

File No. 100096

Committee Item No. 1  
Board Item No. 3

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Committee: City Operations & Neighborhood Ser. Date: February 8, 2010

Board of Supervisors Meeting

Date 2/29/10

**Cmte Board**

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form (for hearings)             |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Grant Information Form                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Grant Budget                                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

**OTHER (Use back side if additional space is needed)**

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Victor Young  
Completed by: Victor Young

Date February 4 2010  
Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

0.52

1 [Accept and expend grant –Light Brown Apple Moth Program - \$42,448.60]

2  
3 Resolution authorizing the San Francisco Department of Public Health (DPH) to accept  
4 and expend retroactively a grant from the California Department of Food and  
5 Agriculture (CDFA) in the amount of \$42,448.60 to fund the Little Brown Apple Moth  
6 Program; for the period of July 1, 2009 through June 30, 2010.

7  
8 WHEREAS, DPH was awarded a grant from the CDFA in the amount of \$42,448.60 for  
9 a project entitled "Light Brown Apple Moth Program;" for the period of July 1, 2009 through  
10 June 30, 2010; and,

11 WHEREAS, The purpose of this grant is to perform Little Brown Apple Moth inspection  
12 activities at nursery holding facilities in order to limit Light Brown Apple Moth populations and  
13 prevent the pest from spreading to other areas of the state; and,

14 WHEREAS, As a condition of receiving the grant funds, CDFA requires the City to  
15 enter into an agreement (the "Agreement"), a copy of which is on file with the Clerk of the  
16 Board of Supervisors in File No. 100096; which is hereby declared to be a part of this  
17 resolution as if set forth fully herein; and,

18 WHEREAS, The grant does not require an ASO amendment and reimburses DPH for  
19 four existing positions: two Agricultural Inspectors (Job Class #3450) at 0.20 FTE, one  
20 Manager I (Job Class #0922) at 0.05 FTE, and one Junior Administrative Analyst (Job Class  
21 #1820) at 0.02 FTE, for the period of July 1, 2009 through June 30, 2010; and,

22 Whereas, DPH is seeking retroactive approval because DPH did not receive the  
23 contract for the project until December 14, 2009 with a project start date of July 1, 2009; and,

24 WHEREAS, The grant budget includes a provision for indirect costs in the amount of  
25 \$8,269.72; now, therefore, be it


1 RESOLVED, That DPH is hereby authorized to retroactively accept and expend a grant  
2 in the amount of \$42,448.60 from the CDFA; and, be it

3 FURTHER RESOLVED, That DPH is hereby authorized to retroactively accept and  
4 expend the grant funds pursuant to San Francisco Administrative Code section 10.170-1; and,  
5 be it

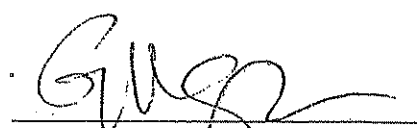
6 FURTHER RESOLVED, That the Controller is directed to designate the positions  
7 funded under this agreement as a "G" or grant-funded position which would terminate when  
8 the agreement expires; and, be it

9 FURTHER RESOLVED, That the Director of Health is authorized to enter into the  
10 agreement on behalf of the City.

11  
12  
13  
14 RECOMMENDED:

15   
16 Mitchell Katz, M.D.  
17 Director of Health

APPROVED:

  
Office of the Mayor

  
Office of the Controller



Gavin Newsom  
Mayor

Mitchell H. Katz, MD  
Director of Health

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Mitchell H. Katz, M.D. *MHK*  
Director of Health

DATE: January 14, 2010

SUBJECT: Accept and Expend Resolution

GRANT TITLE: Light Brown Apple Moth Program

---

Attached please find the original and 4 copies of each of the following:

- Proposed grant resolution, original signed by Department, Health Commission
- Grant information form, including disability checklist
- Grant budget and justification
- Agreement (1)

**Special Timeline Requirements:**

**Departmental representative to receive a copy of the adopted resolution:**

Name: Grace Alderson

Phone: 554-2655

Interoffice Mail Address: Dept. of Public Health, 101 Grove St., Room 330

Certified copy required Yes

No

File Number: \_\_\_\_\_  
(Provided by Clerk of Board of Supervisors)

**Grant Information Form**  
(Effective January 2000)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds. The following describes the grant referred to in the accompanying resolution:

