

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



ITEM: 3.5
(ID # 20242)

MEETING DATE:
Tuesday, November 01, 2022

FROM : AGRICULTURAL COMMISSIONER:

SUBJECT: AGRICULTURAL COMMISSIONER: Cooperative Agreement No. 22-0998-022-SF with the California Department of Food and Agriculture for the Phytophthora ramorum Inspection program, effective July 1, 2022 through June 30, 2023, All Districts. [\$6,984 Total Cost - State Funds 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and approve Cooperative Agreement No. 22-0998-022-SF with the California Department of Food and Agriculture for the Phytophthora ramorum Inspection Program, effective July 1, 2022 through June 30, 2023, in the amount of \$6,984; and
2. Authorize the Chair of the Board of Supervisors to sign the agreement on behalf of the County.

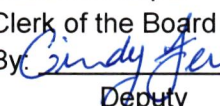
ACTION: Policy


Delia Cioc, Assistant Agricultural Commissioner. 10/19/2022

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Hewitt, and Perez
Nays: None
Absent: None
Date: November 1, 2022
xc: Agric. Comm.

Kecia R. Harper
Clerk of the Board
By: 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 6,984	\$ 0	\$ 6,984	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: California Department of Food and Agriculture 100% State Funds			Budget Adjustment: No	
			For Fiscal Year: 2022/2023	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The purpose of this agreement is for the county to perform site inspections, sampling, records inspections and certification verification for the California Department of Food and Agriculture (CDFA) at nurseries. CDFA will reimburse the county for these activities. Revenue from this source was included in the Agricultural Commissioner's FY 22/23 budget request. This agreement was approved as to form by County Counsel.

Impact on Residents and Businesses:

Residents and Business will be positively impacted in that this program is aimed at preventing the spread of Phytophthora ramorum throughout the state and specifically Riverside county.

Contract History and Price Reasonableness

This is the second year for this agreement. It will cover all related cost.

ATTACHMENT:

Attachment A: Cooperative Agreement No. 22-0998-022-SF with the California Department of Food and Agriculture


 Jason Farin, Principal Management Analyst 10/24/2022


 Kristine Bell-Valdez, Supervising Deputy County Counsel 10/19/2022

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RESOLUTION

BE IT RESOLVED by the Board of Supervisors of the County of Riverside, State of California, in regular session assembled on November 1, 2022, that Jeff Hewitt, the Chairman of this Board is authorized and directed to execute on behalf of said County the Cooperative Agreement No. 22-0998-022-SF between the Riverside County and California Department of Food and Agriculture providing for: Phytophthora ramorum Inspection Program

ROLL CALL:

Ayes: Jeffries, Spiegel, Washington, Perez, and Hewitt
Nays: None
Absent: None
Abstain: None

The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

KECIA R. HARPER,
Clerk of the Board

BY: 
Deputy Clerk

CLERK'S COPY

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

State of California, Department of Food and Agriculture
AGREEMENT
GAU-03 (Rev. 7/2022)

COOPERATIVE AGREEMENT
SIGNATURE PAGE

AGREEMENT NUMBER
22-0998-022-SF

- This Agreement is entered into between the State Agency and the Recipient named below:
STATE AGENCY'S NAME
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
RECIPIENT'S NAME
COUNTY OF RIVERSIDE
- The Agreement Term is: July 1, 2022 through June 30, 2023
- The maximum amount of this Agreement is: \$6,984.31
- The parties agree to comply with the terms and conditions of the following exhibits and attachments which are by this reference made a part of the Agreement:

Exhibit A: Prime Award Information	2 Page(s)
Recipient and Project Information	
Exhibit B: General Terms and Conditions	5 Page(s)
Exhibit C: Payment and Budget Provisions	2 Page(s)
Exhibit D: Federal Terms and Conditions	3 Page(s)

Attachments: Scope of Work and Budget

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

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

BY (Authorized Signature)

DATE SIGNED

PRINTED NAME AND TITLE OF PERSON SIGNING
JEFF HEWITT
CHAIR, BOARD OF SUPERVISORS

11/1/2022

ADDRESS
P.O. Box 1089, Riverside, CA 92502-1089

STATE OF CALIFORNIA

AGENCY NAME
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

BY (Authorized Signature)

DATE SIGNED

PRINTED NAME AND TITLE OF PERSON SIGNING
LAURA RODRIGUEZ, STAFF SERVICES MANAGER I, OFFICE OF GRANTS ADMINISTRATION

ADDRESS
1220 N STREET, ROOM 120
SACRAMENTO, CA 95814

LB

FORM APPROVED COUNTY COUNSEL

BY: DANIELLE D. MALAND

ALICIA HARPER, Clerk
DEPUTY

NOV 1 2022 3.5

EXHIBIT A

PRIME AWARD INFORMATION

Federal Agency:	USDA-APHIS-PPQ
Federal Award Identification Number:	AP22PPQFO000C502
Federal Award Date:	August 2, 2022
Catalog of Federal Domestic Assistance Number (CFDA) and Name:	10.025 Plant and Animal Disease, Pest Control, and Animal Control
Amount Awarded to CDFA:	\$1,308,771.00
Effective Dates for CDFA:	July 1, 2022 through June 30, 2023
Federal Award to State Agency is Research & Development (Yes/No)	No

RECIPIENT AND PROJECT INFORMATION

- CDFA hereby awards an Agreement to the Recipient for the project described herein:
County will perform P. ramorum program enforcement activities in support of the State Oak Mortality Disease Control regulation, State and Federal Quarantines, and associated federal orders

Project Title: Phytophthora ramorum - Non quarantined

- The Managers for this Agreement are:

FOR CDFA:		FOR RECIPIENT:	
Name:	Carolyn Lambert	Name:	Ruben Arroyo
Division/Branch:	PHPPS / Pest Exclusion	Organization:	County of Riverside
Address:	1220 N Street	Address:	P.O. Box 1089
City/State/Zip:	Sacramento, CA 95814	City/State/Zip:	Riverside, CA 92502-1089
Phone:	916-654-0312	Phone:	951-955-3022
Email Address:	carolyn.lambert@cdfa.ca.gov	Email Address:	agdept@rivco.org

- The Grant Administrative Contacts for this Agreement are:

FOR CDFA:		FOR RECIPIENT:	
Name:	Shadi Moscoupos	Name:	Erik Downs
Division/Branch:	PHPPS / Pest Exclusion	Organization:	Riverside County Agricultural Commissioner's Office
Address:	1220 N Street	Address:	3403 10th Street, Suite 701
City/State/Zip:	Sacramento, CA 95814	City/State/Zip:	Riverside CA 92501
Phone:	916-531-5747	Phone:	951.955.3004
Email Address:	shadi.moscoupos@cdfa.ca.gov	Email Address:	edowns@rivco.org

FISCAL CONTACT FOR RECIPIENT
(if different from above):

Name:

Organization:

Address:

City/State/Zip:

Phone:

Email Address:

4. RECIPIENT: Please check appropriate box below:

Research and Development (R&D) means all research activities, both basic and applied, and all development activities that are performed by non-Federal entities. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other R&D activities and where such activities are not included in the instruction function.

This award does does not support R&D.

