

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

707A



FROM: Agricultural Commissioner's Office

SUBMITTAL DATE:
July 25, 2012

SUBJECT: Standard Agreement No. 12-0332-SF regarding the Sudden Oak Death Program

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve Standard Agreement No. 12-0332-SF in the amount of \$68,150 for FY 12/13; and
- 2) Authorize the chairman to sign the agreement.

BACKGROUND: This agreement is renewed annually and provides for county reimbursement of all costs associated with performing Sudden Oak Death services at county-wide plant production nurseries, for the California Department of Food and Agriculture (CDFA). Revenue from this source was previously included in the Agricultural Commissioner's FY 12/13 budget request. 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:	\$68,150	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	NO
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/13

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: *Denise C. Harden*
Denise C. Harden

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Buster, Tavaglione, Benoit and Ashley
 Nays: None
 Absent: Stone
 Date: August 28, 2012
 xc: Agric. Comm.

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

Prev. Agn. Ref.: 1/11/11 Item 3.12 | **District:** All | **Agenda Number:**

3.15

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
 BY: *Neal R. Kipnis* 7/26/12
 DATE: 7/26/12
 Departmental Concurrence

Dep't Recomm.: Policy
 X Policy
 Consent
 Per Exec. Ofc.: Consent

**COOPERATIVE AGREEMENT
SIGNATURE PAGE**

AGREEMENT NUMBER
12-0332-SF

1. This Agreement is entered into between the State Agency and the Recipient named below:

STATE AGENCY'S NAME
DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)


RECIPIENT'S NAME
COUNTY OF RIVERSIDE

2. The term of this Agreement is: July 1, 2012 through June 30, 2013

3. The maximum amount of this Agreement is: \$68,150.38
Sixty Eight Thousand One Hundred Fifty Dollars and Thirty Eight 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: 9 Page(s)
 - Recipient and Project Information
 - Scope of Work
- Exhibit B: 3 Page(s)
 - Budget & Payment Provisions
 - Budget
- Exhibit C – General Terms and Conditions 2 Page(s)
- Exhibit D – Federal Terms and Conditions 3 Page(s)

ATTEST:
KECIA HARPER IHEM, Clerk
By  DEPUTY

Name of Project: Phytophthora ramorum .

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

RECIPIENT'S NAME (County's Name)
COUNTY OF RIVERSIDE

BY (Authorized Signature)


DATE SIGNED (Do not type)
8/28/12

PRINTED NAME AND TITLE OF PERSON SIGNING
JOHN TAVAGLIONE CHAIRMAN, BOARD OF SUPERVISORS

ADDRESS
4080 Lemon Street, Room 19, Riverside, CA 92502-1089

STATE OF CALIFORNIA

AGENCY NAME
DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

BY (Authorized Signature)


DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING
KATHY ALAMEDA, MANAGER - FEDERAL FUNDS MANAGEMENT OFFICE

ADDRESS
1220 N STREET, ROOM 120
SACRAMENTO, CA 95814

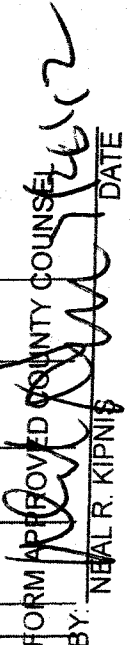
FORM APPROVED COUNTY COUNSEL
BY:  DATE



EXHIBIT A

RECIPIENT AND PROJECT INFORMATION

1. CDFA hereby awards an Agreement to the Recipient for the project described herein:

Assistance includes regulatory enforcement activities in support of the federal Phytophthora ramorum regulation (7 Code of Federal Regulations, Section 301.92) and conducting emergency response activities as the result of detections of Phytophthora ramorum in nurseries and the environment.

