

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

DEPT: Chief Executive Office

BOARD AGENDA # B-17

Urgent Routine

AGENDA DATE December 8, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Authorization to Enter Into a Twelve Month Exclusive Right to Negotiate Agreement with JKB Energy for a Long-Term Farming and Potential Solar Farm Lease on County-Owned Land Adjacent to the Fink Road Landfill; Authorization for the Director of Environmental Resources to Negotiate and Enter Into a Contract with M.A. Garcia Agrilabor, Inc. for Farm Management Services for the 345 Acre Almond Orchard During the Negotiation Period and Related Actions

STAFF RECOMMENDATIONS:

1. Approve the 12-month Exclusive Right to Negotiate Agreement with JKB Energy for a long-term farming and potential solar farm lease on County owned land adjacent to the Fink Road Landfill and authorize the Chairman of the Board to sign the agreement.
2. Authorize the Director of Environmental Resources to negotiate and sign a contract with M.A. Garcia Agrilabor, Inc. for farm management services for the 345 acre almond orchard during the negotiation period; contract will be cost based with a 6% management fee in an amount not to exceed \$66,900.

- Continued on Page 2 -

FISCAL IMPACT:

Stanislaus County previously had two leases on the County owned lands adjacent to the Fink Road Landfill: a 760.4 acre grazing lease and a 1,040 acre farming lease (1,678 total acres, 1,040 of which are deemed farmable). Both leases expired on November 3, 2009 and generated \$5,028 and \$138,000 respectively in annual revenue for the Fink Road Landfill Enterprise Fund. A Request for Proposals (RFP) has been released for parties interested in bidding on the grazing lease. This item would award JKB Energy an Exclusive Right to Negotiate for a 12-month period for a ground lease on the remaining 1,678 acre portion of the property. - Continued on Page 2 -

BOARD ACTION AS FOLLOWS:

No. 2009-823

On motion of Supervisor Chiesa, Seconded by Supervisor Grover
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 TALLMAN, Clerk

File No.

Authorization to Enter Into a Twelve Month Exclusive Right to Negotiate Agreement with JKB Energy for a Long-Term Farming and Potential Solar Farm Lease on County-Owned Land Adjacent to the Fink Road Landfill; Authorization for the Director of Environmental Resources to Negotiate and Enter Into a Contract with M.A. Garcia Agrilabor, Inc. for Farm Management Services for the 345 Acre Almond Orchard During the Negotiation Period and Related Actions

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RECOMMENDATIONS Continued:

3. Direct the Auditor-Controller to increase appropriations of \$1,181,900 and estimated revenue of \$880,000 in the Fink Road Landfill Enterprise Fund as detailed in the Budget Journal form.

FISCAL IMPACT Continued:

While the potential annual revenue generated from a new ground lease is yet to be negotiated, staff anticipates that an added potential solar farm use, if deemed feasible, would create higher lease rates per acre than those associated with just the current farming operation.

All normal costs associated with the due diligence period, including environmental review and land use approvals, will be borne by the selected candidate.

On November 3, 2009, the Board of Supervisors authorized the Director of Environmental Resources to award and execute a lease agreement for dry-land farming on approximately 700 acres of the property subject to the negotiation of a long-term farm lease. Contingent upon there being adequate rainfall this year, this lease could generate up to \$50,000 in revenue, with a minimum projection of \$20,000 should weather conditions not be optimal.

For the remaining acreage, which includes a 345 acre almond orchard, it is recommended that the County enter into a contract with M.A. Garcia Agrilabor, Inc. to run the farming operation during the interim period. M.A. Garcia Agrilabor, Inc.'s management fee would be 6% of total expenses, not to exceed \$66,900.

It is anticipated that total expenses associated with the farming operation could approach \$1.2 million for the year, provided that no supplemental water purchases are required. While the orchard yield and price per pound for the almond meats are unknown at this time, given the orchard's past production history and current market prices for almonds, there is a possibility that the farming operation could experience an operating loss of several hundred thousand dollars this coming year. For example, if the orchard were to yield 1,850 lbs/acre and the nuts were to sell at \$1.35/lb, projected revenue would be approximately \$860,000 + \$20,000 minimum estimated from the dry farming lease offset against up to \$1.2 million in operating expenses. Recognizing this challenge, staff will work closely with M.A. Garcia Agrilabor, Inc. to keep expenses down while continuing to operate in a responsible, efficient and prudent manner.

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An alternative scenario of not attempting to harvest the nuts but to provide a minimum level of water and maintenance to keep the trees alive would most likely generate an even higher potential operating loss in the \$500,000-\$600,000 range.

DISCUSSION:

On September 29, 2009, the Board of Supervisors authorized staff to issue a Request for Qualifications (RFQ) to select the most qualified candidate interested in entering into a long-term ground lease for 1,678 acres of County owned land adjacent to the Fink Road Landfill. In addition to the current farming operation, the RFQ opened the door for the potential evaluation of a solar farm operation at the site. The selected candidate would be given an opportunity to enter into an Exclusive Right to Negotiate agreement with the County for a 12 month period, which would allow the selected candidate to perform their due diligence, including but not limited to, environmental review and clearance, land use approvals, negotiation of a Power Purchase Agreement, financing, construction contracts and the negotiation of a long-term ground lease with the County.

Five firms provided submittals in response to the RFQ. Those firms were:

- Alldrin-Hardister Farming Co, LLC
- JKB Energy
- Scatec Solar North America, Inc.
- SunPower Corporation
- White Hat Renewables, LLC

All five firms met individually with a Selection Committee on Thursday, November 5, 2009. The Selection Committee was composed of:

- Jim DeMartini, Supervisor District 5
- Brad Hawn, Councilmember, City of Modesto
- Matt Machado, Director of Public Works
- Jami Aggers, Assistant Director of Environmental Resources
- Angela Freitas, Deputy Director of Planning
- Stan Risen, Assistant Executive Officer

Scoring of the Candidates was based on their qualifications, understanding of the project, management concept, financial strength and capacity, and other factors such as projected level of lease revenue and how the County's overall objectives would be met. The highest scoring Candidate was JKB Energy. Factors considered by the Committee that favored JKB Energy included: a Power Purchase Agreement that was in an

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advanced stage of negotiations that would be available for application at the Fink Road site; that all portions of the solar energy farm, with the exception of the energy panels, would be constructed locally using Stanislaus County businesses and employees; and projected potential lease rates that would be favorable to the County.

Under the proposal, Stanislaus County would contract with JKB Energy for the ground lease. JKB Energy has assembled the following participating partners:

- JKB Development/JKB Energy: overall administration, solar integrator, general contractor/solar contractor, solar farm installer, solar farm maintenance
- Buchanan Enterprises: commercial developer, overall property management
- Shiloh Energy Group: solar regulatory & approval management, utility company relations, and utility company interconnection management
- M.A. Garcia Agrilabor: overall agricultural production management, overall site maintenance & best practice methods maintenance of property
- Valley Tool & Manufacturing: manufacturer of Dual Axis "Helios" Tracker and Solar Module Mounting System.

Given that the current lease expired on November 3, 2009, staff is requesting authority to negotiate and enter into a farm management contract with M.A. Garcia Agrilabor, Inc., JKB Energy's farming affiliate, to run the farming operation during this interim negotiation period. This contract would help ensure the farming operation is properly cared for during the interim period. This would be a cost based contract with M.A. Garcia Agrilabor, Inc. receiving a 6% management fee, not to exceed \$66,900. The Director of Environmental Resources previously entered into a short-term contract with M.A. Garcia Agrilabor, Inc. on November 25, 2009 for an amount not to exceed \$25,000 to address some immediate orchard needs until this item could be brought to the Board of Supervisors.

A schedule of key milestones and deliverables has been developed to guide JKB Energy and County staff through the 12-month negotiation period. While JKB Energy will maintain an exclusive right to negotiate for a 12-month period, all parties will be striving to conclude ground lease negotiations at the earliest date possible.

In summary, staff is requesting authorization for the Chairman of the Board of Supervisors to sign a 12-month Exclusive Right to Negotiate Agreement with JKB Energy, to authorize the Director of Environmental Resources to negotiate and enter into a contract with M.A. Garcia Agrilabor, Inc. for farm management services during the 12-month negotiation period, and to approve the associated budget adjustments.

