



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-2

For the meeting of: May 26, 2015

Date: May 14, 2015

To: Board of Supervisors

From: Jeff M. Dolf, Agricultural Commissioner/Sealer of Weights & Measures

Subject: **APPROVAL OF COOPERATIVE AGREEMENT NO. 15-0038-SA CALIFORNIA ORGANIC PROGRAM CONTRACT WITH THE CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE IN THE AMOUNT OF \$8,180.00**

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve Cooperative Agreement No. 15-0038-SA, known as the California Organic Program Contract between Humboldt County and the California Department of Food and Agriculture, and
2. Authorize the Chair to sign the original agreement and one copy of the cover page, and return all copies to the Agricultural Commissioner's Office for further processing, and
3. Grant a waiver from the provisions of the Nuclear Free Ordinance.

SOURCE OF FUNDING:

California Department of Food and Agriculture (CDFA)

Prepared by [Signature]

CAO Approval [Signature]

REVIEW: Auditor MBM County Counsel _____ Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:

Consent

Departmental

Public Hearing

Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Sundberg Seconded by Supervisor Bass

Ayes Sundberg, Lovelace, Fennell, Bohn, Bass

Nays _____

Abstain _____

Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: May 26, 2015 [Signature]

DISCUSSION:

The waiver from the provisions of the Nuclear Free Ordinance is requested because the State of California will not modify its Cooperative Agreements to accommodate local ordinances. The Agricultural Commissioner's Office receives annual subventions from CDFA to help offset the local cost of enforcing certain State-mandated programs. Pursuant to the California Food and Agriculture Code, Cooperative Agreement No. 15-0038-SA provides funds to Humboldt County for the enforcement of requirements associated with the California Organic Foods Act. The County will receive payments as appropriate for activities related to organic producer registration/renewals, amendments, spot inspections, soil and tissue sampling and complaint investigations. Per terms of the agreement, Humboldt County staff will conduct fifteen spot inspections and five Farmer's Market inspections to include certified and non-certified markets to verify compliance by program participants with organic program requirements.

Currently in Humboldt County there are more than 130 producers registered with the California Organic Program, and the County has more than 127,000 acres of agricultural lands approved for the production of organic commodities including fruits and vegetables, dairy products, livestock on rangeland and forage crops.

Approval of this agreement is consistent with your Board's Strategic Priority Framework and stated core roles of enforcing laws and regulations to protect residents and in creating and encouraging new enterprises to meet the demand for locally produced organic agricultural commodities.

FINANCIAL IMPACT:

Approval of Cooperative Agreement No. 15-0038-SA provides \$8,180.00 for the period from July 1, 2015 to June 30, 2016. Payment is made in arrears in two block payments for work completed from July 1, to December 31, 2015 and from January 1 to June 30, 2016. Payments are based on invoices submitted to CDFA, with Humboldt County receiving \$60.00 for each new or amended organic registration, \$210.00 for each spot inspection, and \$70.00 for each initial visit and first organic inspection. For approved complaint investigations the County will be reimbursed by CDFA for the actual costs of conducting the investigation. No supplemental budget is necessary as revenue and expenditure accounts in the Department's FY 2015-16 budget were funded in anticipation of this agreement.

OTHER AGENCY INVOLVEMENT:

CDFA, Auditor-Controller

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board discretion

ATTACHMENTS:

One complete Cooperative Agreement No, 15-0038-SA and one copy of the cover page.

**COOPERATIVE AGREEMENT
SIGNATURE PAGE**

| |
|-------------------|
| AGREEMENT NUMBER |
| 15-0038-SA |

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

STATE AGENCY'S NAME
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

RECIPIENT'S NAME
COUNTY OF HUMBOLDT

2. The term of this Agreement is: July 1, 2015 through June 30, 2016

3. The maximum amount of this Agreement is: **\$8,180.00**
Eight Thousand One Hundred Eighty 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: 3 Page(s)
 - Recipient and Project Information
 - Scope of Work
- Exhibit B: 2 Page(s)
 - Payment Provisions and Budget
 - Budget
- Exhibit C: General Terms and Conditions 2 Page(s)

Name of Project: California Organic Inspections

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

RECIPIENT

RECIPIENT'S NAME (Organization's Name)
COUNTY OF HUMBOLDT

BY (Authorized Signature)  DATE SIGNED (Do not type)
5-26-2015

PRINTED NAME AND TITLE OF PERSON SIGNING
Estelle Fennell, Chair, Board of Supervisors