5. For a detailed description of activities to be performed and duties, see Scope of Work and Budget.

EXHIBIT B

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 activities performed prior to the commencement date or completed after the termination date of this Agreement.

2. Agreement Execution

Unless otherwise prohibited by state law, regulation, or Department or Recipient policy, the parties agree that an electronic copy of a signed Agreement, or an electronically signed Agreement, has the same force and legal effect as an Agreement executed with an original ink signature. The term "electronic copy of a signed Agreement" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed Agreement in a portable document format. The term "electronically signed Agreement" means an Agreement that is executed by applying an electronic signature using technology approved by all parties.

3. Assignment

This Agreement is not assignable by the Recipient, either in whole or in part, without the prior consent of the CDFA Agreement Manager or designee in the form of a formal written amendment.

4. Governing Law

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

5. State and Federal Law

It is the responsibility of the Recipient to know and understand which State, Federal, and local laws, regulations, and ordinances are applicable to this Agreement and the Project, as described in Exhibit A. The Recipient shall be responsible for observing and complying with all applicable State and Federal laws and regulations. Failure to comply may constitute a material breach.

6. Recipient Commitments

The Recipient accepts and agrees to comply with all terms, provisions, conditions and commitments of the Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by the Recipient in the application, documents, amendments, and communications in support of its request for funding.

7. Performance and Assurances

The Recipient agrees to faithfully and expeditiously perform or cause to be performed all Project work as described in the Scope of Work, and to apply grant funds awarded in this Agreement only to allowable Project costs.

8. Mutual Liability

Parties shall, to the extent allowed by law, each be individually liable for any and all claims, losses, causes of action, judgments, damages, and expenses to the extent directly caused by their officers, agents, or employees.

9. Unenforceable Provision

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the parties agree that all other provisions of this Agreement shall remain operative and binding.

10. Contractors/Consultants

The Recipient assumes full responsibility for its obligation to pay its Contractors/Consultants. The Recipient is responsible to ensure that any/all contractors/consultants it engages to carry out activities under this Agreement shall have the proper licenses/certificates required in their respective disciplines. The Recipient's use of contractors/consultants shall not affect the Recipient's responsibilities under this Agreement.

11. Non-Discrimination Clause

The Recipient agrees that during the performance of this Agreement, it will not discriminate, harass, or allow harassment or discrimination against any employee or applicant for employment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The Recipient agrees to require the same of all contractors and consultants retained to carry out the activities under this Agreement.

The Recipient agrees that during the performance of this Agreement, the evaluation and treatment of its employees and applicants for employment are free from discrimination and harassment. The Recipient will comply with the provisions of the Fair Employment and Housing Act (Government Code section 12990 *et seq.*) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, section 10000 *et seq.*). The applicable regulations of the Fair Employment and Housing Council implementing Government Code section 12990 (a-f), set forth in Division 4.1 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. The Recipient 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 must include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

The Recipient agrees to require the same of all contractors and consultants retained to carry out activities under this Agreement.

12. 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 CDFA 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.

13. Disputes

The Recipient must continue with the responsibilities under this Agreement during any dispute. In the event of a dispute, the Recipient must file a "Notice of Dispute" with the CDFA Agreement Manager, identified in Exhibit A, or designee within ten (10) calendar days of discovery of the problem. The Notice of Dispute must contain the Agreement number. Within ten (10) calendar days of receipt of the Notice of Dispute, the CDFA Agreement Manager or designee must meet with the Recipient for the purpose of resolving the dispute. In the event of a dispute, the language contained within this Agreement prevails.

14. Termination for Convenience

This Agreement may be terminated by either party upon written notice. Notice of termination must be delivered to the other party at least thirty (30) calendar days prior to the intended date of termination. Notice of termination does not nullify obligations already incurred prior to the date of termination. In the event of Termination for Convenience of this Agreement by CDFA, CDFA must pay all responsible costs and non-cancellable obligations incurred by the Recipient as of the date of termination.

15. Termination for Cause

Either party may terminate this Agreement for cause in the event of a material breach of this Agreement, provided that the non-breaching party provides written notice of the material breach and ten (10) calendar days to cure the breach. If the breach is not cured to the satisfaction of the non-breaching party within ten (10) calendar days of receipt of notice, this Agreement shall automatically terminate and the CDFA shall reimburse the Recipient for all documented costs incurred up to the date of the notice of termination, including all non-cancellable obligations.

16. Acceptable Failure to Perform

The Recipient shall not be liable for any failure to perform as required by this Agreement, to the extent such failure to perform is caused by any of the following: labor disturbances or disputes of any kind, accidents, or the inability to obtain any required government approval to proceed, civil disorders, acts of aggression, acts of God, energy or other conservation measures, failure of utilities, mechanical breakdowns, materials shortages, disease, pandemics, or similar occurrences.

17. Breach

Reimbursement under this Agreement may be suspended, terminated, or both, and the Recipient may be subject to debarment if CDFA determines that the Recipient has breached the terms of this Agreement. A determination of breach may be appealed in writing to the CDFA. The appeal must be post marked within ten (10) calendar days of the date the Recipient received notification and addressed to the CDFA Legal Office of Hearing and Appeals or emailed to CDFA.LegalOffice@cdfa.ca.gov.

California Department of Food and Agriculture
Legal Office of Hearing and Appeals
1220 N Street
Sacramento, CA 95814

18. Non-Material Breach

The Recipient may be in material breach under this Agreement if it fails to comply with any term of this Agreement. In the event of a material breach, CDFA shall provide in writing a Notice of Breach to the Recipient within ten (10) calendar days upon discovery of breach. The Recipient shall have ten (10) calendar days from receipt of the notice to cure the breach. If the Recipient fails to cure the breach within the time prescribed by this Agreement, CDFA may do any of the following:

- A. Suspend payments;
- B. Demand repayment of all funding;
- C. Terminate the Agreement; or
- D. Take any other action deemed necessary to recover costs.

If CDFA determines that the Recipient is not in material breach but that the Project is not being implemented in accordance with the provisions of this Agreement, or that the Recipient has failed in any other respect to comply with the provisions of this Agreement, and the Recipient has failed to remedy any such failure in a reasonable and timely manner, CDFA may withhold all or any portion of the grant funding and take any other action that CDFA deems necessary to protect its interests.

Where a portion of the grant funding has been disbursed to the Recipient and CDFA notifies the Recipient of its decision not to release funds that have been withheld pursuant to paragraph 17, the portion that has been disbursed shall thereafter be repaid immediately. CDFA may consider the Recipient's refusal to repay the requested disbursed amount a material breach.

If CDFA notifies the Recipient of its decision to withhold the entire funding amount from the Recipient pursuant to this paragraph, this Agreement shall terminate upon receipt of such notice by the Recipient and CDFA shall no longer be required to provide funds under this Agreement and the Agreement shall no longer be binding on either party.

In the event CDFA finds it necessary to enforce this provision of this Agreement in the manner provided by law, the Recipient agrees to pay all enforcement costs incurred by CDFA including, if CDFA should prevail in a civil action, reasonable attorneys' fees, legal expenses, and costs related to the action.

19. 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, publications, audiovisuals, presentations or other types of promotional material and in accordance with the Grant Procedures Manual if incorporated by reference and attachment to the Agreement. The Recipients may not use the CDFA logo.