Authorization to Enter Into a Twelve Month Exclusive Right to Negotiate Agreement with JKB Energy for a Long-Term Farming and Potential Solar Farm Lease on County-Owned Land Adjacent to the Fink Road Landfill; Authorization for the Director of Environmental Resources to Negotiate and Enter Into a Contract with M.A. Garcia Agrilabor, Inc. for Farm Management Services for the 345 Acre Almond Orchard During the Negotiation Period and Related Actions

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POLICY ISSUES:

The Board of Supervisors is asked to consider whether the negotiation of a long term ground lease with the potential for a solar farm operation is consistent with the priority of efficient government operations and a well planned infrastructure.

STAFFING ISSUES:

There are no staffing issues associated with this item. If approved, staff from the Chief Executive Office, County Counsel, Environmental Resources and Planning and Community Development will be involved in the review, evaluation, permitting and contract negotiations for a long term ground lease.

**County of Stanislaus: Auditor-Controller
Legal Budget Journal**

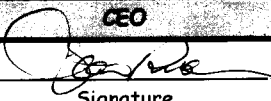
Database
Set of Books

FMS11IDB.CO.STANISLAUS.CA.US.PROD
County of Stanislaus

Balance Type	Budget
Category	* List - Text Budget - Upload
Source	* List - Text
Currency	* List - Text USD
Budget Name	List - Text LEGAL BUDGET
Batch Name	Text
Journal Name	Text
Journal Description	Text Increase Appropriations
Journal Reference	Text DER-Fink Road Landfill
Organization	List - Text Stanislaus Budget Org

Upl	Fund	Org	Acc't	GL Proj	Loc	Misc	Other	Debit		Credit		Period Upper case MMM-YY LIST - TEXT	Line Description TEXT
								incr appropriations decr est revenue (format > number > general)		decr appropriations incr est revenue			
	4	/	5	/	6	6	5						
Pd	4021	0041100	60101	0000000	000000	000000	000000	1181900				Dec-09	Farm Management
Pd	4021	0041100	30318	0000000	000000	000000	000000			880000		Dec-09	Ag Services
Totals:								1181900		880000			

Explanation: Increase appopriations and revenue for I-5 Ranch farming services.

Requesting Department		CEO	Date Entry		Auditor's Office Only	
Merry Rorabaugh						
Signature	Signature		Keyed by	Prepared By	Approved By	
12/2/ 2009	12/2/09					
Date	Date		Date	Date	Date	

JKB ENERGY FINK ROAD PRELIMINARY MILESTONE SCHEDULE

ID	Task Name	Duration	Start	Finish
1	PROJECT: Fink Road	236 days	Mon 11/23/09	Mon 11/1/10
2	DUE DILIGENCE	236 days	Mon 11/23/09	Mon 11/1/10
3	Project Studies	236 days	Mon 11/23/09	Mon 11/1/10
4	PROJECT AGREEMENT	15 days	Mon 11/23/09	Fri 12/11/09
5	Draft Agreement - Exclusive Right to Negotiate	10 days	Mon 11/23/09	Fri 12/4/09
6	Execute Agreement - Exclusive Right to Negotiate	4 days	Tue 12/8/09	Fri 12/11/09
7	PROJECT SITE VISIT	1 day	Wed 12/9/09	Wed 12/9/09
8	Conduct Project Site Visit	1 day	Wed 12/9/09	Wed 12/9/09
9	PPA	200 days	Mon 12/14/09	Fri 10/1/10
10	Determination of Required Interconnection Upgrades to Transmission Lines	20 days	Mon 12/14/09	Fri 1/22/10
11	Execution of Interconnection Agreement if Upgrades are Necessary	80 days	Mon 1/25/10	Fri 5/14/10
12	Execution of Interconnection Agreement if Upgrades are Unnecessary	20 days	Mon 1/25/10	Fri 2/19/10
13	Finalization of PPA to Reflect Interconnection and related Pricing Issues if Upgrades are Necessary	40 days	Mon 5/17/10	Fri 7/9/10
14	Finalization of PPA to Reflect Interconnection and related Pricing Issues if Upgrades are Unnecessary	40 days	Mon 1/25/10	Fri 3/19/10
15	Approval of PPA by the CPUC if Upgrades are Necessary	60 days	Mon 7/12/10	Fri 10/1/10
16	Approval of PPA by the CPUC if Upgrades are Unnecessary	60 days	Mon 3/22/10	Fri 6/11/10
17	Negotiate Funding/Financing Arrangements	60 days	Mon 3/22/10	Fri 6/11/10
18	Finalization of Funding/Financing Agreements	60 days	Mon 6/14/10	Fri 9/3/10
19	JURISDICTIONAL ANALYSIS (From Negative Declaration to Use Permit Approval)	22 days	Mon 3/15/10	Tue 4/13/10
20	Introduction	1 day	Mon 3/15/10	Mon 3/15/10
21	Project Description	5 days	Tue 3/16/10	Mon 3/22/10
22	Project Profile	5 days	Tue 3/23/10	Mon 3/29/10
23	Contact Information	1 day	Tue 3/30/10	Tue 3/30/10
24	Building Requirements Analysis	5 days	Wed 3/31/10	Tue 4/6/10
25	Summary of Development Issues	5 days	Wed 4/7/10	Tue 4/13/10
26	ENVIRONMENTAL/GEOTECHNICAL INVESTIGATION (Soils, Phase I/II, Foundation Type, Etc)	25 days	Wed 4/14/10	Tue 5/18/10
27	Prepare Soils Report - Phase I and II	20 days	Wed 4/14/10	Tue 5/11/10
28	Determine Foundation Type	5 days	Wed 5/12/10	Tue 5/18/10
29	UTILITY ANALYSIS - WET (Sewer, Water and Storm Constraints)	30 days	Wed 4/14/10	Tue 5/25/10
30	Analyze Sewer Main Line	10 days	Wed 4/14/10	Tue 4/27/10
31	Analyze Water Main Line	10 days	Wed 4/28/10	Tue 5/11/10
32	Analyze Storm Drainage Main Line	10 days	Wed 5/12/10	Tue 5/25/10
33	UTILITY ANALYSIS - DRY (Power, Gas, Phones, Cable)	30 days	Thu 4/29/10	Wed 6/9/10
34	Analyze Power	10 days	Thu 4/29/10	Wed 5/12/10

JKB ENERGY
FINK ROAD PRELIMINARY MILESTONE SCHEDULE

ID	Task Name	Duration	Start	Finish
35	Analyze Phone	10 days	Thu 5/13/10	Wed 5/26/10
36	Analyze Cable	10 days	Thu 5/27/10	Wed 6/9/10
37	ADJACENT LAND USE IMPACT (Analysis of Neighboring Influences)	20 days	Wed 4/14/10	Tue 5/11/10
38	Boundary & Easement Requirements	20 days	Wed 4/14/10	Tue 5/11/10
39	AERIAL SURVEY	30 days	Wed 4/14/10	Tue 5/25/10
40	Aerial control	10 days	Wed 4/14/10	Tue 4/27/10
41	Aerial survey	10 days	Wed 4/28/10	Tue 5/11/10
42	Aerial Mapping and Field topography	10 days	Wed 5/12/10	Tue 5/25/10
43	SITE PLAN (Prelim. Site Plan and Yield Study)	30 days	Wed 5/26/10	Tue 7/6/10
44	Land Use Concept Alternatives	15 days	Wed 5/26/10	Tue 6/15/10
45	Draft Land Use / Site Plan Concept	15 days	Wed 6/16/10	Tue 7/6/10
46	CONDITIONAL USE PERMIT	83 days	Wed 7/7/10	Fri 10/29/10
47	Application	2 days	Wed 7/7/10	Thu 7/8/10
48	Staff Review and comments	10 days	Fri 7/9/10	Thu 7/22/10
49	Revise	15 days	Fri 7/23/10	Thu 8/12/10
50	Staff Review and comments	10 days	Fri 8/13/10	Thu 8/26/10
51	Public Review	20 days	Fri 8/27/10	Thu 9/23/10
52	Planning Board Hearing	10 days	Fri 9/24/10	Thu 10/7/10
53	Board of Supervisors Hearing	15 days	Fri 10/8/10	Thu 10/28/10
54	PROJECT APPROVAL	1 day	Fri 10/29/10	Fri 10/29/10
55	GROUND LEASE	70 days	Mon 6/14/10	Fri 9/17/10
56	Negotiate Ground Lease	60 days	Mon 6/14/10	Fri 9/3/10
57	Execution of Ground Lease - Upon Final Approval of PPA and Funding	10 days	Mon 9/6/10	Fri 9/17/10
58	CONSTRUCTION START UP	1 day	Mon 11/1/10	Mon 11/1/10
59	Pre-Construction Meeting	1 day	Mon 11/1/10	Mon 11/1/10

Exclusive Right to Negotiate Agreement

This AGREEMENT is made and entered into this date of December 8, 2009 (“Effective Date”) by and among JKB Development, Inc., a California corporation doing business as JKB Energy (“JKB”) and Stanislaus County (“COUNTY”).