2. The Managers for this Agreement are:

FOR CDFA:		FOR RECIPIENT:	
Name:	Amber Morris	Name:	Bill Osterleim
Section/Unit:	Plant Health Pest Prevention Services/Pest Exclusion	Section/Unit:	COUNTY OF RIVERSIDE
Address:	1220 N Street, Room 325	Address:	4080 Lemon Street, Room 19
City/State/Zip:	Sacramento, CA 95814	City/State/Zip:	Riverside, CA 92502-1089
Phone:	916-654-0312	Phone:	951-955-3045
Email Address:	amber.morris@cdfa.ca.gov	Email Address:	agdept@co.riverside.ca.us

3. For a detailed description of work to be performed and duties, see Scope of Work.
4. The Grant Agreement with the Federal Government supporting this Agreement is 12-0206-FR. The Catalog of Federal Domestic Assistance Number is 10-025.

SCOPE OF WORK
***Phytophthora ramorum* Program**
Regulated Counties
July 1, 2012 - June 30, 2013

The County agrees to perform *Phytophthora ramorum* Program enforcement activities for the California Department of Food and Agriculture (CDFA) in compliance with the requirements imposed by:

1. Federal Domestic Quarantine 7 CFR 301.92

This agreement is inclusive of the County's agreement to perform activities approved by the CDFA as described in the attached projected Work Plan (budget), Budget Detail and payment provisions and by this reference made a part hereof.

Key actions to be conducted under this cooperative agreement include:

SECTION 1: PERSONNEL ACTIVITIES

- a. Quarantine Enforcement
 - i. Federal Domestic Quarantine 7 CFR 301.92
- b. Eradication
- c. Trace-Forward/Trace-Back Investigations
- d. Data Entry/Sample Submission
 - i. PDR
 - ii. List of Regulations Establishments

SECTION 2: NON-PERSONNEL

- a. Supplies/Equipment
- b. Vehicle/Mileage

SECTION 3: REPORTING/INVOICING

- a. Monthly Activity Report
- b. Invoicing Reimbursement

SECTION 1: PERSONNEL ACTIVITIES

a. Quarantine Enforcement

The Contractor agrees to perform regulatory enforcement activities in support of the federal *Phytophthora ramorum* regulation (7 Code of Federal Regulations, Section 301.92).

i. Federal Domestic Quarantine 7 CFR 301.92

For each county, reimbursable activities for work associated with the enforcement of Federal Domestic Quarantine 7 CFR 301.92 will include, as appropriate, the activities described below when the regulated articles (1-2) will be shipped interstate:

1) Nurseries Containing Host and/or Associated Host Material:

- Annual inspection of host and associated host plants including collection, processing and submission of at least 40 symptomatic or asymptomatic samples
- Issuance of compliance agreement and compliance monitoring

2) Nurseries Containing Only Non-Host Material:

- Annual inspection including collection, processing and submission of symptomatic material only
- Issuance of compliance agreement and compliance monitoring

b. Eradication

All detections of *Phytophthora ramorum* in production/wholesale nurseries must be eradicated following the USDA Confirmed Nursery Protocol:

http://www.aphis.usda.gov/plant_health/plant_pest_info/pram/protocols.shtml#diag. Positive retail nurseries must be eradicated following the USDA Retail Confirmed Nursery Protocol:

http://www.aphis.usda.gov/plant_health/plant_pest_info/pram/protocols.shtml#diag. Eradication activities include issuing hold notices, destruction, delimitation/follow-up inspection and sampling, sanitation procedures, and trace-forward and trace-back record auditing.

c. Trace-Forward/Trace-Back Investigation

When *Phytophthora ramorum* is detected in a nursery, county agricultural commissioners will conduct Trace-Forward/Trace-Back investigations at locations in their county that have either supplied (trace-back) or received (trace-forward) plants from the positive nursery. Trace-back activities include inspection of source nurseries for symptomatic plants, collection and submission of samples, and any other regulatory activities such as issuing hold notices and submitting inspection results. Trace-forward procedures at *Phytophthora ramorum*-positive nurseries are outlined in the USDA Trace-Forward Protocol:

(http://www.aphis.usda.gov/plant_health/plant_pest_info/pram/protocols.shtml#diag)

d. Data Entry/Sample Submission

The County is responsible for ensuring the following data sets are accurately completed in a timely manner:

i. **Pest and Damage Record (PDR)**

County will send all samples to the CDFA Plant Pest Diagnostics Center (PPDC) for identification. The County will complete an electronic copy of CDFA's PDR on CDFA's Plant Division Extranet site, <http://phpps.cdca.ca.gov/user/frmLogon2.asp>. A hard copy of the PDR must accompany the samples to the PPDC.

