwise, the season is three months or one flight period.
  - All other counties will trap for three months or one flight period.
  - If funding allows for extended trapping or if the traps have not been deployed for three months, the contract may be amended.

### Trap Density

- Commercial grape production areas
  - Napa County – 25 traps per square mile
  - Solano and Sonoma counties – place 25 traps per square mile within a five mile radius of any EGVM detection and 16 traps per square mile where grapevines with flowers or berries are present (i.e., 1 trap per 40 acres).
  - All other counties– place 16 traps per square mile where grapevines with flowers or berries are present (i.e., 1 trap per 40 acres).
- In square miles with a mix of vineyards and non-vineyards, the number of traps deployed in the vineyards is prorated based on the commercial grape acreage in that square mile.

### Inspection Frequency

- Once every 14 days, unless directed otherwise. If pesticide treatments or other factors in the vineyard preclude servicing a trap, document the missed servicing in the trap book and include the information in the weekly trapping report Report Number 2.

### Trap

- The trap consists of three parts: the red delta trap body (red is not attractive to honey bees), lure (rubber septum) and the trap hanger or zip tie.

### Attractant

- The attractant for EGVM is a male sex pheromone. This lure acts primarily as a male attractant. The lure does not contain any insecticide.

### Hosts

- The primary host for EGVM is grapes. However, complete lifecycles may occur in a variety of other plants, including olive, blackberry, apricot, cherry, plum, kiwi pomegranate, privet, ivy, ornamental daphne, and carnation plants.

### Trap Assembly

- Traps will arrive fully assembled and the lure will be placed inside the trap by the trapper.
- Write the trap number and date of deployment on the trap body prior to placing the trap. Trap numbers for EGVM will include the six-digit grid number, subgrid designation, and the identifying letters "EGVM". For example: Commercial: 075045-EGVM-1.
- TO PREVENT CONTAMINATION OF OTHER SURFACES, AVOID DIRECT CONTACT WITH THE PHEROMONE SEPTA. Open the septa pouch; squeeze the septa directly into the trap, securing it onto the stickum on the bottom of the trap. Discard the empty packet according to the directive of the trapping office. DO NOT DISPOSE OF LURES OR LURE PACKAGES IN THE FIELD.
- Upon deployment, open the ends of the trap. Opening the ends of the trap will increase airflow and dispersal of the pheromone.
- If the primary trap at a site is a gypsy moth trap, place the EGVM lure into the gypsy moth trap. In this case, keep the ends of the trap closed and follow the placement protocol for the gypsy moth trap.

### Trap Placement

- Vineyards – Place traps at the end of the rows of the major vineyard throughways hanging them from the tallest vine cordon wires using zip ties or support poles away from the branches of the vines (unobstructed). Align traps so that they are parallel to the vine row.
- Open the ends of the trap. The openings must be free from obstructions. Place the trap out of the reach of children.

- All sites trapped must be GPS'd using Datum NAD83 in decimal degrees to 6 decimal points (e.g., 34.423314, -119.825056). If there are more than 6 digits, please truncate the figures (DO NOT round up or down). The minimum information recorded in the GPS unit is trap number, placement date, and degree decimal waypoint reading. New GPS points must be recorded if/when EGVM traps are relocated.
- In addition, document the GPS coordinates on the trap card.

### **Baiting Interval**

- Vineyard traps -- Every four weeks remove old septa and replace with new septa.

### **Trap Relocation**

- Vineyard traps-- Do not relocate unless the vineyard has been treated with a pesticide and the re-entry interval precludes timely servicing of the traps. Depending on vineyard treatment schedules, traps may need to be moved. Replace or relocate the traps as soon as possible after the re-entry period has lapsed. GPS the new site and document the GPS units on the trap card.

### **Submitting Specimens for Identification**

- The entire trap containing the suspect moth(s) should be collected and returned to the office for supervisory inspection. Before leaving the site, replace the old trap with a new one.
- Immediately contact the district entomologist after trapping a suspect moth(s). Send or deliver suspect specimens to Sacramento by the quickest means possible.
- Submit the entire trap, leaving the suspect EGVM adult(s) in the trap, for identification to the Plant Pest Diagnostics Branch. If the suspect moth is alive in the trap, place the trap in the freezer for at least one hour to kill the moth(s). Do not transport/send live specimens!
- All suspect specimens should be submitted along with Form 65-020, the electronic version of the Pest and Damage Report (e-PDR). The website for the e-PDR is <http://phpps.cdfa.ca.gov>. Persons submitting this form will need a username and a password.