20. News Releases/Public Conferences

The Recipient agrees to notify the CDFA in writing at least two (2) business days before any news releases or public conferences are initiated by the Recipient or its Contractors/Consultants regarding the project described in the Attachments, Scope of Work and Budget and any project results.

21. Scope of Work and Budget Changes

Changes to the Scope of Work, Budget, or the Project term, must be requested in writing to CDFA Grant Administrative Contact no less than thirty (30) days prior to the requested implementation date. Any changes to the Scope of Work and Budget are subject to CDFA approval and, at its discretion, CDFA may choose to accept or deny any changes. If accepted and after negotiations are concluded, the agreed upon changes will be made and become part of this Agreement. CDFA will respond in writing within ten (10) business days as to whether the proposed changes are accepted.

22. Reporting Requirements

The Recipient agrees to comply with all reporting requirements specified in Scope of Work and/or Grant Procedures Manual if incorporated by reference to this Agreement as an attachment.

23. Equipment

Purchase of equipment not included in the approved Budget requires prior approval. The Recipient must comply with applicable state requirements regarding the use, maintenance, disposition, and reporting of equipment as contained in CCR, Title 3, Division 1, Chapter 5, sections 303, 311, 324.1 and 324.2.

24. Closeout

The Agreement will be closed out after the completion of the Project or project term, receipt and approval of the final invoice and final report, and resolution of any performance or compliance issues.

25. Confidential and Public Records

The Recipient and CDFA understand that each party may come into possession of information and/or data which may be deemed confidential or proprietary by the person or organization furnishing the information or data. Such information or data may be subject to disclosure under the California Public Records Act or the Public Contract Code. CDFA has the sole authority to determine whether the information is releasable. Each party agrees to maintain such information as confidential and notify the other party of any requests for release of the information.

26. Amendments

Changes to funding amount or Agreement term require an amendment and must be requested in writing to the CDFA Agreement Manager or designee no later than sixty (60) calendar days prior to the requested implementation date. Amendments are subject to CDFA approval, and, at its discretion, may choose to accept or deny these changes. No amendments are possible if the Agreement is expired.

27. Plant Protection Act Memorandum of Understanding

The Recipient 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 Quarantine executed on May 6, 2019. 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 (Section 1619 was codified into law 7 USC §8791).

28. Executive Order N-6-22 Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate agreements with, and to refrain from entering any new agreements with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Recipient is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Recipient advance written notice of such termination, allowing Recipient at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

EXHIBIT C

PAYMENT AND BUDGET PROVISIONS

1. Invoicing and Payment

- A. For activities satisfactorily rendered and performed according to the attached Scope of Work and Budget, and upon receipt and approval of the invoices, CDFA agrees to reimburse the Recipient for actual allowable expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices must include the Agreement Number, performance period, type of activities performed in accordance with this Agreement, 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.
- C. Unless stated in the Scope of Work, quarterly invoices must be submitted to the CDFA Administrative Contact, within thirty (30) calendar days after the end of each quarter in which activities under this Agreement were performed.
- D. Unless stated in the Scope of Work, a final invoice will be submitted for payment no more than thirty (30) calendar days following the expiration date of this Agreement, or after project is complete, whichever comes first. The final invoice must be clearly marked "Final Invoice" thus indicating that all payment obligations of the CDFA under this Agreement have ceased and that no further payments are due or outstanding.

2. Allowable Expenses and Fiscal Documentation

- A. The Recipient must maintain adequate documentation for expenditures of this Agreement to permit the determination of the allowability of expenditures reimbursed by CDFA under this Agreement. If CDFA cannot determine if expenditures are allowable under the terms of this Agreement because records are nonexistent or inadequate according to Generally Accepted Accounting Principles, CDFA may disallow the expenditures.
- B. If mileage is a reimbursable expense, using a privately-owned vehicle will be at the standard mileage rate established by the United States (U.S.) Internal Revenue Service (IRS) and in effect at the time of travel. The standard mileage rate in effect at the time of travel can be found on IRS's website regardless of funding source/type.
- C. If domestic travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. The maximum rates allowable for travel within California are those established by the California Department of Human Resources (CalHR). The maximum rates allowable for domestic travel outside of California are those established by the United States General Services Administration (GSA).
- D. If foreign 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.
- 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.

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. **Budget Contingency Clause**

If funding for any fiscal year is reduced or deleted for purposes of this program, the CDFA has the option to either cancel this Agreement with no liability occurring to the CDFA or offer to amend the Agreement to reflect the reduced amount.

EXHIBIT D

FEDERAL TERMS AND CONDITIONS

The Recipient and recipients of any subawards under this award, agree to comply with all applicable requirements of all Federal laws, executive orders, regulations, and policies governing this program, including but not limited to 2 CFR 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. For-profit organizations will be subject to 48 CFR Subpart 31. Recipients are responsible for identifying the federal regulations appropriate to their organization, consistently applying cost principles and ensuring contractors or consultants comply with applicable federal regulations.

1. Civil Rights

The Recipient must comply with civil rights and nondiscrimination standards 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 (EO) 11246; and
- G. Americans with Disabilities Act, (PL 101-366).

2. Labor Standards

The Recipient must comply with labor standards pursuant to the following:

- A. Fair Labor Standards Act, 29 USC 207, as implemented at 29 CFR Part 500-899;
- 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 3701, as implemented at 29 CFR Part 5.

3. Environmental Standards

The Recipient must comply with environmental standards pursuant to the following:

- A. Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (PL 91-190) and EO 11514 as implemented at 7 CFR Part 1b;
- 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 USC §§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 USC §§7401 *et seq.*);
- G. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (PL 93-523); and,
- H. Protection of endangered species under the Endangered Species Act of 1973, as amended (PL 93-205).

4. Drug-Free Environment

The Recipient must comply with drug-free environment standards pursuant to §5151-5610 of the Drug-Free Workplace Act of 1988, as implemented by 2 CFR 421.

5. Restrictions on Lobbying and Political Activities

The Recipient must comply with lobbying restriction standards pursuant to the Limitations on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions, 31 USC 1352, as implemented at 2 CFR 418.

6. Officials Not to Benefit

The Recipient must ensure that no member of Congress be admitted to any share or part of this Agreement or to any benefit arising from it, in accordance with 41 USC 22.

7. Trafficking in Persons

The Recipient must comply with the provisions in 2 CFR Part 175, prohibiting trafficking in persons.

8. Intergovernmental Review

The Recipient must comply with intergovernmental review standards pursuant to the following:

- A. Executive Order 12372, as implemented at 2 CFR 415; and
- B. The Intergovernmental Cooperation Act of 1968, 31 USC 6501.

9. Confidentiality

The Recipient must comply with confidentiality standards pursuant to the following:

- A. Freedom of Information Act, 5 USC 552, as implemented at 7 CFR Part 1; and
- B. Privacy Act, 5 USC 552 (a).

10. Conservation in Procurement

The Recipient must comply with procurement standards pursuant to the Resource Conservation and Recovery Act, 42 USC 6962 and EO 12873, as implemented at 40 CFR Part 247.