"SOD-Sudden Oak Death" must be selected as the <Program> for each PDR submitted to the PPDC for this program.

ii. **List of Regulated Establishments**

County will maintain and update the lists of regulated establishments as outlined in Pest Exclusion Advisory No. 31-2011 (**Appendix A**).

Note: Substantiation of Personnel Costs

Substantiation of employee hours charged to a federal program must be kept on file, and such substantiation must meet 2 Code of Federal Regulations 225, Appendix B, Section 8 (Compensation for Personnel Services). For employees that perform work on more than one program (i.e. a federally-funded program and a non-federally funded program), the USDA/APHIS recommends that substantiation records meet the following standards:

- Reimbursable time must reflect the actual time (calculated after-the-fact) spent working on a federally-funded program (not an estimate).
- Total time worked each day must be accounted for.
- Daily records must be kept that document all the programs (federally-funded and other) worked on by each employee.
- The percent of time charged for each employee to the cooperative agreement must match the actual time the employee worked on that program.
- Documentation must be signed by the employee at the end of the pay period.

Note that 2 CFR 225, Appendix B also provides other means of substantiating personnel costs for employees who work on only one federally-funded program. Please review the federal regulation to ensure that your county's method of personnel cost substantiation meets the federal standards listed in the regulation.

Personnel salary costs shall be properly tracked or allocated in accordance with the Office of Management and Budget (OMB) requirements and Federal cost principles (OMB Circular A-102, Uniform Administrative Requirements). Ensure that personnel costs can be traced back to original documents detailing the account to which personnel hours are billed.

SECTION 2: NON-PERSONNEL

a. Supplies/Equipment

Supplies: Supplies are considered articles having a useful life of less than one year. Only supplies directly related to administering and conducting quarantine and regulatory enforcement activities associated with the *Phytophthora ramorum* Program will be reimbursed. Examples of supplies include materials from a general supply or stockroom, fabricated parts, paper, stationery, general office goods, ink and toner cartridges and organization tools.

Equipment: Equipment is considered articles having a useful life of more than one year and a cost equal to or more than \$100. Only equipment directly related to administering and conducting quarantine and regulatory enforcement activities associated with the *Phytophthora ramorum* Program will be reimbursed. Articles with a unit cost of \$5,000 or more must have prior approval for reimbursement. Examples of equipment include microscopes, spectrometers, office equipment, office furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment and motor vehicles.

All records substantiating that the supplies and equipment are used for the *Phytophthora ramorum* Program must be maintained by the county.

b. Vehicle/Mileage

Mileage rate used on invoice should be the same as contained in the work plan. If the federal rate goes up during the agreement period, counties may submit invoices for the higher, current federal rate.

Substantiation of Vehicle Mileage Costs

Counties must maintain a single vehicle log per vehicle, and all mileage should be recorded daily with an indication of which program the vehicle was used for and the name of the driver. Vehicle logs may be maintained on a monthly basis.

SECTION 3: REPORTING/INVOICING REIMBURSEMENT:

a. Monthly Activity Report

The county will utilize the online County Monthly Reporting system (<https://secure.cdfa.ca.gov/egov/crs/login.aspx>) to submit a monthly activity report for the *Phytophthora ramorum* Program. Monthly activity reports need to be submitted no later than the fifth day of the month following when the activities took place. Questions about reporting can be directed to Erin Lovig at erin.lovig@cdfa.ca.gov or by calling (916) 654-0312.

b. Invoicing/Reimbursement

The county shall submit monthly an itemized invoice using the provided template (**Appendix B**), on county letterhead and submit to the CDFA no later than 30 days after the end of the coinciding reporting period.