- Notify John Pozzi ([jpozzi@cdfa.ca.gov](mailto:jpozzi@cdfa.ca.gov)) upon all submissions. Include the e-PDR number in this communication.

**EXHIBIT B  
(County Agreement)**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Invoicing and Payment**

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Unless mutually agreed, monthly invoices must be submitted within 60 days from the end of each month in which services were rendered. Invoices must include the Agreement number and submitted in triplicate to the Program Contract Manager listed in this contract.
- C. Any travel and subsistence payments authorized under this agreement shall be paid as needed to execute the work. The maximum travel rates allowable are those established in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations 599.619.

**2. Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

**3. Funding Sources for County Contracts. (If no Federal Funds, this Section is not applicable)**

An annual report of expenditures, where county payments are supported by Federal funds, will be issued by CDFA Administrative Services, Financial Services Branch. This report will be issued by September 30<sup>th</sup> for invoices submitted prior to July 31st for services rendered in the prior State Fiscal Year.

Federal and State Regulations - The County will comply with all Federal and State regulations and requirements. The County must ensure they have an adequate accounting system in place and appropriate internal controls to ensure expenditures are tracked and maintained.

All sub-recipients of Federal awards shall comply with the Code of Federal Regulations (CFR) Title 2, Part 225 - Cost Principles for State and Local Governments and Title 7, Part 3016 - Uniform Administrative Requirements for Grants and Cooperative Agreements to state and local governments.

Federal 2 CFR 225 (OMB Circular A-87) can be found at the following website:  
<http://training.fws.gov/fedaid/toolkit/2cfr225.pdf>

Federal 7 CFR 3016 can be found at the following website:  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_01/7cfr3016\\_01.html](http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3016_01.html)

The State's accounting standards and procedures for counties provided by the State Controller's Office are located at the following website: <http://www.sco.ca.gov/ard/manual/cntyman.pdf>

**Commercial Trapping**

**A. PERSONNEL**

**1. STAFF - Detection Trappers**

	HOURS/ DAY	TOTAL WORK DAYS	HOURS
1 Agricultural & Standards Investigator IV	7.50	65.00	488
2 Supervising Agricultural & Standards Investigator II	5.50	25.00	138
3	0.00	0.00	0
4	0.00	0.00	0
5	0.00	0.00	0
6	0.00	0.00	0
7	0.00	0.00	0
8	0.00	0.00	0
9	0.00	0.00	0
10	0.00	0.00	0

**2. SALARIES - Detection Trappers**

	HOURLY RATE w/o BENEFITS	HOURS	SALARY
1 Agricultural & Standards Investigator IV	\$28.36	488	\$13,840.00
2 Supervising Agricultural & Standards Investigator II	\$32.37	138	\$4,467.00
3	\$0.00	0	\$0.00
4	\$0.00	0	\$0.00
5	\$0.00	0	\$0.00
6	\$0.00	0	\$0.00
7	\$0.00	0	\$0.00
8	\$0.00	0	\$0.00
9	\$0.00	0	\$0.00
10	\$0.00	0	\$0.00
<b>Subtotal:</b>			<b>\$18,307.00</b>

**3. BENEFITS - Detection Trappers**

	BENEFIT RATE (%)	SALARY	BENEFIT COST
1 Agricultural & Standards Investigator IV	44.0300%	\$13,840.00	\$6,094.00
2 Supervising Agricultural & Standards Investigator II	46.3200%	\$4,467.00	\$2,069.00
3	0.0000%	\$0.00	\$0.00
4	0.0000%	\$0.00	\$0.00
5	0.0000%	\$0.00	\$0.00
6	0.0000%	\$0.00	\$0.00
7	0.0000%	\$0.00	\$0.00
8	0.0000%	\$0.00	\$0.00
9	0.0000%	\$0.00	\$0.00
10	0.0000%	\$0.00	\$0.00
<b>Subtotal:</b>			<b>\$8,163.00</b>

**DETECTION STAFF SUBTOTAL: \$26,470.00**

**4. STAFF - Non-Detection**

	HOURS/ DAY	WORK DAYS	HOURS
1 Office Assistant III	1.00	5.00	5
2 Deputy Agricultural Commissioner	1.50	8.00	12
3	0.00	0.00	0
4	0.00	0.00	0
5	0.00	0.00	0
6	0.00	0.00	0
7	0.00	0.00	0

**5. SALARIES - Non-Detection Staff**

	HOURLY RATE w/o BENEFITS	HOURS	SALARY
1 Office Assistant III	\$18.09	5	\$90.00
2 Deputy Agricultural Commissioner	\$40.17	12	\$482.00
3	\$0.00	0	\$0.00
4	\$0.00	0	\$0.00
5	\$0.00	0	\$0.00
6	\$0.00	0	\$0.00
7	\$0.00	0	\$0.00
<b>Subtotal:</b>			<b>\$572.00</b>

