

AGREEMENT NUMBER <b>11-0033</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, 2011 through June 30, 2012
3. The maximum amount of this Agreement is: \$179,510.00  
 One Hundred Seventy-nine Thousand Five Hundred Ten 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	1 Page(s)
Attachment 1	5 Page(s)
Exhibit B – Budget Detail and Payment Provision	1 Page(s)
Attachment 1	2 Page(s)
Exhibit C – General Terms and Conditions - GTC 610	3 Pages
Exhibit D - Special Terms and Conditions	1 Page(s)
Exhibit E - Additional Provisions	3 Page(s)

5. Name of Program: Statewide Exotic Pest Detection Trapping

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

<b>CONTRACTOR</b>		<i>California Department of General Services Use Only</i>
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)		
<b>COUNTY OF TULARE</b>		
BY (Authorized Signature)	DATE SIGNED	
—		
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
4437 S. Laspina Street, Suite A Tulare, CA 93274		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME		
<b>DEPARTMENT OF FOOD AND AGRICULTURE</b>		
BY (Authorized Signature)	DATE SIGNED	
—		
PRINTED NAME AND TITLE OF PERSON SIGNING		
JANICE L. PRICE, CONTRACTS MANAGER		
ADDRESS		
1220 N STREET, ROOM 115, SACRAMENTO, CA 95814		

Exempt per:

**EXHIBIT A**  
(County Agreement)

**SCOPE OF WORK**

1. Contractor agrees to provide the services described herein:

County shall provide services for placing and servicing traps for the detection of exotic insect pests which are considered hazardous to agriculture and to economy of California. Those insect pests may include but are not limited to Mediterranean fruit fly, Mexican fruit fly, oriental fruit fly, melon fly, gypsy moth, Japanese beetle and other invasive exotic pests. This Agreement includes delimitation work associated with the detection of one or more life stages of the above target pests in a county.

2. Services shall be performed in and throughout the COUNTY OF TULARE.
3. The contract managers for this agreement:

<b>FOR CDFA -</b>	<b>FOR CONTRACTOR -</b>
Name: Debby Tanouye	Name: Marilyn Kinoshita
Unit: Pest Detection/Emergency Projects	Section/Unit: County Agricultural Commissioner
Address: 1220 N Street, Room 315 Sacramento, CA 95814	Address: 4437 S. Laspina Street, Suite A Tulare, CA 93274
Phone: (916) 654-1211	Phone: (559) 684-3323
Fax: (916) 654-0555	Fax: (559) 685-3335

4. See Attachment 1 in Scope of Work for a detailed description of work to be performed and the duties of all parties.

## SCOPE OF WORK (#4)

### CONTRACT SPECIFICATIONS FOR STATE-COUNTY INSECT PEST DETECTION TRAPPING

#### AGENCY RESPONSIBILITY

##### Section 1

The California Department of Food and Agriculture shall:

- A. Provide all traps, trap parts, and lures.
- B. Provide technical assistance and training to county agricultural commissioner personnel on the use of traps and detection procedures.
- C. Assist with and review the county's trapping programs annually for the purpose of establishing and approving the FY-Commitment Form (Form 60-221), which is attached hereto and made part of this agreement.
- D. Provide county trappers with copies of the CDFA Insect Trapping Guide.
- E. Provide an annual training program specifically for trapping supervisors in which all counties shall participate.
- F. Provide for the disposal of Dibrom treated wicks according to CA-EPA guidelines.

##### Section 2

The County Agricultural Commissioner shall:

- A. Submit a completed Trapping Hours/Year Worksheet (Form 60-223, 8/26/08) along with the budget display (work plan) for the trapping program by fiscal year. Form 60-223 will be prepared by using the Servicings per Year sheet (Form 66-223A, 8/27/08).
- B. Ensure that all trapping activities conform to the most recent version of CDFA Insect Trapping Guide (ITG). Place and service the specified number of each trap type specified on the FY - Commitment Form.
- C. Ensure that a copy of the ITG shall be kept in each trapper's vehicle for reference.
- D. Ensure that all deployed traps are properly identified with a unique trap number and accurately reflect servicing, baiting and re-baiting dates. The unique trap numbering system will be based upon the six digit California state plane coordinate system as such, six digit state plane grid number, hyphen, quint (aka subgrid) designation, hyphen, two letter trap type and trap number. For example: 032046-N-MF2.

