

FORM APPROVED COUNTY COUNSEL  
 BY: GREGORY P. PRIAMOS  
 DATE: 7/15/14

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

346 A



**FROM:** Agricultural Commissioner's Office

**SUBMITTAL DATE:**  
 July 22, 2014

**SUBJECT:** Cooperative Agreement for the Pierce's Disease Nursery Treatment Control Program. [\$0]

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

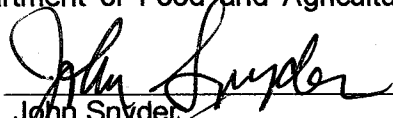
1. Approve Cooperative Agreement No. 14-0145-SA with the California Department of Food and Agriculture, for the amount of \$50,000 for FY 14/15; and
2. Authorize the chairman to sign the agreement.

**BACKGROUND:**

Summary

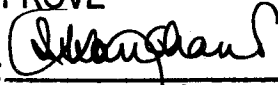
Agricultural production in Riverside County contributes an estimated \$1.3 billion directly to the local and regional economy. Among the rich and varied assortment of agricultural commodities produced in Riverside County, nursery stock production alone represents approximately 20% of the county's total value.

Due to the presence of Glassy-Winged Sharpshooter (GWSS) populations in local nursery operations that ship plants to un-infested areas of the state, the California Department of Food and Agriculture has approved this specific treatment funding.

  
 John Snyder,  
 Agricultural Commissioner/  
 Sealer of Weights and Measures

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
<b>COST</b>	\$ [50,000]	\$ 0	\$ [50,000]	\$ 0	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0	

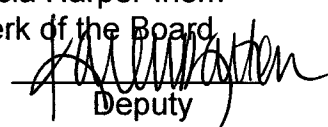
**SOURCE OF FUNDS:** California Dept. of Food and Agriculture  
 Budget Adjustment: No  
 For Fiscal Year: 2014/2015

**C.E.O. RECOMMENDATION:** APPROVE  
 BY:   
 County Executive Office Signature: Ivan M. Chand 8/22/2014

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Tavaglione, seconded by Supervisor Benoit 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: September 9, 2014  
 xc: Agric. Comm.

Kecia Harper-Ihem  
 Clerk of the Board  
 By:   
 Deputy

**Prev. Agn. Ref.:** 06/12/12 Item 3.15 | **District:** All | **Agenda Number:**

**3-17**

- A-30
- Positions Added
- 4/5 Vote
- Change Order

Departmental Concurrence

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA  
FORM 11: Cooperative Agreement for the Pierce's Disease Nursery Treatment Control Program.**

**[\$0]**

**DATE: July 22, 2014**

**PAGE: 2 of 2**

**BACKGROUND:**

**Summary (continued)**

This agreement provides \$50,000 to reimburse participating pest control operator costs associated with the treatment of nursery stock to control GWSS populations. The Agricultural Commissioner will administer the reimbursements via a "pass through" account.

This agreement was approved as to form by County Counsel.

**Impact on Citizens and Businesses**

Plant production nursery businesses will be positively impacted in that they will be able to continue to ship nursery stock during times of the season when they are generally subjected to high populations of Glassy-Winged Sharpshooter insects, due to carefully timed treatments.

**Contract History and Price Reasonableness**

This agreement has been renewed each year since its inception in FY 2008-09 and the dollar amount covers all related costs.

WHEN DOCUMENT IS FULLY EXECUTED RETURN  
CLERK'S COPY  
to Riverside County Clerk of the Board, Stop 101C  
Post Office Box 1147, Riverside, Ca 92502-1147  
Thank you

**COOPERATIVE AGREEMENT  
SIGNATURE PAGE**

AGREEMENT NUMBER
14-0145-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, 2014 through June 30, 2015**

3. The maximum amount of this Agreement is: **\$50,000.00**  
**Fifty Thousand 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: 6 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 HARRINGTON, Clerk  
By *Kallie Gaton*  
DEPUTY

FORM APPROVED COUNTY COUNSEL  
DATE  
BY: NEAL R. KIPNIS

Name of Project: **Nursery Treatment 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)  
*Jeff Stone*  
PRINTED NAME AND TITLE OF PERSON SIGNING  
**JEFF STONE**

DATE SIGNED (Do not type)  
**9/9/14**

**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)  
*Crystal J. Myers*  
PRINTED NAME AND TITLE OF PERSON SIGNING  
**CRYSTAL MYERS, MANAGER - FEDERAL FUNDS MANAGEMENT OFFICE**

DATE SIGNED (Do not type)  
**9/26/14**

ADDRESS  
**1220 N STREET, ROOM 120  
SACRAMENTO, CA 95814**

MA

SEP 09 2014 3-17

2014-10-124373

## EXHIBIT A

### RECIPIENT AND PROJECT INFORMATION

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

The CDFA will reimburse the County for costs incurred in the Nursery Treatment Program.