RECITALS

- A. COUNTY owns approximately 1,687 acres of land located adjacent to the Fink Road Landfill in Stanislaus County depicted in Exhibit A (the “Site”). The County is interested in entering into a long-term ground lease for the Site with allowable uses to include almond production, farming and solar energy production.
- B. On September 30, 2009, COUNTY issued a Request for Qualifications (RFQ NO. 09-39-CEN) and associated Addendum, hereinafter RFQ, requesting submission of a statement of qualifications from firms interested in entering into the long-term ground lease.
- C. Upon completion of the evaluation process, JKB, a private development company specializing in the development of renewable energy power plants, was selected as the candidate to be given the opportunity to enter into an “Exclusive Right to Negotiate” agreement for a twelve (12) month period.
- D. At the December 8, 2009 Board of Supervisors meeting, COUNTY authorized the Chairman of the Board of Supervisors to enter into an “Exclusive Right to Negotiate” agreement with JKB.
- E. JKB has determined that approximately 600-700 acres of the Site are suitable for the development of a solar energy farm(s).
- F. JKB intends to immediately begin due diligence associated with the development of a 20MW solar energy plant (“Project”), which is consistent with the draft Power Purchase Agreement (“PPA”) currently being negotiated by JKB with PG&E.
- G. JKB has prepared for COUNTY a preliminary milestone schedule outlining key deliverables and expected completion dates during the 12-month due diligence period (Exhibit B).
- H. The parties acknowledge that the effectiveness of any definitive agreements will be contingent upon the approval of such definitive agreements and related documents by the COUNTY Board of Supervisors and by JKB.

The Parties agree to negotiate exclusively and in good faith to enter into a Ground Lease upon the following terms and conditions:

1. Agreement to Negotiate Exclusively: Good Faith Negotiations.

COUNTY agrees that, during the Negotiation Period (as defined in Section 2 below), and provided that JKB is not in default of its obligations under this Agreement, COUNTY shall negotiate exclusively and in good faith with JKB with respect to the Ground Lease to be entered into between COUNTY and JKB concerning the rights and obligations of the Parties respecting the Site. During the negotiation period, COUNTY shall not solicit or entertain offers or proposals from other parties concerning similar Projects at the Site.

The Parties agree, in consideration of this Agreement, to negotiate in good faith with each other with respect to the proposed Ground Lease, and to cooperate in the preparation of necessary government approvals and environmental review under the California Environmental Quality Act ("CEQA"). The Parties shall provide each other with any available information regarding the Site that may be reasonably requested by the other Party.

2. Period of Negotiation.

The Parties agree to negotiate in good faith for a period of three-hundred and sixty days (360) days from the Effective Date of this Agreement ("Negotiation Period"). If the Parties have not executed the Ground lease by the end of the Negotiation Period, then this Agreement shall automatically terminate, provided, however, that the Parties may mutually agree to extend the term of this Agreement for an additional period of up to six months, subject to approval by the County Board of Supervisors. If the Parties cannot agree upon such an extension, this Agreement shall automatically terminate upon the conclusion of the Negotiation Period.

This Agreement may be terminated at any time upon the mutual consent of both parties. COUNTY further retains the right to terminate this Agreement if JKB has not met to the satisfaction of COUNTY key deliverables as outlined in Exhibit B within ninety (90) days following the expected completion date.

Upon termination of this Agreement, any interest that JKB may have hereunder shall cease.

3. Access to Site and Premises Liability.

In consideration for the County hereby granting to JKB and its employees, agents, or contractors, a limited right of access to enter upon County owned property on reasonable notice for the purpose of conducting work or studies related to the project, JKB agrees that (1) any entry upon County property by JKB, or its employees, agents or contractors, shall be at JKB's sole risk and expense; (2) JKB shall assume responsibility for damages resulting from negligence or improper actions by JKB, or its employees, agents or contractors occurring on the property and arising out of JKB's use of the property for the above stated purposes; (3) JKB agrees to return the property to its condition prior to such entry and to keep the property free of liens and encumbrances, including, but not limited to, mechanic's liens, arising out of the activities and conduct of JKB and its agents, employees and contractors thereon; and (4) without limiting any other indemnity provisions set forth in this Agreement, to the fullest extent permitted by law, JKB agrees to indemnify, defend and hold the County and the property harmless 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 JKB's use of the property resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use; and (5) JKB agrees not to interfere with the farming and grazing operations on Site.

4. Ground Lease Negotiations.

The Ground Lease shall include, without limitation, all of the obligations and restrictions outlined in RFQ including, but not limited to:

- a. Provisions to ensure that all land not directly used for solar energy production will be actively farmed.
- b. The tenant shall be required to pay all costs and expenses related to farming the property, including all operation and maintenance costs, repair costs, water, utilities, taxes, labor, equipment costs, fencing, no trespassing signs, etc...
- c. The tenant shall be a good steward of the land including using accepted farming practices, herd management and landfill needs that co-exist with the farm lands.
- d. The tenant shall be a good neighbor.
- e. The tenant will exercise appropriate due diligence to ensure the protection, and maximization, of water allocations to the Site.
- f. Transfer or assignment of rights and interests in the Ground Lease will be subject to County approval.

5. Costs incurred during Negotiation Period.

All costs associated with due diligence during the Negotiation Period including, but not limited to, all normal costs associated with environmental review and land use approvals, will be borne by the selected candidate.

JKB shall bear all costs that may arise associated with making COUNTY's third party consultants and engineers available to JKB. Any studies, plans, or other documents made available to JKB by COUNTY shall be held in confidence, may not be disclosed to third parties without the consent of COUNTY, and shall be returned to COUNTY upon expiration or termination of this Agreement.

JKB shall bear all costs to be incurred as a result of compliance with the California Environmental Quality Act and the National Environmental Protection Act, including, but not limited to, preparation of an environmental impact report, if required, or any other required studies or documents. JKB shall also indemnify COUNTY and bear all costs, expenses, and attorneys fees associated with responding to or defending against claims that may be filed against

itself, or COUNTY in connection with defending such environmental studies or documents from challenge by third parties.

6. **Topics for Negotiation.**

The topics for negotiation shall include, among other things: (i) JKB's right to lease the site; (ii) method of calculating and paying Ground Lease rents or equivalent payments; (iii) the terms of the proposed Ground Lease including necessary covenants, conditions and restrictions affecting the Site; (iv) air rights use; (v) availability of the Site to the JKB; (vi) proposed land uses; (vii) Site layout; (viii) aesthetic considerations; (ix) environmental responsibilities; (x) the JKB's responsibility to obtain environmental clearances, licenses and other entitlements, and project financing; and (xi) any other considerations necessary to fully meet the objectives of COUNTY and JKB.

7. **Broker's Fees.**

The Parties represent and warrant to each other that no broker or finder has been engaged or is in anyway connected with the transactions contemplated by this Agreement. In the event any claim for brokers' or finders' fees is made in connection with the transactions contemplated by this Agreement, the Party upon whose statement, representation or agreement the claim is made shall indemnify, save harmless and defend the other Party from and against such claims.

8. **Assignment.**

JKB shall not assign any interest in this Agreement without the express written consent of COUNTY, which consent shall not be unreasonably withheld, and any purported transfer or assignment without prior consent of the COUNTY shall be null and void. As a condition to any proposed assignment of this Agreement, JKB shall be required to make full disclosure to COUNTY of the principals, officers, stockholders, partners, etc., and all other pertinent information concerning the assignee of JKB and its associates. Subject to the immediately preceding sentence, this Agreement is not intended to benefit and shall not run to the benefit of or be enforceable by any other person or entity other than the parties and their permitted successors and assigns.