- E. Ensure, for counties that do not have year round programs, that traps are deployed **prior** to the start of the specified trapping season, so that the first servicing of the traps occurs at the start of the trapping season. The traps will be removed at the first servicing after the **conclusion** of the trapping season.
- F. Ensure that Jackson Mediterranean fruit fly (Medfly) traps, baited with Trimedlure, are serviced every fourteen days from July 1 through October 31, and May 1 through June 30 for fiscal year 2011-12.
- G. Ensure that McPhail traps are serviced every seven days from July 1 through October 31, and May 1 through June 30 for fiscal year 2011-12.
- H. Ensure that all Champ™ traps, baited with ammonium bicarbonate, in **urban** areas will be placed in or near gardens and serviced every fourteen days from July 1 through June 30 and May 1 through October 31 for fiscal year 2011-12.
- I. Ensure that all ChamP™ traps, baited with ammonium bicarbonate, in **rural** areas will be serviced once each month and relocated at that time from July 1 through October 31, and May 1 through June 30 for fiscal year 2011-12.
- J. Ensure that Jackson Oriental fruit fly traps, baited with methyl eugenol, are serviced every fourteen days from July 1 through October 31, and May 1 through June 30 for fiscal year 2011-12.
- K. Ensure that all Jackson melon fly traps, baited with cuelure, are serviced every fourteen days from July 1 through October 31, and June 1 through June 30 for fiscal year 2011-12.
- L. Ensure that gypsy moth and Japanese beetle traps are serviced every 14 days from July 1 through August 30, and June 1 through June 30 for fiscal year 2011-12, unless determined otherwise by the CDFA District Entomologist and noted on the FY-Commitment Form (60-221).
- M. Send trapping personnel to training provided by state detection entomologists.
- N. Maintain a Daily Trapping Summary (Form 60-210) for each trapper. This form must be available for review by the district entomologist or the CDFA audits office for three years. To facilitate program audits, the Daily Trapping Summary – must be signed by the individual who performed the work indicated on that summary. This applies to hand completed or electronic copies.
- O. Complete a monthly Pest Detection Report Number 1 (Form 66-035), documenting all traps deployed, added, removed and serviced during the month. A servicing is an inspection of the trap for the presence of the target pest. Relocations are considered trap servicings. Do not count trap relocations as “removed” and then “added.”

- P. Submit invoices within 30 days after the end of each reporting period. Payment of the monthly invoice is contingent upon receiving the corresponding Report Number 1. Continue to send monthly invoices even if the fiscal year contract funds are depleted.
- Q. Submit the monthly invoice and Report Number 1 to:
- PD/EP  
1220 N Street, Room 315  
Sacramento, CA 95814  
Attn: Scott Okimura
- R. Provide one set of trapping records for all traps. This set, in the form of a "Trap Book," shall indicate the exact trap location using a site map and all information regarding trap placement, servicing, baiting, relocation and removal.
- S. Maintain an inventory of known fruit fly host sites. The inventory shall be: organized by square mile, contain the address of host property traceable to the nearest cross street, and indicate all known hosts on that property. The inventory shall be updated yearly. The multiple trap card system will suffice for this inventory.
- T. Maintain county wall maps with numbered square-miles grids – according to the California State Plane Coordinate System - depicting the density of all traps deployed.
- U. Allow state detection personnel and/or federal PPQ officers to perform quality control inspections on all county trap lines, including any specified county commitment trap lines.
- V. Allow state detection entomologists and/or federal PPQ officers to accompany trappers and/or supervisors in the field. This will be credited as field training for county personnel.
- W. Counties generating Dibrom treated wicks (i.e., Oriental, melon, peach and guava fruit fly detection traps) shall possess a CAI number issued by the California Environmental Protection Agency.

