

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

DEPT: Agricultural Commissioner Harry Cash

BOARD AGENDA # *B-1

Urgent Routine

AGENDA DATE April 14, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Award a Contract to Grover Landscape Services, Inc. to Provide Landscape Services, Management and Maintenance at the Stanislaus County Agricultural Center

STAFF RECOMMENDATIONS:

1. Award a contract to Grover Landscape Services, Inc. to provide landscape services, management and maintenance at the Stanislaus County Agricultural Center effective May 1, 2009 through April 30, 2013.
2. Authorize the Director of the General Services Agency/Purchasing Agent to sign the contract, not to exceed the total amount of \$109,800 for the four-year period.

FISCAL IMPACT:

The total amount of this contract award is \$109,800 for the period of May 1, 2009 through April 30, 2013. Appropriations and corresponding revenues for this service in the current fiscal year have been included in the Agricultural Commissioner's Fiscal Year 2008-2009 approved budget. The ongoing costs for succeeding years will be included in the Agricultural Commissioner's annual budget.

The responsibility for paying the landscape service contract was transferred to the Agricultural Commissioner in July of 2003. At that time, the Department of Parks and Recreation oversaw the actual field operations of the landscape services contract. Currently, the Agricultural Commissioner is the County's (continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-217

On motion of Supervisor Monteith, Seconded by Supervisor Chiesa
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

ATTEST: Christine Ferraro
CHRISTINE FERRARO TALLMAN, Clerk

File No.

FISCAL IMPACT (Continued):

representative responsible for field operations and payment of the contract. In Fiscal Year 2003-2004, the Agricultural Commissioner received \$28,800 from the General Fund to pay for these services annually. The original annual funding of \$28,800 has been reduced to \$19,341 as a result of the implementation of current budget reduction strategies. However, as a result of the Request for Proposals (RFP) process, the proposed contract with Grover Landscape Services, Inc. is established at \$27,450 or \$1,350 below the current annual cost.

DISCUSSION:

The General Services Agency/Purchasing Division entered into a contract with Grover Landscape Services, Inc. to provide landscape services for the greater part of the Agricultural Center located at 3800 Cornucopia Way, Modesto on June 1, 2002. Since June of 2006, the service has been provided on a month to month basis. On January 28, 2009, the General Services Agency Purchasing Division (GSA) initiated a Request for Proposals that was presented to the community for the solicitation of bids. The GSA received and opened six bids. A selection panel scored the bids using an agreed upon scoring system that seeks to obtain the best value for the services provided with scoring weighted heavily towards the lowest bid. Grover Landscape Services, Inc. received the highest score and was selected by the rating panel to receive the contract. All vendors that participated in the bidding process were notified of the results. No formal grievances have been filed to date.

POLICY ISSUE:

The Board of Supervisors should determine if approval of this item supports the Board Priority to Promote the Efficient Delivery of Public Services and a Strong Agricultural Economy/Heritage.

STAFFING IMPACT:

There is no staffing impact associated with this request.

**AGREEMENT
FOR
INDEPENDENT CONTRACTOR SERVICES**

This Agreement for Independent Contractor Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and Grover Landscape Services, Inc. ("Contractor") as of May 1, 2009.

Recitals

WHEREAS, the County has a need for services involving landscape management, maintenance and services for its property located at 3800 Cornucopia Way, Modesto, California; and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. **Scope of Work**

1.1 The Contractor shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit A**, attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Contractor under this Agreement, including without limitation electronic data files, are the property of the Contractor; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.

1.3 Services and work provided by the Contractor at the County's request under this Agreement will be performed in a timely manner consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions, and in accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

2. Consideration

2.1 County shall pay Contractor as set forth in Exhibit A.

2.2 Except as expressly provided in Exhibit A of this Agreement, Contractor shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

2.4 Pursuant to Penal Code section 484b and to Business and Professions Code section 7108.5, the Contractor must apply all funds and progress payments received by the Contractor from the County for payment of services, labor, materials or equipment to pay for such services, labor, materials or equipment. Pursuant to Civil Code section 1479, the Contractor shall direct or otherwise manifest the Contractor's intention and desire that payments made by the Contractor to subcontractors, suppliers and materialmen shall be applied to retire and extinguish the debts or obligations resulting from the performance of this Agreement.