Nothing contained herein shall prohibit or in any way limit JKB's selection, and/or replacement, of such consultants and other third parties as JKB shall designate from time to time to perform services relating to the Project.

9. **Mutual Rights and Responsibilities.**

COUNTY and JKB each expressly reserve the right to decline to enter into a Ground Lease in the event the Parties fail to negotiate an agreement to the mutual satisfaction of COUNTY and JKB. Except as expressly provided in this Agreement, COUNTY and JKB shall have no obligations or duties hereunder and shall have no liability whatsoever in the event the Parties fail to timely execute a Ground Lease.

By its execution of this Agreement, COUNTY is not committing to or agreeing to undertake: (i) disposition of land to JKB; (ii) any other acts or activities requiring the subsequent independent exercise of discretion by COUNTY; or (iii) approval of the Project as submitted to the COUNTY for approval. The Parties recognize that one or more of the conditions to JKB's proposal set forth herein may fail to be met as a result of subsequent studies, reviews and proceedings invoking the exercise of discretion by COUNTY or any public agency having regulatory jurisdiction.

JKB shall be responsible for obtaining all approvals required by the COUNTY or any other public agency for the Project in accordance with the COUNTY's standard application process for discretionary land use entitlements, including payment for all of County's costs of processing such approvals. Nothing set forth herein shall be construed as a grant of any such approvals, or as an obligation on the part of the County to grant such approvals.

Any approval by the COUNTY shall be subject to and in full compliance with the California Environmental Quality Act, Sections 21000 et seq. of the Public Resources Code and the CEQA Guidelines set forth in Sections 15000 et seq. of Title 14 of the California Code of Regulations.

During the Term of this Agreement, the Parties agree to make good faith efforts to ensure the timely review and revision of all documents, reports, schedules or plans.

JKB acknowledges and agrees that COUNTY has not agreed to fund, subsidize or otherwise financially contribute in any manner toward the development of the Project.

10. No Liability.

JKB shall defend, indemnify and hold harmless the County and its agents, officers and employees from any claim, action, or proceeding by third parties against the County or its agents, officers or employees to attack, set aside, void, or annul the project, ground lease or approvals regarding the project or project condition imposed by the County or any of its agencies, departments, commissions, agents, officers or employees concerning the said project, or to impose personal liability against such agents, officers or employees resulting from their involvement in the project, including any claim for private attorney general fees claimed by or awarded to any party from County. The County will promptly notify JKB of any such claim, action, or proceeding that is or may be subject to this indemnification and will cooperate fully in the defense.

The County may, within its unlimited discretion, participate in the defense of any such claim, action, or proceeding if the County defends the claim, actions, or proceeding in good faith. To the extent that County uses any of its resources responding to such claim, action, or proceeding, JKB will reimburse County its reasonable expenses upon demand. Such resources include, but are not limited to, staff time, court costs, County Counsel's time at their regular rate for external or non-County agencies, and any other direct or indirect cost associated with responding to the claim, action, or proceedings. Managerial staff time shall not be reimbursable.

11. Entire Agreement: Attorneys' fees.

This Agreement represents the entire agreement of the Parties with respect to the matters set forth herein. This Agreement may not be amended except in writing signed by all of the Parties hereunder. If any Party brings an action or files a proceeding in connection with the enforcement of its respective rights or as a consequence of any breach by another Party of its obligations hereunder, then the prevailing Party in such action or proceeding shall be entitled to have its reasonable attorney's fees and costs paid by the losing Party.

12. Notices.

All notices required or permitted hereunder shall be delivered in person, by overnight courier, or by registered or certified mail, postage prepaid, return receipt requested to such Party at its address shown below, or to any other place designated in writing by such Party.

COUNTY: Stan Risen
Assistant Executive Officer
1010 10th Street, Suite 6800
Modesto, CA 95354

JKB:

Any such notice shall be deemed received upon delivery, if delivered personally, the next business day after delivery by a courier, if delivered by courier, and three (3) days after deposit into the United States Mail, if delivered by registered or certified mail.

13. CEQA Documentation and Review.

JKB shall prepare and submit to the COUNTY such plans, specifications, drawings, and other information as specified by the COUNTY as are reasonably necessary for the COUNTY to perform the environmental review process required by CEQA.

JKB acknowledges that the environmental review process under CEQA will involve preparation and consideration of additional information as well as consideration of input from interested organizations and individuals; that approval or disapproval of the Project following completion of the environmental review process is within the sole, complete, unfettered and absolute discretion of the COUNTY without limitation by or consideration of the terms of this Agreement; and that the COUNTY makes no representation regarding the ability or willingness of the COUNTY to approve development of the Project at the conclusion of the environmental review process required by CEQA, or regarding the imposition of any mitigation measures as conditions of any approval that may be imposed on the Project. The parties recognize that if as a result of the environmental review process, the Project is not approved for development, both the COUNTY and JKB each have an independent right to terminate this Agreement. In addition, JKB acknowledges that any required approvals by any other local, state or federal agency may require additional environmental review, and that any approval by the COUNTY shall not bind any other local, state or federal agency to approve the Project or to impose mitigation measures which may or may not be consistent with the terms of this Agreement.

Nothing in this Agreement or otherwise shall bind or otherwise affect the COUNTY's discretion in (1) requiring the preparation of any CEQA review document in accordance with CEQA and normal COUNTY land use entitlement procedures; (2) approving or rejecting such CEQA review in accordance with CEQA standards; (3) making or declining to make any findings necessary under CEQA to grant the land use approvals and the proposed development of the Project contemplated by this Agreement and JKB's application for the land use approvals; or (4) imposing such mitigation measure(s) as condition(s) of the land use approvals as COUNTY deems appropriate under CEQA as a result of its consideration of the CEQA review documents.

14. Relationship of Parties.

The parties agree that nothing in this Agreement is intended to or shall be deemed or interpreted to create among them the relationship of buyer and seller, or of partners or joint venturers.

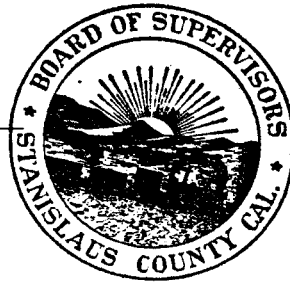
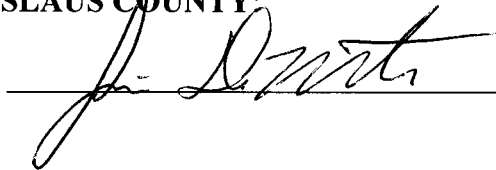
15. Governing Law and Venue.

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, COUNTY and JKB have signed this Agreement as of the dates set forth below.

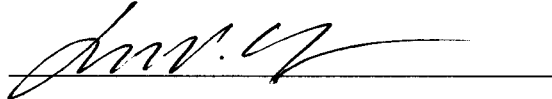
STANISLAUS COUNTY:

By:



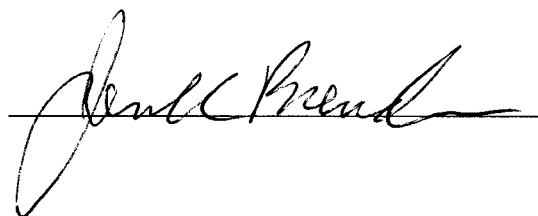
APPROVED AS TO FORM:

By:



JKB:

By:



AGRICULTURAL MANAGEMENT AGREEMENT
Fink Ranch, Stanislaus County, California

THIS AGRICULTURAL MANAGEMENT AGREEMENT ("Agreement") is dated as of ~~December 22~~ December 22, 2009 (the "Effective Date") and is entered into by and between THE COUNTY OF STANISLAUS, a political subdivision of the State of California ("Owner") and M.A. Garcia Agrilabor, Inc., a California corporation ("Manager").