**PEST DETECTION/EMERGENCY PROJECTS**

**FY 2011 / 2012 COMMITMENT FORM**

AGRICULTURAL COMMISSIONER Marilyn Kinoshita	COUNTY Tulare
DETECTION SPECIALIST Art Gilbert	DATE 5/20/2010 (12/22/10)

PROGRAM	UNITS	COUNTY COMMITMENT		STATE COMMITMENT		TOTAL COMMITMENT	
		UNITS	HOURS	UNITS	HOURS	UNITS	HOURS
COMMERCIAL CROF	(PROPERTIES)	0	0	0	0	0	0
PUBLIC CONTACT:	(SAMPLE PROPERTIES)	0	0	0	0	0	0
SPECIAL SURVEYS:		0	0	0	0	0	0
		0	0	0	0	0	0
		0	0	0	0	0	0
		0	0	0	0	0	0
		0	0	0	0	0	0
<b>TRAPPING</b>		SUMMER/WINTER		SUMMER/WINTER		SUMMER/WINTER	
JACKSON TRAP - MEDFLY	MF	25	/ 0	468	/ 0	493	/ 0
McPHAIL TRAP	MP	0	/ 0	176	/ 0	176	/ 0
CHAMP TRAP - Garden	CP	0	/ 0	367	/ 0	367	/ 0
CHAMP TRAP - Rural	CP	0	/ 0	148	/ 0	148	/ 0
CHAMP TRAP - Rural Residential	CP	0	/ 0	18	/ 0	18	/ 0
JACKSON TRAP - ORIENTAL FRUIT FLY	OF	0	/ 0	367	/ 0	367	/ 0
JACKSON TRAP - MELON FLY	ML	0	/ 0	367	/ 0	367	/ 0
GYPSY MOTH	GM	80		126		206	
JAPANESE BEETLE	JB	80		94		174	
MISCELLANEOUS:							
	European Corn Borer	4		0		4	
	European Pine Shoot Moth	5		0		5	
	Khapra Beetle	110		0		110	
	ACP	0		1584		1584	

**SPECIAL TRAPS OR TRAPPING CONSIDERATIONS:**

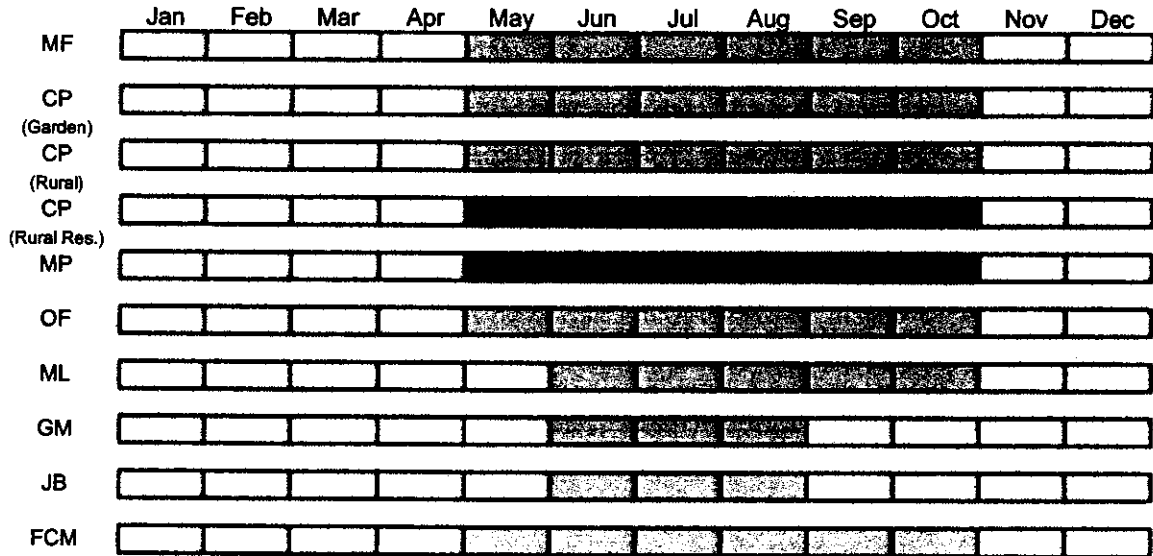
State of California  
 Department of Food and Agriculture  
 Plant Health and Pest Prevention Services