i. Allowable Costs

All invoiced expenses must fall within the parameters of this "Scope of Work" and must be directly related to administering and conducting the *Phytophthora ramorum* Program.

ii. Monthly Activity Report Required for Reimbursement

Invoices will not be submitted for reimbursement until submission of the "Online Monthly Activity Report" for the invoicing period has been entered by the county and verified by CDFA (see section a. Monthly Activity Report above). Hours on the monthly activity report must match the personnel hours invoiced on corresponding monthly invoice.

iii. Hourly Rate(s) on Invoices

Invoices should reflect the actual hourly rates (salary and benefits) per individual or classification that worked on the program.

iv. Personnel on Invoice Must Match Work Plan

Invoices must reflect work performed by individuals or classifications listed on the work plan. Invoices containing charges for non-listed personnel or classifications will be accepted as long as the total for the charge does not exceed 10% of the total agreement.

v. Documentation

Documentation (including receipts for purchases) applicable to reimbursement for expenses does not need to be submitted to CDFA but must be retained by the county and shall be made available for audit purposes.

vi. Submission of Monthly Invoice

Send *Phytophthora ramorum* Program monthly invoice to:

California Department of Food and Agriculture
Attn: Carol Gentry
1220 N Street, Room 325
Sacramento, CA 95814

Invoices may also be submitted via email to carol.gentry@cdfa.ca.gov. Questions about invoicing/reimbursement can be directed to Carol Gentry via email or by calling (916) 654-0312.

**Scope of Work for *Phytophthora ramorum*
Regulated Counties
July 1, 2012-June 30, 2013**

Appendix A

Pest Exclusion Advisory No. 31-2011

List of establishments under compliance for *Phytophthora ramorum*



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

DATE: September 29, 2011
TO: All County Agricultural Commissioners
FROM: Plant Health and Pest Prevention Services
SUBJECT: **PEST EXCLUSION ADVISORY NO. 31-2011**
List of establishments under compliance for *Phytophthora ramorum*

Effective immediately, the California Department of Food and Agriculture (CDFA) is implementing a new method to collect information for California's establishments under compliance for *Phytophthora ramorum* (*P.ram.*)

The database previously used to enter non-host nurseries under compliance for *P.ram* has been removed from the Plant Health and Pest Prevention Services site (PHHPS) and replaced with a CDFA maintained document that contains the list of establishments under compliance.

If you would like to make updates to either the Host or Non-Host list of establishments under compliance for *Phytophthora ramorum*, please provide the following information to Erin Lovig (Erin.Lovig@cdfa.ca.gov) and Jennifer.Debernardi@cdfa.ca.gov.

1. Name of Establishment
2. Address (street, city, zip)
3. Compliance Agreement Number
4. Exhibits Issued

For each of the participating establishments, California counties should keep a record of the date(s) of any inspections and the associated PDR(s). Please notify CDFA of any newly-added establishments or if any establishment is no longer participating in the program.

The lists of establishments under compliance for both *P.ram* **Hosts** (including regulated soil in a quarantined county) and **Non-Hosts** are available in two locations. Please see below for the public and internal locations.

Internal Site: posted both as a PDF document and an Excel document (allows sorting)

CDFA's Extranet for Plant Health and Pest Prevention Services (PHPPS) website (log-in required)

Programs → Interior Exclusion → Selected Quarantines, Master Permits, & Compliance Agreements: Sudden Oak Death/Phytophthora ramorum →

- Regulated Establishments Under Compliance for *Phytophthora ramorum*
- Non-Host Shipping Nursery List

Public Site

CDFA's Public Site *Phytophthora ramorum* informational website (PDF doc. no log-in required)

If you have any questions regarding this advisory, please contact Erin Lovig at (916) 654-0312 or by e-mail at erin.lovig@cdfa.ca.gov.



