

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: AGRICULTURAL COMMISSIONER BOARD AGENDA # *B-1
Urgent _____ Routine _____ AGENDA DATE March 13, 2001
CEO Concurs with Recommendation YES NO 4/5 Vote Required YES _____ NO X
(Information Attached)

SUBJECT:

APPROVAL OF WEED MANAGEMENT CONTRACT FOR FISCAL YEAR 2000/01
WITH THE CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE.

STAFF
RECOMMEN-
DATIONS:

1. APPROVE AND AUTHORIZE THE CHAIR TO SIGN THE FISCAL YEAR 2000/01 WEED MANAGEMENT CONTRACT.
2. DIRECT THE AUDITOR-CONTROLLER TO INCREASE REVENUE AND APPROPRIATIONS, ASSIGN APPROPRIATE ACCOUNT NUMBERS AND MAKE THE NECESSARY FINANCIAL TRANSACTIONS IN ACCORDANCE WITH THE ATTACHED FINANCIAL TRANSACTION FORM.
3. SUBMIT A CERTIFIED COPY OF THE BOARD RESOLUTION AUTHORIZING THE CONTRACT.

FISCAL
IMPACT:

The Weed Management contract will reimburse the department for vouchers paid to growers in the amounts of \$50 or \$100 for weed management activities. It is requested that new revenue and expenditure accounts be increased by \$3,000 to reflect this contract. Total vouchers paid to growers in the tri-county areas of San Joaquin, Stanislaus and Merced will not exceed \$3,000 and State reimbursement will match Stanislaus County's expenditures.

BOARD ACTION

No. 2001-168

On motion of Supervisor Mayfield, Seconded by Supervisor Caruso,
and approved by the following vote,

Ayes: Supervisors: Mayfield, Blom, Caruso, and Chair Paul

Noes: Supervisors: None

Excused or Absent: Supervisors: Simon

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

Motion:

Christine Ferraro

File No.

APPROVAL OF WEED MANAGEMENT CONTRACT FOR FISCAL YEAR 2000/01 WITH THE CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Page 2

DISCUSSION: Locally, invasive weeds such as the Yellow Star Thistle, cause damage to valuable plants, crops and livestock. Noxious weeds, which extract nutrients and water from their surrounding environment, grow rapidly and spoil adjacent areas when left uncontrolled.

Stanislaus County is embarking on a new partnership with our neighboring counties, San Joaquin and Merced, in an effort to manage invasive weeds. The California Department of Food & Agriculture is the fourth partner in the Northern San Joaquin Valley Weed Management Area project, and will provide reimbursement to Stanislaus County for disbursement of funds to local growers.

In order to manage local weeds and to assist our citizenry and growers in the abatement of these weeds, a pilot program has been developed to reimburse landowners with their costs. The landowner applies for the voucher at their local Agricultural Commissioner's Office (San Joaquin, Stanislaus or Merced). Agricultural Inspectors then inspect the land for presence of noxious weeds and issue the landowner a voucher. The landowner contacts a Pest Control Operator (PCO) to perform the weed abatement and pays the PCO. When the landowner sends Stanislaus County a copy of his/her bill, a copy of the check and the voucher, Stanislaus County rebates the landowner \$50 or \$100 depending on the amount of land treated. The California Department of Food & Agriculture then reimburses Stanislaus County for the full amount rebated to landowners in the tri-county area.

It is requested that the Agricultural Commissioner's Revenue and Appropriations be adjusted to reflect this new state contract. It is anticipated, based on the initial feedback and interest in this program, that a more substantial contract will be awarded to Stanislaus County for the fiscal year of 2001/02.

The Weed Management Area program and contract plays an important part in the protection of the agricultural industry in our County and the surrounding area.

POLICY ISSUE: Approval of the Weed Management contract is consistent with the Board Priorities for a Safe and Healthy Community and represents Multi-Jurisdictional Cooperation and Protection of Economic Development.

STAFFING

IMPACT:

Work performed under the proposed contract will be completed by existing staff.

