

File No. 111280

Committee Item No. _____
Board Item No. 47

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Board of Supervisors Meeting

Date December 6, 2011

Cmte Board

- | | | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input checked="" 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"/> | Youth Commission 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 type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Ethics Form 126 |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | 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"/>	_____

Completed by: Andrea Ausberry Date November 29, 2011

Completed by: _____ Date _____

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

1 [Accept and Expend Grant - Pest Exclusion/Nursery Inspection - \$500]

2
3 **Resolution authorizing the San Francisco Department of Public Health to retroactively**
4 **accept and expend a grant (Agreement #11-0220-SA) in the amount of \$500, from the**
5 **California Department of Food and Agriculture to fund the program Pest**
6 **Exclusion/Nursery Inspection for the period of July 1, 2011, through June 30, 2012, and**
7 **waiving indirect costs.**

8
9 WHEREAS, California Department of Food and Agriculture has agreed to fund
10 Department of Public Health in the amount of \$500 for the period of July 1, 2011 through June
11 30, 2012; and

12 WHEREAS, The purpose of this project is to prevent the introduction and spread of
13 agricultural pests through nursery stock and protect agriculture and the consumer against
14 economic losses; and

15 WHEREAS, As a condition of receiving the grant funds, California Department of Food
16 and Agriculture requires the City to enter into an agreement (the "Agreement"), a copy of
17 which is on file with the Clerk of the Board of Supervisors in File No.111280; which is hereby
18 declared to be a part of this resolution as if set forth fully herein; and

19 WHEREAS, An Annual Salary Ordinance amendment is not required as the grant
20 partially reimburses Department of Public Health for three existing positions, one Agricultural
21 Inspector (Job Class No. 3450) at .0006 FTE, one Agricultural Inspector (Job Class No. 3450)
22 at .0006 FTE, and one Public Service Trainee (Job Class No. 9910) at .0006 FTE, for the
23 period of July 1, 2011, through June 30, 2012; and

1 WHEREAS, A request for retroactive approval is being sought because Department of
2 Public Health did not receive notification of the agreement until July 6, 2011 for a project start
3 date of July 1, 2011; and

4 WHEREAS, Pest Exclusion/Nursery Inspection grant does not contain indirect costs
5 because the California Department of Food and Agriculture prohibits including indirect costs in
6 the budget; and

7 WHEREAS, The grant terms prohibit including indirect costs in the grant budget; now,
8 therefore, be it

9 RESOLVED, That Department of Public Health is hereby authorized to accept and
10 expend a grant retroactively in the amount of \$500 from the California Department of Food
11 and Agriculture; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors hereby waives inclusion of
13 indirect costs in the grant budget; and, be it

14 FURTHER RESOLVED, That Department of Public Health is hereby authorized to
15 retroactively accept and expend the grant funds pursuant to San Francisco Administrative
16 Code section 10.170-1; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors hereby waives inclusion of
18 indirect costs; and, be it

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

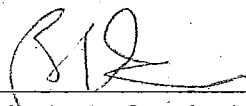
21
22
23
24
25

FILE NO.

RESOLUTION NO.

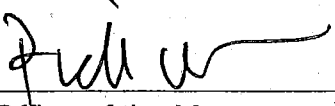
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RECOMMENDED:



Barbara A. Garcia, MPA
Director of Health

APPROVED:



Office of the Mayor



Office of the Controller

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *EDM* Mayor Edwin M. Lee *EE*
RE: Accept and Expend State Grant – Pest Exclusion/Nursery Inspection -
\$500
DATE: November 22nd, 2011

Attached for introduction to the Board of Supervisors is the resolution authorizing the San Francisco Department of Public Health to accept and expend retroactively a grant (Agreement #11-0220-SA) in the amount of \$500 from the California Department of Food and Agriculture to fund the program Pest Exclusion/Nursery Inspection for the period of July 1, 2011, through June 30, 2012, waiving indirect costs.

I request that this item be referred for adoption without committee reference.

Should you have any questions, please contact Jason Elliott (415) 554-5105.



Edwin M. Lee
Mayor

Barbara A. Garcia, MPA
Director of Health

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Barbara A. Garcia, MPA
Director of Health
DATE: October 26, 2011
SUBJECT: Grant Accept and Expend
GRANT TITLE: Pest Exclusion/Nursery Inspection - \$500

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

- Proposed grant resolution, original signed by Department
- Grant information form, including disability checklist -
- Budget and Budget Justification
- Grant application: Not Applicable. No application submitted. Asked to participate in the project.
- Agreement / Award Letter
- Other (Explain):

Special Timeline Requirements:

Departmental representative to receive a copy of the adopted resolution:

Name: Richelle-Lynn Mojica

Phone: 255-3555

Interoffice Mail Address: Dept. of Public Health, Office of Quality Management for Community Programs, 1380 Howard St.