ADDRESS
5630 S. Broadway, Eureka, CA 95503-6905

STATE OF CALIFORNIA

AGENCY NAME
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

BY (Authorized Signature)  DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING
CRYSTAL MYERS, MANAGER, FEDERAL FUNDS MANAGEMENT OFFICE

ADDRESS
1220 N STREET, ROOM 120
SACRAMENTO, CA 95814

EXHIBIT A

RECIPIENT AND PROJECT INFORMATION

1. CDFA hereby awards an Agreement to the Recipient for the project described herein:
The County will perform inspections according to the California Organic Foods Act.
2. The Managers for this Agreement are:

| FOR CDFA: | | FOR RECIPIENT: | |
|------------------|------------------------------------|-----------------------|-------------------------|
| Name: | Kiley Potter | Name: | Jeff Dolf |
| Section/Unit: | Inspection Svcs Div / Insp & Compl | Section/Unit: | COUNTY OF HUMBOLDT |
| Address: | 1220 N Street | Address: | 5630 S. Broadway |
| City/State/Zip: | Sacramento, CA 95814 | City/State/Zip: | Eureka, CA 95503-6905 |
| Phone: | 916-900-5198 | Phone: | 707-445-7223 |
| Email Address: | kiley.potter@cdfa.ca.gov | Email Address: | jdolf@co.humboldt.ca.us |

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

**Organic Program Cooperative Agreement
2015/2016 Scope of Work**

REGISTRATION FEES

For each "new" and "amended" organic registration the County will receive \$60.00.

SPOT INSPECTION PROGRAM

The County will be paid \$210.00 for each spot inspection completed for producers, restaurants, handlers, processors, and retail stores. Farmers' Market inspections will be paid at the rate of \$70.00 for the initial visit and first organic participant inspected, and an additional \$10.00 will be paid for each additional organic participant inspected at that market. Farmers' Market inspections include certified and non-certified Farmers' Markets, and "swap meets."

SUPPLEMENTAL SPOT INSPECTION PROGRAM

When the need arises, supplemental inspections will be approved by California Department of Food and Agriculture (CDFA) staff at the above spot inspection rates.

SURVEILLANCE RESIDUE (RANDOM) SAMPLING PROGRAM

Surveillance Residue samples, are randomly collected residue samples that are **not part of an investigation**. The County should collect these residue samples as part of its organic surveillance program/plan, to help ensure products do not contain unallowable substances. The County will be paid flat rate of \$120.00 for each Surveillance Residue sample collected.

Additional Surveillance Residue sample collections may be approved by CDFA staff as needed. The County must contact CDFA and receive authorization prior to collecting any additional samples. The County will not be reimbursed for any unauthorized samples collected. **Exception:** In the event that collecting a residue sample is critical, and CDFA staff is not available for approval (weekends/holidays and outside normal business hours), the county may collect the sample without prior approval. Additionally, CDFA staff may also request the County to collect additional samples. Any additional Surveillance Residue sample collections will be paid at the \$120.00 flat rate.

Please refer to the Fiscal Display for additional inspection, sampling, and reimbursement details.

COMPLAINT INVESTIGATIONS

The County will be reimbursed for each approved complaint investigation and residue sample(s), collected as part of an investigation. Complaint investigations and residue samples collected as part of an investigation will be reimbursed at actual cost. Time spent preparing documents may be included as part of the investigation costs.

In order to receive payment/reimbursement for complaint investigations and associated residue samples, County complaint investigations expenses must be itemized on each invoice and include hours, rate, and miles. Additionally, any expenses for residue samples collected as part of an investigation must include the name of the operation where the sample was collected and the number of samples.

The County should monitor its expenditures and contact CDFA immediately if it is at risk of exceeding its contract amount.

DISBURSEMENT OF FUNDS

Pursuant to Chapter 10 of Division 17 (commencing with section 46000) of the California Food and Agricultural Code, CDFA will disburse funds to the County for costs incurred in the enforcement of the California Organic Foods Act.

The County will receive payments as appropriate for the following functions:

- Registrations and amendments
- Spot inspections
- Soil and tissue residue sampling
- Complaint investigations

Disbursements will be made in two block payments: 1) For work completed from July 1 to December 31, 2015; and 2) for work completed from January 1 to June 30, 2016.

