

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

108A



**FROM:** Agricultural Commissioner's Office

**SUBMITTAL DATE:**  
August 9, 2010

**SUBJECT:** Standard Agreement No. 10-0457 Regarding Federal Egg Quality Control.

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

1. Approve Standard Agreement No. 10-0457 in the amount of \$6,099 for FY 10/11; and
2. Authorize the chairman to sign the agreement.

**BACKGROUND:** This agreement is renewed annually and though modest, provides funding for the inspection and enforcement of California's Federal Shell Egg Surveillance Program. Revenue from this source was included in the Agricultural Commissioner's FY 10/11 budget request. This agreement was approved as to form by County Counsel.

*John Snyder*

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

FORM APPROVED COUNTY COUNSEL  
BY: *Neal R. Kipnis* DATE: *8/10/10*

Departmental Concurrence

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 6,099	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	10/11

<b>SOURCE OF FUNDS:</b> 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**

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

**MINUTES OF THE BOARD OF SUPERVISORS**

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

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley  
 Nays: None  
 Absent: None  
 Date: September 14, 2010  
 xc: Agric. Comm.

Kecia Harper-Ihem  
 Clerk of the Board  
 By: *Kecia Harper-Ihem*  
 Deputy

**Prev. Agn. Ref.: 9/29/09 item 3.18 | District: ALL | Agenda Number:**

**3.6**

ATTACHMENTS FILED  
 WITH THE CLERK OF THE BOARD

AGREEMENT NUMBER <b>10-0457</b>
REGISTRATION NUMBER

- 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**
- The term of this Agreement is: **October 1, 2010 through September 30, 2011**
- The maximum amount of this Agreement is: **\$6,098.72**  
**Six Thousand Ninety-eight Dollars and Seventy-two Cents**
- 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 Attachment 1	1 Page(s) 2 Page(s)
Exhibit B – Budget Detail and Payment Provision Attachment 1	1 Page(s) 1 Page(s)
Exhibit C – General Terms and Conditions - GTC 610	3 Pages
Exhibit D - Special Terms and Conditions	1 Page(s)
Exhibit E - Additional Provisions	1 Page(s)

5. Name of Program: **Egg Quality Control**

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

<b>CONTRACTOR</b>		California Department of General Services Use Only  FORM APPROVED COUNTY COUNSEL BY NEW R KIPNIS DATE
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) <b>COUNTY OF RIVERSIDE</b>		
BY (Authorized Signature) - <i>Marion Ashley</i>	DATE SIGNED <b>9/14/10</b>	
PRINTED NAME AND TITLE OF PERSON SIGNING <b>CHAIRMAN, BOARD OF SUPERVISORS MARION ASHLEY</b>		
ADDRESS 4080 Lemon Street, Room 19 Riverside, CA 92502		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME <b>DEPARTMENT OF FOOD AND AGRICULTURE</b>		<input checked="" type="checkbox"/> Exempt per: DGS Ltr 28.6
BY (Authorized Signature) - <i>Janice L. Price</i>	DATE SIGNED <b>9/30/10</b>	
PRINTED NAME AND TITLE OF PERSON SIGNING <b>JANICE L. PRICE, CONTRACTS MANAGER</b>		
ADDRESS 1220 N STREET, ROOM 115, SACRAMENTO, CA 95814		

RECEIVED RIVERSIDE COUNTY  
CLERK / BOARD OF SUPERVISORS  
2010 OCT 19 AM 9:21

**EXHIBIT A  
(County Agreement)**

**SCOPE OF WORK**

1. Contractor agrees to provide the services described herein:

Pursuant to CDFA Code (Article 4 & 5, Sections 27551-27566), & the California Code of Regulations, (Title 3, Division 3), CDFA will disburse funds for costs incurred in egg quality control activities.

2. The program contract managers for this Agreement are:

<b>FOR CDFA, THE PROGRAM CONTRACT MANAGER IS:</b>	<b>FOR CONTRACTOR:</b>
Name: Irene Vera	Name: John Snyder
Section/Unit: Inspection Services/EQCP	Section/Unit:
Address: 1220 N Street	Address: 4080 Lemon Street, Room 19
City/Zip: Sacramento, CA 95814	City/Zip: Riverside, CA 92502
Phone: 916-445-4243	Phone: 951-955-3045
Email: ivera@cdfa.ca.gov	Email: agdept@co.riverside.ca.us

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  
Federal Shell Egg Surveillance  
2010/2011**

Agreement No. 10-0457  
Exhibit A  
Attachment 1  
Page 1 of 2

The County agrees to provide egg inspection services for the Egg Quality Control Program. The inspections shall be performed as provided in the Food and Agricultural Code, Division 12, Part 4, Chapter 1 (commencing with Section 27501); the California Code of Regulations, Title 3, Subchapter 3; and any State policies and procedures.