3. Term

3.1 The term of this Agreement shall be from the date of approval of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit A.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, (b) sale of Contractor's business, (c) cancellation of insurance required under the terms of this Agreement, and (d) if, for any reason, Contractor ceases to be licensed or otherwise authorized to do business in the State of California, and the Contractor fails to remedy such defect or defects within thirty (30) days of receipt of notice of such defect or defects.

3.4 The County may terminate this agreement upon 30 days prior written notice to the Contractor. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Contractor to provide the services and work described in Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Contractor at no expense to the County.

5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in Exhibit A, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services identified in Exhibit A to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

6. Insurance

6.1 Contractor shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Automobile Liability Insurance. If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability

insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Contractor agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

6.4 The Contractor's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees or volunteers.

6.6 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to the County; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.

6.9 Contractor shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors.

7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend the County and its agents, officers and employees from and

against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Contractor or Contractor's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use; provided, however, such indemnification shall not extend to or cover loss, damage or expense arising from the sole negligence or willful misconduct of the County or its agents, officers and employees.

7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period service is provided to County under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction,

supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

8.5 It is understood and agreed that as an independent Contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.6 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's assigned personnel under the terms and conditions of this Agreement.

8.7 As an independent Contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate

in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex, or sexual orientation. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus – GSA Purchasing
Attn: Purchasing Agent
PO Box 3229
Modesto, CA 95353-3229

To Contractor: Grover Landscape Services, Inc.
6224 Stoddard Road
Modesto, CA 95356

15. Conflicts

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. Severability

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

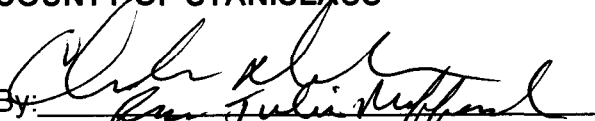
21. Governing Law and Venue


This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this Agreement on the day and year first hereinabove written.

COUNTY OF STANISLAUS

GROVER LANDSCAPE SERVICES, INC.

By: 
Julie Mefferd, GSA Director/Purchasing Agent

By: 
Chris McCormick, Maintenance and Renovation Operations Manager


"County"

"Contractor"

APPROVED AS TO CONTENT:
Agricultural Commissioner

By: 
Name Milton O'Haire
Title Assistant Agricultural Commissioner

APPROVED AS TO FORM:
John P. Doering, County Counsel

By: 
Deirdre McGrath, Deputy County Counsel

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EXHIBIT A

A. SCOPE OF WORK

The Contractor shall landscape management and maintenance services under this Agreement as set forth in Appendix A attached hereto and made a part hereof.

B. COMPENSATION

The Contractor shall be compensated for the services provided under this Agreement in accordance with the following price schedule:

Year #	Period Covered	Annual Payment	Monthly Payment
1	5/1/2009 – 4/30/2010	\$27,000.00	\$2,250.00
2	5/1/2010 – 4/30/2011	\$27,000.00	\$2,250.00
3	5/1/2011 – 4/30/2012	\$27,900.00	\$2,325.00
4.	5/1/2012 – 4/30/3013	\$27,900.00	\$2,325.00

The County shall pay the Contractor the Monthly Payment as shown above. Payments shall be made monthly on the first day of the month following the month during which the services were rendered.

C. LIMIT OF EXPENDITURE

The parties hereto acknowledge the maximum amount to be paid by the County for services provided shall not exceed \$109,800.00 including, without limitation, the cost of any sub-contractors, proposers, experts or investigators retained by the Contractor to perform or to assist in the performance of its work under this Agreement.