NOTE: CDFA cannot pay/reimburse the County for organic function activities without a signed (executed) Cooperative Agreement. The County should sign and return the Cooperative Agreement within 60 days of receipt of the Agreement, in order to ensure payments for Organic Program function activities.

Administrative civil penalties imposed by the County for violations of the California Organic Guidelines Foods Act shall conform to the report on Organic Food Act Administrative Civil Penalty Guidelines and remain in the County imposing the penalty.

Procedures are outlined in the Organic Program Quality Systems Manual (QSM). For additional questions, please contact the CDFA Organic Program.

EXHIBIT B

PAYMENT PROVISIONS AND BUDGET

1. Invoicing and Payment

- A. For activities performed according to the attached Scope of Work, Budget and the terms of this Agreement, and upon receipt and approval of the invoices, the CDFA 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.
- B. Invoices must include the Agreement Number, performance period, type of activities performed in accordance with this Agreement, 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.
- C. Unless stated in Exhibit A, Scope of Work, monthly invoices must be submitted to the CDFA Agreement Manager, within thirty (30) calendar days after the end of each month in which activities under this Agreement were performed
- D. A final invoice will be submitted for payment no more than thirty (30) calendar days following the expiration date of this Agreement, or after project is complete, whichever comes first, or unless an alternate deadline is agreed to by the CDFA Agreement Manager. The final invoice must be clearly marked "Final Invoice" thus indicating that all payment obligations of the CDFA 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 for purposes of this program, the CDFA will have the option to either terminate this Agreement with no liability occurring to the CDFA, 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

The Recipient must obtain written approval from the CDFA Agreement Manager for any line-item shifts.

5. Allowable Expenses and Fiscal Documentation

- A. The Recipient must maintain adequate documentation for expenditures subject to this Agreement to permit the determination of the allowability of expenditures reimbursed by the CDFA 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.
- B. If domestic travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. The maximum rates allowable for travel within California are those established by the California Department of Human resources (CalHR). The maximum rates allowable for domestic travel outside of California are those established by the United States General Services Administration (GSA).
- C. 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" USC Title 49 § 40118.
- D. The Recipient must maintain and have available, upon request by the CDFA, all financial records and documentation pertaining to this Agreement. These records and documentation must 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 of all the activities to be performed under the Scope of Work, see attached Budget.

-Humboldt Fiscal Display – FY 2015/2016

At the discretion of the county, these inspections can be any combination of producer, farmer's market, restaurant, handler, or retail Spot Inspections. Uncertified operations shall be inspected prior to any certified operations.

Spot (Random) Inspection Assignments

| Amount | | Rate | Total |
|-----------|---|------------------|--------------------|
| <u>10</u> | @ | \$ <u>210.00</u> | \$ <u>2,100.00</u> |

| Amount | | 1 st Organic Participant | | Estimated Additional Organic Participants | Total | |
|-----------------------|----------|-------------------------------------|--------------|---|---------------------|------------------|
| Farmers Market | <u>4</u> | @ | <u>70.00</u> | + | <u>12 @ \$10.00</u> | \$ <u>400.00</u> |

New Registrations & Amendments

| Amount | | Rate | Total |
|-----------|---|-----------------|--------------------|
| <u>20</u> | @ | \$ <u>60.00</u> | \$ <u>1,200.00</u> |

Surveillance Residue (Random) Sampling Costs
(Not part of an investigation)

| Amount | | Rate | Total |
|----------|---|------------------|------------------|
| <u>4</u> | @ | \$ <u>120.00</u> | \$ <u>480.00</u> |

Estimated Residue Sample & Investigation Costs
(Includes costs for residue samples taken as part of an investigation)

| | |
|-------|--------------------|
| Total | \$ <u>4,000.00</u> |
|-------|--------------------|

Total For 2015/2016 \$ 8,180.00

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 invoice for activities performed prior to the commencement date or completed after the termination date of this Agreement.

2. Assignment

This Agreement is not assignable by the Recipient, either in whole or in part, without the consent of the Agreement Manager, in the form of a formal written amendment.

3. Mutual Liability

Each party hereto agrees to be responsible and assume liability for its own wrongful or negligent acts of omissions, or those of its officers, agents or employees to the full extent required by law.