RECITALS

A. Owner is the Owner of certain agricultural and grazing land consisting of approximately 350 acres of almond orchards and 690 acres of dry land farming with all improvements thereon, including but not limited to, the cabin, shop, mobile home, irrigation and drainage systems and fences (hereinafter collectively called the "Property") in the County of Stanislaus, State of California, more particularly described on Exhibit "A" attached hereto. The Owner requires the property to be used for the purposes of planting, growing and harvesting of crops as a condition of the this Agricultural Management Agreement .

B. As of December 22, 2009, Owner has entered into an agreement with JBK Energy, a California corporation ("JBK"), granting JBK a one- (1-) year right to negotiate exclusively with Owner for the development of a solar energy project on certain land owned by Owner that includes the Property.

C. A portion of the Property (Fink Road Almond Ranch) was subject to that certain Farm Lease Agreement between Owner and Lent Burden Farming, Inc. dated November 3, 2004, pursuant to which the almond farms were leased, expired as of November 3, 2009.

D. In order to maintain and operate the Property, Owner desires to hire Manager for the purpose of managing and maintaining agricultural operations at the Fink Road Almond Ranch on the Property as more specifically set forth herein.

AGREEMENT

1. Upon the terms and conditions set forth below Owner hereby employs Manager as the exclusive manager of agricultural operations and ancillary services on the Property.

2. The services of Manager and its right to compensation shall commence on the Effective Date and expire on the date that is twelve (12) months thereafter (said period being referred to herein as the "Initial Term"). Thereafter, the term of this Agreement shall be renewed and extended for one (1) additional 12-month period at Owner's election, provided that notice of such election shall be provided to Manager no later than ninety (90) days prior to the expiration of the Initial Term and provided that the parties agree to the Operational Budget (as hereinafter defined) for such subsequent period. In the event such notice is not timely or otherwise given or if the parties do not agree to the prospective Operational Budget prior to the expiration of the

Initial Term, then the term of this Agreement shall be automatically terminated on the scheduled expiration date.

3. Manager agrees:

3.1 To accept the management of the Property for agricultural purposes and to provide ancillary refurbishment and remediation services to the extent, for the period and upon the terms herein provided (the "Management Services") and in accordance with the approved budget. The Management Services shall include agricultural operations of the Property for the purposes of growing, harvesting the almond meats from the almond orchards on the Property for sale to the market (the "Crop"). Manager shall follow agricultural practices generally recommended for and that are normal and customary for this type of farm and appropriate for the locality. Manager is not required to farm Block 62 consisting of seventy (70) acres of almond trees or Block 63 consisting of thirty-four (34) acres of almond trees. . The Manager shall work with the dry land farmer to prevent weed from reseeding.

3.2 To use best efforts to provide the Management Services at a cost that is in substantial conformance with the Operational Budget and Refurbishment Budget (each as defined below), subject to the terms and conditions of this Agreement. The "Operational Budget," attached hereto as **Exhibit "B"** and approved by the parties, is an estimate of the basic costs and expenses for day-to-day activities on the Property, including but not limited to, planting, growing, harvesting, general maintenance and related operations on the Fink Road Almond Ranch. The "Refurbishment Budget," attached hereto as **Exhibit "C"** and approved by the parties, is an estimate of the costs required to perform certain remedial work, as set forth thereon (subject to Section 3.10 hereof) and including but not limited to approved alteration of or addition to an artificial structure, including but not limited to, improvements, irrigation and drainage system repair or replacement, as well as repair or replacement of buildings, fences, roads, dikes, and ditches required to comply with law or prudent safety measures, to make diligent efforts to prevent and control noxious weeds, rodents and other vertebrate pests, and such other work as is required to restore and maintain the Property to similar standards as other land owned by Owner. The Operational Budget and the Remediation Budget shall collectively herein be referred to as the "Budget."

3.3 To pay for all costs associated with the Management Services as set forth in the Budget, including but not limited to costs of (i) labor, utilities, water, power, machinery, equipment, taxes, assessments, and crop insurance; (ii) weeding, irrigation, disking, fumigation, cultivation, pollination, harvesting, hulling, fertilizer, insecticides and herbicides; (iii) compliance with safety and health regulations, posting no-trespassing signs, and payments to custom operators; and (iv) any and all other necessary and appropriate costs required to operate and manage the Property. Manager shall render a monthly statement of receipts, disbursements, and charges. Any expense not expressly set forth in the Budget must be approved in writing by Owner in advance.

3.4 To sell the Crop for the account of Owner using an almond handler in Stanislaus County who, at a minimum, has twenty (20) years of experience in the almond business, represents at least one hundred (100) growers and handles at least (twenty-five) 25 million pounds of almonds per year (the "Handler"). The Handler shall "pool" the Crop with the

almond crops of the other growers it represents and the Crop shall be sold at a "pool price" as set forth in the agreement between Handler and Manager. Owner shall be entitled to all proceeds received from the Handler for the Crop.

3.5 To post on the Property appropriate Notices of Non-Responsibility at the commencement of any construction by subcontractors working on the Property in connection with the Management Services in the form required by applicable California law.

3.6 To perform all documentation, wages and reporting safety conditions of Manager's employees, labor, contractors, custom operators and agents. Manager shall provide if required by local, state and Federal laws and regulations, including but not limited to, all protective equipment, gear, clothing and safety/health training, posting of regulations, guidelines and laws for his employees or agents. Manager shall provide all sanitation needs as required by local, state and Federal laws or regulations and shall be responsible for the proper disposal of all human waste, safety clothing and other materials brought to or produced on the Property. Manager shall use commercially reasonable efforts to maintain safe, sanitary and healthy working conditions and environment for Manager's employees and agents.

3.7 To provide notification to neighboring property owners and tenants if required by applicable law or regulation, regarding the application by Manager, its employees, agents or contractors of any pesticide, herbicide, fertilizer or fumigant within one-quarter mile of the Property. Such notice shall be provided at least four (4) hours prior to the application.

3.8 To use accepted customs and standards associated with such normal and customary agricultural operations to avoid or limit the inconveniences regarding such agricultural operations to the local community. Manager acknowledges that businesses and residents of property on or near agricultural land may not be prepared to accept the inconveniences or discomforts associated with agricultural operations, including but not limited to noise, odors, fumes, dust, PM10's, the operation of machinery of any kind during any 24-hour period (including aircraft), the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.

3.9 To not unlawfully discriminate, harass or allow harassment against any employee, subcontractor or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and Aids), mental disability, medical condition (including genetic characteristics), age (over 40), marital status, political affiliation, or sexual orientation. Manager shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Manager shall achieve a drug free workplace and will be expected to behave in accordance with this object because the use of illegal drugs is inconsistent with local, state and national laws.

3.10 To indemnify, defend, protect and hold Owner harmless from all claims, liabilities and expenses, losses, and damages, including attorneys' fees and legal expenses (collectively, "Claims") of every kind and nature in connection with the Management Services (including, but not limited to, damages to property and injuries to or death of any person), except to the extent such obligation arises out of the negligence or intentional act or omission of Owner

or any third-parties who are not employees, agents or contractors of Manager, including but not limited to JBK.

3.11 To perform the obligations hereunder without material interference with the Grazing Tenant's operations pursuant to the Grazing Lease.

3.12 To use any water available to Manager for use on the Property only for performance of the Management Services unless agreed to in writing by Owner. Manager shall use all reasonable management practices to avoid excess use of irrigation water and electrical power. Owner acknowledges and understands that many of the electrical, irrigation, and drainage systems as well as the pumps located on the Property are fifteen (15) to twenty (20) years old and are not energy or water efficient.

4. Owner agrees:

4.1 To give Manager the authority and powers specifically and expressly granted herein together with such powers and authority as may be reasonably necessary for Manager to perform its duties hereunder.