D. REPRESENTATIVES

The County's Project Manager is Milton O'Haire, (209) 525-4730. The Contractor's Project Manager is Chris McCormick (209) 604-3003. The Project Managers shall meet at least quarterly in order to maintain an open line of communication with respect to this Agreement.

E. PROTECTION OF EXISTING FACILITIES

Contractor shall take every precaution to protect all public and private property during the performance of this contract. Any damages caused by Contractors personnel or equipment will be promptly repaired to the condition existing before the damage or be replaced. All such costs for such repairs or replacement shall be the sole responsibility of the Contractor.

F. SAFETY REQUIREMENTS

All services and merchandise must comply with current California State Division of Industrial Safety Orders and OSHA.

G. AGREEMENT PERIOD

This shall be effective from May 1, 2009 or date of award; whichever is later, through April 30, 2013. The County reserves the right to extend this Agreement for an additional period or periods of time representing increments of no more than one (1) year, provided that the County notifies the Contractor in writing of its intention to do so at least ninety (90) days prior to the contract expiration date. An extension of the term of this Agreement will be affected through an amendment to the Agreement. If the extension of the Agreement necessitates additional funding beyond that which was include din the original Agreement, the increase in the County's maximum liability will also be affected through an amendment to the Agreement and shall be based upon rates provided in the original Agreement and proposal.

H. TERMINATION FOR CONVENIENCE

The County may terminate this Agreement at any time for its convenience and at its sole option, in whole or in part, by giving written notice to Contractor. Contractor agrees to waive any claims for damages, including loss of anticipated profits, in the event the County terminates the Agreement as provided for in this paragraph. Upon such termination, the obligations of this Agreement shall continue as to any work already performed and the County shall pay Contractor the amount due for work properly performed as of the date of termination, less any sums previously paid.

I. PREVAILING WAGE

Any person performing labor in the execution of this Agreement shall be paid not less than the general prevailing rate of wages in private employment for similar work in the County of Stanislaus.

In the event the Contractor pays any laborer or employee less than the established prevailing wage rate, the County will terminate the Agreement. In the event of such termination, Contractor shall be liable and assessed no less than established rate per day per violation.

APPENDIX A— LANDSCAPE MAINTENANCE, SERVICES AND MANAGEMENT – SCOPE OF WORK

In addition to the company and financial information referred to in Section 5; proposal submittal (pages 14-17), the proposer shall address each of these areas below as indicated and defined by number and sub-title.

SPECIFICATIONS FOR LANDSCAPE MANAGEMENT

- I. Location of the Property
- II. Scope of Work
- III. Definitions
- IV. Materials
- V. Lawn Care
- VI. Tree, Shrub, and Ground Cover Care
- VII. Pest Control
- VIII. Drift Over-Spray, Runoff and Leaching
- IX. Irrigation System
- X. General Maintenance and Clean Up
- XI. Equipment and Materials
- XII. Contingencies not covered by these Specifications
- XIII. Workmanship and Quality
- XIV. Reporting Work
- XV. Corrective Work
- XVI. Contractor's Employees
- XVII. Supervision
- XVIII. Insurance
- XIX. Property Damage or Loss
- XX. Cancellation of Contract
- XXI. Map

I. Location of Property

The location and limits of the grounds to be managed are designated as follows: All improved landscaping under automatic sprinklers and paved parking areas within the common area property bounds of the Stanislaus County Agricultural Center except those areas maintained by the Stanislaus County Sheriff's Office located on the north and east sides of Cornucopia Way. See map for exact boundaries.

II. Scope of Work

- A. Contractor shall furnish all labor, materials, equipment and incidentals necessary to provide complete and continuous management of all shrubs, ground covers, lawns, vines, perennial and annual plants including commercial fertilizer, insecticides and fungicides in a manner consistent with industry standards.
- B. The work does not include repairs and maintenance of site lighting, fences, gates, benches, steps, or other outdoor construction.