4. Disputes

The Recipient must continue with the responsibilities under this Agreement during any dispute with the CDFA. In the event of a dispute, the Recipient must file a "Notice of Dispute" with the CDFA Agreement Manager within ten (10) calendar days of discovery of the problem. The Notice of Dispute must contain the Agreement number. Within ten (10) calendar days of receipt of the Notice of Dispute, the Agreement Manager must meet with the Recipient for the purpose of resolving the dispute. In the event of a dispute, the language contained within this Agreement prevails.

5. Contractors/Consultants

The Recipient must obtain prior approval from the CDFA Agreement Manager before hiring contractors, consultants or both. Recipient must follow their organization's written procurement policy and in the absence of a written policy or when the policy does not require competition the organization must conduct a competitive procurement process. The procedures must reflect applicable State and local laws and regulations and all contractors must have the proper licenses/certificates required in their respective disciplines.

A contract under this Agreement must be a written Agreement between the Recipient and the Contractor/Consultant, and must state the activities to be performed, the time schedule, the policies and requirements that apply to the Contractor/Consultant, the amount of the contract, and the requirements and restrictions to be used in determining allowable costs. The contract must not affect the Recipient's overall responsibilities for the management of the project, and the Recipient must reserve sufficient rights and control to enable it to fulfill its responsibilities under this Agreement. If the Recipient contracts for a portion of the work required by this Agreement, nothing contained in this Agreement or otherwise shall create any contractual relation between the CDFA and any Contractor/Consultant, and no contract shall relieve the Recipient of its responsibilities and obligations hereunder. The Recipient's obligation to pay its Contractors/Consultants is an independent obligation from the CDFA's obligation to make payments to the Recipient. The CDFA shall have no obligation to pay or to enforce the payment of any monies to any Contractor/Consultant.

The Recipient agrees to be as fully responsible to the CDFA 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, and the agents and employees of the Recipient, in the performance of this Agreement, will act in an independent capacity and not as officers or employees or agents of the State.

6. Non-Discrimination Clause

The Non-Discrimination Clause applies to the extent that the requirements therein are applicable to the Federal Government. 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 family care leave.

The Recipients and contractors will ensure 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 (Government Code Section 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. The Recipient must include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

7. Governing Law

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

8. 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.

9. 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 CDFA 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.

10. Right to Terminate

This Agreement may be terminated by either party hereto upon written notice delivered to the other party at least thirty (30) calendar days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred prior to the date of termination. In the event of Termination for Convenience of this Agreement by CDFA, CDFA must pay all responsible costs and non-cancellable obligations incurred by the Recipient as of the date of termination.

11. Termination for Cause

The CDFA may terminate this Agreement should the Recipient fail to perform the requirements of this Agreement at the time and in the manner herein provided. However the Recipient will have fifteen (15) calendar days after receipt of the termination notice to cure the breach. If the breach is not cured within fifteen (15) calendar days of receipt of notice, the CDFA shall reimburse the Recipient for all project specific costs incurred through the date of termination, including all uncancellable obligations, subject to the requirements of 2 CFR 200.471, applicable to sponsored agreements.

12. Reporting Requirements

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

13. 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, publications, audiovisuals, presentations or other types of promotional material. Recipients may not use the United States Department of Agriculture logo or the CDFA logo.

14. Property Damage Claims Process

Should the property owner claim damages arising under, related to or involving this Agreement, the Recipient shall forward the property owner's written request for compensation to the CDFA Agreement Manager. The written request shall be fully supported by factual information. The Agency Secretary or designee will have thirty (30) calendar days after receipt of the written request to render a written decision. If a written decision is not rendered within thirty (30) calendar days after receipt of the request or the property owner disputes the CDFA's decision, the property owner may file a claim with the Victims Compensation Government Claims Board.

15. Force Majeure

The Recipient shall not be liable for any failure to perform as required by this Agreement, to the extent such failure to perform is caused by any of the following: labor disturbances or disputes of any kind, accidents, failures of any required governmental approval, civil disorders, acts of aggression, acts of God, energy or other conservation measures, failure of utilities, mechanical breakdowns, materials shortages, disease, or similar occurrences.

16. Amendments

Changes to Exhibit A, Scope of Work, Exhibit B, Budget, or the end date, must be requested in writing to the CDFA Agreement Manager via letter, fax or email no later than sixty (60) calendar days prior to the requested implementation date. Any changes to the Scope of Work, Budget, and end date are subject to Agreement Manager approval, and, at its discretion, the Agreement Manager may choose to accept or deny these changes. A formal amendment to the Agreement is required for these changes. No amendments are possible if the Agreement is expired.