**Scope of Work for *Phytophthora ramorum*
Regulated Counties
July 1, 2012-June 30, 2013**

Appendix B

Monthly Invoice Sample

California Department of Food and Agriculture
Plant Health and Pest Prevention Services
Attn: Carol Gentry
Phytophthora ramorum Program
1220 N Street, Room 341
Sacramento, CA 95814

***Phytophthora ramorum* Program in Regulated Counties**
Contract #
Budget Display FY 2012/2013
Invoice for Period from 00/00/00 to 00/00/00

Personnel Services

Name/Classification	Hours	Hourly Rate	Total Salaries
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
Total Hours	<u>0.00</u>	Total Salaries	<u>0.00</u>

Total Personnel Services	<u>0.00</u>
Indirect (up to 25% of Personnel Services)	<u>0.00</u>
Total Personnel Services:	<u>0.00</u>

Operating Expenses

Supplies	0.00
Equipment	0.00
Total Supplies/Equipment:	<u>0.00</u>

Vehicle Mileage	Miles	Rate	
	0.00	0.000	0.00
			<u>0.00</u>
		Total Mileage Cost:	<u>0.00</u>

Total Operating Expenses:	<u>0.00</u>
Total Personnel Services:	<u>0.00</u>
Grand Total:	<u>0.00</u>

Contract Amount	0.00
Billed to Date	0.00
Balance	0.00

EXHIBIT B

BUDGET 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 Recipient for actual allowable expenditures incurred in accordance with this Agreement and stated herein, which is attached hereto and made a part of this Agreement.

Original invoices shall include the Agreement Number, dates-of-service, type of work performed, and when applicable, a breakdown of the costs of parts and materials, labor charges, and any other relevant information required to ensure proper invoices are submitted for payment.

- B. Unless stated in Exhibit A, Scope of Work, monthly invoices must be submitted within thirty (30) days after the end of each month in which work under this Agreement was performed to the CDFA Agreement Manager.
- C. A final invoice will be submitted for payment no more than thirty (30) days following the expiration date of this Agreement, unless an alternate deadline is agreed to by the CDFA Agreement Manager. The invoice must be clearly marked "Final Invoice" thus indicating that all payment obligations of the State under this Agreement have ceased and that no further payments are due or outstanding.

2. Budget Contingency Clause

If funding for any fiscal year is reduced or deleted by the State Budget Act for purposes of this program, the State will have the option to either cancel this Agreement with no liability occurring to the State, or offer to amend the Agreement to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, California Government Code Title 1, Division 3.6, Part 3, Chapter 4.5, commencing with Section 927 – The California Prompt Payment Act.

4. Allowable Line Item Shifts

- A. Upon approval of the CDFA Agreement Manager, line item shifts of up to ten percent (10%) of a budget category amount are allowed without changes to Exhibit B, Budget, so long as the annual Agreement total dollar amount neither increases nor decreases.
- B. The Recipient shall obtain approval from the CDFA Agreement Manager when a line item shift amount is over ten percent (10%).

5. Allowable Expenses/Fiscal Documentation

- A. The Recipient will comply with all applicable State and Federal regulations including, but not limited to, the Code of Federal Regulations (7 CFR 3015, 3016 and 3019) and allowable cost principles found in 2 CFR 220, 225 and 230 or Federal Acquisition Regulation 48 CFR 31.2.
- B. The Recipient will maintain adequate documentation for expenditures subject to this Agreement to permit the determination of the allowability of expenditures reimbursed by the State under this Agreement. If CDFA cannot determine expenditures are allowable under the terms of this Agreement because records are nonexistent or inadequate according to generally accepted accounting principles, the CDFA may disallow the expenditure.
- C. If domestic travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. The maximum rates allowable are those established in Title 2, California Code of Regulations, Sections 599.619 and 599.630.
- D. If international travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. The maximum rates allowable are those established in a per diem supplement to Section 925, Department of State Standardized Regulations. All international travel must comply with the "Fly America Act" U.S.C. Title 49 § 40118, government-financed air transportation.
- E. The Recipient will maintain and have available, upon request by CDFA, all financial records and documentation pertaining to this Agreement. These records and documentation will be kept for three (3) years after completion of the Agreement period or until final resolution of any performance/compliance review concerns or litigation claims.