This contract will be effective from October 1, 2010 through September 30, 2011. All amendments to this document must be in writing and with the consent of both parties.

Federal surveillance shall be paid at actual cost in accordance with federal guidelines consistent with cost recovery guidelines provided by the federal government. Payments will be made upon submission of completed quarterly "Surveillance Reports", PY-156, PY 76, and PY 76-1, after they are approved by Egg Quality Control Program Supervisor.

Disbursements will be made for work completed in four block payments as follows: October 1 to December 31, January 1 to March 31, April 1 to June 30, and July 1 to September 30.

The State shall:

- Coordinate the training and technical supervision of inspectors/biologists employed by the County.
- Provide the County with retention tags, worksheets, hold-off-sale tapes, PY 76, PY 76-1, PY 156's and bio-security clothing when applicable.
- Provide for the collection of the necessary fees through the Federal Trust Fund.

The County shall:

- Maintain work records for each inspector/biologist on a daily basis, showing service performed under this contract together with copies of egg inspection worksheets that show the quality of eggs inspected, eggs rejected. A copy of the PY-156 will be given to the plant management after each inspection.
- Submit quarterly "Surveillance Report" PY-156, PY-76, and PY-76-1, during the first month following the quarter for which the charges accrue.
- Shell Egg Surveillance Forms (PY-156) shall be mailed to the State District Supervisor in your area as soon as the surveillance work is completed.
- Original (PY-156) must be mailed to the USDA/Poultry Programs, 2909 Coffee Road Suite 4, Modesto, CA 95355.

- Submit original PY-156 and copy of worksheet to USDA Modesto office, within 24 hours of egg product retention or cooler temperatures exceeding 45 degrees.
- Maintain all records for a period of three years after final payment.
- Permit the State to inspect such books, records, accounts, and other materials relevant to this contract.
- Furnish the necessary inspection equipment, transportation, office space, supplies, and support services for carrying out the inspection work under this contract.
- Use only Federally licensed personnel to inspect eggs for USDA surveillance.

The State and County agree:

- The appropriate State or Federal supervisor may observe the actual inspection of eggs in the County at any time where work is being done under this contract.
- All certified and/or licensed inspectors shall adhere to the California Codes, Egg Inspection Manual, Shell Egg Regulatory Inspectors Handbook, and program enforcement policies.
- State and County personnel will keep each other informed of issues pertaining to inspections made pursuant to this contract.
- This contract may be canceled in part if funding by the USDA for federal surveillance is terminated. Payment shall be made for work performed up to this effective date.
- Specifically if the budget of the current year and/or any subsequent years covered under this contract does not appropriate sufficient funds for the program, this contract shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the County or to furnish any other considerations under this contract, and the county shall not be obligated to perform any provisions of the contract.

The Federal supervising inspector will issue federal licenses to such qualified inspectors as may be employed by the County for federal surveillance work.

Inspections performed under this contract are to determine compliance with USDA SES standards.

**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>

**FEDERAL SHELL EGG SURVEILLANCE  
FISCAL DISPLAY FORM**

Agreement No. 10-0457  
Exhibit B  
Attachment 1  
Page 1 of 1

All inspection work performed by permanent staff is at the classification level of at least a biologist. All inspection work performed by seasonal staff is at the classification level of at least a Seasonal Agricultural Inspector. All Supervision is performed at the level of a Deputy Agricultural Commissioner or supervising biologist.