11. Debarment, Suspension, Criminal or Civil Convictions

The Recipient and its principals must comply with debarment and suspension standards pursuant to the EO 12549, as implemented at 2 CFR 180 and 2 CFR 417.

The Recipient must 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 must require recipients of lower-tier covered transactions under this Agreement to similarly certify pursuant to EO 12549, as implemented by 2 CFR 180 and 2 CFR 417.

See www.sam.gov to determine debarment and suspension status.

12. Crimes and Prohibited Activities

The Recipient must comply with crimes and prohibited activities standards 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.

13. Biosafety in Laboratories

The Recipient must comply with laboratory biosafety standards pursuant to the following the *Biosafety in Microbiological and Biomedical Laboratories*, published jointly by the Centers for Disease Control and the National Institutes of Health.

14. Conflicts of Interest

The Recipient must comply with the conflict of interest standards pursuant to 2 CFR 400.2.

15. Inventions, Patents, Copyrights and Project Results

A. The Recipient must comply with invention and patent standards pursuant to the following:

- 1. Patent Rights in Inventions Made with Federal Assistance, 35 USC 202-204, as implemented at 37 CFR Part 401 (Bayh-Dole Act and the Technology Transfer Commercialization Act of 2000) to ensure that inventions made are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery.
- 2. The Plant Variety Protection Act, 7 USC 2321 *et seq.*

- B. The Recipient may retain title to any invention conceived of or first actually reduced to practice using Federal funds provided Recipient does the following:
1. Reports all subject inventions to CDFA;
 2. Makes efforts to commercialize the subject invention through patent or licensing;
 3. Formally acknowledges the Federal government's support in all patents that arise from the subject invention; and
 4. Formally grants the Federal government and CDFA a limited use license to the subject invention.
- C. The Recipient may copyright any publications, data, or other copyrightable works developed using Federal funds provided it provides the Federal government and CDFA a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use the material, and agrees that the Federal government and CDFA may do so in cooperation with other public agencies.
- D. The Recipient agrees that the results of this project may be published by the Federal government, CDFA or appropriate contractors or cooperators as mutually agreed.

16. Care and Use of Laboratory Animals

The Recipient must comply with the care and use of laboratory animal standards pursuant to the following:

- A. Animal Welfare Act, 7 USC 2131, as implemented at 9 CFR, Sub Chapter A, Parts 1-4; and
- B. Marine Mammal Protection Act, 16 USC 1361-1407.

17. Fly America Act

The Recipient must comply with the Fly America Act (49 USC 40118) as implemented at 41 CFR 301-10.131 to 301-10.143.

18. Motor Vehicle Safety

The Recipient must comply with seat belt use standards pursuant to the following:

- A. Highway Safety Act of 1966 as amended (23 USC 402-403);
- B. Occupational Safety and Health Act of 1970 as amended (29 USC 668);
- C. Federal Property and Administrative Services Act of 1949 as amended (40 USC §101 *et seq.*)
- D. Increasing Seat Belt Use in the United States (EO 13043).
- E. Federal Leadership on Reducing Text Messaging While Driving (EO 13513).

19. Records Retention and Accessibility

The Recipient and its contractors must comply with the procedures and requirements regarding record retention and accessibility as contained in 2 CFR 200.333 – 200.337.

20. All Other Federal Laws

The Recipient must comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SCOPE OF WORK
***Phytophthora ramorum* Program**
Non Quarantined Counties
July 1, 2022 - June 30, 2023

The county agrees to perform *Phytophthora ramorum* (*P. ramorum*) program enforcement activities for the California Department of Food and Agriculture (CDFA) in compliance with the requirements imposed by 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 and personnel cost worksheet), monthly invoice (Appendix A), and by this reference made a part hereof.

Key Actions to be Conducted Under this Agreement Include:

SECTION 1: PERSONNEL ACTIVITIES

- A. Regulatory Activities at Nurseries Previously Positive for *P. ramorum*
- B. Response at Nurseries Newly Positive for *P. ramorum*
- C. Data Entry/Sample Submission
- D. Trace Forward/Trace Back Investigations

SECTION 2: NON-PERSONNEL

- A. Supplies/Equipment
- B. Vehicle/Mileage

SECTION 3: REPORTING/REIMBURSEMENT

- A. Monthly Activity Report
- B. Reimbursement

SECTION 1: PERSONNEL ACTIVITIES

- A. Regulatory Activities at Nurseries Previously Positive for *P. ramorum*:

Regulated Establishments (Formerly known as *DA-2014-02 Federal Order Phytophthora ramorum (Previously Positive Host Nursery Modifications)*)

Please see this link for the most current federal regulations:

https://gov.ecfr.io/c_gi-bin/text-idx?SID=67daf942706d970561b54452f87ea624&mc=true&node=s07.5.301.x&rgn=d_iv6

Regulatory Enforcement at Regulated Establishments

The county must have an interstate shipping nursery or a nursery that supplies an interstate shipping nursery that is previously positive for *P. ramorum*.

As required, perform inspections at establishments previously positive for *P. ramorum* that ship regulated nursery stock interstate or supply nurseries that ship regulated nursery stock interstate.

Please see the following link for the most current federal inspection protocol for regulated establishments:

https://www.aphis.usda.gov/import_export/plants/manuals/domestic/downloads/p-ramorum.pdf

B. Response at Nurseries Newly Positive for *P. ramorum*

Activities in response to the detection of *P. ramorum* include trace forward and trace back investigations, eradication activities at positive nurseries as required by the *P. ramorum* program, and using the most current USDA protocols. Eradication activities include issuing hold notices, destruction, delimitation/follow-up inspection and sampling, and sanitation procedures.

Please see the following link for the most current federal positive nursery response:

https://www.aphis.usda.gov/import_export/plants/manuals/domestic/downloads/p-ramorum.pdf

C. Data Entry/Sample Submission

The county is responsible for ensuring the following data set is accurately completed in a timely manner:

Pest and Damage Record (PDR)

The county must send all samples to the CDFA Plant Pest Diagnostics Center (PPDC), located at 3294 Meadowview Road, Sacramento, CA 95832, for identification. The county must complete an electronic copy of the CDFA's PDR on the CDFA's Plant Division Extranet site at <http://phpps.cdfa.ca.gov/user/frmLogon2.asp>. A hard copy of the PDR must accompany the samples to the PPDC as well.

"SOD-Sudden Oak Death" must be selected as the <Program> for each PDR submitted to the PPDC for this program and choose from 03 Quarantine-Federal Domestic, 21 Compliance Agreement Survey, 22 Trace Back Survey, or 23 Trace Forward Survey in the activity field. Please do not use the general plant pathology codes in the activity field.