6. Budget

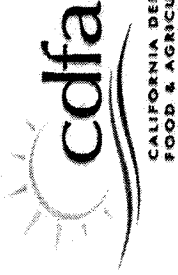
For a detailed budget for all work to be performed under the Scope of Work, see attached Budget.

Personnel Cost Work Sheet
Phytophthora ramorum Program
FY 2012/2013
July 1, 2012 through June 30, 2013

County: Riverside
 Date: April 16, 2012

Title	Hourly Wage	Hourly Benefit Amount	Total Hourly Rate	Estimated Hours to be Worked	Total Cost
ASI 1	\$20.69	\$6.83	\$27.52	50	\$1,376.00
ASI 2	\$22.94	\$7.57	\$30.51	150	\$4,576.50
ASI 3	\$25.51	\$10.20	\$35.71	50	\$1,785.50
ASI 4	\$28.36	\$11.91	\$40.27	800	\$32,216.00
SASI 1	\$30.52	\$13.12	\$43.64	10	\$436.40
SASI 2	\$32.37	\$13.60	\$45.97	90	\$4,137.30
OA 3	\$18.58	\$9.10	\$27.68	10	\$276.80
Deputy	\$40.17	\$19.68	\$59.85	100	\$5,985.00
Total:				1,260	\$50,789.50

Work Plan for the *Phytophthora ramorum* Program
 Regulated Counties
 FY 2012/2013
 July 1, 2012 through June 30, 2013



County: Riverside
 Date: 4.16.2012

Expenses	Description	Total
Personnel Costs for Regulatory Activities	Inspections of Regulated Material, Various Compliance/Treatment Monitoring, Trace Forward/ Trace Back, Eradication Activities	1,260 \$50,789.50
Indirect Costs	Indirect Costs (Not to exceed 25% of Total Personnel Costs)	25% \$12,697.38
Supplies	All supply/equipment costs exceeding \$5000.00 must be accompanied by a itemized list of items to be purchased.	No \$1,500.00
Travel	Mileage rate must be \$0.555, or current federal rate (http://www.irs.gov).	5700 0.555 \$3,163.50
TOTAL COST:		\$68,150.38

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. Approval

This Agreement is of no force or effect until signed by both parties. The Recipient may not invoice for work performed prior to the commencement date or completed after the termination date of this Agreement.

2. Assignment

This Agreement is not assignable by the Recipient, either in whole or in part, without the consent of the CDFA, in the form of a form of writing.

3. Indemnification

Recipient 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 Recipient in the performance of this Agreement.

4. Disputes

Recipient will continue with the responsibilities under this Agreement during any dispute. In the event of a dispute, the Recipient will file a "Notice of Dispute" with the CDFA within ten (10) days of discovery of the problem. The Notice of Dispute will contain the Agreement number. Within ten (10) days of receipt of the Notice of Dispute, the Agency Secretary, or Designee, will meet with the Recipient, CDFA Program Management, and Federal Funds Management for the purpose of resolving the dispute. The decision of the Agency Secretary or Designee will be final. In the event of a dispute, the language contained within this Agreement will prevail.

5. Potential Contractors

If the Recipient contracts for a portion of the work required by this Agreement, nothing contained in this Agreement or otherwise, will create any contractual relation between the State and any contractors, and no contract will relieve the Recipient of their responsibilities and obligations hereunder. The Recipient agrees to be as fully responsible to the State for the acts and omissions of its contractors 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 Recipient. The Recipient's obligation to pay its contractors is an independent obligation from the State's obligation to make payments to the Recipient. As a result, the State will have no obligation to pay or to enforce the payment of any moneys to any contractor.

6. Independent Recipient/Contractor

Recipient, and the agents and employees of Recipient, in the performance of this Agreement, will act in an independent capacity and not as officers or employees or agents of the State.

7. Non-Discrimination Clause

During the performance of this Agreement, Recipient and its contractors will not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability, mental disability, medical condition, age, marital status, and denial of family care leave.

Recipients and contractors will insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Recipient and contractors will comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (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. Recipient and its contractors will give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining unit or other Agreement.