AUDITOR-CONTROLLER BUDGET JOURNAL

BUDGET JOURNAL SCREEN



Budget Organization: **Stanislaus Budget Org 01000010100 (AG COMMISSIONER)**
 Budget: **LEGAL BUDGET**
 Accounting Period From: **Jul-00**
 To: **Jun-01**

BATCH SCREEN

Journal Batch: **BO --**
 Category: **Budget**

Line	Coding Structure						Period	Description
	Fund	Org	Account	G/L Proj	Loc	Misc	AMOUNT	
1	0100	0010100	23192				3,000.00	INCREASE REVENUE - Weed Contract
2	0100	0010100	60117				3,000.00	INCREASE APPROPRIATIONS - Weed
3							.0	Voucher Payments
4							.0	
5							.0	
6							.0	
7							.0	
8							.0	
9							.0	
10							.0	
11							.0	
12							.0	
13							.0	
14							.0	
15							.0	
16							.0	
17							.0	
18							.0	
19							.0	
20							.0	
21							.0	
22							.0	
23							.0	
24							.0	
25							.0	
Totals							6,000.00	

Explanation: Increase Revenue and Appropriations due to new State contract for Weed Management.

Requesting Department	CEO	Auditors Office Only	
<i>Donald O. Neipe</i> Signature 2-20-01 Date	<i>Patricia Hild</i> Signature 3/7/01 Date	<i>JK</i> Prepared By 2/26/01 Date	<i>B.L.</i> Admin Approval (\$75K+) 2/26/01 Date

STANDARD AGREEMENT

STD 2 (REV 5-91)

CONTRACT NUMBER 00-0453	AM NO.
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NO.	

THIS AGREEMENT, made and entered into this 30th day of June, 2000, in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE Secretary	AGENCY California Department of Food and Agriculture	, hereafter called the State, and
CONTRACTOR'S NAME County of Stanislaus		, hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State all services, materials, labor and equipment necessary to perform the work required under this Agreement.

The term of this Agreement shall be for the period of July 1, 2000, through June 30, 2001.

The total amount payable under this Agreement shall not exceed \$3,000.00.

The parties agree to comply with the terms and conditions of the following Exhibits, which by this reference are made a part of the Agreement:

- Exhibit A – Workplan & Budget
- Exhibit B – Budget Detail and Payment Provisions
- Exhibit C – General Terms and Conditions
- Exhibit D – Special Terms and Conditions

The CDFA project manager during the term of this Agreement shall be Steve Schoenig, Integrated Pest Control Branch, 1220 N Street, Room A-357. His telephone number is (916) 654-0768.

APPROVED AS TO FORM:
STANISLAUS COUNTY COUNSEL

BY
Sandi S. Conry 2-27-01

CONTINUED ON _____ SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

The provisions on the reverse side hereof constitute a part of this Agreement.
IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA		CONTRACTOR	
AGENCY California Department of Food and Agriculture	CONTRACTOR (if other than an individual, state whether a corporation, partnership, etc.) County of Stanislaus		
BY (AUTHORIZED SIGNATURE) <i>Sandi Conry</i>	BY (AUTHORIZED SIGNATURE) <i>Pat Paul</i>	MAR 13 2001	
PRINTED NAME OF PERSON SIGNING Sandi Conry	PRINTED NAME AND TITLE OF PERSON SIGNING PAT PAUL, CHAIR OF THE BOARD OF SUPERVISORS		
TITLE Acquisitions Manager	ADDRESS 3800 Cornucopia Way, Suite B, Modesto, CA 95358		

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 3,000.00	PROGRAM/CATEGORY (CODE AND TITLE) 20.20.37 (OPTIONAL USE)	FUND TITLE		
PRIOR AMOUNT ENCUMBERED FOR THIS DOCUMENT \$ -0-	ITEM 8570-001-0001	CHAPTER 52	STATUTE 2000	FISCAL YEAR 2000/01
TOTAL AMOUNT ENCUMBERED TO DATE \$ 3,000.00	OBJECT OF EXPENDITURE (CODE AND TITLE) 56950			
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.B.A. NO.	B.R. NO.	
SIGNATURE OF ACCOUNTING OFFICER > Certification of fund availability is on file with the Department of Food & Agriculture		DATE 12/6/00		