County Tulare

**PEST DETECTION/EMERGENCY PROJECTS  
 TRAPPING HOURS/YEAR WORKSHEET**

Fiscal Year 2011-12

**TRAPPING SEASON**



	# of traps	X	serv/year*	=	serv/yr/trap	
MF	493	X	14.0	=	6902	■ weekly servicings
CP- Garden	367	X	14.0	=	5138	
CP- Rural**	148	X	7.0	=	1036	□ biweekly servicings
CP- Rural Res.	18	X	14.0	=	252	
MP	176	X	26.0	=	4576	
OF	367	X	14.00	=	5138	□ monthly servicings
ML	367	X	12.00	=	4404	■
GM	206	X	7.0	=	1442	
JB	174	X	7.0	=	1218	
<b>Total</b>				=	30106	

/ 4.25 average traps serviced per hour  
 34.00 average traps serviced per day

$$\frac{7083.76 \text{ hours/year}}{\text{hours/year}} \times 1.1 (=10\%) = \frac{7792.14}{\text{Total hours/year}}$$

\*Trap placements, relocations, and removals are NOT considered as additional servicings.  
 \*\*Calculated as biweekly per instructions.

**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. Unless mutually agreed, monthly invoices must be submitted within 60 days from the end of each month in which services were rendered. Invoices must include the Agreement number and submitted in triplicate to the Program Contract Manager listed in this contract.
- C. Any travel and subsistence payments authorized under this agreement shall be paid as needed to execute the work. The maximum travel rates allowable are those established in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations 599.619.

**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/fedaaid/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>



TULARE

**COUNTY DEPARTMENT OF AGRICULTURE  
 ENHANCED PEST DETECTOR TRAPPING BUDGET  
 2011-12**

rev. 12/20/10

**A. PERSONNEL SERVICES**

CLASSIFICATIONS	HOURS/ DAY	TOTAL WORK DAYS	HOURS
1 Ag & Stds Inspector IV	2	95	190
2 Ag & Stds Inspector III	4	212	848
3 Ag & Stds Inspector Aide (Step 2)	8	425	3400
4 Ag & Stds Inspector Aide (Step 1)	8	426	3408
5	0	0	0
6	0	0	0
7	0	0	0
8	0	0	0
9	0	0	0

**1. SALARIES**

	HOURLY RATE <u>with out Benefits</u>	HOURS	SALARY
1 Ag & Stds Inspector IV	\$26.207	190	\$4,979
2 Ag & Stds Inspector III	\$25.145	848	\$21,323
3 Ag & Stds Inspector Aide (Step 2)	\$11.521	3400	\$39,171
4 Ag & Stds Inspector Aide (Step 1)	\$10.965	3408	\$37,369
5	\$1.0000	0	\$0
6	\$1.0000	0	\$0
7	\$1.0000	0	\$0
8	\$1.0000	0	\$0
9	\$1.0000	0	\$0

**SUBTOTAL: \$102,842.00**

**2. STAFF BENEFITS AND OVERHEAD**

	BENEFIT RATE %	SALARY	BENEFIT COST
1 Ag & Stds Inspector IV	36.0350%	\$4,979	\$1,794
2 Ag & Stds Inspector III	35.6630%	\$21,323	\$7,604
3 Ag & Stds Inspector Aide (Step 2)	5.7010%	\$39,171	\$2,233
4 Ag & Stds Inspector Aide (Step 1)	5.7010%	\$37,369	\$2,130
5	0.0000%	\$0	\$0
6	0.0000%	\$0	\$0
7	0.0000%	\$0	\$0
8	0.0000%	\$0	\$0
9	0.0000%	\$0	\$0

**SUBTOTAL: \$13,761.00**

25 % Overhead (Not to exceed 25%)