III. Definitions

- A. Where "property owner" is used, it shall be understood to mean Stanislaus County Agricultural Center.
- B. Where "Owner's representative" is used, it shall be understood to mean that person who is specifically authorized the Stanislaus County Agricultural Center to represent the said Owner in all matters pertaining to the administering of the maintenance contract.

IV. Materials

Contractor will provide quality materials available to trade. Commercial fertilizer, insecticides, fungicides, and herbicides shall bear the manufacturer's label and guaranteed analysis. Water is to be furnished by Owner.

V. Lawn Care

Maintain all lawns in a healthy growing condition by performing the following operations and other work incidental thereto:

- A. Mowing:
 - 1. Mow once a week or as necessary to maintain a neat, trim appearance. Mowers will also be adjusted and operated so that the grass is cut at a uniform height. There will be no rough cutting or bruising of grass and "scalping" of high places. All unsightly grass cuttings shall be removed after mowing and deposited off site.
 - 2. Mowing of all contiguous turf areas shall be completed on the same day.
 - 3. When lawns cannot be cut on the scheduled day due to rain or other wet turf conditions, the lawns shall be cut as soon as weather and ground conditions permit, or at the direction of the Owner's representative.

2. All sites including turf areas, parking lots, planters, adjacent sidewalks, curbs and gutters, hard surfaces, fence lines and etc., shall be free of all natural and foreign matter, including excessive leaves and acorns, broken glass, litter, paper, animal defecation and all or other debris, before each mowing. The Contractor shall be responsible for clean up and removal of natural and foreign matter that is scattered or shredded by mowers during servicing, prior to leaving the job site. All litter shall be removed offsite at the Contractor's expense.

B. Trimming:

1. Trim all edges after each cutting or as necessary. This trimming shall include cutting all grass near any object within or immediately adjacent to the lawn areas. Lawn edges shall be trimmed with power edger, by hand or with appropriate herbicides.
2. Avoid damage to tree trunks, shrubs, sprinklers, buildings, and other structures. Report damage to Owner's representative and make repairs promptly.

C. Fertilizing:

1. Use a slow release fertilizer to maintain optimum appearance compatible with the variety of lawn species installed. Fertilize lawns twice a year, unless a very long-lasting slow release form of fertilizer is used. Applications of quick release (soluble) shall be used where necessary to improve lawn appearance quickly, or other products as proven and are recommended by the Contractor.
2. Water lawn immediately after fertilization to prevent burning of grass.

D. Watering

1. Deeply water lawns as weather conditions require to provide adequate moisture for optimum growth.
2. Wherever the permanently installed sprinkler system does not adequately cover the areas, the Contractor shall bring this to the Owner's attention immediately with an estimate and plan to fix the problem.
3. Watering should be done at night time. To prevent the formation of pot holes on unpaved roads, all watering adjacent to dirt roads must be completed by 5:00 A.M .
4. Control watering to prevent excessive run-off, ponding, and over-watering.

E. Renovating:

1. Renovate by aerating. Aeration will be done once per year to relieve soil compaction and increase soil air movement.

VI. Tree, Shrub, and Ground Cover Care

Contractor shall manage trees and shrubs in a healthy growing condition by performing the following operations and other work incidental thereto.

A. Watering:

1. Water deeply and slowly to establish moisture to the full depth of the root zone. Water in a manner to avoid erosion, excessive runoff, ponding, or creation of a water logged soil condition.