Department of General Services Use Only
 BOARD OF SUPERVISORS
 GEN. SERV. DIV. APPROVAL NOT REQUIRED PER SECTION 1215
 2001 MAR 29 P 3:29

CONTRACTOR
 STATE AGENCY
 DEPT. OF GEN. SER.
 CONTROLLER

STANDARD AGREEMENT

STD 2 (REV 5-91)

1. The Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, 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 the Contractor in the performance of this Agreement.
2. The Contractor, and the agents and employees of Contractor, in the performance of the Agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.
3. The State may terminate this Agreement and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. The cost to the State shall be deducted from any sum due the Contractor under this Agreement, and the balance, if any, shall be paid the Contractor upon demand.
4. Without the written consent of the State, this Agreement is not assignable by Contractor either in whole or in part.
5. Time is of the essence of this Agreement.
6. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
7. The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

Exhibit A (amended) 1/18/2001

**Northern San Joaquin Valley Weed Management Area
Merced, San Joaquin & Stanislaus Counties**

October 18, 2000

To: Jennifer Drewitz, Agricultural Aide
Integrated Pest Control Branch
Department of Food and Agriculture
1220 N Street, Room A-357
Sacramento, CA 95814

From: Northern San Joaquin Valley Weed Management Area
Merced, Stanislaus & San Joaquin Counties
Gary W. Stockel – WMA Chairperson
PO Box 1809
Stockton, CA 95201

Member Counties

County: Merced
Agricultural Commissioner: Michael J. Tanner
Address: 2139 Wardrobe Avenue
Merced, CA 95340-6495
Phone: (209) 385-7431
Fax: (209) 725-3536
Email: ag00@co.merced.ca.us

County: San Joaquin
Agricultural Commissioner: Scott T. Hudson
Address: P.O. Box 1809
Stockton, CA 95201-1809
Phone: (209) 468-3300
Fax: (209) 468-3330
Email: stocktonag2@co.san-joaquin.ca.us

County: Stanislaus
Agricultural Commissioner: Donald O. Cripe
Address: 3800 Cornucopia Way Suite B
Modesto, CA 95358
Phone: (209) 525-4730
Fax: (209) 525-4789
Email: agcom50@mail.co.stanislaus.ca.us

Subject: AB 1168 Funding Request FY 2000/2001

1. Yellow Starthistle Control Subsidy for Small Landowners- Pilot Project
2. WMA Background

Yellow Starthistle Control Subsidy for Small Landowners-Pilot Project (\$3.000)

Transline herbicide, the most effective chemical available for control of yellow starthistle, is commercially available in one-gallon size. This is enough chemical to treat twenty-one acres of pasture at 6 ounces per acre. The cost of the chemical is 360 dollars per gallon to the average landowner. Small landholders do not need to use a full gallon and are discouraged by the expense of the material. Furthermore, they may not have the equipment necessary to negotiate the density and height of the weeds to apply the material.

1. Yellow Starthistle-Transline treatment control in the Tri-County region with an emphasis on small landowners. (Landowners: Private collaborators, Pest Control Operators, and Merced, San Joaquin, and Stanislaus County Agricultural Commissioner Offices)
- Yellow starthistle herbicide treatments applied by Pest Control Operators (PCOs) to privately owned small acreage parcels. Implementation of a voucher system would subsidize the cost of the application in the amount of 50 dollars for one acre or less or 100 dollars for more than an acre treated. Maximum treated acreage subsidized for any one site would be five. ~~The landowner provides funds to cover the remainder of the charges.~~

Objective: Assist and encourage small landowners to eradicate Yellow Starthistle.