County: Riverside 2010/2011

<b>SECTION 1. County Agricultural Staff Reimbursement Rates (Per Quarter)</b>				
<b>Clerk/Clerical Support</b>	<b># of Hours</b>	<b>Multiply By:</b>	<b>Rate</b>	<b>Total</b>
Name: Douglas Leavitt	1	@	\$ 13.53	\$ 13.53
<b>Biologist(s)/Inspector(s)</b>	<b># of Hours</b>	<b>Multiply By:</b>	<b>Rate</b>	<b>Total</b>
Name: Lucy Candelario	12	@	\$ 20.63	\$ 247.56
Name:		@	\$	\$
Name:		@	\$	\$
Name:		@	\$	\$
Name:		@	\$	\$
Name:		@	\$	\$
Name:		@	\$	\$
<b>Supervision</b>	<b># of Hours</b>	<b>Multiply By:</b>	<b>Rate</b>	<b>Total</b>
Name: Ron Bray	2	@	\$ 40.17	\$ 80.34
Name:		@	\$	\$
Name:		@	\$	\$
<b>Total Personal Services Amount:</b>				<b>\$ (1) \$ 341.43</b>

<b>SECTION 2. County Fringe Benefit Rate (Per Quarter) *41.7 % maximum allowed</b>			
<b>Personal Services Total</b>	<b>Multiply By:</b>	<b>County Fringe Rate:</b>	<b>Total:</b>
\$ (1) \$ 341.43	@	41.7%	\$ (2) 142.38

<b>SECTION 3. Travel Costs (Per Quarter)</b>			
<b>Mileage</b>	<b>Multiply By:</b>	<b>Amount (0.50 Maximum)</b>	<b>Total:</b>
Total Miles: 70	@	.50	\$ 35.00 (3)

<b>SECTION 4. Total Calculated Costs (Per Quarter)</b>	
Grand Total Cost amount is the sum of totals (1) (2) and (3):	
	\$ (4) 518.81

<b>SECTION 5. Number of Surveillance Inspection Sites and Hatcheries in County</b>	
Total Number -Inspection Sites <u>3</u> Hatcheries <u>1</u>	Total <u>4</u>
<b>For State Use Only (Indirect Cost Rate - 27.05%)</b>	Total <u>\$130.87</u>

Total per quarter including indirect cost rate: \$649.68 x 4 = \$2,598.72 + \*Add'l funds \$3,500  
**Total Contract Amount: \$6,098.72**

\*As in previous years, USDA contracted counties have exceeded the amounts estimated at the beginning of each fiscal year for their USDA surveillance work. At this time, the Egg Quality Control Program would like to increase funds for unanticipated work performed during this current fiscal year. These funds will pay for additional egg surveillance in the counties contracted.



**EXHIBIT C  
(County Agreement)**

**GENERAL TERMS AND CONDITIONS GTC 610**

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 (e.g., 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.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

**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 FEDERALLY FUNDED**

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) 10/11 - 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.

#### **SUBCONTRACTORS**

Contractor shall obtain prior approval from CDFA before hiring subcontractors, consultants or both. The total amount of all subcontracts shall not exceed \$50,000 or 25% of the total amount of the contract, whichever is less, unless the Contractor can provide certified documents that award was made through a competitive bidding process requiring at least three bids from responsible bidders.

All subcontractors identified shall be experts in their respective disciplines and capable of performing the tasks for which they were hired. Subcontractors shall have extensive experience in their area of expertise, with particular emphasis on prior experience on similar programs or projects that clearly illustrate their expertise in areas essential to the CDFA.

AGREEMENT NUMBER <b>10-0457</b>
REGISTRATION NUMBER

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**DEPARTMENT OF FOOD AND AGRICULTURE**  
CONTRACTOR'S NAME  
**COUNTY OF RIVERSIDE**
- The term of this Agreement is: **October 1, 2010 through September 30, 2011**
- The maximum amount of this Agreement is: **\$6,098.72**  
**Six Thousand Ninety-eight Dollars and Seventy-two Cents**
- 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:

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Exhibit D - Special Terms and Conditions	1 Page(s)
Exhibit E - Additional Provisions	1 Page(s)

ATTEST:  
KECIA HARPER-HELM, Clerk  
By *[Signature]*  
DEPUTY

5. Name of Program: **Egg Quality Control**

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

<b>CONTRACTOR</b>		California Department of General Services Use Only  FORM APPROVED COUNTY CLERK BY: NEAL R. KIPNIS DATE:
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) <b>COUNTY OF RIVERSIDE</b>		
BY (Authorized Signature) <i>[Signature]</i>	DATE SIGNED) <b>9/14/10</b>	
PRINTED NAME AND TITLE OF PERSON SIGNING <b>MARION ASHLEY CHAIRMAN, BOARD OF SUPERVISORS</b>		
ADDRESS 4080 Lemon Street, Room 19 Riverside, CA 92502		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME <b>DEPARTMENT OF FOOD AND AGRICULTURE</b>		
BY (Authorized Signature) <i>[Signature]</i>	DATE SIGNED <b>9/30/10</b>	
PRINTED NAME AND TITLE OF PERSON SIGNING <b>JANICE L. PRICE, CONTRACTS MANAGER</b>		
ADDRESS 1220 N STREET, ROOM 115, SACRAMENTO, CA 95814		

