

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

319A



FROM: Agricultural Commissioner's Office

SUBMITTAL DATE:
July 10, 2013

SUBJECT: Standard Agreement No. 13-0140-SA Regarding Nursery Stock Inspections.

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve Standard Agreement No. 13-0140-SA in the amount of \$84,182 for FY 13/14; and
- 2) Authorize the chairman to sign the agreement.

BACKGROUND: This agreement is renewed annually with the California Department of Food and Agriculture and provides reimbursement for costs associated with inspecting plant nursery stock at all county producer/wholesale locations in order to assure pest cleanliness. Revenue from this source was previously included in the Agricultural Commissioner's FY 13/14 budget request. The Standard 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:	\$84,182	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2013/2014

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

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
 Nays: None
 Absent: None
 Date: July 30, 2013
 xc: Ag. Comm.

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

Prev. Agn. Ref.: 08/28/11 Item 3.14 | District: ALL | Agenda Number:

3-15

ATTACHMENTS FILED
 WITH THE CLERK OF THE BOARD

FORM APPROVED BY COUNTY COUNSEL
 BY: *John Snyder*
 SEAL R. KIPNIS
 Departmental Concurrence

Consent Policy
 Consent Policy

Dept Recomm.:
 Per Exec. Ofc.:

Department of Food and Agriculture
COOPERATIVE AGREEMENT
GAU-03 (Rev. 1/13)

CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

COOPERATIVE AGREEMENT
SIGNATURE PAGE

AGREEMENT NUMBER
13-0140-SA

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, 2013 through June 30, 2014

3. The maximum amount of this Agreement is: \$84,182.00
Eighty Four Thousand One Hundred Eighty Two Dollars and
Zero 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: 4 Page(s)
• Recipient and Project Information
• Scope of Work

Exhibit B: 2 Page(s)
• Budget & Payment Provisions
• Budget

Exhibit C – General Terms and Conditions 2 Page(s)

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

Name of Project: Nursery Inspection Program

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)
[Signature]

DATE SIGNED (Do not type)
7/30/13

PRINTED NAME AND TITLE OF PERSON SIGNING
JOHN J. BENOIT CHAIRMAN, BOARD OF SUPERVISORS

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

STATE OF CALIFORNIA

AGENCY NAME
DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

BY (Authorized Signature)
[Signature]

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING
CRYSTAL MYERS, MANAGER - FEDERAL FUNDS MANAGEMENT OFFICE

ADDRESS
1220 N STREET, ROOM 120
SACRAMENTO, CA 95814

FORM APPROVED COUNTY COUNSEL
BY: NEAL R. KIPNIS
DATE: 7/30/13

JUL 30 2013 3-15

EXHIBIT A

RECIPIENT AND PROJECT INFORMATION

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

The County will inspect all nursery stock at all producer/wholesale nursery locations in the County and enforce all laws and regulations pertaining to nursery stock.

2. The Managers for this Agreement are:

FOR CDFA:		FOR RECIPIENT:	
Name:	Sean Dayyani	Name:	Dustin Wiley
Section/Unit:	Plant Health & Pest Prevention Services/Pest Exclusion	Section/Unit:	COUNTY OF RIVERSIDE
Address:	1220 N Street, Room 344	Address:	4080 Lemon Street, Room 19
City/State/Zip:	Sacramento, CA 95814	City/State/Zip:	Riverside, CA 92502
Phone:	916-654-0435	Phone:	951-955-3011
Email	sean.dayyani@cdfa.ca.gov	Email	agdept@rivcoag.org
Address:		Address:	

3. For a detailed description of work to be performed and duties, see Scope of Work.

Recipient agrees to provide to the California Department of Food and Agriculture (CDFA) all equipment and labor necessary to perform inspection and enforcement activities. The activities under this Agreement shall be completed within the timeframe outlined. Recipient shall inspect all nursery stock at all producer/wholesale nursery locations within the County. (Specifically not included is nursery stock in the first year of a two-year production cycle, plant materials in parent stock or propagative stock beds or blocks that are not to be inspected and nursery stock that is entered in one of the State's registration or certification programs and is inspected by State staff). Recipient to enforce all laws and regulations pertaining to nursery stock, including licensing requirements, in accordance with the Memorandum of Understanding between CDFA and the California Agricultural Commissioners and Sealers Association entitled "State-County Nursery Inspection Program". Recipient shall respond to complaints against nursery establishments.