The maximum number of acres treated at a 3,000-dollar level of funding would be 150 acres. ~~The landowner applies for the voucher at their local Agricultural Commissioner's Office. The landowner is referred to participating PCOs. The PCO receives the voucher from the landowner as partial payment. The PCO presents a copy of the bill and the voucher to the Agricultural Commissioner's Office and is then reimbursed from the project fund. The program is open to all interested PCOs~~

Procedure: The landowner applies for the voucher at their local Agricultural Commissioner's Office. Participating County Agricultural Biologists inspect land for presence of Yellow Starthistle and issue the voucher. The landowner contacts the PCO and the work is done. PCO bills landowner. Landowner pays PCO. Landowner sends Stanislaus County copy of the bill, copy of the check and the voucher. Stanislaus County rebates landowner fifty or one hundred dollars.

Evaluation 1: The Agricultural Commissioners from each county agree to provide staff to administer the program. Agricultural Biologist/Inspectors will visit the applicant's property assuring that yellow starthistle is present and the terrain is accessible to the PCO. Once approved the voucher is issued to the landowner.

Evaluation 2: Using staff from the Agricultural Commissioner's Office, the quadrat sampling method and/or photo points will be used to evaluate the efficacy of the project (See Sampling Method below)

Evaluation 3: The local Agricultural Commissioner's Office will keep a record of landowners participating in the program. The granting agency may visit treatment areas to conduct independent project review.

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- The weed management group has conducted a noxious weed survey. Yellow Starthistle was rated the number one weed in the area. The success of one landowner at controlling the spread of yellow starthistle is, in the long run, dependent on the cooperation of adjacent landowners. After demonstrating success with the pilot project, we hope to expand and cover additional acreage.

Sampling Method

Quadrat sampling.

Twenty per cent of the properties treated in each county will be evaluated using quadrat sampling. 3-5 transects are established in each evaluated property. Five- 1m² quadrats are placed along each transect. A visual percent YST cover estimate, to the nearest 5%, is made for each quadrat. An estimate is made at the time the property is approved for the pilot project and also after treatment.

Photo points:

An overall YST visual percent cover estimate is made for all properties along with photo documentation. Before and after photos are taken for each property to give a visual representation of the project's success.

Budget 2000/2001

Item	Cost: AB1168	Cost: In-kind
Administrative Support		In-kind
Yellow starthistle Subsidy-Small Landowners	\$3,000.00 (vouchers)	
Field Staff		In-kind

Invoicing and Payment

Stanislaus County shall be reimbursed for funds distributed to participating landowners by submitting an invoice to the Department of Food and Agriculture with a list of the participants, the county where the treatment occurred, and the amount of the rebate.

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WMA Background

The Northern San Joaquin Valley Weed Management Area's background consists of:

- 1) Organizational Support
- 2) Education and awareness
- 3) Mapping and surveying
- 4) On the ground control projects
- 5) Other WMA Projects
- 6) Strategic plan or other planning activities

Organizational Support/ MOU Status

The Northern San Joaquin Valley Weed Management Area was established on November 2, 1999. An MOU is in place; the MOU became effective January 28, 2000. Currently we have 22 members. Area Ag Commissioner members to provide staff to assist in administering projects and programs.

Education and Awareness Projects

On May 31, 2000 the WMA hosted a Yellow Starthistle control field trip at the San Luis National Wildlife Refuge. Large individual treatment plots (100 acres each) were visited. The plots demonstrate the effectiveness of various control techniques: chemical (Transline), grazing, burning/mowing, and bio-control. San Luis National Wildlife Refuge (WMA member) is in the second year of a three-year demonstration project (Other WMA Projects below). 50 attendees.

Mapping and Surveys

Roadside survey and mapping in our tri-county area to determine outlier populations of Yellow Starthistle is in the early planning stage. Our Ag Commissioner members will most likely conduct the survey.

On-the-ground Control Projects

Merced County Agricultural Commissioner's Office maintains Yellow Starthistle control, using Transline, on county rights-of-way. FY 99/00 treated 472.9 acres. Survey and treatment area includes county roads west of HWY 99 and county roads north of Hwy 140.

Stanislaus County Public Works surveys 1,960 miles of county roads for Yellow Starthistle. They treated 1040 acres with Transline in 1999.

San Luis National Wildlife Refuge's control of Yellow Starthistle outside their elk enclosure includes 30 miles of roadside mowing and 2,000 acres of spraying and sheep grazing.