B. Pruning;

1. All pruning shall be done by qualified professional personnel using recognized and approved methods and techniques namely International Society of Arboriculture (ISA) standards.
 - a) Make pruning cuts to the branch bark collar with no tearing of the bark. There will be no heading cuts or stubbing back.
 - b) Major pruning of deciduous trees and shrubs should be done during dormant season. Minor pruning may be done at any time.
2. Pruning of trees and shrubs shall be done as needed to achieve the following:
 - a) To remove all dead or damaged branches.
 - b) To shape, particularly to correct misshaping caused by the wind.
 - c) To raise the lower branches of trees above head height wherever they overhang walkways.
 - d) To cut back shrubs and ground cover where they encroach on the walks and paved areas and branches that are rubbing on walks, fences, and buildings.
 - e) To remove suckers, watersprouts, and other undesirable growth on trees.
 - f) Maintain existing stakes and guys.

NOTE: *Major pruning of trees over 12' in height are not included in this agreement.*

- C. Fertilization: Fertilize all trees, shrubs, and ground covers once a year with an approved complete fertilizer. Apply fertilizer in the spring or early fall.
- D. Replacement of Material: Remove dead and damaged plants and replant with material of equivalent size, condition, and variety. Replacement of material must be pre-approved by Owner's representative. Labor and materials will be at the Owner's expense unless damage was caused by Contractor's negligence. Refer to section XV, Property Damage for additional information.

1. Contractor shall install plants that are propagated in a nursery, locally grown and best suited to the regional climatic conditions. Additionally, the installed plants shall be non-invasive, disease free, virus free, pest free, and suited to the soil type and drought conditions of the area. Replacement plants shall be of equal quality and size or better than the plant material originally installed. Changes to plant materials shall be mutually agreed to by Owner's Representative and Contractor.
2. The Contractor shall guarantee all replacement plants for the life of the agreement.

VII. Pest Control

Pesticide spraying shall be done only by qualified, trained personnel under the supervision of a State-licensed Pest Control Operator*, using recognized and approved herbicides, insecticides, and fungicides. Spraying shall be done with extreme care and only if it is in the best interest of the general landscaping and without negative environmental impact. Where there is no effective chemical control for such pests and diseases such as, but not limited to, borers, carpenter worms, and pythium, contractor will not be held responsible.

Licensing Note: it is prohibited by State law to use pesticides in the course of providing landscape maintenance without the Department of Agriculture's "Agriculture Pest Control Business License". It is for the protection of the public, workers and environment from unlawful application of pesticides.

- A. Owner's representative shall be notified immediately in writing of any disease, pests or unusual conditions that might arise, in order to ward off any potential damage.
- B. The Contractor shall be responsible for the control and elimination of weeds, insects, rodents, and diseases affecting plant material. The Contractor may use a pesticide application program for this purpose. A pesticide program should be used only within an overall pest management program that embraces Integrated Pest Management (IPM) principles, which includes nontoxic methods. All chemical applications including dates, times, methods of application, chemical formulations, applicators' names and weather conditions, shall be recorded and retained in an active file for a minimum of three (3) years. The Owner's representative may request chemical application records at any time
- C. The Contractor shall be solely responsible for all permits, licenses, documentation, record keeping and all other legal requirements associated with the use of pesticides.
- D. Pre-emergent and post-emergent herbicides will be used as spot treatments and broadcast applications in shrub areas.
- E. Selective herbicides will be used for the control of broadleaf weeds in turf. Crabgrass control not included.
- F. Pesticide applications may be required for the control of certain insects and diseases such as, but not limited to, aphid pests on parking lot hackberry trees. Costs shall be at the Owner's expense, with Owner's approval.

G. The County Department of Agriculture shall be notified 24 hours in advance of any pesticide applications at the Agricultural Center. Contact number is (209) 525-4730.

H. Rodent Control

Rodents shall be eliminated by appropriate exterminating techniques (traps, poison, etc.). The Contractor shall apply rodenticides or other practices in lawn and scrub areas as needed to control the proliferation of underground and tunneling rodents. The Owner's representative shall approve all exterminating techniques prior to their use.