1. Grant Title: **Light Brown Apple Moth Program**
2. Department: **Department of Public Health, Environmental Health Section, Agriculture Program  
1390 Market Street, Suite 822, San Francisco, CA 94102**
3. Contact Person: **Miguel Monroy** Telephone: **(415) 252-3939**
4. Grant Approval Status (check one):  
 Approved by funding agency  Not yet approved
5. Amount of Grant Funding Approved or Applied for: **\$42,448.60**
- 6a. Matching Funds Required: **\$0**  
b. Source(s) of matching funds (if applicable): **N/A**
- 7a. Grant Source Agency: **California Department of Food and Agriculture (CDFA)**  
b. Grant Pass-Through Agency (if applicable): **N/A**
8. Proposed Grant Project Summary:  
**The Light Brown Apple Moth program is aimed at limiting the Light Brown Apple Moth (LBAM) population and preventing the pest from spreading to other areas of the state, and this will be accomplished by regular monitoring with inspection, treatment/re-inspection, compliance and certification of infested nursery stock, community gardens, and destruction of green waste. This project is an extension of a current Pest Exclusion/LBAM program for the previous fiscal year. Like the current project, the FY 2009-2010 San Francisco County work plan focus solely on Nursery Inspections. No eradication activities will be involved. As such, Agriculture Inspectors will perform Little Brown Apple Moth inspection activities at nurseries or nursery holding facilities which includes production and retail nurseries, and producers of cut flowers, retail/wholesale florists, garlands, wreaths or greenery and cut Christmas trees.**
9. Grant Project Schedule, as allowed in approval documents, or as proposed:  
Start-Date: **07/01/2009** End-Date: **06/30/2010**
10. Number of new positions created and funded: **None. An amendment to the ASO is not required, as all positions currently exist in the department:**  
**0.20 FTE, job class #3450 – Agricultural Inspector (2)**  
**0.05 FTE, job class #0922 – Manager I**  
**0.02 FTE, job class #1820 – Junior Administrative Analyst**
11. If new positions are created, explain the disposition of employees once the grant ends? : **N/A**

12a. Amount budgeted for contractual services: **\$0**

b. Will contractual services be put out to bid? : **N/A**

c. If so, will contract services help to further the goals of the department's MBE/WBE requirements? : **N/A**

d. Is this likely to be a one-time or ongoing request for contracting out? : **N/A**

13a. Does the budget include indirect costs?  Yes  No

b1. If yes, how much? **\$8,269.72**

b2. How was the amount calculated?

**The indirect cost figure was calculated by multiplying the indirect cost rate (25%) by the total salaries.**

c. If no, why are indirect costs not included?

Not allowed by granting agency

To maximize use of grant funds on direct services

Other (please explain):

14. Any other significant grant requirements or comments:

**DPH respectfully requests retroactive approval because the Department did not receive the contract the Light Brown Apple Moth Program until December 14, 2009 with the start date of July 1, 2009.**

**\*\*Disability Access Checklist\*\*\***

15. This Grant is intended for activities at (check all that apply):

Existing Site(s)

Existing Structure(s)

Existing Program(s) or Service(s)

Rehabilitated Site(s)

Rehabilitated Structure(s)

New Program(s) or Service(s)

New Site(s)

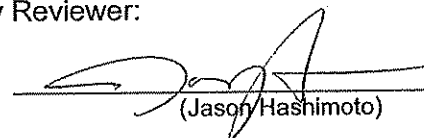
New Structure(s)

16. The Departmental ADA Coordinator and/or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local access laws and regulations and will allow the full inclusion of persons with disabilities, or will require unreasonable hardship exceptions, as described in the comments section:


Comments:

Departmental or Mayor's Office of Disability Reviewer:

Date Reviewed: 1/14/10

  
(Jason Hashimoto)

Department Approval:

  
(Mitchell Katz, MD; Director of Health)





AGREEMENT NUMBER <b>09-0660</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 SAN FRANCISCO**
2. The term of this Agreement is: July 1, 2009 Through June 30, 2010
3. The maximum amount of this Agreement is: \$42,448.60  
 Forty-two Thousand Four Hundred Forty-eight Dollars and Sixty 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)  
3 Page(s)

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

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

Check mark one item below as Exhibit D: 1 Page(s)