Turlock Irrigation District maintains 750 acres of canal bank and utility rights-of-way Yellow Starthistle free in Stanislaus & Northern Merced Counties.

Merced, Stanislaus, and San Joaquin County Agricultural Commissioner Office established bio-control nursery sites for Yellow Starthistle.

Other WMA Projects

San Luis National Wildlife Refuge is in the ~~second~~ third year of a three-year Yellow Starthistle control demonstration project within their 800-acre elk enclosure. Large individual treatment plots demonstrate the effectiveness of various control techniques: chemical (Transline), grazing, burning/mowing, and bio-control. Second-year results comparing these control techniques are being applied to their 27,000-acre Refuge complex.

January 2000 survey, of WMA members, prioritized noxious weeds of concern.

May 2000 survey, of WMA members, chronicling current Yellow Starthistle control efforts is not yet complete.



SCOTT HUDSON
AGRICULTURAL COMMISSIONER
SEALER OF WEIGHTS & MEASURES
ANIMAL CONTROL

VICKI HELMAR
ASST. AGRICULTURAL COMMISSIONER
ASST. SEALER OF WEIGHTS & MEASURES

Agreement No. 00-0453
SAN JOAQUIN COUNTY Exhibit A

OFFICE OF THE
AGRICULTURAL COMMISSIONER

POST OFFICE BOX 1809
STOCKTON, CALIFORNIA 95201-1809
PHONE: 209/468-3300
FAX: 209/468-3330

MAIN OFFICE - STOCKTON
1868 E. HAZELTON AVE.

LODI OFFICE
210 N. SACRAMENTO ST.

TRACY OFFICE
503 E. 10TH STREET

SIMMS STATION - RIPON
17620 E. HWY 120

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Gary W. Stockel - WMA Chairperson
PO Box 1809
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Agricultural Commissioner: Michael J. Tanner
Address: 2139 Wardrobe Avenue
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Phone: (209) 385-7431
Fax: (209) 725-3536
Email: ag00@co.merced.ca.us

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Agricultural Commissioner: Scott T. Hudson
Address: P.O. Box 1809
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Phone: (209) 468-3300
Fax: (209) 468-3330
Email: stocktonag2@co.san-joaquin.ca.us

County: Stanislaus
Agricultural Commissioner: Donald O. Cripe
Address: 3800 Cornucopia Way Suite B
Modesto, CA 95358
Phone: (209) 525-4730
Fax: (209) 525-4789
Email: agcom50@mail.co.stanislaus.ca.us

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EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment.

For services satisfactorily rendered and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

Invoices shall include the Agreement number and be submitted in triplicate not more frequently than monthly in arrears to the CDFA Project Manager. Request for final payment shall be made only when all required work has been satisfactorily completed.

2. Budget Contingency Clause.

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

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

3. Prompt Payment Clause.

Payment shall be made in accordance with and within the time specified in Government Code, Chapter 4.5 (commencing with Section 927).

4. Progress Payments.

When applicable, progress payments may be allowed when work performed under this Agreement consists of the performance of separate and distinct tasks. Funds withheld for a particular task in the amount of ten (10) percent of each invoice may be paid upon completion of that task. (Separate and distinct tasks do not usually occur when the Agreement is for a finished project report or plan.) Progress payments are not allowed for Agreements with a term of less than three (3) months. Progress payments shall not be made more frequently than once a month in arrears, or at clearly identifiable stages of progress based upon written progress reports submitted with the Contractor's invoices. Progress payments shall be based on at least equivalent services rendered. (Hours worked shall not be the sole basis for progress payments.)

EXHIBIT C
GENERAL TERMS AND CONDITIONS

1. Amendment.

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties

2. Antitrust Claims.

a) The Government Code Chapter on Antitrust Claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the state or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision © of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

- b) In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec.15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552
- c) If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. Government Code Section 4554.

3. Approval.

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

4. Audit.

Contractor agrees that the California Department of Food and Agriculture, the Department of General Services, the Bureau of State Audits, or their designated representative, shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of record retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GS 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).