I. Weed Control

1. Weeds may be controlled by chemical, mechanical or manual means. This includes lawns, shrubs and flower planters, pathways, hard surfaces, tree basins, posts, signs, rails, dirt areas, building foundations, fence and wall lines, cracks and seams in hard surfaces and all other areas. The Contractor shall assume landscape areas in "as is" condition and improve to a weed-free condition, and maintain a weed-free condition.

2. The Contractor may use any mechanical or manual method necessary to conform to the performance specifications, as long as the choice of method used meets with commonly accepted landscape maintenance practices. The Contractor shall be responsible for the disposal of debris that results from mechanical or manual control measures.

VIII Drift Over-Spray, Runoff and Leaching

A. The Contractor shall be responsible at all times for the control of spray drift, over-spraying, down-slope leaching or any other encroachment of herbicide, insecticide or other pesticide onto non-target areas. The Contractor shall be responsible for any and all damages caused by drift, over-spray or leaching. Rogue spraying that causes damage to adjacent plants and lawn will be replaced at the Contractor expense.

B. The Contractor shall at no time permit pesticide materials to be applied in such a manner as to allow the herbicide to runoff or drift into any storm drainage system. Herbicide tanks and equipment shall not be rinsed out as to allow the herbicide to run off or drift into any storm drainage system.

IX. Irrigation System

A single electronic irrigation system controls the watering of the Stanislaus County Agricultural Center and Ray Simon Regional Criminal Justice Center (RSRCJ). The Contractor shall coordinate with the RSRCJ for the mutual benefit of both parties. The Contractor shall operate and control all irrigation. The Contractor assumes the irrigation systems "as is" and shall be responsible for ensuring that all turf, trees, shrubs, flowers, ground cover and vines are provided adequate water to achieve and maintain uniformity and vigorous healthy growth. The Contractor shall be responsible for the operation of the irrigation system and maintenance of the sprinkler heads.

A. Specifically, the Contractor shall:

1. Clean and adjust all heads to maintain proper coverage.
2. Remove last head from each system and flush the lines if required.
3. Repair and replace any equipment damaged as a result of contract operations
4. Report damage or problems not resulting from the Contractor's negligence promptly to the Owner's representative together with any estimate of costs for correction of the condition.
5. The Contractor shall comply with all existing water conservation restrictions, preventing unnecessary runoff and/standing water.

X. General Maintenance and Clean up

- A. Inspect the grounds and remove litter from all areas including planters, turf areas, sidewalks, parking lots, hard surfaces and curb lines. Remove all trimmings and litter, including excessive leaves and acorns, broken glass, paper, cans, animal defecation or other such debris.
- B. Perform debris removal, including litter, trash, clippings and pruning from lawns, shrub beds, driveways, walkways, parking areas and fence lines.
- C. Remove all collected litter and debris offsite at Contractor's expense.

XI. Equipment and Materials

- A. Beginning on the effective date of the contract, the Contractor shall furnish and maintain, at his/her expense, all necessary equipment and materials to perform all tasks required in the contract. The Contractor shall, at all times, furnish and maintain equipment necessary to perform all of the work under any resulting contract. The Contractor's equipment shall also be easily identified.
- B. Materials shall include, but are not limited to the following:
 1. All necessary gas, oil and parts for all equipment.
 2. All necessary fertilizers and pesticides.
 3. All necessary horticultural supplies and plant materials.
 4. All necessary irrigation repair parts and components.
 5. All required licenses and certificates.

XII Contingencies not covered by these Specifications

- A. Damage resulting from fire or Acts of Gods such as earthquake, wind, or unusual weather conditions. Damage, other than minor damage, resulting from vandalism or other civil disobedience or sprinkler controller malfunction.
- B. Items missing or broken i.e.: trees stakes, sprinklers, plumbing repairs, etc.
- C. Major pruning of trees over 12' in height are not included in this agreement.