SALARIES	BENEFITS	OVERHEAD COST
\$102,842.00	\$13,761.00	\$29,151.00

**PERSONNEL SERVICES TOTAL : \$145,754.00**

B. SUPPLIES (Trapping poles, office supplies, etc.)

\$477.00

C. VEHICLE OPERATION

	NO. OF COUNTY VEHICLES	NO. OF USAGE MONTHS	MILEAGE PER MONTH	COST PER MILE*	COST	
	1	8	1,190	\$0.500	\$4,760.00	
	NO. OF STATE VEHICLES	NO. OF USAGE MONTHS	MILEAGE PER MONTH	COST PER MILE*	COST	
	5	8	1,190	\$0.285	\$13,566.00	
	NO. OF LEASED VEHICLES	COST PER MONTH	NO. OF USAGE MONTHS	MILEAGE PER MONTH	COST PER MILE*	COST
	1	1530	8	1190	\$0.285	\$14,953.00
<b>VEHICLE COST TOTAL:</b>					<b>\$33,279.00</b>	

\* Per federal audit guidelines, this rate cannot be exceeded. However, if your county's internal policy uses a lower rate, that rate may be used.

**TOTAL COUNTY EXPENSES: \$179,510.00**

**CDFA CONTRACT AMOUNT: \$179,510.00**

**Note: Any variances are due to rounding to the whole dollar.**

COMMENTS:

**EXHIBIT C  
(County Agreement)**

**GENERAL TERMS AND CONDITIONS GTC 610**

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.
9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital

status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

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

11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. **TIMELINESS:** Time is of the essence in this Agreement.

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

14. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. **ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

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

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

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the

violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

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

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

**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 subject to 30 days written notice to the Contractor. Contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.

However, the agreement can be immediately terminated for cause. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.

This agreement may be suspended or cancelled without notice, at the option of the Contractor, if the Contractor or State's premises or equipment are destroyed by fire or other catastrophe, or so substantial damaged that it is impractical to continue service, or in the event the Contractor is unable to render service as a result of any action by a state agency directly impacting the Contractors ability to perform.

**EXHIBIT E****ADDITIONAL PROVISIONS****CONTRACTS FEDERALLY FUNDED**

It is mutually understood between the parties that this contract may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the contract were executed after that determination was made.

This contract is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the Fiscal Year(s) 11/12 - covered by this agreement for the purposes of this program. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress, which may affect the provisions, terms, or funding of this contract in any manner.

It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.

The department has the option to void the contract under the 30-day cancellation clause or to amend the contract to reflect any reduction of funds.

**SUBCONTRACTORS**

Contractor shall obtain prior approval from CDFA before hiring subcontractors, consultants or both. The total amount of all subcontracts shall not exceed \$50,000 or 25% of the total amount of the contract, whichever is less, unless the Contractor can provide certified documents that award was made through a competitive bidding process requiring at least three bids from responsible bidders.

All subcontractors identified shall be experts in their respective disciplines and capable of performing the tasks for which they were hired. Subcontractors shall have extensive experience in their area of expertise, with particular emphasis on prior experience on similar programs or projects that clearly illustrate their expertise in areas essential to the Contractor and to CDFA.

**INSURANCE REQUIREMENTS** – Contractor shall comply with all requirements outlined in the (1) General Provisions section and (2) Contract Insurance Requirements outlined in this section. No payments will be made under this contract until contractor fully complies with all requirements.

**1. General Provisions Applying to All Policies**

- a. **Coverage Term** – Coverage needs to be in force for the complete term of the contract. If insurance expires during the term of the contract, a new certificate must be received by the State at least ten (10) days prior to the expiration of this insurance. Any new insurance must comply with the original contract terms.
- b. **Policy Cancellation or Termination & Notice of Non-Renewal** – Insurance policies shall contain a provision stating coverage will not be cancelled without 30 days prior written notice to the State. New certificates of insurance are subject to the approval of the Department of General Services and the Contractor agrees no work or services will be performed prior to obtaining such approval. In the event Contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.
- c. **Premiums, Assessments and Deductibles** – Contractor is responsible for any premiums, policy assessments, deductibles or self-insured retentions contained within their insurance program.
- d. **Primary Clause** – Any required insurance contained in this contract shall be primary, and not excess or contributory, to any other insurance carried by the State.