Certified copy required Yes

No

File Number: 111280

(Provided by Clerk of Board of Supervisors)

Grant Information Form

(Effective March 2005)

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: **Pest Exclusion/Nursery Inspection Agreement #11-0220-SA**
2. Department: **Department Of Public Health- Environmental Health
1390 Market Street, Suite #210
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: **\$500.00**
- 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:

Nursery Program- The mission of the Nursery Program is to prevent the introduction and spread of agricultural pests through nursery stock and protect agriculture and the consumer against economic losses resulting from the sale of inferior, defective, or pest-infested nursery stock. The Nursery Program fulfills two separate roles. The first is to coordinate the nursery regulatory and inspection activities performed by the county agricultural commissioners. The second is to provide the agricultural industry with registration and certification services for plant materials. Regulatory activities conducted by the county agricultural commissioners and their staff are an integral part of the State's agricultural pest prevention system

9. Grant Project Schedule, as allowed in approval documents, or as proposed:

Start-Date: **July 1, 2011**

End-Date: **June 30, 2012**

- 10a. Amount budgeted for contractual services: **N/A**
- 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**

11a. Does the budget include indirect costs? Yes No

b1. If yes, how much? **\$0.00**

b2. How was the amount calculated? **N/A**

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):

12. Any other significant grant requirements or comments:

DPH respectfully requests for approval to accept and expend these funds retroactive to July 1, 2011. The Department received the subcontract agreement on July 6, 2011.

GRANT CODE (Please include Grant Code and Detail in FAMIS): **HCHPBINSPECT – 48999**

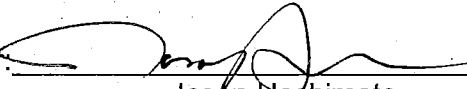
****Disability Access Checklist****

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


- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Existing Site(s) | <input checked="" type="checkbox"/> Existing Structure(s) | <input checked="" type="checkbox"/> Existing Program(s) or Service(s) |
| <input type="checkbox"/> Rehabilitated Site(s) | <input type="checkbox"/> Rehabilitated Structure(s) | <input type="checkbox"/> New Program(s) or Service(s) |
| <input type="checkbox"/> New Site(s) | <input type="checkbox"/> New Structure(s) | |

14. 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: 
 Jason Hashimoto

Date Reviewed: 10/24/11

Department Approval: 
 Barbara A. Garcia, MPA Director of Public Health
 (Signature)

San Francisco Department of Public Health
 Environmental Health Section (EHS)
Budget for Fiscal Year 2011-2012

Budget Date 10/06/11

A. Personnel				
Position	Hours	Estimated Rate	FTE	Budget
Agricultural Inspector I	1.19	\$35.00*	0.0006	\$41.65
Agricultural Inspector I	1.19	\$35.00*	0.0006	\$41.65
Public Service Trainee	1.19	\$35.00*	0.0006	\$41.65
Total Personnel	3.57		0.0018	\$125.00
B. Licensing				
		<u>Rate</u>	<u>Quantity</u>	<u>Total</u>
• New License:		\$75.00	3	\$225.00
• Renewed Forfeited License:		\$75.00	2	\$150.00
Total Licensing:				\$375.00
Total Cost				\$500.00

*Recipient will be paid hourly staff rate, not to exceed \$35.00 per hour, for nursery investigative work, provided such work is approved in advance by the CDFA Nursery Program.

A. Personnel **\$200.00**

Agricultural Inspector I - 3450 0.0006 FTE \$66.50
The Agricultural Inspector will issue new licenses and renew forfeited (delinquent) licenses. In addition, the Agricultural Inspector will perform nursery investigative work, provided such investigative work is approved in advance by the CDFA Nursery Program. The Agricultural Inspector is budgeted at 0.0006 Full-Time Equivalency (FTE) for 12 months in the 2011-2012 Fiscal Year.

Agricultural Inspector I - 3450 0.0006 FTE \$66.50
The Agricultural Inspector will issue new licenses and renew forfeited (delinquent) licenses. In addition, the Agricultural Inspector will perform nursery investigative work, provided such investigative work is approved in advance by the CDFA Nursery Program. The Agricultural Inspector is budgeted at 0.0006 Full-Time Equivalency (FTE) for 12 months in the 2011-2012 Fiscal Year.

