



**Tulare County Agricultural  
Commissioner/Sealer  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

ALLEN ISHIDA  
District One  
PETE VANDER POEL  
District Two  
PHILLIP A. COX  
District Three  
J. STEVEN WORTHLEY  
District Four  
MIKE ENNIS  
District Five

**AGENDA DATE:** September 1, 2009 "Amended"

|   |     |                                     |    |                          |     |                                     |
|---|-----|-------------------------------------|----|--------------------------|-----|-------------------------------------|
| Public Hearing Required   | Yes | <input type="checkbox"/>            | No | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| Scheduled Public Hearing w/Clerk  | Yes | <input type="checkbox"/>            | No | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| Published Notice Required   | Yes | <input type="checkbox"/>            | No | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| Advertised Published Notice   | Yes | <input type="checkbox"/>            | No | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| Meet & Confer Required  | Yes | <input type="checkbox"/>            | No | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| Electronic file(s) has been sent  | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input type="checkbox"/>            |
| Budget Transfer (Aud 308) attached  | Yes | <input type="checkbox"/>            | No | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| Personnel Resolution attached   | Yes | <input type="checkbox"/>            | No | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |     |                                     |    |                          |     |                                     |

CONTACT PERSON: Marilyn Kinoshita PHONE: 684-3367

**SUBJECT:** Contract Agreement with California Department of Food and Agriculture for nursery stock services and enforcement of nursery regulations.

**REQUEST(S):**

That the Board of Supervisors:

1. Ratify and approve an agreement with the California Department of Food and Agriculture, for the purpose of enforcement of the California Nursery Stock Law, retroactive to July 1, 2009 through June 30, 2010.
2. Find that the Board had authority to enter into the proposed agreement as of July 1, 2009 and that it was in the County's best interest to enter into the agreement on that date.
3. Authorize the Chairman to sign Agreement Number 09-0346.
4. Authorize the Chairman to sign Form CCC-307 (Contractor Certification Clauses).

**SUMMARY:**

This contract is intended to render financial aid to the County for providing nursery inspection services and enforcement of nursery regulations. The effective date of the agreement is July 1, 2009 through June 30, 2010. All prior agreements were approved as to form by County Counsel and first approved by the Board of Supervisors more than ten years ago. The only changes from the prior agreement

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are the term and dollar amount provided to the County under the agreement. There are no additional deviations from the County contract protocol. The agreement is to be retroactively approved because it was received too late from the State to be placed on the Board's agenda by prior to July 1<sup>st</sup>.

Form CCC-307 (Contractor Certification Clauses) is a package that contains clauses and conditions that may apply to this agreement and to persons doing business with the State of California.

Although the terms of this agreement (as do all State agreements) seem to suggest that the services performed before the contract is formally signed may not be compensable, the Agricultural Commissioner/Sealer is satisfied that this issue will not be (and has never been) problematic.

Per County Counsel, the following provisions of the Contract Agreement are deviations from County Contract Protocol:

- 1) Exhibit C (GTC 307):
  - a. (5) Indemnification: Contractor indemnifies State only.
- 2) Exhibit D Special Terms and Conditions:
  - a. (2) Settlement of Disputes: If there is a dispute, the decision of the Agency Secretary or Designee shall be final.
  - b. (4) Potential Subcontractors: County will be responsible to the State for acts/omissions of County's subcontractors.
  - c. (5) Right to Terminate: State may terminate without cause with 30 days written notice, or immediately with cause. County can terminate with cause with 60 days written notice if the County cannot perform or the State fails to perform. The State will be relieved of further payment if the agreement is canceled.

**FISCAL IMPACT/FINANCING:**

The County will receive \$27,594 for FY 2009/2010 if this agreement is approved. Revenues and the associated expenditures for this program have been included in the Agricultural Commissioner/Sealer's approved budget for fiscal year 2009/2010. The net county cost for this program is estimated at \$6,000.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The County's five-year strategic plan includes the Economic Well-Being Initiative to promote economic development opportunities, effective growth management and a quality standard of living. This request to authorize a contract agreement with the California Department of Food and Agriculture will allow timely continuance of a long-standing program of protecting the County's agriculture-based economy by assuring that the farmer and homeowner are supplied with correctly labeled and pest-free plants.

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**ALTERNATIVES:**

No action or disapproval would mean that the Agricultural Commissioner would not be able to receive financial aid from the California Department Food and Agriculture to offset costs incurred in carrying out this program.

**INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:**

County Counsel has approved the agreement as to form.

**ADMINISTRATIVE SIGN-OFF:**

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Gary Kunkel  
Agricultural Commissioner  
Sealer of Weights and Measures



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By Bill Appleby, Assistant  
Agricultural Commissioner/Sealer

Cc: Auditor/Controller  
County Counsel  
County Administrative Office (3)

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