County Letterhead

Date _____

To: Sean Dayyani
California Department of Food and Agriculture
Pest Exclusion Branch
1220 N Street, Room 344
Sacramento, CA 95814

County of _____
Cooperative Agreement Number 01-2345
Fiscal Year 13/14
Invoice for _____ Quarter
Invoice Number _____

Sample Invoice

Must be accompanied by Report 7
Supplement Page

Invoice Detail	Amount	Reimbursement Rate	Totals
Type 1 Acres =	100 X	14.65 =	\$1,465.00
Type 2 and 4 Acres =	100 (/4 = 25) X	14.65 =	\$366.25
Nursery License/Renewal	3 X	\$75.00 each license =	\$225.00
Invoice Total			\$2,071.25

Please remit payment to County of _____
Address line 1
Address Line 2
Address line 3

Signature Block

(Original Signature)
(Title)

SAMPLE BILLING

THIS SUPPLEMENTAL SHEET TO REPORT 7 SHALL BE USED FOR
NURSERY INSPECTION REIMBURSEMENT BILLING
 BY THE COUNTIES

CDFA USE ONLY	
APPROVED BY:	
NURSERY REIMBURSEMENT:	
LICENSE REIMBURSEMENT:	
TOTAL REIMBURSEMENT:	

COUNTY:	CONTRACT NUMBER:	MONTH/YEAR:
County Name	##-####	Month/Yr

PRODUCTION / WHOLESALE INSPECTIONS					
NAME OF NURSERY	LICENSE NUMBER	DATE(S) INSPECTED	NO. OF ACRES		CDFA USE ONLY
			TYPE 1*	TYPE 2*	
A Generic Nursery	A1234	6/2/2010	50		
A Different Nursery	B1234	6/23/2010	50		
A Type 2 Nursery	C1234	6/29/2010		100	

NUMBER OF LOCATIONS INSPECTED:		TOTAL ACRES:	
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NURSERY LICENSE ACTIVITY			
NAME OF NURSERY LICENSED (Use firm name)	NEW (LICENSE NUMBER)	RENEWAL (LICENSE NUMBER)	CDFA USE ONLY
I Grow Stuff Nursery	c6789		
Roam Depot	b4567		
Orchard Supply		a9876	

SIGNATURE:	TITLE:	DATE:

* Type 1 = Nursery production acreage consisting of nursery stock for farm and landscape planting, ornamentals in containers, and potted plants. Reimbursement rate is the number of acres inspected multiplied by the hourly rate as stated in the contract.

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 must 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 must 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 regulations.
- 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.

The amount payable under this agreement shall not exceed **\$84,182.00** (rounded to the nearest dollar) based on **5,286.75** reimbursable acres as reported by the Recipient. Recipient shall be paid on a per acre basis for inspection and enforcement activities at a rate of **\$15.92** per reimbursable acre.

Recipient shall be paid a current hourly staff rate, not to exceed \$35.00 per hour, for nursery investigative work, provided such investigative work is approved in advance by the CDFA Nursery Program. In addition, Recipient shall also be paid \$75.00 not covered under this agreement for each new license secured and verified by inspection by the Recipient and \$75.00 for each renewed forfeited (delinquent) license secured by the Recipient.

Payment shall be made quarterly in arrears upon submission and approval of an itemized invoice and Report 7 Supplement Forms (see attached sample invoice). Recipient shall submit an itemized invoice referencing the Cooperative Agreement Number and sent to:

California Department of Food and Agriculture
Pest Exclusion Branch
Nursery, Seed, and Cotton Program
Attention: Sean Dayyani
1220 N Street, Room 344
Sacramento, California 95814

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**

The 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**

The 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**

The Recipient must obtain prior approval from the CDFA Agreement Manager before hiring contractors, consultants or both. Recipient must follow their organization's written procurement policy and in the absence of a written policy, the organization must conduct a competitive bid process. All contractors must have the proper licenses/certificates required in their respective disciplines.

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**

The 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.

The 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.

The 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 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

The 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.