Public Service Trainee - 9910 0.0006 FTE \$66.50
The Public Service Trainee will submit an itemized invoice and report 7 Supplemental Forms to the CDFA Contract Manager. The Public Service Trainee is budgeted at 0.0006 Full-Time Equivalency (FTE) for 12 months in the 2011-2012 Fiscal Year.

B. Licensing **\$300.00**

For each new nursery license and renewed forfeited license issued during the 2011/2012 Fiscal Year, the CDFA will pay the City and County of San Francisco \$75.00.

COOPERATIVE AGREEMENT
SIGNATURE PAGE

AGREEMENT NUMBER

11-0220-SA

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

STATE AGENCY'S NAME

DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

RECIPIENT'S NAME

COUNTY OF SAN FRANCISCO

2. The term of this Agreement is: July 1, 2011 through June 30, 2012

3. The maximum amount of this Agreement is: \$500.00
Five Hundred Dollars and Zero 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:	4 Page(s)
• Recipient and Project Information	
• Scope of Work	
Exhibit B:	2 Page(s)
• Budget & Payment Provisions	
• Budget	
Exhibit C – General Terms and Conditions	2 Page(s)

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

RECIPIENT

RECIPIENT'S NAME (County's Name)
COUNTY OF SAN FRANCISCO

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

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

STATE OF CALIFORNIA

AGENCY NAME

DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

KATHY ALAMEDA, MANAGER - FEDERAL FUNDS MANAGEMENT OFFICE

ADDRESS

1220 N STREET, ROOM 120
SACRAMENTO, CA 95814

CJ

EXHIBIT A

RECIPIENT AND PROJECT INFORMATION

1. CDFA hereby awards an Agreement to the Recipient for the project described herein:

The county will enforce all laws and regulations pertaining to nursery stock, including licensing requirements, in accordance with the Memorandum of Understanding between the California Department of Food and Agriculture and the California Agricultural Commissioners and Sealers Association entitled "State-County Nursery Inspection Program."

2. The Managers for this Agreement are:

FOR CDFA:		FOR RECIPIENT:	
Name:	Phuong Lao	Name:	Miguel Monroy
Section/Unit:	PHPPS/Pest Exclusion	Section/Unit:	County of San Francisco
Address:	1220 N Street, Room 344	Address:	1390 Market Street, Suite 822
City/State/Zip:	Sacramento, CA 95814	City/State/Zip:	San Francisco, CA 94102
Phone:	916-653-6365	Phone:	415-252-3830
Email Address:	phuong.lao@cdfa.ca.gov	Email Address:	miguel.monroy@sfdph.org

3. For a detailed description of work to be performed and duties, see Scope of Work.

Recipient agrees to provide to the California Department of Food and Agriculture (CDFA) all equipment and labor necessary to perform inspection and enforcement activities. The activities under this Agreement shall be completed within the timeframe outlined. Recipient shall inspect all nursery stock at all producer/wholesale nursery locations within the County. (Specifically not included is nursery stock in the first year of a two-year production cycle, plant materials in parent stock or propagative stock beds or blocks that are not to be inspected and nursery stock that is entered in one of the State's registration or certification programs and is inspected by State staff). Recipient to enforce all laws and regulations pertaining to nursery stock, including licensing requirements, in accordance with the Memorandum of Understanding between CDFA and the California Agricultural Commissioners and Sealers Association entitled "State-County Nursery Inspection Program". Recipient shall respond to complaints against retail nursery establishments.

SAMPLE BILLING

THIS SUPPLEMENTAL SHEET TO REPORT 7 SHALL BE USED FOR
NURSERY INSPECTION REIMBURSEMENT BILLING
 BY THE COUNTIES

CDFA USE ONLY	
APPROVED BY:	
NURSERY REIMBURSEMENT:	
LICENSE REIMBURSEMENT:	
TOTAL REIMBURSEMENT:	

COUNTY:	CONTRACT NUMBER:	MONTH/YEAR:
County Name	## ####	Month/Yr

PRODUCTION / WHOLESALE INSPECTIONS

NAME OF NURSERY	LICENSE NUMBER	DATE(S) INSPECTED	NO. OF ACRES		CDFA USE ONLY
			TYPE 1*	TYPE 2*	
A Generic Nursery	A1234	6/2/2010	50		
A Different Nursery	B1234	6/23/2010	50		
A Type 2 Nursery	C1234	6/29/2010		100	