D. Trace Forward/Trace Back Investigation

When *P. ramorum* is detected in a nursery, county agricultural commissioners will conduct trace forward and 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 the 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 Protocol

For the activities performed at nurseries, residences, and commercial sites that have received plants from a confirmed *P. ramorum* positive nursery use the protocol outlined in the most current USDA Trace Forward Protocol (please see link below).

https://www.aphis.usda.gov/import_export/plants/manuals/domestic/downloads/p-ramorum.pdf

Trace Back Protocol

For the activities performed at nurseries that have been implicated as the source

of *P. ramorum* positive plants use the protocol outlined in the most current USDA Trace Back Protocol (please see link below).

https://www.aphis.usda.gov/import_export/plants/manuals/domestic/downloads/p-ramorum.pdf

SECTION 2: NON-PERSONNEL

A. Supplies/Equipment

Supplies

In accordance with 2 CFR Part 200.94 (http://www.ecfr.gov/cgi-bin/text-idx?SID=c1a895352495b577c5908c4ef49bf296&mc=true&node=se2.1.200_194&rgn=div8), supplies are considered articles that have a useful life of less than one year. Only supplies directly related to administering and conducting quarantine and regulatory enforcement activities associated with the *P. 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

In accordance with 2 CFR Part 200.33 (http://www.ecfr.gov/cgi-bin/text-idx?SID=c1a895352495b577c5908c4ef49bf296&mc=true&node=se2.1.200_133&rgn=div8), equipment is considered to be articles that have a useful life of more than one year. Only equipment directly related to administering and conducting quarantine and regulatory enforcement activities associated with the *P. ramorum* program will be reimbursed. Articles with a unit cost of \$5,000.00 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 *P. ramorum* program must be maintained by the county.

B. Vehicle/Mileage

The mileage reimbursement rate used on the monthly invoice should be the same as the rate in the work plan. If the federal mileage reimbursement rate (<http://www.irs.gov>) fluctuates during the agreement period, counties will submit monthly invoices for the current federal rate.

Substantiation of Vehicle Mileage Costs

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

SECTION 3: REPORTING/REIMBURSEMENT:

A. Monthly Activity Report

The county must utilize the online County Monthly Reporting System (<https://secure.cdfa.ca.gov/egov/crs/login.aspx>) to submit a monthly activity report for the *P. ramorum* program. Monthly activity reports must be submitted no later than the fifth day of the month following when the activities took place. Questions about reporting can be directed to Carolyn Lambert at carolyn.lambert@cdfa.ca.gov or by calling (916) 654-0312.

B. Reimbursement

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

1. 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 *P. ramorum* program.

2. Monthly Activity Report Required for Reimbursement

Monthly invoices will not be submitted for reimbursement until the submission of the online monthly activity report for the invoicing period has been completed by the county and verified by the CDFA (see Section A. Monthly Activity Report above). The hours on the monthly activity report must match the personnel hours invoiced on the corresponding monthly invoice.

3. Hourly Rates on Invoices

Monthly invoices must reflect the actual hourly rates (salary and benefits) per individual or classification that worked on the program.

4. Personnel on Invoice Must Match Work Plan

Monthly invoices must reflect work performed by individuals or classifications listed on the work plan.

5. Documentation

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

6. Substantiation of Costs

All personnel salary costs must be properly tracked or allocated to the agreement in accordance with the Office of Management and Budget requirements and federal cost principles. Please be sure that personnel costs can be traced back to original documents detailing the account to which personnel hours are billed. In addition, all invoiced personnel costs must match the trace.

If the county plans to seek reimbursement for vehicle mileage, the documentation for mileage reimbursement must be tracked separately from all other programs and documentation must be available to support the reimbursement. In addition, all invoiced vehicle costs must match the scope of work. Mileage rates used on invoices must be the same as contained in the work plan. The CDFA will send an email that will notify the counties of new rates if the federal mileage rate changes during the term of the agreement.

All other expenses (travel, supplies, telecommunications, etc.) for which the county will seek reimbursement under the agreement must be directly related to the cost of administering and conducting the program. Documentation must be available to

support the reimbursement. In addition, all invoiced expenses must match the scope of work.

Use the following citation for uniform administrative requirements, cost principles, and audit requirements applicable to your agency/organization.

State, Local, and Indian Tribal Governments:

2 CFR 200 (http://www.ecfr.gov/cgi-bin/text-idx?SID=c1a895352495b577c5908c4ef49bf296&mc=true&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

7. Submission of Monthly Invoice

Invoices must be submitted via email to shadi.moscouplos@cdfa.ca.gov. Questions about invoicing/reimbursement can be directed to Carolyn Lambert (carolyn.lambert@cdfa.ca.gov) via email or by calling (916) 654-0312.

Invoice #
Invoice Date:

California Department of Food and Agriculture
Plant Health and Pest Prevention Services
Submit invoices to Shadi Moscoupos
email. shadi.moscoupos@cdfa.ca.gov

Phythopthora ramorum Program Invoice
NonQuarantined Counties
Agreement #
FY2022/2023
Invoice for Period from 7/1/2022 - 6/30/2023

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
Total Hours	0.00	Total Salaries	0.00
Total Personnel Services			0.00
Indirect (up to 25% of Personnel Services)			0.00
Total Personnel Services:			0.00

Operating Expenses

Supplies	0.00
Equipment	0.00
Total Supplies/Equipment:	0.00

	Miles	Rate	
Vehicle Mileage	0.00	0.625	0.00
Total Mileage Cost:			0.00
Grand Total:			0.00

Agreement Amount	0.00
Billed to Date	0.00
Balance	0.00

Work Plan for *Phytophthora ramorum* Program
 Non-Quarantined Counties
 FY 2022/2023
 July 1, 2022 through June 30, 2023



County: Riverside

Agreement Activities

Regulatory Response Activities		Number of Facilities Requiring Activities	Estimated Visits/Year/Facility	Estimated Hours/Visit	Estimated Hours/Year
Instruction Section B	Previously Positive Nurseries	0	0	0	0
	Positive Nursery Response (Confirmed Nursery Protocol)	0	0	0	0
	Trace Forward and Trace Back Investigations	4	8	2.5	80
Administrative Support					
Instruction Section C	Administrative Support				20
					*Total Activity Hours: 100
Overhead (Indirect Costs) --- Not to exceed 25% of Total Personnel Costs					Total Personnel Costs: \$5,497.85
Instruction Section F	Enter Overhead Percentage			25%	\$1,374.46
Operating Expenses					
Instruction Section G1	Supplies			\$0.00	\$0.00
Instruction Section G2	Equipment			\$0.00	\$0.00
Vehicles					
Instruction Section H	Enter Estimated Miles	200	*Rate Per Mile:	0.560	\$112.00
					TOTAL COST: \$6,984.31

*Figure must match the figure on your 'Personnel Cost Work Sheet' (tab two). You must submit your completed 'Personnel Cost Work Sheet' with your work plan.
 Mileage rate must be \$0.56, or current federal rate (<http://www.irs.gov>)

County Personnel Cost Work Sheet
Phytophthora ramorum Program
 Non-Quarantined Counties
 FY 2022/2023
 July 1, 2022 through June 30, 2023

County: Riverside

Title	Hourly Wage	Hourly Benefit Amount	Total Hourly Rate	Estimated Hours to be Worked	Total Cost
ASI I-IV	\$35.09	\$18.39	\$53.48	80	\$4,278.40
Supervising ASI	\$40.05	\$20.99	\$61.04	10	\$610.40
Deputy Commissioner	\$50.00	\$26.18	\$76.18	5	\$380.90
Office Assistant	\$29.95	\$15.68	\$45.63	5	\$228.15
Position Title 5	\$0.00	\$0.00	\$0.00	0	\$0.00
Position Title 6	\$0.00	\$0.00	\$0.00	0	\$0.00
Position Title 7	\$0.00	\$0.00	\$0.00	0	\$0.00
Position Title 8	\$0.00	\$0.00	\$0.00	0	\$0.00
Position Title 9	\$0.00	\$0.00	\$0.00	0	\$0.00
Position Title 10	\$0.00	\$0.00	\$0.00	0	\$0.00
Total:				100	\$5,497.85

*Total "Estimated Hours to Be Worked" MUST match the "Total Hours" on the Work Plan.