XIII. Workmanship and Quality

- A. All work shall be performed at all times by experienced landscape and gardening professionals, directly employed and supervised by the Contractor. The Contractor shall provide management and technical supervision through a qualified and competent foreman, as required to implement modern methods and newly developed horticultural procedures.
- B. The Contractor shall be responsible for the skills, methods and actions of all of his/her employees and for all of the work done by the Contractor's personnel. The Contractor shall work directly with the Owner's representative in determining the quality of the work being performed. The Contractor shall give personal supervision to the work performed and shall be available for consultation with the Owner's representative.

XIV Reporting Work

The Contractor's superintendent shall meet with the Owner's representative on a monthly basis, and at other times that may be required by the Owner's representative, to review the Contractor's performance of the contract, and to discuss any problems or matters as determined by the Owner's representative.

XV Corrective Work

The Contractor shall perform the work described herein, under the direction and satisfaction of the Owner's representative. The Owner's representative, may make inspections of the work at any time, and request the Contractor make corrections to any work that does not meet the standards outlined in this RFP. If corrective work is required, the Owner shall provide the Contractor with a written list of items that need correcting, and the Contractor shall make the necessary corrections within forty-eight (48) hours. If the corrections are not made, the Owner shall deduct those applicable portions, pro-rata, from the Contractor's payment. Repeated failures to provide services at the standards stated in these specifications, or failure to respond to requests for corrective work, may result in the termination of the contract.

XVI Contractor's Employees

- A. The Contractor shall employ sufficient, properly trained personnel, to perform all of the work outlined in this RFP. The Contractor's employees assigned to this contract shall be well groomed and dressed in a uniform that clearly identifies the employee's name and company. The Contractor shall provide sufficient supervisory personnel that can represent the Contractor at all times.
- B. **Contractor's Unsatisfactory Employees:** If at any time the Owner determines that any person employed by the Contractor providing maintenance services under the contract requires corrective action, the Owner shall formally notify the Contractor in writing, who shall take immediate corrective action. The Contractor shall be solely responsible for the hiring, supervising, training, disciplinary actions and termination of his/her employees.
- C. If any person employed by the Contractor fails or refuses to carry out the direction of the Owner's representative, or appears to be incompetent, or acts in a disorderly or improper manner, that person shall be discharged immediately from the project on the request of the Owner's representative.

XVII. Supervision

The Contractor shall give his personal attention to the work or shall have competent supervision on the job site at all times during progress of the work with authority to act on his/her behalf and be available for consultation with the Owner's representative.

XVIII. Insurance

The Contractor shall maintain all insurance as described in the attached sample contract agreement, paragraph 6; Insurance.

XIX. Property Damage or Loss

Report any property damaged or altered in any way during the performance of the work under this contract promptly to the Owner's representative, and rectify in an approved manner back to its condition prior to damage at the Contractor's expense. Report any damage noted or seen by the Contractor that has occurred by any means other than during the performance of the Contractor's work, whether by vandalism or any other means, to the Owner's representative, particularly all hazardous conditions.

- A. Damage Responsibility: All damage to turf, trees, shrubs, ground cover or other landscaping items, such as irrigation systems, landscape structures and park facilities, due to the Contractor's negligence as determined by the Owner's representative, shall be the financial responsibility of the Contractor. Damages not attributable to the Contractor's negligence shall be the responsibility of the Owner. All damages caused by the Contractor to private property shall be the sole responsibility of the Contractor to make restitution.

- B. The Owner does not assume liability from fire, theft, accident, or any other cause resulting in damage or loss of Contractor's supplies, materials, or equipment or of personal property belonging to his employees.

XX. Cancellation of Contract

The Contractor may terminate this contract upon 30-days written notice due to delayed monthly payments, a lack of cooperation by Owner or management, or refusal to pay for extra work needed to maintain the appearance of the project as required by Owner.

The Owner reserves the right to cancel this contract should the Contractor fail to provide workmanship and materials in accordance with the terms of these Specifications after being notified by Owner in writing of the problem. If work is not to Owner's satisfaction, a 30-day notice of cancellation may be given.

XXI. Map

