

AGREEMENT NUMBER <b>07-0531</b>
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

**DEPARTMENT OF FOOD AND AGRICULTURE**

CONTRACTOR'S NAME

**COUNTY OF TULARE**

2. The term of this Agreement is: July 1, 2007 Through June 30, 2008

3. The maximum amount of this Agreement is: \$30,840.00  
 Thirty Thousand Eight Hundred Forty Dollars and No Cents

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

Exhibit A – Scope of Work Attachment 1 1 Page(s)  
 Attachment 1 1 Page(s)

Exhibit B – Budget Detail and Payment Provision Attachment 1 1 Page(s)  
 Attachment 1 1 Page(s)

Exhibit C – General Terms and Conditions - GTC 307 3 Pages

Check mark one item below as Exhibit D:

Exhibit D-Special Terms and Conditions (Attached hereto as part of this Agreement)

Exhibit D\*-Special Terms and Conditions

1 Page(s)

**APPROVED AS TO FORM:  
 COUNTY COUNSEL**  
*[Signature]* (2007 M31)  
 By Deputy 10/5/07

5. Name of Program: Nursery, Seed and Cotton Program

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

**CONTRACTOR**

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

**COUNTY OF TULARE**

BY (Authorized Signature)

DATE SIGNED

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

4437 S. Laspina Street, Tulare, CA 93274

**STATE OF CALIFORNIA**

AGENCY NAME

**DEPARTMENT OF FOOD AND AGRICULTURE**

BY (Authorized Signature)

DATE SIGNED

PRINTED NAME AND TITLE OF PERSON SIGNING

JANICE L. PRICE, ACQUISITIONS MANAGER

ADDRESS

1220 N STREET, ROOM 115, SACRAMENTO, CA 95814

California Department of General Services Use Only

Exempt per: DGS Ltr 28.5

**EXHIBIT A  
(County Agreement)**

**SCOPE OF WORK**

1. Contractor agrees to provide the services described herein:

The Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State all services, materials, labor and equipment necessary to perform nursery inspections and enforcement activities.

2. The contract managers for this Agreement are:

<b>FOR CDFA:</b>	<b>FOR CONTRACTOR:</b>
Name: Patrick Thalken	Name: Gary Kunkel
Section/Unit: Pest Exclusion Nursery, Seed and Cotton Program	Section/Unit: Agricultural Commissioner
Address: 1220 N Street, Room A-372	Address: 4437 S. Laspina Street
City/Zip: Sacramento, CA 95814	City/Zip: Tulare, CA 93274
Phone: 916-654-0435	Phone: 530-527-4504

3. See Attachment 1 to this Scope of Work for a detailed description of work to be performed and duties of all parties.

The term of this agreement shall be for one year, July 1, 2007 through June 30, 2008.

The California Department of Food and Agriculture shall make payment upon receipt of an approved invoice for a total contract amount not to exceed \$30,840.00.

## SCOPE OF WORK

The Contractor shall provide all equipment and labor necessary to perform nursery inspection and enforcement activities within the contract period. Contractor shall inspect all nursery stock at producer/wholesale nursery locations within the county. Specifically not included are: nursery stock in the first year of a two-year production cycle, plant materials in parent stock or propagative stock beds or blocks that are not to be inspected, and nursery stock that is entered in one of the State's registration or certification programs and is inspected by the State.

Contractor shall enforce all laws and regulations pertaining to nursery stock, including but not limited to licensing requirements, in accordance with the Memorandum of Understanding between the CDFA and the California Agricultural Commissioners and Sealers Association entitled "State-County Nursery Inspection Program."

Contractor shall respond to all complaints against retail nursery establishments.

The amount payable under this agreement shall not exceed \$30,840.00 based on 2183.03 reimbursable acres as reported by the Contractor. Contractor shall be paid on a per acre basis for inspection and enforcement activities at a rate of \$14.12696 per reimbursable acre. [Contract acres = "Type 1" acres plus (1/4 x "Type 2" acres and 1/4 x "Type 4" acres).]