County Work Plan Summary
 Phytophthora ramorum Program
 Non-Quarantined Counties
 FY 2022/2023
 July 1, 2022 through June 30, 2023



County: Riverside
 Agreement Manager: Erik Downs

Expenses	Description			Total
Personnel Costs for Regulatory Activities	Required Regulated Activities, Data Entry and Sample Submission	Total Activity Hours:	100	\$5,497.85
Overhead Costs	Indirect Costs (Not to exceed 25% of Total Personnel Costs)	Overhead Percentage:	25%	\$1,374.46
Operating Expenses	All supply/equipment costs exceeding \$5,000.00 must be accompanied by a itemized list of items to be purchased.	Itemized Supply List Required (Y/N):	N	\$0.00
Vehicles	Mileage rate must be \$0.56, or current federal rate (http://www.irs.gov).	Estimated Miles:	200	\$112.00
		Rate Per Mile:	0.56	
TOTAL COST:				\$6,984.31

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Cooperator Agreement #	18-0633-000-MU
Cooperator Tax Id #	68-0325104
Expiration Date	5. 2. 2

MEMORANDUM OF UNDERSTANDING
 BETWEEN
 THE UNITED STATES DEPARTMENT OF AGRICULTURE
 ANIMAL AND PLANT HEALTH INSPECTION SERVICE
 PLANT PROTECTION AND QUARANTINE (APHIS-PPQ)
 AND THE
 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

ARTICLE 1 - PURPOSE AND SCOPE

The purpose of this Memorandum is to provide for effective cooperation between the Parties to protect the Nations' agricultural, horticultural, timber, plant, and other resources from damage caused by plant pests or noxious weeds. The scope of this Memorandum encompasses cooperative plant protection and quarantine programs and activities directed at plant pests and noxious weeds of mutual concern. The Parties believe that effective cooperation between them in planning and implementing plant protection and quarantine programs will help attain the Parties' mutual objective of protecting the Nation's plant health.

ARTICLE 2 - AUTHORITIES

This Memorandum is entered into by APHIS under the Plant Protection Act, as amended (7 USC 7701 *et seq.*) (PPA) which, in part, authorizes the Secretary of the United States Department of Agriculture (USDA) to cooperate with States or political subdivisions thereof, domestic or international organizations or associations, and individuals to carry out the PPA. In addition, pursuant to 7 USC 2279g, the Federal and State Parties may cooperate to carry out programs to protect the nation's plant resources and pursuant to 7 USC 2814, the Parties can cooperate on the management of undesirable plants on Federal lands.

This Memorandum is entered into by the CDFA pursuant to California Food and Agriculture Code (Section 482 (a)) Statutes that authorizes CDFA to cooperate with APHIS to conduct plant protection and quarantine programs and activities to accomplish the purpose of this Memorandum, including the phytosanitary inspection of plants and plant parts and the products thereof, and to contribute a just proportionate share of the resources necessary to carry out mutually agreed upon cooperation programs and activities.

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ARTICLE 3 - MUTUAL RESPONSIBILITIES OF THE PARTIES

The Parties agree that:

a. This Memorandum supersedes all existing Memoranda of Understanding, and supplements and/or amendments thereto, between APHIS-PPQ and CDFA relating to the Parties' cooperative activities to protect the Nation's agricultural, horticultural, timber, plant, and other resources from damage caused by plant pests and noxious weeds within the State of California, with the understanding that the Parties' cooperative plant protection and quarantine programs now in progress pursuant to existing Memoranda of Understanding shall continue under this Memorandum of Understanding, if consistent herewith.

b. Any things of value that a Party contributes to cooperative plant protection and quarantine programs, such as funds, personnel, facilities, supplies, and equipment, shall be specified and agreed to by execution of a separate and distinct written agreement, apart from this Memorandum, that is in compliance with all applicable Federal and State laws and regulations.

c. Cooperative programs and activities initiated to carry out the purposes of this Memorandum shall be planned, agreed upon, and implemented jointly by the Parties. Likewise, cooperative work plans and methods of procedure shall be prepared jointly, and shall be subject to revision by agreement of the Parties as progress of the work justifies.

d. Copies of cooperative work plans will be filed with each of the cooperating Parties.

e. Periodic progress reports of cooperative programs and activities shall be prepared and furnished by each of the cooperating Parties, as required and/or mutually agreed upon by the Parties.

f. The Parties will collaborate to identify components of the agricultural quarantine inspection program at CDFA ports of entry where additional personnel and resources are needed to ensure appropriate program delivery of pest exclusionary efforts.

ARTICLE 4 - RESPONSIBILITIES OF APHIS

APHIS agrees to:

a. Provide leadership in planning and implementing cooperative plant protection and quarantine programs through APHIS regional, state, and work unit organizations.

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b. Collaborate in the planning and implementation of cooperative plant protection and quarantine programs in the State of California.

c. Provide the acronym of state agency with pertinent information relating to the cooperative plant protection and quarantine programs within the State.

d. Develop, in cooperation with Federal research agencies, new and improved methods, techniques and procedures for use in cooperative plant protection and quarantine programs and activities.

ARTICLE 5 - RESPONSIBILITIES OF CDFA

The CDFA agrees to:

a. Furnish the services of a mutually acceptable State official, whose duties shall include the direction of the State's personnel who are engaged in cooperative plant protection and quarantine programs, as well as to all matters related to the enforcement of State laws and the effective utilization of personnel and facilities of its organizations conducting the cooperative work. This State official will participate in joint planning, direction, and execution of cooperative work programs pursuant to this Memorandum.

b. Provide APHIS with pertinent information relating to the cooperative plant protection and quarantine programs within the State.

c. Undertake directly, or in cooperation with the State agencies having the appropriate jurisdiction, such enforcement and compliance measures as may be necessary for the effective enforcement of the State's plant protection and quarantine laws and regulations, including State regulations governing the intrastate movement of regulated articles.

d. In accordance with the applicable State laws and regulations, authorize specified APHIS plant protection and quarantine personnel to enter upon private property pursuant to the authority of State law when necessary for the purposes of conducting inspections or surveillance work regarding plant protection and quarantine programs and ensuring compliance with plant protection and quarantine laws.

e. Revise State regulations, or promulgate new regulations, when such action is necessary or advisable, to ensure the effective implementation of plant protection and quarantine programs and activities.