4.2 To pay Manager monthly, in arrears, not later than 21 days from the first day of each calendar month during the term hereof, the applicable portion of the gross costs as set forth in the Budget, as the same may be revised to reflect the statements provided by Manager pursuant to Section 3.3 above, plus a management fee of six percent (6%) (the "Management Fee"). Specifically, Owner acknowledges that approximately 3 (three) acre feet per acre of water are required for cultivation of the almond trees. Owner agrees to use its best efforts to assist manager in obtaining the necessary water to grow and harvest the Crop. Owner shall pay all fees for water acquisition directly to provider of irrigation water. Owner and Manager acknowledge that water to the Property is supplied by two suppliers. Del Puerto Water District ("Del Puerto") supplies water delivered from the Delta Mendota Canal, and from which, based upon a (one hundred percent) 100% water allotment, the Property would be entitled to approximately three and 1/10 (3.1) acre feet of water per irrigable acre. As a result of governmental restrictions imposed on the Central Valley Project beginning in 1992, Del Puerto is subject to ongoing shortages and provides on average approximately forty to forty-five percent (40-45%) of the contracted supply, or about one and 25/100 (1.25) acre feet per acre. The base water cost per acre foot for water from Del Puerto is approximately \$67.50 per foot and additional emergency water costs have ranged from \$150.00 to \$250.00 acre feet, resulting in an average minimum of \$421.00 per acre in base water costs, exclusive of the related electrical costs per acre. Oak Flat Water District ("Oak Flat") supplies water to four hundred forty seven (447) acres of the Property in an allocated amount that is two and 64/100 (2.64) acre feet for the applicable portion of the Property for a total of one thousand one hundred eight (1,180) feet of water. Water from Oak Flat is subject to similar restrictions and costs as water from Del Puerto.

4.3 To indemnify, defend, protect and hold Manager, its directors, officers, shareholders, employees and agents harmless from all Claims of every kind and nature in connection with the Property (including, but not limited to, damages to property and injuries to or death of any person), except to the extent such obligation arises out of an act or omission of Manager.

4.4 To indemnify, defend, protect and hold Manager and its directors, officers, shareholders, employees and agents harmless from and against any and all Claims (whether direct or consequential), arising out of any violation of any Environmental Laws, as hereinafter defined, or related to the presence, disposal, storage, generations, release or threatened release of Hazardous Materials, as hereinafter defined, on, from, or under the Property, not arising from Manager's operations.

For purposes hereof, "Hazardous Materials" shall mean any and all flammable materials, explosives, radioactive material, hazardous waste, toxic substance or related material, including, but not limited to, asbestos and those materials and substances defined as "hazardous substances", "hazardous materials", "hazardous wastes", or "toxic substances" in the Environmental Laws. For purposes hereof, "Environmental Laws" shall include The Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq.; the Hazardous Materials Transportation Act, 39 U.S.C. Section 1801, et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Federal Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Porter-Cologne Water Quality Act, California Water Code Section 13020 et seq.; the California Health and Safety Code, Section 25100 et seq., and California Proposition 65 (including its statutory implementation), including all amendments thereto, replacements thereof, and regulations adopted and publications promulgated pursuant thereto.

4.5 To remove all Hazardous Materials, garbage, concrete and debris from the Property existing on the Property at the commencement of this Lease.

5. Insurance:

5.1 Manager agrees to maintain at all times during the term of this Agreement commercial general liability insurance which is to include, without limitation, products liability coverage, broad form contractual liability endorsement with policy limits not less than Two Million Dollars (\$2,000,000) for bodily injury (including death) and personal injury to any one person, injury and/or death to any number of persons in any one incident, and for property damage in any one occurrence. Such policy or policies shall be occurrence coverage, and name Owner and its designee as an additional insured. Such liability insurance shall specifically insure the indemnity provisions of Section 3.10 of this Agreement, and shall contain a provision that Owner, although an additional insured, shall nevertheless be entitled to recover under such policy or policies for any damage and/or injury to Owner by reason of acts or omissions of Manager or its directors, officers, shareholders, partners, employees, or agents.

The insurance required of Manager shall be written by one or more insurance companies, which are licensed to do business in the State of California. Insurance companies must be rated at least A-VII in Best's Insurance Guide, or equivalent rating. All such insurance may be carried under a blanket policy covering the Property and other locations, provided that the coverage afforded Owner by such blanket policy shall not be reduced or diminished by reason of the use of such blanket policy of insurance, and provided further that the requirements of this Section are otherwise satisfied. All such insurance shall contain endorsements that (a) such insurance shall not be canceled or amended except upon thirty (30) days' prior notice to

Owner by the insurance company, (b) Manager shall be solely responsible for payment of premiums, and (c) Manager's insurance is primary in the event of overlapping coverage which may be carried by Owner. The minimum limits of the liability insurance policy required by this Section shall in no way limit or diminish Manager's liability under this Agreement. Manager shall deliver to Owner at least thirty (30) days after the Effective Date, either a duplicate original or a certificate clearly showing compliance by Manager with Manager's obligations under this Agreement, together with evidence satisfactory to Owner of the payment of the premiums therefor.

5.2 Manager shall maintain owned/non-owned automobile liability insurance providing combined single limits covering bodily injury liability with limits of no less than One Hundred Thousand Dollars (\$100,000) per accident, and providing property damage liability of no less than One Hundred Thousand Dollars (\$100,000) per accident.

5.3 Manager shall maintain, during the term and any extensions of this Lease, Workers' Compensation coverage required by the State of California. Manager shall require any custom operator/contractor or other person hired by it as an independent contractor to perform services to the Property to procure similar workers' compensation insurance. Manager shall require any independent contractor to procure this insurance before commencing any services on the Premises and to maintain the insurance during the performance of any such services.

5.4 Manager shall keep in force at all times during the term of this Agreement, a policy or policies of crop insurance issued by a reputable and responsible crop insurance carrier with ample crop coverage to insure no less than seventy-five percent (75%) of the almond crop. Said crop insurance shall name both Owner and Manager as insureds and payments shall be based on Owner's crop ownership. Owner shall be a priority loss payee in the event of crop loss or damage. In the event a claim is made on the crop insurance policy described herein, Manager shall be paid first out of any insurance proceeds received in connection with such claim.

5.5 Manager and Owner hereby waive and release any and all right of recovery, whether arising in contract or tort, against the other, including employees and agents, arising during the term hereof for any and all loss or damage to any property located on the Property, which loss or damage arises from the perils that could be insured against under the ISO Causes of Loss-Special Form Coverage including deductibles (whether or not the party suffering the loss or damage actually carries such insurance, recovers under such insurance or self insures the loss or damage) or which right of recovery arises from loss of earnings or rents resulting from loss or damage caused by such a peril. This mutual waiver is in addition to any other waiver or release contained in this Agreement. Manager and Owner shall each have their insurance policies issued in such form as to waive any right of subrogation which might otherwise exist.

6. Additional Services:

6.1 Owner may request Manager to perform services that exceed or are other than those described herein, (e.g. supervision of Owner improvements; alterations required to

comply with future lease requirements, if any) and tours of the Property. Owner shall compensate Manager for such additional services in the amount of the actual cost of such services plus the Management Fee.

6.2 Notwithstanding any other provision of this Agreement to the contrary, Manager shall not, nor have authority to:

(a) make or permit any other person to (i) make any alterations to the any building or structure on the Property or any improvement thereon, (ii) erect or permit to be erected any permanent structure on the Property; or (iii) remove any trees or structures located on the Property, other than as set forth in the Budget, without the prior written consent of Owner. Manager shall not be required to replant trees lost to normal attrition or acts of God;

(b) commit or permit the commission by others of waste or nuisance (as defined in Section 3479 of the California Civil Code) on the Property;

(c) borrow money in the name of Owner or encumber the Property;
nor

(d) return a substitute entity or person to manage the Property in place of Manager or assign this Agreement to any other person or entity without Owner's prior written consent.

7. It is mutually agreed that:

7.1 Any payment due by either party to the other hereunder that is not paid within twenty-one (21) days following written notice from the party to whom such payment is owed shall accrue interest from the date due at a per annum rate equal to three percent (3%), plus the per annum "Prime Rate" of Wells Fargo Bank, N.A., San Francisco, California (or such substantially equivalent successor or other reference rate as Landlord may in good faith refer to if Wells Fargo Bank's "Prime Rate" is not published or readily available), as such rate may vary from time to time, or (if lower) the highest (non-usurious) rate.

7.2 In the event it is alleged or charged that any building on the Property or any equipment therein or any act or failure to act by Owner with respect to the Property fails to comply with, or is in violation of, any of the requirements of any statute, ordinance, law, or regulation of any governmental body or any order or ruling of any public authority or official thereof having or claiming to have jurisdiction thereover and Manager, in its reasonable discretion, considers that the action or position of Owner with respect thereto may result in damage or liability to Owner or Manager shall use reasonable efforts to bring such matters to the attention of Owner, and Owner shall take such action as is legally required to resolve such situation and Owner shall be responsible to Manager for all costs, liabilities, or losses relating to such matter.