Contractor shall be paid \$50.00 for each new license secured and verified by inspection and \$50.00 for each renewed forfeited (delinquent) license secured by the contractor. Contractor shall be paid a current hourly staff rate, not to exceed \$35.00 per hour, for nursery investigative work, which has been approved in advance by the CDFA Nursery, Seed and Cotton Program.

The California Department of Food and Agriculture shall make payment upon receipt of an approved invoice at the end of the agreement period. The CDFA shall make payment of \$50 for each new license secured and verified by inspection by the Contractor and \$50 for each renewed forfeited (delinquent) license secured by the Contractor. In addition, the Contractor shall be paid an hourly staff rate not to exceed \$35 per hour for nursery investigative work. All investigative work must be approved in advance by the CDFA Nursery, Seed and Cotton Program.

**EXHIBIT B**  
**(County Agreement)**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Invoicing and Payment**

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears. Invoices shall be submitted to the designated CDFA Contract Manager for this Agreement.

**2. Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

**3. Funding Sources for County Contracts (If no Federal Funds, this Section is not applicable)**

An annual report of expenditures, where county payments are supported by Federal funds, will be issued by CDFA Administrative Services, Financial Services Branch. This report will be issued by September 30<sup>th</sup> for invoices submitted prior to July 31st for services rendered in the prior State Fiscal Year.

Federal and State Regulations - The County will comply with all Federal and State regulations and requirements. The County must ensure they have an adequate accounting system in place and appropriate internal controls to ensure expenditures are tracked and maintained.

All sub-recipients of Federal awards shall comply with the Code of Federal Regulations (CFR) Title 2, Part 225 - Cost Principles for State and Local Governments and Title 7, Part 3016 - Uniform Administrative Requirements for Grants and Cooperative Agreements to state and local governments.

Federal 2 CFR 225 (OMB Circular A-87) can be found at the following website:  
<http://training.fws.gov/fedaid/toolkit/2cfr225.pdf>

Federal 7 CFR 3016 can be found at the following website:  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_01/7cfr3016\\_01.html](http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3016_01.html)

The State's accounting standards and procedures for counties provided by the State Controller's Office are located at the following website: <http://www.sco.ca.gov/ard/manual/cntyman.pdf>

## BUDGET DETAIL

The California Department of Food and Agriculture shall make payment for the following expenses for a total contract amount not to exceed \$30,840.00:

New Licenses, secured and verified: \$50.00  
License renewal, (forfeited/delinquent): \$50.00  
Hourly staff rate for investigative work: \$35.00 per hour  
Contract Acres x \$14.1269

Invoices shall be submitted in triplicate and referencing the agreement number to:

California Department of Food and Agriculture  
Pest Exclusion Branch  
Nursery, Seed and Cotton Program  
Attention: Patrick Thalken  
1220 N Street, Room A-372  
Sacramento, CA 95814

EXHIBIT C  
(County Agreement)

GENERAL TERMS AND CONDITIONS GTC 307

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

**EXHIBIT D  
(County Agreement)**

**SPECIAL TERMS AND CONDITIONS**

1. **Excise Tax**

The State of California is exempt from federal excise taxes and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. **Settlement of Disputes**

In the event of a dispute, Contractor shall file a "Notice of Dispute" with the CDFA within ten (10) days of discovery of the problem. Such Notice of Dispute shall contain the Agreement number. Within ten (10) days of receipt of such Notice of Dispute, the Agency Secretary, or Designee, shall meet with the Contractor and the CDFA project manager for the purpose of resolving the dispute. The decision of the Agency Secretary or Designee shall be final. In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the bid proposal.

3. **Agency Liability**

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

4. **Potential Subcontractors**

If Contractor subcontracts out a portion of the work required by this Agreement, nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

5. **Right To Terminate**

The State reserves the right to terminate this Agreement without cause subject to 30 days written notice to the Contractor. However, this Agreement can be immediately terminated by the State for cause.

Contractor may terminate this Agreement for cause and be relieved of any further obligations subject to a 60-day written notice to the State, only if contractor can no longer perform its responsibilities or if the State fails to perform its responsibilities as provided herein. Upon such termination, the State shall be relieved of any further payments and this Agreement shall be cancelled.