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

Exhibit D\*-Special Terms and Conditions

5. Name of Program: Light Brown Apple Moth - Regulatory Services

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

**CONTRACTOR**

*California Department of General Services Use Only*

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

**COUNTY OF SAN FRANCISCO**

BY (Authorized Signature)

DATE SIGNED)

PRINTED NAME AND TITLE OF PERSON SIGNING

Miguel A. Monroy, Agricultural Commissioner

ADDRESS

1390 Market Street, Suite 822, San Francisco, CA 94102

**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, CONTRACTS MANAGER

ADDRESS

1220 N STREET, ROOM 115, SACRAMENTO, CA 95814

Exempt per: DGS Ltr 28.6

**EXHIBIT A  
(County Agreement)**

**SCOPE OF WORK**

1. Contractor agrees to provide the services described herein:

The County will provide labor and materials necessary to perform regulatory activities as defined in the Light Brown Apple Moth Regulatory Procedures Manual. Services shall include quarantine implementation in accordance with the Federal Domestic Quarantine Order and California State Interior Quarantine, California Code of Regulations 3434, as needed.

2. The program contract managers for this Agreement are:

FOR CDFA, THE PROGRAM CONTRACT MANAGER IS:	FOR CONTRACTOR:
Name: Dr. Robert Dowell (Michelle Pham)	Name: Miguel Monroy
Section/Unit: Light Brown Apple Moth Branch	Section/Unit: Agricultural Commissioner
Address: 1220 N Street, Room 211	Address: 1390 Market St., Suite 822
City/Zip: Sacramento, CA 95814	City/Zip: San Francisco, CA 94102
Phone: 916-651-2871	Phone: 415-252-3830
Email: mpham@cdfa.ca.gov	Email: miguel.monroy@sfdph.org

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

The Light Brown Apple Moth Regulatory Procedures Manual is hereby incorporated by reference as if attached hereto. A copy of the manual may be obtained by contacting the CDFA Program Contract Manager or going to the website <http://phpps.cdfa.ca.gov/lbam/LBAMTOC.pdf>.

## Scope of Work

Light Brown Apple Moth Cooperative Agreement  
July 1, 2009 – June 30, 2010  
FY 2009/2010

Agreement No: 09-0660  
Exhibit A  
Attachment 1  
Page 1 of 3

Contractor agrees to provide the services described herein:

The County agrees to perform the listed activities in order to:

- Implement Federal Domestic Quarantine Order *Epiphyas postvittana* (Light Brown Apple Moth) DA-2007-42; including implementation of regulations for parallel California State Interior Quarantine, CCR 3434.
- Conduct emergency response activities as a result of detections of light brown apple moth in regulated establishments.

For each county the scope of work will include, as appropriate, the activities described below:

1. Quarantine Enforcement
2. Trace Forward/Trace Back Investigation and Survey
3. Other

### 1. Quarantine Enforcement

Detailed in the Light Brown Apple Moth Regulatory Procedures Manual (Appendix A or most current version)

A. Nurseries (includes production nurseries, and producers of cut flowers, wholesale florists, garlands, wreaths or greenery and cut Christmas trees)

- **Initial Inspection/Sampling/Hold Notice**  
Initial inspection of facility, submitting samples, issuing hold notices and performing hold actions.
- **Follow-Up Inspection/Sampling/Hold Notice**  
Biweekly, monthly or more often as determined necessary, oversight of nursery IPM program if applicable, submitting samples, issuing hold notices and performing hold actions.
- **Per Shipment Inspection/Sampling/Hold Notice**  
Per shipment inspection, submitting samples, issuing hold notices and performing hold actions.
- **Treatment/Reinspection**  
Overseeing treatment or disposal at LBAM-positive nurseries, discussing treatment options, and reinspecting treated material to determine freedom from LBAM.
- **Compliance Agreements**  
Issuing and explaining terms of compliance agreements, inputting compliance agreement information into LBAM database, compliance agreement monitoring.
- **Outreach**  
Distributing quarantine maps and flyers to retail nurseries, general industry outreach.

**B. Green Waste**

- **Compliance Agreements**  
Issuing and explaining terms of compliance agreements, inputting compliance agreement information into LBAM database, compliance agreement monitoring.

**C. Community Gardens**

- **Outreach/Education**  
Distributing educational material.