Exempt per: DGS Ltr 28.6

**EXHIBIT A  
(County Agreement)**

**SCOPE OF WORK**

1. Contractor agrees to provide the services described herein:

Pursuant to CDFA Code (Article 4 & 5, Sections 27551-27566), & the California Code of Regulations, (Title 3, Division 3), CDFA will disburse funds for costs incurred in egg quality control activities.

2. The program contract managers for this Agreement are:

<b>FOR CDFA, THE PROGRAM CONTRACT MANAGER IS:</b>	<b>FOR CONTRACTOR:</b>
Name: Irene Vera	Name: John Snyder
Section/Unit: Inspection Services/EQCP	Section/Unit:
Address: 1220 N Street	Address: 4080 Lemon Street, Room 19
City/Zip: Sacramento, CA 95814	City/Zip: Riverside, CA 92502
Phone: 916-445-4243	Phone: 951-955-3045
Email: ivera@cdfa.ca.gov	Email: agdept@co.riverside.ca.us

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  
Federal Shell Egg Surveillance  
2010/2011**

Agreement No. 10-0457  
Exhibit A  
Attachment 1  
Page 1 of 2

The County agrees to provide egg inspection services for the Egg Quality Control Program. The inspections shall be performed as provided in the Food and Agricultural Code, Division 12, Part 4, Chapter 1 (commencing with Section 27501); the California Code of Regulations, Title 3, Subchapter 3; and any State policies and procedures.

This contract will be effective from October 1, 2010 through September 30, 2011. All amendments to this document must be in writing and with the consent of both parties.

Federal surveillance shall be paid at actual cost in accordance with federal guidelines consistent with cost recovery guidelines provided by the federal government. Payments will be made upon submission of completed quarterly "Surveillance Reports", PY-156, PY 76, and PY 76-1, after they are approved by Egg Quality Control Program Supervisor.

Disbursements will be made for work completed in four block payments as follows: October 1 to December 31, January 1 to March 31, April 1 to June 30, and July 1 to September 30.

The State shall:

- Coordinate the training and technical supervision of inspectors/biologists employed by the County.
- Provide the County with retention tags, worksheets, hold-off-sale tapes, PY 76, PY 76-1, PY 156's and bio-security clothing when applicable.
- Provide for the collection of the necessary fees through the Federal Trust Fund.

The County shall:

- Maintain work records for each inspector/biologist on a daily basis, showing service performed under this contract together with copies of egg inspection worksheets that show the quality of eggs inspected, eggs rejected. A copy of the PY-156 will be given to the plant management after each inspection.
- Submit quarterly "Surveillance Report" PY-156, PY-76, and PY-76-1, during the first month following the quarter for which the charges accrue.
- Shell Egg Surveillance Forms (PY-156) shall be mailed to the State District Supervisor in your area as soon as the surveillance work is completed.
- Original (PY-156) must be mailed to the USDA/Poultry Programs, 2909 Coffee Road Suite 4, Modesto, CA 95355.



- Submit original PY-156 and copy of worksheet to USDA Modesto office, within 24 hours of egg product retention or cooler temperatures exceeding 45 degrees.
- Maintain all records for a period of three years after final payment.
- Permit the State to inspect such books, records, accounts, and other materials relevant to this contract.
- Furnish the necessary inspection equipment, transportation, office space, supplies, and support services for carrying out the inspection work under this contract.
- Use only Federally licensed personnel to inspect eggs for USDA surveillance.

The State and County agree:

- The appropriate State or Federal supervisor may observe the actual inspection of eggs in the County at any time where work is being done under this contract.
- All certified and/or licensed inspectors shall adhere to the California Codes, Egg Inspection Manual, Shell Egg Regulatory Inspectors Handbook, and program enforcement policies.
- State and County personnel will keep each other informed of issues pertaining to inspections made pursuant to this contract.
- This contract may be canceled in part if funding by the USDA for federal surveillance is terminated. Payment shall be made for work performed up to this effective date.
- Specifically if the budget of the current year and/or any subsequent years covered under this contract does not appropriate sufficient funds for the program, this contract shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the County or to furnish any other considerations under this contract, and the county shall not be obligated to perform any provisions of the contract.