- e. Insurance Carrier Required Rating – All insurance companies must carry an AM Best rating of at least “A–” with a financial category rating of no lower than VI. If the Contractor is self insured for a portion or all of its insurance, documentation of self-insurance must be submitted and approved by the Department of General Services, Office of Risk and Insurance Management.
- f. Endorsements – Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
- g. Inadequate Insurance – Inadequate or lack of insurance does not negate the contractor’s obligations under the contract.
- h. Use of Subcontractors - In the case of Contractor's utilization of subcontractors to complete the contracted scope of work, contractor shall include all subcontractors as insured's under Contractor's insurance or supply evidence of subcontractor's insurance to The State equal to policies, coverages, and limits required of Contractor.
  - The policy must name **The County and State of California, its officers, agents, employees and servants as additional insureds, but only with respect to work performed under the contract.**

## **2. Contract Insurance Requirements**

### **Sub-Contractor Insurance Requirements**

Sub-Contractor shall display evidence of the following on an Acord certificate of insurance evidencing the following coverages:

Commercial General Liability – Sub-Contractor shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with a \$2,000,000 annual policy aggregate. A “per project aggregate” endorsement is required. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Sub-Contractor's limit of liability.

The policy must name **The State of California, its officers, agents, employees and servants as additional insureds, but only with respect to work performed under the contract.**

Automobile Liability – Sub-Contractor shall maintain automobile liability insurance for limits not less than \$1,000,000 combined single limit. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. Should the scope of the Contract involve transportation of hazardous materials, evidence of an MCS-90 endorsement is required.

Workers' Compensation Insurance – The Sub-Contractor shall have and maintain, for the term of this Agreement, workers' compensation insurance and shall furnish to the State a certificate of insurance evidencing workers compensation insurance and employer's liability presently in effect with limits not less than \$1,000,000 by an insurance carrier licensed to underwrite workers' compensation insurance in California. Such certificate shall include the name of the carrier, policy inception and expiration dates. If the Sub-Contractor is self-insured for workers compensation, a certificate must be presented evidencing Sub-Contractor is a qualified self insurer in the State of California. By signing this Agreement, the Sub-Contractor hereby warrants that it carries Workers' Compensation Insurance on all of its employees who will be engaged in the performance of this Agreement. If staff provided by the Sub-Contractor is defined as independent contractors, this clause does not apply.



**Prime Contractor Insurance Requirements**

Contractor shall display evidence of the following on an Acord certificate of insurance or documentation of self insurance on county letterhead evidencing the following coverages:

- a. Commercial General Liability – Contractor shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with a \$2,000,000 annual policy aggregate. A “per project aggregate” endorsement is required. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor’s limit of liability.
  - The policy must name **The State of California, its officers, agents, employees and servants as additional insureds, but only with respect to work performed under the contract.**
- b. Automobile Liability – Contractor shall maintain business automobile liability insurance for limits not less than \$1,000,000 combined single limit. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. Should the scope of the Contract involve transportation of hazardous materials, evidence of an MCS-90 endorsement is required.
- c. Workers Compensation and Employers Liability – Contractor shall maintain statutory worker’s compensation and employer’s liability coverage for all its employees who will be engaged in the performance of the Contract. In addition, employer’s liability limits of \$1,000,000 are required.
- d. Environmental/Pollution Liability - If hazardous materials work is required, then the contractor shall maintain Environmental/Pollution Liability for limits not less than \$1,000,000 per claim covering the contractor’s liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs incurred arising out of the work or services to be performed under this contract. The policy must include:
  - The State of California, its officers, agents, employees and servants as additional insured, but only with respect to work performed under this contract. This **endorsement** must be supplied under form acceptable to the Office of Risk and Insurance Management of the California Department of General Services.

Coverage shall be provided for both work performed on site and during transportation of as well as proper disposal of hazardous materials. Proof of pollution during transportation shall be provided on an MCS-90 form or equivalent.

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**CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i> <b>COUNTY OF TULARE</b>		<i>Federal ID Number</i> <b>94-6000545</b>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i> <b>Mike Ennis, CHAIRMAN OF THE BOARD OF SUPERVISORS</b>		
<i>Date Executed</i>	<i>Executed in the County of</i> <b>TULARE</b>	

**CONTRACTOR CERTIFICATION CLAUSES**

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,

2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

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

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the

Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

### **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

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

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

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

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

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

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

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

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