**D. Harvested Commodities (Including Farmers Markets)**

- **Inspection/Sampling/Hold Notice**  
Initial, monthly or pre-shipment inspections, submitting samples, issuing hold notices and performing hold actions.
- **Treatment/Reinspection**  
Conducting or overseeing treatment at LBAM-positive location, discussing treatment options, and reinspecting location to determine freedom from LBAM.
- **Compliance Agreements**  
Issuing and explaining terms of compliance agreements, inputting compliance agreement information into LBAM database, compliance agreement monitoring.

**2. Trace Forward/Trace Back**

**All Related Trace Forward/Trace Back Activities**

Inspecting, submitting samples, issuing hold notices and performing hold actions.

**3. Other**

**A. Conference Calls**

Conference calls with CDFA, USDA, industry or community regarding LBAM regulatory updates.

**B. Meetings**

Public, industry or regulatory meetings regarding LBAM regulatory activities.

**C. Administrative Support**

Monthly invoicing for LBAM regulatory activities.

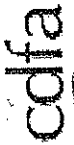
**D. Public Outreach/Education**

Phone calls, walk-ins.

**E. Reporting**

Monthly reporting (**Appendix B**) and invoicing (**Appendix C**) for LBAM regulatory activities.

Submit monthly report and invoice to:  
The Department of Food and Agriculture  
Light Brown Apple Moth Branch  
Attn: Gloria Gin  
1220 N Street, Room 211  
Sacramento, CA 95814



CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Work Plan  
Light Brown Apple Moth  
FY 2009/2010

Agreement No. 09-0660  
Exhibit A  
Attachment 1  
Page 3 of 3

*Handwritten mark*

County: SAN FRANCISCO

	# of Facilities Requiring Activity	Estimated Visits/Year/Facility	Estimated Hours/Visit	Total Hours
<b>Quarantine Enforcement</b>				
<b>Nurseries</b>				
Initial Inspection/Sampling/Hold Notices	47	1	1	47
Follow Up Inspection/Sampling/Hold Notices	47	3	1	141
Per Shipment Inspection/Sampling/Hold Notices	2	2	3	12
Treatment/Reinspection	2	4	3	24
Compliance Agreements	50	1	2	100
Outreach	11	1	1	11
<b>Green Waste</b>				
Compliance Agreements	1	2	2	4
<b>Community Gardens</b>				
Outreach/Education	50	1	2	100
<b>Harvested Commodities</b>				
Inspection/Sampling/Hold Notices	20	4	2	160
Treatment/Reinspection				0
Compliance Agreements				0
<b>Trace Forward/Trace Back</b>				
All Related TF/TB Regulatory Activities				0
<b>Other</b>				
Conference Calls	NA	NA	NA	40
Meetings	NA	NA	NA	24
Administrative Support	NA	NA	NA	60
Reporting	NA	NA	NA	52
Public Outreach/Education	NA	NA	NA	0
<b>TOTAL</b>				<b>775</b>

**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, California Code of Regulations.

**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>

### Cost Worksheet Light Brown Apple Moth FY 2009/2010

San Francisco County

Title	Hourly Wage	Hourly Benefit Amount	Total Hourly Rate	Estimated Hours to be Worked	Total Cost
Agriculture Biologist	\$28.950	\$9.50	\$38.450	599	\$23,031.55
Agricultural Commissioner	\$58.430	\$17.53	\$75.960	98	\$7,444.08
Jr. Administrative Analyst	\$25.665	\$7.71	\$33.375	78	\$2,603.25
			\$0.00		\$0.00
			\$0.00		\$0.00
			\$0.00		\$0.00
			\$0.00		\$0.00
			\$0.00		\$0.00
			\$0.00		\$0.00
			\$0.00		\$0.00
			\$0.00		\$0.00
Total Est. Hours to be Worked:					775
Personnel Cost:					\$33,078.88

Overhead (not to exceed 25%):

**\$8,269.72**

Total Personnel Cost:

**\$41,348.60**

Supply Costs:

**\$0.00**

Mileage Cost:

**\$1,100.00**

Total Est. Miles:

**2000**

Amount Per Mile:

**0.55**

TOTAL CONTRACT REQUEST:

**\$42,448.60**

Agreement No. **09-0660**  
 Exhibit **B**  
 Attachment  
 Page **1** of **1**

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.



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 (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.

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.

**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.