8. Within thirty (30) business days of the termination of this Agreement, Manager shall deliver to Owner copies of all tenant files in Manager's possession relating to the Property and copies of all other information concerning the Property in Manager's possession.

9. Miscellaneous:

9.1 Wherever Owner's consent shall be required, Owner agrees to act reasonably.

9.2 Owner shall at all times cooperate with Manager in order for Manager to perform its services hereunder in an efficient manner.

9.3 Upon the termination of this Agreement, Owner shall assume, and shall release Manager from all liability with respect to all contracts and other obligations for utilities and services provided to the property.

9.4 This Agreement shall not be deemed nor is it intended to give rise to a partnership relationship between Owner and Manager.

9.5 Manager acknowledges tenancy under that Grazing Lease relating to the portion of the Property described on Exhibit "D" attached hereto. Manager shall not interfere with rights under the Grazing Lease and shall reasonably cooperate with the grazing lease holder relating to his right under the Grazing Lease. Owner shall ensure that there is a mutuality of noninterference contained in the Grazing Lease.

9.6 Manager shall have the right to post signs forbidding trespass by persons other than the Manager or his employees or agents upon the Property, and to deny entry upon the Property to unauthorized persons.

9.7 Manager shall use its best efforts to hire employees, contractors, suppliers, custom operators and agents who are located in Stanislaus County.

9.8 Manager shall store, use and dispose of pesticides, fertilizers and other chemicals, in accordance with applicable state and federal laws and regulations. Manager shall maintain and furnish to Owner at Owner's request, a field-by-field record of the amount, kind and dates of applications of fertilizers and pesticides.

9.9 Manager shall permit Owner, its employees, agents, or representatives to enter the Property at all reasonable times for any purpose, including entry for removal of trees in Block 62 and 63. Owner, its employees, agents or representatives hereby agree to assume all risks associated with such entry.

9.10 In accordance with the Budget, Manager shall keep in good order, condition and repair the Property, including all buildings, irrigation systems, pumps, fencing, drains and all other improvements to the Property. Manager shall keep the Property in as safe and as clean a condition as when it was received by him from Owner. Notwithstanding the foregoing provisions, Owner may, in its discretion, approve reimbursements to Manager for capital improvements made to the Property or facilities that are or would remain permanent fixtures to the Property. Prior to commencing any capital improvements other than minor or emergency repairs or work as described in Exhibit "C", Manager shall provide Owner with work plans and a detailed cost estimate for the work to be performed. Manager shall not

undertake any work on capital improvements until Owner has agreed in writing to such work plan and to reimburse the Manager for such capital improvements.

9.11 Manager shall not be responsible or liable for claims relating to Owner's use, occupancy, ownership, management, operation or control of the Property to the extent that the same accrued prior to the Effective Date or after the date on which this Agreement expires or terminates.

9.12 As used herein, the term "Designated Person" shall mean any one of the Principals who is hereby authorized by Owner to act as a signatory on, and to draw on funds deposited in the Trust Account.

9.13 Notwithstanding the provisions of Paragraph 2 hereof, the parties agree that this Agreement may be terminated early by either party upon ninety (90) days written notice, without cause, and upon the effective date of such termination Manager's compensation hereunder shall cease and terminate, except that Owner shall reimburse Manager to the extent of costs actually incurred by Manager plus the Management Fee.

9.14 Any notice to be given hereunder by one party to the other shall be given in writing and shall be effected by: facsimile upon receipt thereof, personal delivery (including courier service) or by registered or certified mail, postage prepaid, with return receipt requested, and the same shall be deemed given upon receipt. Notice to the respective party shall be addressed as set forth below its signature to this Agreement. The parties may change their addresses by giving written notice pursuant to the terms of this paragraph.

9.15 This Agreement shall be binding upon the parties, their successors and assigns.

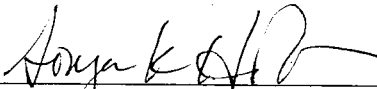
9.16 This Agreement shall be interpreted according to the laws of the State of California.

9.17 Amendments and alterations to this Agreement shall be in writing and signed by both parties.

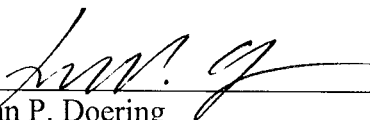
9.18 This Agreement may be executed in counterparts with the same effect as if both parties hereto had executed the same document. Both counterparts shall be construed together and shall constitute a single document.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized representatives, their respective signatures on this 22 day of DECEMBER, 2009.

OWNER: **THE COUNTY OF STANISLAUS, a political subdivision of the State of California**

By: 
Sonya Harrigfeld, Director
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Phone: 209-525-6770
Fax: 209-525-6774
Email: sharrigfeld@envres.org

Approved as to Content and Form:


John P. Doering
County Counsel

MANAGER: **M. A. GARCIA AGRILABOR, INC., a California corporation**

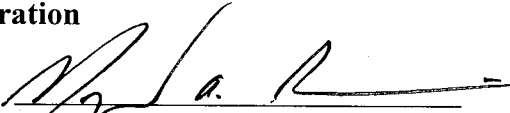
By: 
Miguel A. Garcia, President
3559 Shiloh Road
Modesto, CA 95358
Phone: 209-537-2610
Fax: 209-537-8366
Email: sanmiguelito@sbcglobal.net

EXHIBIT A

ALMONDS 85 AC.
1997

(69)

ALMONDS 105 AC.
1982
(REMOVED)

(68)

(REMOVED)

(68A)

ALMONDS 7 AC.
1982

(64)

ALMONDS 34 AC.
1980

(63)

ALMONDS 91 AC.
1993 & 95

(65)

ALMONDS 62 AC.
1995 & 96

ALMONDS 138 AC.
1981
Removed 12/06
Open

ALMONDS 23 AC.
1995 & 96

(53)

(51)

ALMONDS 25 AC.
1995 & 96

(58)

(525)

WALNUTS 24 AC.
1981
(REMOVED)

(59)

BARLEY 165 AC.
2002

(60)

BARLEY 152 AC.
2002

(65A)

ALMONDS 70 AC.
1980
Removed 2006

(62)

ALMONDS 44 AC.
1996

(61)

ALMONDS 15 AC.
1996

**REVISED FINK RANCH PROPOSED OPERATIONAL BUDGET
2009/2010**

	A	B	C	D	E	F	G	H
1	BUDGET ITEM	BUDGETED OPERATING EXPENSE	BUDGETED OPERATING COST/ACRE	BUDGETED CHEMICAL EXPENSE	BUDGETED CHEMICAL COST/ACRE	BUDGETED COMBINED COST	COMBINED BUDGETED COST/ACRE	
2	PROJECTED YIELD PER ACRE (345 AC)=2000 LBS/AC							
3	CULTURAL COST							
4	PRUNING STACKING BRUSH	\$60,375.00	\$175.00	\$0.00		\$60,375.00	\$175.00	
5	SUMMER TIP PRUNING	N/A	N/A	N/A	N/A	N/A	N/A	
6	ROPING TREES	N/A	N/A	N/A	N/A	N/A	N/A	
7	BROKEN LIMB REMOVAL	\$5,175.00	\$15.00	\$0.00		\$5,175.00	\$15.00	
8	BRUSH SHREDDING	\$12,075.00	\$35.00	\$0.00		\$12,075.00	\$35.00	
9	MOWING 6X -WEED CONTROL	\$24,840.00	\$72.00	\$0.00		\$24,840.00	\$72.00	
10	LEAF AND SOIL ANALYSIS	\$0.00	\$0.00	\$1,035.00	\$3.00	\$1,035.00	\$3.00	
11	ONGOING MAINTENANCE- GENERAL LABOR	\$8,625.00	\$25.00	\$0.00		\$8,625.00	\$25.00	
12	RANCH TRUCK AND ATV'S EXPENSE	\$22,425.00	\$65.00	\$0.00		\$22,425.00	\$65.00	
13	IRRIGATION - GENERAL MAINTAINENCE	\$48,300.00	\$140.00	\$0.00		\$48,300.00	\$140.00	
14	MICROSPRINKLER LINE FLUSH N- PHURIC ACID / CLORINE	\$3,450.00	\$10.00	\$5,865.00	\$17.00	\$9,315.00	\$27.00	
15	IRRIGATION - NEUTRON PROBE	\$6,900.00	\$20.00	\$0.00		\$6,900.00	\$20.00	
16	ELECTRICITY/IRRIGATION PUMP MAINTENANCE	\$0.00	\$0.00	\$0.00		\$0.00	\$0.00	
17	(10+/- pumps)	\$2,760.00	\$8.00	\$0.00		\$2,760.00	\$8.00	
18	WINTER SANITATION							
19	SHAKE MUMMIES	\$15,525.00	\$45.00	\$0.00		\$15,525.00	\$45.00	
20	SWEEPING & RAKING MUMMIES	\$13,800.00	\$40.00	\$0.00		\$13,800.00	\$40.00	
21	SHRED MUMMIES	\$4,140.00	\$12.00	\$0.00		\$4,140.00	\$12.00	
22								
23	CHEMICAL CONTROL							
24	FALL WEED CONTROL	\$5,175.00	\$15.00	\$3,795.00	\$11.00	\$8,970.00	\$26.00	