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f. Solicit, as appropriate and applicable, the cooperation of State Universities, Agricultural Experiment Stations, Agricultural Extension Service, and similar State organizations to provide, among other things, their facilities, personnel, and assistance to accomplish the cooperative plant protection and quarantine programs and activities.

g. Submit plant pests that are suspected new introductions into the United States to the USDA, National Identification Services recognized authority as applicable with collection data for final identification.

h. If applicable, when connected to the USDA-APHIS network or hosting APHIS information and/or information systems, comply with the federal, USDA, and APHIS security and privacy requirements to protect APHIS information and information systems against cyber threats and unauthorized intrusions as required by the Federal Information Security Management Acts of 2002 and 2014 (FISMA), the National Cybersecurity Protection Act of 2014, and the Privacy Act of 1974. Specific USDA/APHIS control guidelines are outlined in the most current version of the USDA/APHIS Information System Security Handbook. In accordance with USDA and APHIS regulations and policies on email, the Recipient will not download any material (i.e., pictures, movies, or music files) bearing a copyright, nor access any material defined as inappropriate in these regulations and directives. Additionally, the Recipient agrees that any of its personnel that are given access to the APHIS network, any systems on the APHIS network, or any personnel using APHIS-owned or funded computer equipment will take all APHIS required security and privacy training. Furthermore, the Recipient will not disseminate, post, or publish in any capacity official government information or data unless authorized to do so by this Agreement.

Current APHIS security and privacy requirements, policies, and guidelines can be obtained through the APHIS Information System Security Program Manager. APHIS follows USDA's processes which are based on the most current National Institute of Standards and Technology (NIST) special publications such as NIST Special Publications (SP) 800-37 and SP 800-53 and -53A.

i. If applicable, work with the appropriate APHIS Program Unit's Information Systems Security Manager and the APHIS Information Systems Security Program Manager to ensure compliance with the FISMA assessment and authorization (A&A) requirements for APHIS information and information systems. The Recipient must follow USDA/APHIS A&A guidelines and standards described in the USDA six step risk management framework process guide located at: Departmental Regulation: Security Assessment and Authorization. The regulation is based on applicable National Institute of Standards and Technology (NIST)

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publications such as, NIST SP 800 – 37, *Guide for Applying the Risk Management Framework to Federal Information Systems*; and, NIST SP 800 – 53, *Recommended Security Controls for Federal Information Systems*.

ARTICLE 6 - DATA SHARING AND RESPONSIBILITIES

a. Data to be Shared: The Parties agree to provide plant protection and quarantine data to each other. The data to be provided to each Party by the other Party includes, but is not limited to, plant protection and quarantine surveys, diagnostic information, detection activities, inspection reports, and pest interception data. Each Party is responsible for transmitting the provided data to its own authorized employees, cooperators, and contractors as applicable and necessary, in order to carry out responsibilities under their respective plant health authorities. Each Party agrees that it will ensure, to the extent provided by applicable laws and regulations, that data provided by the other Party is not released to anyone that is not authorized to receive it.

b. Data Utilization: The Parties agree that the provided data will only be used in the administration and enforcement of each Party's respective plant health laws and regulations. Data provided by the Parties under this Memorandum may be used to ensure compliance with their respective plant health laws and regulations, to respond to domestic plant pest and disease emergencies, interceptions, and trace backs, to enhance delivery of pest exclusionary programs and activities, to support pest surveying activities, to develop quarantines and other appropriate measures for pest management and mitigation, to implement or improve international pre-clearance and/or pest eradication programs and activities, pest risk assessments, phytosanitary trade support, and the issuance of plant protection and quarantine permits, and to develop, in cooperation with Federal research agencies, new and improved methods, techniques and procedures for use in cooperative plant protection and quarantine programs and activities. Each Party agrees that it will ensure that the provided data is used only for purposes specified in this Memorandum and only in a manner consistent with the provisions of the PPA.

c. Data Restrictions: The CDFA agrees and acknowledges that the data provided by APHIS-PPQ pursuant to this Memorandum is solely APHIS-PPQ data and as such is or may be subject to the confidentiality provisions of 7 USC §8791 of the Food, Conservation, and Energy Act of 2008 (formerly Section 1619 of the 2008 Farm Bill) and the Privacy Act of 1974; and also agrees to safeguard such confidentiality and prohibit any unauthorized access to the data provided by APHIS as required by 7 USC §8791. The CDFA further agrees and acknowledges that if 7 USC §8791 does apply to some or all of the APHIS provided data, that pursuant to 7 USC §8791, the CDFA is bound to and will comply with 7 USC §8791 (copy attached as

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Appendix A) and related APHIS-PPQ guidance. The CDFA understands that it may not release any of the data provided by APHIS-PPQ since it is Federal Government data and it agrees to refer any and all requests for the data provided by APHIS, not otherwise authorized to be released under this Memorandum and applicable Federal laws and regulations, to the APHIS-PPQ Legislative and Public Affairs, Freedom of Information and Privacy Act Office, 4700 River Rd. Unit 50, Riverdale, MD 20737, (301) 851-4102. Additionally, the CDFA agrees that it will, if requested by APHIS, enter into a separate written agreement with APHIS-PPQ to protect from release or disclosure any data provided by APHIS-PPQ that is subject to 7 USC §8791.

ARTICLE 7 - ENVIRONMENTAL

Consistent with the provisions of the Council on Environmental Quality regulations (40 CFR 1500 – 1508) implementing the National Environmental Policy Act (NEPA), the Parties to this Memorandum agree to cooperate in the preparation and completion of all NEPA environmental analyses and documentation requirements (including mitigation requirements) for any project for which APHIS prepares any NEPA documentation and analysis related to any cooperative program created or initiated to carry out or accomplish the purposes of this Memorandum.

ARTICLE 8 - PROGRAM PERSONNEL

- a. APHIS personnel are solely APHIS employees and are solely under APHIS' control and direction.
- b. Personnel of the CDFA are solely CDFA employees and are solely under CDFA control and direction.

ARTICLE 9 - PUBLICATIONS

Subject to the limitations of Article 6, each of the Parties to this Memorandum shall be free to use in its official correspondence and publications any of the results obtained in cooperative plant protection and quarantine programs conducted under this Memorandum, giving due acknowledgment and credit to the other Party. Publication may be joint or independent, as may be agreed upon by the Parties, always giving due credit to the other cooperating Parties, and recognizing within proper limits the rights of the individuals doing the work. In case of failure to agree as to the manner of publication or interpretation of results, either Party may publish such material after due notice and submission of the proposed manuscripts to the other Party. In such

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instances, the Party publishing the material will give due credit to the other cooperating parties, but will assume full responsibility for any statements on which there is a difference of opinion.

The CDFA may assert copyright in any aforesaid material developed by the CDFA that is subject to copyright. The Federal Government shall reserve a worldwide, royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the material for Federal Government purposes, and to authorize others to do so.

ARTICLE 10 - FINANCING AND FUNDS MANAGEMENT

a. This Memorandum defines the basis on which the Parties will cooperate, and does not constitute a financial obligation or serve as a basis for incurring expenditures. Each Party will handle and expend its own funds. Any and all expenditures from Federal funds by APHIS made in conformity with cooperative programs and activities conducted under this Memorandum must be in compliance with USDA rules and regulations, and in each instance based upon appropriate financial documentation. Expenditures made by the CDFA will be in accord with its laws and regulations.

b. The responsibilities assumed by each of the cooperating Parties are contingent upon funds being available from which the expenditures legally may be made.

c. State funds for cooperative programs and activities conducted under this Memorandum shall not be expended by a Federal employee, even if the CDFA does not have a representative stationed in the locality of the cooperative activities. Federal employees may handle the CDFA's accounts for cooperative activities, but shall forward all vouchers to the disbursing agent of the State for payment. The CDFA shall not send checks payable to Federal employees or send checks payable to "Cash" or "Bearer" to Federal employees for payment of local expenses.

d. Cooperative program activities that may result in exchange, transfer, reimbursement, off-setting, or any other means of moving funds from one Party to the other are not authorized under the terms of this Memorandum. All such activities shall be documented and supported by separate financial documentation in compliance with all applicable Federal and State laws and regulations.