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

8. Governing Law

This Agreement is governed by and will be interpreted in accordance with all applicable Federal and State laws.

9. 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 will not be affected thereby.

10. 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.

11. Right to Terminate

CDFA reserves the right to terminate this Agreement subject to thirty (30) days written notice to the Recipient. The Recipient may submit a written request to terminate this Agreement only if CDFA substantially fails to perform its responsibilities as provided herein. However, the Agreement can be immediately terminated for cause.

12. Termination for Cause

The State may terminate this Agreement and be relieved of any payments should the Recipient 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 necessary by the State. All costs to the State will be deducted from any sum due the Recipient under this Agreement and the balance, if any, will be paid to the Recipient upon completion of the work.

13. Reporting Requirements

Recipient agrees to complete all reporting requirements listed in Exhibit A, Scope of Work.

14. Publicity and Acknowledgement

The Recipient agrees that it will acknowledge CDFA's support whenever projects funded, in whole or in part, by this Agreement are publicized in any news media, brochures, or other type of promotional material.

15. Amendments

Changes to Exhibit A, Scope of Work, Exhibit B, Budget, or the Agreement term, must be requested in writing to the CDFA Agreement Manager via letter, fax or email no later than thirty (30) days prior to the requested implementation date. CDFA Agreement Manager will respond in writing via letter, fax or email as to whether the proposed changes are accepted. Any changes to the Scope of Work, Budget, or Agreement term must be approved in writing by CDFA prior to implementation. If approved by CDFA, the agreed upon changes will be made and become part of this Agreement.

16. Memorandum of August 2009

The County agrees to abide by Articles 3 through 13 of the Memorandum of Understanding (MOU) agreed to between the California Department of Food and Agriculture (CDFA) and the United States Department of Agriculture (USDA), Animal and Plant Health Inspections Services Plant Protection and Quarantined signed by CDFA August 2009. The Articles in the MOU provide for cooperation, of the parties involved in plant protection and quarantine programs and activities directed at plant pests and noxious weeds of mutual concern to the USDA and California. The Articles outline authorities, codes and sections under which cooperation will be met, including data sharing responsibilities, limitations and confidentiality under Section 1619 of the Food, Conservation, and Energy Act of 2008.

EXHIBIT D

FEDERAL TERMS AND CONDITIONS

The Recipient will comply with all applicable requirements of all Federal laws, executive orders, regulations, and policies governing this program, including 7 CFR Part 1291 and as follows:

1. Civil Rights

The Recipient will comply with civil rights standards which may be prescribed pursuant to the following:

- A. Civil Rights Act, 42 USC 2000, as implemented at 28 CFR Part 42;
- B. Age Discrimination Act, 42 USC 6101, as implemented at 45 CFR Part 90;
- C. Age Discrimination in Employment Act, 29 USC 621, as implemented at 29 CFR Part 1625;
- D. Title IX of the Education Amendments of 1972, 20 USC 1681, as implemented at 45 CFR Part 86;
- E. Section 504 of the Rehabilitation Act, 29 USC 791, as implemented at 28 CFR Part 41;
- F. Executive Order 11246; and
- G. Americans with Disabilities Act, Public Law (P.L.) 101-366.

2. Labor Standards

The Recipient will comply with labor standards which may be prescribed pursuant to the following:

- A. Fair Labor Standards Act, 29 USC 207, as implemented at 29 CFR Part 500899;
- B. Davis-Bacon Act, 40 USC 3141-3148, as implemented at 29 CFR Parts 1, 3, 5, and 7; and
- C. Contract Work Hours and Safety Standards Act, 40 USC 327, as implemented at 29 CFR Part 5, 1926.

3. Environmental Standards

The Recipient will comply with environmental standards which may be prescribed pursuant to the following:

- A. Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
- B. Notification of violating facilities pursuant to EO 11738;
- C. Protection of wetlands pursuant to EO 11990;
- D. Evaluation of flood hazards in floodplains in accordance with EO 11988;
- E. Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
- F. Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.);
- G. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and,
- H. Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

4. Single Audit Act Amendments of 1996

The Recipient will comply with single audit act requirements which may be prescribed pursuant to the following:

- A. Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

5. Drug-Free Environment

The Recipient will comply with drug-free environment standards which may be prescribed pursuant to the following:

- A. §5151-5610 of the Drug-Free Workplace Act of 1988, as implemented by 7 CFR Part 3017, Subpart F, Section 3017.600, Purpose.