2. The Managers for this Agreement are:

FOR CDFA:		FOR RECIPIENT:	
Name:	Stacie Oswalt / Myrna Villegas	Name:	John Snyder
Section/Unit:	Pierce's Disease Control Program	Section/Unit:	COUNTY OF RIVERSIDE
Address:	1220 N Street	Address:	4080 Lemon Street, Room 19
City/State/Zip:	Sacramento, CA 95814	City/State/Zip:	Riverside, CA 92502-1089
Phone:	916-9005250 / 5254	Phone:	951-955-3045
Email Address:	stacie.oswalt@cdfa.ca.gov myrna.villegas@cdfa.ca.gov	Email Address:	agdept@rivcoag.org

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

**Scope of Work  
Nursery Treatment Contract with Riverside County  
Fiscal Year 2014/15**

**Summary**

Agreement between the California Department of Food and Agriculture ("CDFA") and the County of Riverside ("County") to reimburse qualified nurseries participating in the Nursery Treatment Program ("Program") for costs incurred for multiple nursery treatments to control the glassy-winged sharpshooter (GWSS), a major vector of Pierce's disease.

Participating qualified nurseries in the Program hire licensed pesticide applicators to treat the nursery inventory for the purpose of controlling the GWSS population. The individual nursery submits an invoice to the County for reimbursement of the treatment costs, and CDFA reimburses the County.

**Statutory and Regulatory Authority**

Food and Agricultural Code (FAC) § 6045(a) states "The Legislature hereby finds and declares that the plant killing bacterium, *Xyella Fastidiosa* and the resulting pathogen, Pierce's disease, and its vectors present a clear and present danger to California's fifty billion dollar grape industry, as well as to many other commodities and plant life."

FAC § 6047.1(a) further states that the Legislature declares that the "state's agricultural business economy could be seriously damaged if measures are not taken to prevent the transmittal of the plant killing bacterium that causes Pierce's disease and to contain its vectors, particularly the glassy-winged sharpshooter, and if measures are not taken to prevent or inhibit infestations by other designated pests and diseases."

FAC §§ 6046(c)(2) and (d) state that funds in the Pierce's Disease Management Account shall be made available for expenditure for the purpose of combating Pierce's disease or its vectors.

FAC § 6046(g)(4) and Title 3 CCR § 3651(c)(1)(E) provide workplan elements may include treatment programs to prevent the establishment and spread of Pierce's disease and its vectors.

**Background**

The GWSS is a serious pest in California because of its ability to spread *Xylella fastidiosa*, the bacterium that causes Pierce's disease which kills grapevines, and there is no cure or effective treatment at this time for Pierce's disease. In addition, various strains of *X. fastidiosa* cause scorch disease of almond, oleander, mulberry, olive and liquidamber, and alfalfa dwarf and citrus variegated chlorosis. These diseases are of particular concern to landscape professionals and agricultural producers in California. The GWSS ranges over many habitats, including agricultural crops, urban landscapes, native woodlands, and riparian vegetation. [University of California, Agriculture and Natural Resources, Pierce's Disease Research and Emergency Response Task Force brochure] The list of host plants includes about 300 genera, encompassing hundreds of plant species, and citrus is a primary feeding host for GWSS.

There are two generations of GWSS per year, early spring and summer/fall. The spring generation has a life span of approximately 2-3 months, while the summer/fall generation has a life span of 4-6 months. In the spring, the adult GWSS lay egg masses and the nymphs that emerge from those egg masses become the adults that lay egg masses in summer/fall. The nymphs that emerge from those egg masses become the adults that lay egg masses the following spring.

Citrus has been identified not only as a primary feeding host for the glassy-winged sharpshooter, but also as an area for populations of GWSS to reside. The insect uses citrus areas as a staging point for movement in search of not only food sources but also as ovipositional (egg-laying) sites. As a result, there is a high pest population in citrus areas. Adult GWSS overwintering in the citrus areas will leave those areas in search of food sources – the various host plants in the nearby nurseries.

Riverside County is a generally infested county, and shipping nurseries exist in close proximity of commercial citrus orchards, most of which do not treat for GWSS. Because of this, there is an extremely high pest population of GWSS in and around the nurseries.

In addition, some of the nurseries are located near riparian areas that contain numerous host plants for GWSS and due to environmental prohibitions, these riparian areas cannot be treated. The presence of these host plants contributes to high pest population in these areas.