ARTICLE 11 - INTELLECTUAL PROPERTY

Any invention made in the performance of this cooperative work jointly by an employee or

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employees of the USDA and the CDFA shall be fully disclosed, either by publication or by patenting in the United States, and any such United States patent shall either be dedicated to the free use of the people in the United States or be assigned or licensed to the United States of America (Government) or be assigned or licensed to the CDFA, or jointly owned by the Government and CDFA, as may be mutually agreed upon by the Parties hereto, provided, that in the event of assignment or license to the CDFA, the Government shall retain an irrevocable, nonexclusive, royalty-free license under the patent, throughout the world, to practice the invention or have the invention practiced for or on behalf of the Government, and provided further, that in the event of assignment or license to the Government, it shall be of the domestic patent rights.

Where the domestic patent rights are assigned or licensed to the Government, the Government shall have an option to acquire the foreign patent rights in the invention on which an application for a United States patent is filed, for any particular foreign country, said option to expire in the event that the Government fails to cause an application to be filed in any such country on behalf of the Government or determines not to seek a patent in such country within eight months after the filing of the application for a United States patent on the invention. Where the domestic patent rights are assigned or licensed to the Government, but the foreign patent rights are retained by an employee, the employee shall grant to the Government a nonexclusive, irrevocable, royalty-free license in any patent that may issue thereon in any foreign country, including the power to issue sublicenses for use on behalf of the Government and/or in furtherance of the foreign policies of the Government, and said license shall also include the power to sublicense licensees under the Government-owned or licensed United States patent to practice the invention without payment of royalty or other restriction in any foreign country wherein a corresponding patent may issue to the employee or this foreign assignee.

Any invention made in the performance of this cooperative work solely by an employee or employees of the USDA or solely by an employee or employees of the CDFA shall be disposed of in accordance with the policy of the USDA or CDFA, respectively, provided, that in the event the invention is made solely by an employee or employees of the CDFA, the CDFA shall grant or shall obtain from the assignee of any patent issued on said invention an irrevocable, nonexclusive, world-wide, royalty-free license for the Government, to practice the invention or have the invention practiced for or on behalf of the Government, and provided further, in the event the invention is made solely by an employee or employees of the CDFA, that unless the CDFA or his assignee has taken effective steps within three years after a patent issues on the invention to bring the invention to the point of practical application or has made the invention available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why he should retain the principal or exclusive rights for a further period of time, the Government shall have the right to require the granting of a license to an applicant on a

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nonexclusive, royalty-free basis.

Inventions made in the performance of this cooperative work may be subject to the applicable statutes and regulations governing inventions, patents and licensing, at 35 U.S.C. §200-210 and 37 C.F.R. Part 401 and 404 (the Bayh-Dole Act). When applicable, the provisions of the Bayh-Dole Act and its regulations shall be determinative, anything in this Article to the contrary notwithstanding.

Further details regarding intellectual property shall be included in working plans as appropriate per Article 3 of this agreement.

ARTICLE 12 - MISCELLANEOUS

a. The Parties to this Memorandum shall comply with all Federal statutes, regulations and directives relating to nondiscrimination and that may apply to the cooperative activities conducted under the auspices of this Memorandum.

b. No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this Memorandum or to any benefit to arise there from, unless it be made with a corporation for its general benefit.

ARTICLE 13 - DURATION, AMENDMENTS, AND TERMINATION

This Memorandum shall become effective upon the date of final signature, and shall remain in effect for 5 years. This Memorandum may be modified or renewed upon mutual agreement of the Parties in writing, and may be terminated at the request of either Party. Requests for any major modification or termination shall be submitted, in writing, to the other Party for consideration not less than 60 days in advance of the desired effective date.

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CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Crystal Myers 4/24/19
 Crystal Myers, Branch Chief Date

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Nick Condos 4-4-19
 Nick Condos, Director, PHPPS Date

UNITED STATES DEPARTMENT OF AGRICULTURE
 ANIMAL AND PLANT HEALTH INSPECTION SERVICE
 PLANT PROTECTION AND QUARANTINE

Osama El-Lissy 5/6/19
 Osama El-Lissy Deputy Administrator Date

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APPENDIX A

7 U.S.C.

United States Code, 2011 Edition

Title 7 - AGRICULTURE

CHAPTER 113 - AGRICULTURAL COMMODITY SUPPORT PROGRAMS

SUBCHAPTER V - ADMINISTRATION

Sec. 8791 - Information gathering

From the U.S. Government Printing Office, www.gpo.gov

§8791. Information gathering

(a) Geospatial systems

The Secretary shall ensure that all the geospatial data of the agencies of the Department of Agriculture are portable and standardized.

(b) Limitation on disclosures

(1) Definition of agricultural operation

In this subsection, the term "agricultural operation" includes the production and marketing of agricultural commodities and livestock.

(2) Prohibition

Except as provided in paragraphs (3) and (4), the Secretary, any officer or employee of the Department of Agriculture, or any contractor or cooperator of the Department, shall not disclose—

(A) information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department; or

(B) geospatial information otherwise maintained by the Secretary about agricultural land or operations for which information described in subparagraph (A) is provided.

(3) Authorized disclosures

(A) Limited release of information

If the Secretary determines that the information described in paragraph (2) will not be subsequently disclosed except in accordance with paragraph (4), the Secretary may release or disclose the information to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in any Department program—

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(i) when providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices; or
(ii) when responding to a disease or pest threat to agricultural operations, if the Secretary determines that a threat to agricultural operations exists and the disclosure of information to a person or cooperating government entity is necessary to assist the Secretary in responding to the disease or pest threat as authorized by law.

(4) Exceptions

Nothing in this subsection affects—

- (A) the disclosure of payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law;
- (B) the disclosure of information described in paragraph (2) if the information has been transformed into a statistical or aggregate form without naming any—
 - (i) individual owner, operator, or producer; or
 - (ii) specific data gathering site; or
- (C) the disclosure of information described in paragraph (2) pursuant to the consent of the agricultural producer or owner of agricultural land.

(5) Condition of other programs

The participation of the agricultural producer or owner of agricultural land in, or receipt of any benefit under, any program administered by the Secretary may not be conditioned on the consent of the agricultural producer or owner of agricultural land under paragraph (4)(C).

(6) Waiver of privilege or protection

The disclosure of information under paragraph (2) shall not constitute a waiver of any applicable privilege or protection under Federal law, including trade secret protection.

(Pub. L. 110-234, title I, §1619, May 22, 2008, 122 Stat. 1022; Pub. L. 110-246, §4(a), title I, §1619, June 18, 2008, 122 Stat. 1664, 1750.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.