

AGREEMENT NUMBER 06-0078
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 Mateo
2. The term of this Agreement is: July 1, 2006 Through June 30, 2007
3. The maximum amount of this Agreement is: \$59,552.40
Fifty-nine Thousand Five Hundred Fifty-two Dollars and Forty 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)
1 Page(s) |
| Exhibit B – Budget Detail and Payment Provision Attachment 1 | 1 Page(s)
1 Page(s) |
| Exhibit C – General Terms and Conditions - GTC 306 | 3 Pages |
- Check mark one item below as Exhibit D:
- Exhibit D-Special Terms and Conditions (Attached hereto as part of this Agreement) 1 Page(s)
- Exhibit D*-Special Terms and Conditions
5. Name of Program: Standardization Enforcement

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

CONTRACTOR		<i>California Department of General Services Use Only</i>
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) County of San Mateo		
BY (Authorized Signature) —	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS 728 Heller Street, P. O. Box 999, Redwood City, CA 94064-0999		
STATE OF CALIFORNIA		
AGENCY NAME DEPARTMENT OF FOOD AND AGRICULTURE		
BY (Authorized Signature) —	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING JANICE L. PRICE, ACQUISITIONS MANAGER		
ADDRESS 1220 N STREET, ROOM 115, SACRAMENTO, CA 95814		
		<input type="checkbox"/> Exempt per:

**EXHIBIT A
(County Agreement)**

SCOPE OF WORK

1. Contractor agrees to provide the services described herein:

County will provide enforcement of the Food and Agricultural Code, Division 17, Chapter 2, the California Code of Regulations, Title 3, Subchapter 4; and any other additional State policies and/or procedures pertaining to fruits and vegetables.

2. The contract managers for this Agreement are:

FOR CDFA:		FOR CONTRACTOR:	
Name:	Susan Shelton	Name:	Gail M. Raabe
Section/Unit:	Inspection Services/I&C	Section/Unit:	County of San Mateo
Address:	1220 N Street	Address:	728 Heller Street P. O. Box 999
City/Zip:	Sacramento, CA 95814	City/Zip:	Redwood City, CA 94064-0999
Phone:	(916) 445-2180, ext. 3470	Phone:	(650) 363-4700

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

SCOPE OF WORK

The County of San Mateo agrees to provide fruit and vegetable inspection services for the Standardization Program. These services are in addition to the normal inspection activities currently being performed by the County. The services to be invoiced due to this contract will commence no earlier than July 1, 2006.

The inspections shall be performed as provided in the Food and Agricultural Code, Division 17, Chapter 2; the California Code of Regulations, Title 3, Subchapter 4; and any State policies and procedures.

The County shall perform inspection services at a cost not to exceed \$59,552.40 for services rendered, as described below. Inspection hours and workdays should vary if appropriate and practical. The County shall follow established standardization practices and procedures and provide necessary inspection supplies and equipment, except forms and supplies routinely supplied by the State.

"Services rendered by the County" means hours of enforcement work, mileage, and travel time for follow-up on noncompliances. "Services rendered by the County" does not include normal travel time or mileage to and from home.

The County shall invoice the State for services rendered by the County within 30 days after the end of the month. The invoice shall identify the commodities inspected, with the exception of wholesale inspection, and include at least the following:

- Number of Lots Inspected per Commodity
- Number of Containers Inspected per Commodity
- Number of Noncompliances Issued per Commodity
- Number of Containers Rejected per Commodity
- Reason for the Rejection
- Number of Disposal Orders Issued per Commodity
- Name and Number of Inspectors or Title
- Total Number of Hours Worked per Commodity
- Total Cost to Include Personnel, Mileage and Overhead

The State may provide evaluation of the inspections, which may include, but is not limited to, the review of inspector work hours; noncompliances compared with statewide noncompliances; evaluation of disposal orders; noncompliances and other reports for accuracy; on-site observations; evaluation of inspection procedures; and evaluation of time records and other duties as necessary.

**EXHIBIT B
(County Agreement)**

BUDGET DETAIL AND PAYMENT PROVISIONS

1. **Invoicing and Payment**

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

2. **Budget Contingency Clause**

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

**Exhibit B
Fiscal Display**

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All inspection work performed by permanent staff is at the classification level of at least a Biologist. All inspection work performed by seasonal staff is at the classification level of at least a Seasonal Agricultural Inspector. All Supervision is performed at the level of a Deputy Agricultural Commissioner. All hourly rates to include benefits.

Golden Gate Produce Terminal
Wholesale Market Inspection

<u>1</u> Biologist(s)	Hours		Rate	Total
Regular	<u>1040</u>	@	<u>\$ 45.81</u>	<u>\$ 47,642.40</u>
Overtime	_____	@	\$ _____	\$ _____
_____ Seasonal(s)	Hours		Rate	Total
Regular	_____	@	\$ _____	\$ _____
Overtime	_____	@	\$ _____	\$ _____
Supervision (if applicable):	Hours		Rate	Total
	_____	@	\$ _____	\$ _____
			Total Personal Services	<u>\$ 47,642.40</u>

Transportation:

Rental Rate:

Total Rate _____ @ _____ = \$ _____
Per Month

Mileage:

Total Miles _____ @ _____ = \$ _____
(Not to Exceed .34)

Other (if applicable including description):

\$ _____

Equipment & Supplies (if applicable including description):

\$ _____

Overhead (if applicable):

Total

\$ 11,910

Grand Total \$ 59,552.40

OK LJ 4/21/06

Fluctuations within the budget may occur to meet unforeseen operational needs. However, should this occur, the total contract dollar amount will not change. Should this occur invoices would identify where movement occurred with the "to" and "from" areas. Should you need to increase the total amount of the contract an amended contract will be submitted.

EXHIBIT C
(County Agreement)

GENERAL TERMS AND CONDITIONS - GTC 306

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 recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (Pub. Contract Code §§ 10233, 10308.5, 10354)
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 (Government Code Section 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 1005 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.