6. Lobbying Restrictions

The Recipient will comply with lobbying restriction standards which may be prescribed pursuant to the following:

- A. Limitations on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions, 31 USC 1352, as implemented at 7 CFR Part 3018.

7. Intergovernmental Review

The Recipient will comply with intergovernmental review standards which may be prescribed pursuant to the following:

- A. Executive Order 12372, as implemented at 7 CFR part 3015, subpart V; and
- B. The Intergovernmental Cooperation Act of 1968, 31 USC 6501.

8. Confidentiality

The Recipient will comply with confidentiality standards which may be prescribed pursuant to the following:

- A. Freedom of Information Act, 5 USC 552, as implemented at 7 CFR Part 3019; and
- B. Privacy Act, 5 USC 552a.

9. Conservation in Procurement

The Recipient will comply with procurement standards which may be prescribed pursuant to the following:

- A. Resource Conservation and Recovery Act, 42 USC 6962 and Executive Order 12873, as implemented at 40 CFR Part 247.

10. Debarment, Suspension, Criminal or Civil Convictions

The Recipient and its principals will comply with debarment and suspension standards which may be prescribed pursuant to the following:

- A. Executive Order 12549, as implemented at Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities.

The Recipient will further agree to provide immediate written notice to CDFA if at any time it learns that this certification was erroneous when made or has become erroneous by reason of changed circumstances; and will require recipients of lower-tier covered transactions under this Agreement to similarly certify (Executive Order 12549, as implemented by 7 CFR Part 3017, Section 3017.510, Participants' responsibilities).

11. Crimes and Prohibited Activities

The Recipient will comply with crimes and prohibited activities standards which may be prescribed pursuant to the following:

- A. Anti-Kickback (Copeland) Act, as implemented at 29 CFR Part 3.1;
- B. False Claims Act, 31 USC 3729; and
- C. Program Fraud Civil Remedies Act, 31 USC 3801-3812.

12. Biosafety in Laboratories

The Recipient will comply with laboratory biosafety standards which may be prescribed pursuant to the following:

- A. *Biosafety in Microbiological and Biomedical Laboratories*, published jointly by the Centers for Disease Control and the National Institutes of Health.

13. Conflicts of Interest

The Recipient will comply with conflict of interest standards which may be prescribed pursuant to the following:

- A. Agency implementations, i.e., 45 CFR Part 94; and OMB Circular A-21.

14. Patents and Copyrights

The Recipient will comply with patent and copyright standards which may be prescribed pursuant to the following:

- A. Patent Rights in Inventions Made with Federal Assistance, 35 USC 202-204, as implemented at 37 CFR Part 401.

The Recipient agrees that CDFA and the United States Department of Agriculture (USDA) will have the right to use any copyrighted material or trademarks developed under this Agreement without royalty and may do so in cooperation with other public agencies.

The Recipient agrees that the results of this project may be published by USDA, CDFA or by appropriate contractors or cooperators as mutually agreed.

15. Care and Use of Laboratory Animals

The Recipient will comply with the care and use of laboratory animal standards which may be prescribed pursuant to the following:

A. Animal Welfare Act, 7 USC 2131, as implemented at 9 CFR Sub Chapter A, Parts 1-4.

16. Seat Belt Use

The Recipient will comply with seat belt use standards which may be prescribed pursuant to the following:

- A. Highway Safety Act of 1966 as amended (23 USC 402-03);
- B. Government Organization and Employees Act as amended (5 USC 7902(c));
- C. Occupational Safety and Health Act of 1970 as amended (29 USC 668); and
- D. Increasing Seat Belt Use in the United States (Executive Order 13043).

17. All Other Federal Laws

The Recipient will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program, including 7 CFR Part 1291.