The Federal supervising inspector will issue federal licenses to such qualified inspectors as may be employed by the County for federal surveillance work.

Inspections performed under this contract are to determine compliance with USDA SES standards.

**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>

**FEDERAL SHELL EGG SURVEILLANCE  
FISCAL DISPLAY FORM**

Agreement No. 10-0457  
Exhibit 3  
Attachment 1  
Page 1 of 1

All inspection work performed by permanent staff is at the classification level of at least a biologist. All inspection work performed by seasonal staff is at the classification level of at least a Seasonal Agricultural Inspector. All Supervision is performed at the level of a Deputy Agricultural Commissioner or supervising biologist.

County: Riverside 2010/2011

<b>SECTION 1. County Agricultural Staff Reimbursement Rates (Per Quarter)</b>				
<b>Clerk/Clerical Support</b>	<b># of Hours</b>	<b>Multiply By:</b>	<b>Rate</b>	<b>Total</b>
Name: Douglas Leavitt	1	@	\$ 13.53	\$ 13.53
<b>Biologist(s)/Inspector(s)</b>	<b># of Hours</b>	<b>Multiply By:</b>	<b>Rate</b>	<b>Total</b>
Name: Lucy Candelario	12	@	\$ 20.63	\$ 247.56
Name:		@	\$	\$
Name:		@	\$	\$
Name:		@	\$	\$
Name:		@	\$	\$
Name:		@	\$	\$
Name:		@	\$	\$
<b>Supervision</b>	<b># of Hours</b>	<b>Multiply By:</b>	<b>Rate</b>	<b>Total</b>
Name: Ron Bray	2	@	\$ 40.17	\$ 80.34
Name:		@	\$	\$
Name:		@	\$	\$
<b>Total Personal Services Amount:</b>				<b>\$ (1) \$ 341.43</b>

<b>SECTION 2. County Fringe Benefit Rate (Per Quarter) *41.7 % maximum allowed</b>			
<b>Personal Services Total</b>	<b>Multiply By:</b>	<b>County Fringe Rate:</b>	<b>Total:</b>
\$ (1) \$ 341.43	@	41.7%	\$ (2) 142.38

<b>SECTION 3. Travel Costs (Per Quarter)</b>			
<b>Mileage</b>	<b>Multiply By:</b>	<b>Amount (0.50 Maximum)</b>	<b>Total:</b>
Total Miles: 70	@	.50	\$ 35.00 (3)

<b>SECTION 4. Total Calculated Costs (Per Quarter)</b>	
Grand Total Cost amount is the sum of totals (1) (2) and (3):	\$ (4) 518.81

<b>SECTION 5. Number of Surveillance Inspection Sites and Hatcheries in County</b>	
Total Number -Inspection Sites <u>3</u> Hatcheries <u>1</u>	Total <u>4</u>
<b>For State Use Only (Indirect Cost Rate - 27.05%)</b>	Total <u>\$130.87</u>

Total per quarter including indirect cost rate: \$649.68 x 4 = \$2,598.72 + \*Add'l funds \$3,500  
**Total Contract Amount: \$6,098.72**

\*As in previous years, USDA contracted counties have exceeded the amounts estimated at the beginning of each fiscal year for their USDA surveillance work. At this time, the Egg Quality Control Program would like to increase funds for unanticipated work performed during this current fiscal year. These funds will pay for additional egg surveillance in the counties contracted.

**EXHIBIT C  
(County Agreement)**

**GENERAL TERMS AND CONDITIONS GTC 610**

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 (e.g., 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.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

**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 FEDERALLY FUNDED**

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) 10/11 - 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.

#### **SUBCONTRACTORS**

Contractor shall obtain prior approval from CDFA before hiring subcontractors, consultants or both. The total amount of all subcontracts shall not exceed \$50,000 or 25% of the total amount of the contract, whichever is less, unless the Contractor can provide certified documents that award was made through a competitive bidding process requiring at least three bids from responsible bidders.

All subcontractors identified shall be experts in their respective disciplines and capable of performing the tasks for which they were hired. Subcontractors shall have extensive experience in their area of expertise, with particular emphasis on prior experience on similar programs or projects that clearly illustrate their expertise in areas essential to the CDFA.