5. Child Support Compliance Act.

For any contract in excess of \$100,000, the contractor acknowledges in accordance with, that:

- a) the contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders as provided in

Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and the contractor, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

6. Compensation.

The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

7. Disputes.

Contractor shall continue with the responsibilities under this Agreement during any dispute.

8. Governing Law.

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

9. Non-Discrimination Clause.

During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporate into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

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

10. Unenforceable Provision.

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be effected thereby.

11. Drug-Free Workplace Requirements.

By signing this Agreement, Contractor agrees to comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program as required to inform employees about:
 - (1) the dangers of drug abuse in the workplace;
 - (2) the person's or organization's policy of maintaining a drug-free workplace;
 - (3) any available counseling, rehabilitation and employee assistance programs; and
 - (4) penalties that may be imposed upon employees for drug abuse violations.
- c. Provide that every employee who works on the proposed Agreement:
 - (1) receive a copy of the company's drug-free policy statement; and
 - (2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under this Agreement or termination of this Agreement, or both, and Contractor may be ineligible for award of any future State agreements if the CDFA determines that the Contractor has made false certification or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

12. Recycled Content.

By signing this Agreement, Contractor agrees to certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

13. Conflict of Interest.

Contractor needs to be aware of the following provisions regarding current or former State employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

- a. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity or enterprise is required as a condition of regular State employment.
- b. No officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.

Former State Employees (PCC 10411):

- a. For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency.
- b. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving State service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420) Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 [e])

14. Labor Code/Workers' Compensation.

Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

15. Americans With Disabilities Act.

Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

16. Air or Water Pollution Violation.

Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

17. Equipment (if applicable for other than vehicle)

Title to equipment purchased or built from these funds will vest in the State unless otherwise specified. Upon termination of this Agreement the State may:

1. Request that such equipment be returned to the State with costs incurred by the Grantee for such return being reimbursed by the State;

2. Transfer title to such equipment to the Contractor at no additional cost to the Contractor;
3. By mutual agreement with the CDFA, allow the Contractor to purchase such equipment for an amount not to exceed the residual value of the equipment as of the date of termination of this Agreement; or.
4. Authorize the continued use of such equipment for work to be performed under a different Agreement.

The State may, at its option, repair any damage or replace any lost or stolen items and deduct the cost thereof from the Grantee's invoice to the State or require the Contractor to repair or replace any damage, lost or stolen equipment to the satisfaction of the State, with no expense to the State. In the event of theft, a police report must be filed immediately in accordance with the State Administrative Manual, Section 2625.

The Contractor shall maintain an inventory record for each piece of nonexpendable equipment purchased or built with funds provided under the terms of this Agreement. The inventory record of each piece of such equipment shall include the date acquired, total cost, serial number and model identification (on purchased equipment) and any other information or description necessary to identify said equipment. The inventory records shall also include the location or section to which each said piece of equipment is assigned. Nonexpendable equipment so inventoried shall be to those items of equipment which have a normal life expectancy of one year or more, and an approximate unit price of \$500 or more. In addition, theft sensitive items of equipment costing less than \$500 shall be inventoried. A copy of the inventory record shall be submitted to the State upon request by the State; said inventory not to be submitted more frequently than annually.

EXHIBIT D SPECIAL TERMS AND CONDITIONS

1. Definitions.

In interpreting this Agreement, the following terms will have the meanings given to them below, unless the context clearly indicates otherwise.

- "State" shall mean the State of California including, but not limited to, the California Department of Food and Agriculture (CDFA) and/or its designated officer.
- "Contractor" shall mean the recipient of funds pursuant to this Agreement.
- "CDFA" shall mean the California Department of Food and Agriculture.

2. Agency Liability.

The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

3. Bankruptcy.

In the event proceedings in bankruptcy are commenced against the Contractor, Contractor is adjudged bankrupt, or a receiver is appointed and qualifies, then the CDFA may terminate this Agreement and all further rights and obligations by giving five (5) days notice in writing.

4. Communication.

All official communication from Contractor to the CDFA shall be directed to the designated CDFA project manager for this Agreement. All formal notices required by this Agreement will be given in writing and sent by prepaid certified mail, by personal delivery or by telex. The CDFA reserves the right to change the CDFA project manager at any given time without an Agreement amendment and reserves the right to approve any substitution of the Agreement project manager and any other consulting staff.