NUMBER OF LOCATIONS INSPECTED:		TOTAL ACRES:	
--------------------------------	--	--------------	--

NURSERY LICENSE ACTIVITY

NAME OF NURSERY LICENSED (Use firm name)	NEW (LICENSE NUMBER)	RENEWAL (LICENSE NUMBER)	CDFA USE ONLY
I Grow Stuff Nursery	c6789		
Roam Depot	b4567		
Orchard Supply		a9876	

SIGNATURE:	TITLE:	DATE:

* Type 1 = Nursery production acreage consisting of nursery stock for farm and landscape planting, ornamentals in containers, and potted plants. Reimbursement rate is the number of acres inspected multiplied by the hourly rate as stated in the contract.
 * Type 2 = Turf, cut flowers, and cut greens. Reimbursement rate is the number of acres inspected divided by four and multiplied by the hourly rate as stated in the contract.

County Letterhead

Date _____

To: Sean Dayyani
California Department of Food and Agriculture
Pest Exclusion Branch
1220 N Street, Room 344
Sacramento, CA 95814

County of _____
Cooperative Agreement Number 01-2345
Fiscal Year 11/12
Invoice for _____ Quarter
Invoice Number _____

Sample Invoice

Must be accompanied by Report X
Department # _____

Invoice Detail	Amount	Reimbursement Rate	Totals
Type 1 Acres =	100 X	14.77 =	\$1,477.00
Type 2 and 4 Acres =	100 (1/4 = 25) X	14.77 =	\$369.25
Nursery License/Renewal	3 X	\$75.00 each license =	\$225.00
Invoice Total			\$2,071.25

Please remit payment to County of _____
Address line 1
Address Line 2
Address line 3

Signature Block

(Original Signature)
(Title)

EXHIBIT B

BUDGET 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 Recipient for actual allowable expenditures incurred in accordance with this Agreement and stated herein, which is attached hereto and made a part of this Agreement.

Original invoices shall include the Agreement Number, dates-of-service, type of work performed, and when applicable, a breakdown of the costs of parts and materials, labor charges, and any other relevant information required to ensure proper invoices are submitted for payment.

- B. Unless stated in Exhibit A, Scope of Work, monthly invoices must be submitted within thirty (30) days after the end of each month in which work under this Agreement was performed to the CDFA Agreement Manager.
- C. A final invoice will be submitted for payment no more than thirty (30) days following the expiration date of this Agreement, unless an alternate deadline is agreed to by the CDFA Agreement Manager. The invoice must be clearly marked "Final Invoice" thus indicating that all payment obligations of the State under this Agreement have ceased and that no further payments are due or outstanding.

2. Budget Contingency Clause

If funding for any fiscal year is reduced or deleted by the State Budget Act for purposes of this program, the State will have the option to either cancel this Agreement with no liability occurring to the State, or offer to amend the Agreement to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, California Government Code Title 1, Division 3.6, Part 3, Chapter 4.5, commencing with Section 927 – The California Prompt Payment Act.

4. Allowable Line Item Shifts

- A. Upon approval of the CDFA Agreement Manager, line item shifts of up to ten percent (10%) of a budget category amount are allowed without changes to Exhibit B, Budget, so long as the annual Agreement total dollar amount neither increases nor decreases.
- B. The Recipient shall obtain approval from the CDFA Agreement Manager when a line item shift amount is over ten percent (10%).

5. Allowable Expenses/Fiscal Documentation

- A. The Recipient will comply with all applicable State regulations.
- B. The Recipient will maintain adequate documentation for expenditures subject to this Agreement to permit the determination of the allowability of expenditures reimbursed by the State under this Agreement. If CDFA cannot determine expenditures are allowable under the terms of this Agreement because records are nonexistent or inadequate according to generally accepted accounting principles, the CDFA may disallow the expenditure.
- C. If domestic travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. The maximum rates allowable are those established in Title 2, California Code of Regulations, Sections 599.619 and 599.630.
- D. If international travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. The maximum rates allowable are those established in a per diem supplement to Section 925, Department of State Standardized Regulations. All international travel must comply with the "Fly America Act" U.S.C. Title 49 § 40118, government-financed air transportation.
- E. The Recipient will maintain and have available, upon request by CDFA, all financial records and documentation pertaining to this Agreement. These records and documentation will be kept for three (3) years after completion of the Agreement period or until final resolution of any performance/compliance review concerns or litigation claims.

6. Budget

For a detailed budget for all work to be performed under the Scope of Work, see attached Budget.