**6. BENEFITS - Non-Detection Staff**

- 1 Office Assistant III
- 2 Deputy Agricultural Commissioner
- 3
- 4
- 5
- 6
- 7

BENEFIT RATE (%)	SALARY	BENEFIT COST
45.3200%	\$90.00	\$41.00
40.4400%	\$482.00	\$195.00
0.0000%	\$0.00	\$0.00
0.0000%	\$0.00	\$0.00
0.0000%	\$0.00	\$0.00
0.0000%	\$0.00	\$0.00
0.0000%	\$0.00	\$0.00
	<b>Subtotal:</b>	<b>\$236.00</b>

**NON-DETECTION STAFF SUBTOTAL: \$808.00**

25 % Overhead (Not to exceed 25%)

SALARIES	BENEFITS	OVERHEAD COST
\$18,879.00	\$8,399.00	\$6,820.00
<b>TOTAL PERSONNEL COST :</b>		<b>\$34,098.00</b>

**B. SUPPLIES (Itemized, such as: trapping poles, office supplies, GPS, etc..)**

Description	Cost
a. Office supplies	\$250.00
b.	\$0.00
c.	\$0.00
d.	\$0.00
<b>TOTAL SUPPLY COST:</b>	<b>\$250.00</b>

**C. VEHICLE OPERATIONS**

COUNTY VEHICLES	NO. OF USAGE MONTHS	MILEAGE PER MONTH	COST PER MILE*	COST	
6	4	600	\$0.500	\$7,200.00	
STATE VEHICLES	NO. OF USAGE MONTHS	MILEAGE PER MONTH	COST PER MILE*	COST	
0	0	0	\$0.285	\$0.00	
NO. OF LEASED VEHICLES	COST PER MONTH	NO. OF USAGE MONTHS	MILEAGE PER MONTH	COST PER MILE*	COST
0	0	0	0	\$0.285	\$0.00

**VEHICLE COST TOTAL: \$7,200.00**

\* Per federal audit guidelines, this rate cannot be exceeded. However, if your county's internal policy uses a lower rate, that rate may be applied.

**2009-10 EGVM Commercial Trapping Total Cost: \$41,548.00**

**COMMENTS:**



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**EXHIBIT C**  
**(County Agreement)**

**GENERAL TERMS AND CONDITIONS GTC 307**

1. **APPROVAL:** This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT:** This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT:** Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. **DISPUTES:** Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
8. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.



9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. **TIMELINESS:** Time is of the essence in this Agreement.

13. **COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. **ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

**EXHIBIT D  
(County Agreement)**

**SPECIAL TERMS AND CONDITIONS**

1. **Excise Tax**

The State of California is exempt from federal excise taxes and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. **Settlement of Disputes**

In the event of a dispute, Contractor shall file a "Notice of Dispute" with the CDFA within ten (10) days of discovery of the problem. Such Notice of Dispute shall contain the Agreement number. Within ten (10) days of receipt of such Notice of Dispute, the Agency Secretary, or Designee, shall meet with the Contractor and the CDFA project manager for the purpose of resolving the dispute. The decision of the Agency Secretary or Designee shall be final. In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the bid proposal.

3. **Agency Liability**

The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

4. **Potential Subcontractors**

If Contractor subcontracts out a portion of the work required by this Agreement, nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

5. **Right To Terminate**

The State reserves the right to terminate this agreement subject to 30 days written notice to the Contractor. Contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.

However, the agreement may be immediately terminated for cause. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.

This agreement may be suspended or cancelled without notice, at the option of the Contractor, if the Contractor or State's premises or equipment are destroyed by fire or other catastrophe, or so substantially damaged it is impractical to continue service, or in the event the Contractor is unable to render service as a result of any action by any governmental entity.

**EXHIBIT E**  
**ADDITIONAL PROVISIONS**

**CONTRACTS FUNDED BY THE FEDERAL GOVERNMENT**

It is mutually understood between the parties that this contract may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the contract were executed after that determination was made.

This contract is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the Fiscal Year(s) 2009/2010 covered by this agreement for the purposes of this program. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress, which may affect the provisions, terms, or funding of this contract in any manner.

It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.

The department has the option to void the contract under the 30-day cancellation clause or to amend the contract to reflect any reduction of funds.

**CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

**CONTRACTOR CERTIFICATION CLAUSES**

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California

Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

### **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.