5. Confidentiality and Public Records.

Contractor and the 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, commencing with Government Code, Section 6250, or the Public Contract Code. The CDFA agrees not to disclose such information or data furnished by contractor and to maintain such information or data as confidential when so designated by contractor in writing at the time it is furnished to the CDFA, only to the extent that such information or data is exempt from disclosure under the California Public Records Act and the Public Contract Code.

6. Dispute Settlement.

In the event of a dispute, the Contractor shall file a written "Notice of Dispute" with CDFA within ten (10) days of discovering the problem. Such Notice of Dispute shall contain the Agreement number. Within ten (10) days of receipt of such Notice of Dispute, the Director of the Administration Division shall meet with the Contractor and the CDFA project manager for the purpose of resolving the dispute. The decision of the Director shall be final.

In the event of a dispute, the language contained within the Agreement shall prevail over any other language, including that of the bid proposal.

7. Entire Agreement.

This Agreement supersedes all prior agreements, oral or written, made with respect to the subject hereof and, together with the Attachments and/or Exhibits hereto, contains the entire Agreement of the parties.

8. 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 the Agreement. California may pay any applicable sales or use tax imposed by another state.

9. Force of Majeure.

Neither the State nor the Contractor, including the Contractor's subcontractor(s), if any, will be responsible hereunder for any delay, default or nonperformance of this Agreement, to the extent that such delay, default or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, sabotage, or flood, or any other cause beyond the reasonable control of such party.

10. Gratuities.

The CDFA may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Agreement if it is found, after notice and hearing by the CDFA or his duly authorized representative, that gratuities were offered or given by the contractor, or any agent or representative of the contractor, to any employee of the CDFA, with a view toward securing an Agreement or securing favorable treatment with respect to awarding or amending or making a determination with respect to performance of this Agreement.

11. Management of Contract Functions.

Contractor's key personnel may not be substituted without the CDFA project manager's prior written approval. The CDFA may change the CDFA project manager by notice given contractor at any time. CDFA staff will be permitted to work side by side with Contractor's staff to the extent and under conditions that may be directed by the CDFA project manager. In this connection, CDFA employees will be given access to all data, working papers, etc., which contractor may seek to utilize. Contractor will not be permitted to utilize CDFA employees for the performance of services which are the responsibility of contractor unless such utilization is previously agreed to in writing by the CDFA project manager, and any appropriate adjustment in price is made by issuance of an Amendment. No charge will be made to Contractor for the services of the CDFA employees while performing, coordinating or monitoring functions.

12. Publicity and Acknowledgement.

The Contractor 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.

13. Remedies.

Unless otherwise expressly provided herein, the rights and remedies hereunder are in addition to, and not in limitation of, other rights and remedies under this Agreement, at law or in equity, and exercise or one right or remedy will not be deemed a waiver or any other right or remedy.

14. Reports.

If this Agreement is for the production of a report, Contractor, pursuant to Government Code Section 7550, will include in the dollar amount and Agreement number of all contracts and subcontracts relating to preparation of the report.

The Contractor will also include on the front page of the report a disclaimer that states, "*The statements and conclusions of this report are those of the Contractor and not necessarily those of the California Department of Food and Agriculture, its employees, or the State of California. The State makes no warranty, express or implied, and assumes no liability for the information contained in the succeeding text.*"

15. Severability.

If any provisions of this Agreement are found to be unlawful or unenforceable, such provisions will be voided and severed from this Agreement without affecting any other provision of this Agreement. To the full extent, however, that the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement be deemed to be a valid and binding agreement enforceable in accordance with its terms.

16. Stop Work Notice.

Immediately, upon receiving a written notice to stop work, Contractor shall cease all work under this Agreement.

17. Resolutions.

A copy of a resolution, order, motion or ordinance of the local governing body by law having authority to enter into the proposed Agreement authorizing execution of agreements must be included when contracting parties are county, city, district, board or commission.