The amount payable under this agreement shall not exceed **\$500.00**.

In addition, Recipient shall be paid \$75.00 not covered under this agreement for each new license secured and verified by inspection by the Recipient, and \$75.00 for each renewed forfeited (delinquent) license secured by the Recipient. Recipient will be paid hourly staff rate, not to exceed \$35.00 per hour, for nursery investigative work, provided such investigative work is approved in advance by the CDFA Nursery Program.

Payment shall be made at the end of the agreement period upon submission and approval of an itemized invoice and report 7 Supplement Forms (see attached sample invoice). Recipient shall submit an itemized invoice in arrears, referencing the Cooperative Agreement Number and sent to:

California Department of Food and Agriculture
Pest Exclusion Branch
Nursery, Seed, and Cotton Program
Attention: Sean Dayyani
1220 N Street, Room 344
Sacramento, California 95814

This agreement shall not be considered effective unless signed by both parties and approved by the Department of General Services, if required.

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. **Approval**

This Agreement is of no force or effect until signed by both parties. The Recipient may not commence performance until such approval has been obtained.

2. **Assignment**

This Agreement is not assignable by the Recipient, either in whole or in part, without the consent of the CDFA, in the form of a form of writing.

3. **Indemnification**

Recipient 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 Recipient in the performance of this Agreement.

4. **Disputes**

Recipient will continue with the responsibilities under this Agreement during any dispute. In the event of a dispute, the Recipient will file a "Notice of Dispute" with the CDFA within ten (10) days of discovery of the problem. The Notice of Dispute will contain the Agreement number. Within ten (10) days of receipt of the Notice of Dispute, the Agency Secretary, or Designee, will meet with the Recipient, CDFA Program Management, and Federal Funds Management for the purpose of resolving the dispute. The decision of the Agency Secretary or Designee will be final. In the event of a dispute, the language contained within this Agreement will prevail.

5. **Potential Contractors**

If the Recipient contracts for a portion of the work required by this Agreement, nothing contained in this Agreement or otherwise, will create any contractual relation between the State and any contractors, and no contract will relieve the Recipient of their responsibilities and obligations hereunder. The Recipient agrees to be as fully responsible to the State for the acts and omissions of its contractors 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 Recipient. The Recipient's obligation to pay its contractors is an independent obligation from the State's obligation to make payments to the Recipient. As a result, the State will have no obligation to pay or to enforce the payment of any moneys to any contractor.

6. **Independent Recipient/Contractor**

Recipient, and the agents and employees of Recipient, in the performance of this Agreement, will act in an independent capacity and not as officers or employees or agents of the State.

7. **Recycling Certification**

The Recipient will 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 will specify that the cartridges so comply (Pub. Contract Code §12205).

8. **Non-Discrimination Clause**

During the performance of this Agreement, Recipient and its contractors will not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability, mental disability, medical condition, age, marital status, and denial of family care leave.

Recipients and contractors will insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Recipient and contractors will comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (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. Recipient and its contractors will give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining unit or other Agreement.

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

9. Governing Law

This Agreement is governed by and will be interpreted in accordance with all applicable State laws.

10. 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 will not be affected thereby.

11. 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.

12. Right to Terminate

CDFA reserves the right to terminate this Agreement subject to thirty (30) days written notice to the Recipient. The Recipient may submit a written request to terminate this Agreement only if CDFA substantially fails to perform its responsibilities as provided herein. However, the Agreement can be immediately terminated for cause.

13. Termination for Cause

The State may terminate this Agreement and be relieved of any payments should the Recipient 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 necessary by the State. All costs to the State will be deducted from any sum due the Recipient under this Agreement and the balance, if any, will be paid to the Recipient upon completion of the work.

14. Reporting Requirements

Recipient agrees to complete all reporting requirements listed in Exhibit A, Scope of Work.

15. Publicity and Acknowledgement

The Recipient agrees that it will acknowledge CDFA's support whenever projects funded, in whole or in part, by this Agreement are publicized in any news media, brochures, or other type of promotional material.

16. Amendments

Changes to Exhibit A, Scope of Work, Exhibit B, Budget or the Agreement term, must be requested in writing to the CDFA Agreement Manager via letter, fax or email no later than thirty (30) days prior to the requested implementation date. CDFA Agreement Manager will respond in writing via letter, fax or email as to whether the proposed changes are accepted. Any changes to the Scope of Work, Budget, or Agreement term must be approved in writing by CDFA prior to implementation. If approved by CDFA, the agreed upon changes will be made and become part of this Agreement.