**REVISED FINK RANCH PROPOSED OPERATIONAL BUDGET
2009/2010**

	A	B	C	D	E	F	G	H
1	BUDGET ITEM	BUDGETED OPERATING EXPENSE	BUDGETED OPERATING COST/ACRE	BUDGETED CHEMICAL EXPENSE	BUDGETED CHEMICAL COST/ACRE	BUDGETED COMBINED COST	COMBINED BUDGETED COST/ACRE	
25	WINTER WEED CONTROL- DORMANT STRIP (pre-Emergent WEED CONTROL	\$5,175.00	\$15.00	\$18,285.00	\$53.00	\$23,460.00	\$68.00	
26	SPRING/SUMMER STRIP	\$5,175.00	\$15.00	\$13,110.00	\$38.00	\$18,285.00	\$53.00	
27	WEED CONTROL-SPOT SPRAY 2X	\$6,900.00	\$20.00	\$2,070.00	\$6.00	\$8,970.00	\$26.00	
28	WINTER INSECT CONTROL (DORMANT SPRAY)	\$8,625.00	\$25.00	\$18,285.00	\$53.00	\$26,910.00	\$78.00	
29	WEED CONTROL-PRE-HARVEST (Spray)	\$5,175.00	\$15.00	\$13,800.00	\$40.00	\$18,975.00	\$55.00	
30	VERTABRATE CONTROL (RODENTS)	\$15,525.00	\$45.00	\$5,520.00	\$16.00	\$21,045.00	\$61.00	
31	WILD PIG CONTROL	\$3,450.00	\$10.00	\$0.00	\$0.00	\$3,450.00	\$10.00	
32	INSECT MITES (MAY SPRAY)	\$8,625.00	\$25.00	\$16,560.00	\$48.00	\$25,185.00	\$73.00	
33	INSECT CONTROL HULL SPLIT (SPRAY)	\$8,625.00	\$25.00	\$8,970.00	\$26.00	\$17,595.00	\$51.00	
34	DISEASE CONTROL #1 PINK BUD	\$8,625.00	\$25.00	\$12,075.00	\$35.00	\$20,700.00	\$60.00	
35	DISEASE CONTROL #2 FULL BLOOM	\$8,625.00	\$25.00	\$6,210.00	\$18.00	\$14,835.00	\$43.00	
36	DISEASE CONTROL #3 PETAL FALL/SHOT HOLE	\$8,625.00	\$25.00	\$14,490.00	\$42.00	\$23,115.00	\$67.00	
37	ANT CONTROL - AS NEEDED	\$1,380.00	\$4.00	\$4,830.00	\$14.00	\$6,210.00	\$18.00	
38	POLLINATION							
39	POLLINATION -2.5 HIVES PER AC.	\$133,687.50	\$387.50	\$0.00	\$0.00	\$133,687.50	\$387.50	
40								
41	FERTILIZER							
42	POTASSIUM AT 400 LBS/AC.	\$3,450.00	\$10.00	\$52,440.00	\$152.00	\$55,890.00	\$162.00	
43	NITROGEN AT 195 LBS /AC	\$0.00	\$0.00	\$35,880.00	\$104.00	\$35,880.00	\$104.00	

**REVISED FINK RANCH PROPOSED OPERATIONAL BUDGET
2009/2010**

	A	B	C	D	E	F	G	H
1	BUDGET ITEM	BUDGETED OPERATING EXPENSE	BUDGETED OPERATING COST/ACRE	BUDGETED CHEMICAL EXPENSE	BUDGETED CHEMICAL COST/ACRE	BUDGETED COMBINED COST	COMBINED BUDGETED COST/ACRE	
44	AMENDMENTS GYPSUM AT 2000 LBS/AC	\$3,450.00	\$10.00	\$19,665.00	\$57.00	\$23,115.00	\$67.00	
45	HARVEST COST							
46	TREE SHAKING	\$32,775.00	\$95.00	\$0.00	\$0.00	\$32,775.00	\$95.00	
47	MECHANICAL SWEEPING	\$18,975.00	\$55.00	\$0.00	\$0.00	\$18,975.00	\$55.00	
48	HAND RAKE/POLLING	\$27,600.00	\$80.00	\$0.00	\$0.00	\$27,600.00	\$80.00	
49	HARVESTING (PICK UP)	\$18,975.00	\$55.00	\$0.00	\$0.00	\$18,975.00	\$55.00	
50	TRUCKING (AT \$0.03/lb)	\$18,630.00	\$54.00	\$0.00	\$0.00	\$18,630.00	\$54.00	
51	SHELLING (AT \$0.06/lb.)	\$37,260.00	\$108.00	\$0.00	\$0.00	\$37,260.00	\$108.00	
52	MISC. EQUIPMENT RENT	\$3,450.00	\$10.00	\$0.00	\$0.00	\$3,450.00	\$10.00	
53	POST HARVEST SCRAPE MIDDLES	\$4,140.00	\$12.00	\$0.00	\$0.00	\$4,140.00	\$12.00	
54	OVERHEAD COST							
55								
56	CROP INSURANCE 75% LEVEL	\$20,355.00	\$59.00	\$0.00	\$0.00	\$20,355.00	\$59.00	
57								
58	MISC. EXPENSES	\$3,450.00	\$10.00	\$0.00	\$0.00	\$3,450.00	\$10.00	
59								
60								
61	TOTAL (not including electricity or water cost)	\$654,292.50	\$1,896.50	\$252,885.00	\$733.00	\$907,177.50	\$2,629.50	
62								
63	MANAGEMENT FEES @ 6% OF TOTAL EXPENSES					\$54,430.65		
64								
65	BUDGET TOTAL INCLUDING EXPENSES AND MANAGEMENT FEES					\$961,608.15	not including electricity or water cost.	
66								
67								
68	* Note	Reflected changes from Fink Ranch Proposed Operational Budget dated 11/16/2009. Electricity						
69		and water expenses will not be included in management fees %. Hives per acre has been dropped						
70		from 3 hives per acre to 2.5 hives per acre.						

REFURBISHMENT BUDGET

EXHIBIT C

FENCE REPAIRS (MINOR)	\$	8,000.00
PAINT	\$	1,500.00
MOWING ROAD SHOULDERS	\$	2,500.00
GENERAL TRASH & CLEAN UP	\$	10,000.00
MARKING TELEPHONE POLES & WATER MONITOR WELLS	\$	250.00
MISCELLANEOUS PILES & STACKS OF BRANCHES	\$	3,500.00
ADDITIONAL RODENT CONTROL	\$	7,500.00
SIGNAGE / NO TRESPASSIING	\$	750.00
MINOR REPAIRS TO CABIN AND MOBILE HOME	\$	3,500.00
SCRAPE ROADS	\$	<u>2,500.00</u>
TOTAL	\$	40,000.00

EXHIBIT D

RFP NO. 09-51 - TRS
LEASE OF REAL PROPERTY FOR GRAZING
LOCATION: 4000 FINK ROAD
CROWS LANDING, CA