Shipping nurseries located in generally infested areas ship plant material to non-infested areas, increasing the likelihood of artificial spread of the GWSS. These nursery treatments are critical to the control and suppression of the GWSS in that the treatments kill the GWSS in shipped plant material, thereby reducing the artificial spread of GWSS via nursery shipments. In addition, the treatments provide added protection against the artificial spread of GWSS by decreasing the GWSS pest population – less GWSS in the vicinity reduces the possibility of GWSS flying into a truck in a nursery loading area. Lastly, and of great importance, the treatments decrease the pest population by preventing egg laying when treatments take place at the appropriate time – before the GWSS emerge from the egg masses and while the GWSS are still in the nymphal stage, before they become egg-laying adults.

As an added benefit to California's economy, these treatments allow the nurseries to continue shipping their product, particularly during the peak shipping seasons. The California nursery industry has an economic value of over \$3 billion [California Agricultural Resource Directory 2008-2009] and 75% of this economic activity is generated during the peak shipping seasons.

The most common reason for rejection of a shipment at the destination nursery is the presence of egg masses on the nursery stock. As mentioned above, these treatments decrease the pest population and resultant egg-laying, helping to eliminate the primary reason for rejection at destination.

Also, by reducing the pest population, the nurseries are able to continue shipping their product, as the decreased pest population results in lower numbers of GWSS trapped in nurseries.

In a non-infested nursery, traps are placed at a minimum of one trap per one-half acre in the nursery growing areas and not less than two traps per one-half acre in the staging areas<sup>1</sup>. If the staging area traps exceed three GWSS adults in the same one-half acre in a two-week period, the nursery must immediately suspend all shipments to non-infested areas, and treat the surrounding area.

In an infested nursery, traps are placed at a minimum of two traps per one-half acre in the staging areas. (Traps are not placed in the nursery growing area.) If the staging area traps exceed three GWSS adults in the same one-half acre in a two-week period, the nursery must immediately suspend all shipments to

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<sup>1</sup> Staging areas are the areas where nursery stock is gathered prior to loading into trucks for shipment. Treatments prior to shipment may also be conducted in the staging areas.

non-infested areas, and treat the surrounding area. In addition to placing traps, inspection and treatment of the nursery stock are required prior to shipping, and the shipment is again inspected upon arrival at destination.

In a nursery in the Approved Treatment Program (ATP), traps are placed at a minimum of two traps per one-half acre throughout the nursery growing areas and in the staging areas. If the traps exceed 10 GWSS in the same one-half acre in a two-week period, host material within a 300' radius around the traps indicating greater than 10 GWSS may not be shipped and must receive treatment. Host material outside of the 300' radius may still be shipped.

When the number of GWSS trapped exceeds the minimum thresholds, shipments may not resume for a minimum of two weeks in non-infested and infested nurseries, a minimum of four weeks in ATP nurseries, and possibly longer in all types of nurseries depending on the number of GWSS subsequently found in the traps.

### **Nursery Treatment Program**

The Nursery Treatment Program consists of treatments of nursery stock with approved pesticides, by helicopter and/or ground application, in participating nurseries. The nurseries are located in rural areas only; therefore, applications are not conducted on or over urban/residential areas, schools, or hospitals.

Nurseries submit applications to CDFA for participation in the Program. The application is in the form of an estimate for nursery treatment that includes the nursery name and location, total acreage proposed to be treated, map of the area(s) proposed for treatment, proposed treatment dates, estimated costs for labor, proposed chemical to be used, rate of application per acre, method of application, and chemical costs, and any other costs. CDFA reviews and approves or denies the application, in writing, based on the criteria for qualified shipping nurseries (see below), and the total funding available. CDFA forwards the approved application to the County when a nursery is approved for participation in the Nursery Treatment Program.

If approved, the individual nursery is responsible for arranging the treatments. The nursery contacts a licensed Pest Control Business (PCB) of its choosing, and a work order is generated by the company for the work to be performed. Helicopters are provided by the PCB. Treatments comply with all applicable laws and regulations, and in an environmentally responsible manner.

Timing of the treatments is important. The treatments are scheduled to coincide with the emergence of the nymphs from the egg masses so that those emerging nymphs are killed upon contact with the chemical. Also, nymphs are not able to fly so are not as mobile as the flying adults; therefore, it is important that treatments take place in the nymphal stage, or the opportunity to kill the GWSS is lost at worst and severely decreased at best. Lastly, killing the GWSS before it reaches the adult stage eliminates the egg laying that produces the next generation of GWSS.

Upon completion of the treatment, the nursery submits a Pesticide Use Report (PUR) to the County. The PUR contains information such as the chemical applied, dilution of chemical, amount of chemical applied, date and time of application, rate of application per acre, method of application, location of application, number of acres to which chemical applied, permit number, re-entry interval.

The County reviews the PUR to ensure the nursery is using the appropriate chemical, method, and rate of application.

CDFA may also conduct "spot checking" of treatments by visually observing the treatment as it is applied.

Nurseries submit invoices for treatment costs to the County for reimbursement, and the County then invoices PDCP for reimbursement of the County reimbursements to the nurseries.

PDCP monitors the pest population in the areas in and surrounding the participating nurseries, and compiles information regarding the number of shipments, plants, rejections.

### **Qualifying Shipping Nursery**

Criteria for qualified shipping nurseries:

1. Nursery must be a shipping nursery within ½ mile of treated commercial citrus.
2. Nursery must be under a current/valid compliance agreement.
3. Nursery must regularly ship to non-infested areas of California.
4. Nursery must submit an application for participation in treatment program.
5. Estimated costs for treatment must be reasonable.

Additional criteria that may be used:

1. Number and frequency of shipments by the nursery.
2. Whether the nursery has an active pest management plan.
3. Whether the nursery is under a quarantine/shipping hold.
4. Extent of pest population.

### **County Responsibilities**

The County will be responsible for reimbursement to the qualified nurseries for their costs incurred for treatments, but only after receiving reimbursement from CDFA. Riverside County may also be responsible for reimbursement to at least one qualified nursery in San Diego County as one nursery in San Diego County has expressed interested in participating in the Nursery Treatment Program while San Diego County has declined to participate in the Nursery Treatment Program. The interested nursery in San Diego County is in close proximity to the Riverside County boundary, and is owned by a qualified nursery that has its main location in Riverside County.

The county will also be responsible for the following:

1. Assist CDFA in identifying qualified nurseries upon request.
2. Review the PURs to ensure the nursery is using the appropriate treatment method (helicopter or ground application).
3. Review the PURs to ensure the nursery utilized an approved chemical that would give the best efficacy for this endeavor, and determine if the amount used is appropriate.
4. Certify that the PUR was reviewed and consistent with the treatment outlined on the invoice (in compliance with the label requirements as detailed by the Department of Pesticide Regulation, including host material and application rate).
5. Invoice the Pierce's Disease Control Program, providing supporting documentation for each nursery upon request. The county will retain the detailed supporting documentation for a minimum of five years.
6. Provide status reports to CDFA upon request.



## **Nursery Responsibilities**

The nursery will submit an application for participation in the Nursery Treatment Program to CDFA with the following information:

1. Nursery name and location
2. Total acreage proposed to be treated
3. Map of the area(s) proposed for treatment
4. Proposed treatment dates
5. Method of application
6. Estimated costs for labor
7. Proposed chemical to be used
8. Rate of application per acre
9. Chemical costs
10. Any other costs

Upon approval for participation in Nursery Treatment Program, the nursery shall:

1. Consult with CDFA regarding the treatment plan, if necessary.
2. Conduct treatments in compliance with all applicable laws and regulations, and in an environmentally responsible manner.
3. Hire only applicators that possess valid required licenses for the method of application (helicopter and/or ground).
4. Notify the County when treatment occurs.
5. Submit invoice to the County for approval and reimbursement, including a PUR for the treatments.

## **CDFA Responsibilities**

CDFA will be responsible for the following:

Overseeing multiple treatments of qualified nurseries.

1. Identify and approve qualified shipping nurseries that apply for participation in the Nursery Treatment Program in Riverside County and, if applicable, in San Diego County.
2. Recommend the appropriate time to perform treatments.
3. Ensure the nursery is using the appropriate treatment method (systemic or foliar, ground or aerial application).
4. Ensure the nursery chooses a pesticide and appropriate rate of application that would give the best efficacy for this endeavor.
5. Conduct "spot checking" of treatments by visually observing treatments, if necessary, to ensure that treatments are in compliance with the label requirements as detailed by the Department of pesticide Regulation, including host material and application rate.
6. Provide the approved nurseries with a detailed and uniform invoice template to be submitted to the County upon completion of treatment by the nurseries.
7. Process approved invoices for reimbursement to the County.
8. Monitor the pest population in the areas in and surrounding the participating nurseries.
9. Maintain communication with the San Diego County Agricultural Commissioner's Office concerning treatments.
10. Compile information regarding the number of shipments, plants, rejections for the nursery treatment program.

## 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 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

The Recipient must obtain written approval from the CDFA Agreement Manager for any line-item shifts.

#### 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.

**Riverside County  
Nursery Treatment Program  
Estimated Budget  
2014/15**

Labor Costs

Helicopter Applications - 452 acres at \$45/acre \$ 20,340.00

Chemical Costs

Chemicals (including but not limited to Tristar 8.5 SL,  
Discus, Admire Pro, Sevin SL) \$ 27,618.56

Administrative Costs

To oversee qualified nurseries participating  
in the Nursery Treatment Program in  
San Diego County and Riverside County \$ 2,041.44

**Total Budget \$50,000.00**

## 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.