



AGENDA ITEM NO.
C-1

COUNTY OF HUMBOLDT

For the meeting of: May 31, 2016

Date: May 11, 2016

To: Board of Supervisors

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

Subject: **APPROVAL OF COOPERATIVE AGREEMENT NO. 16-0282-SA, NURSERY INSPECTION PROGRAM CONTRACT IN THE AMOUNT OF \$1,398.00**

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve Standard Agreement No. 16-0282-SA, known as the Nursery Inspection and Enforcement Program contract with the California Department of Food and Agriculture in the amount of \$1,398.00, and
2. Authorize the Chair to sign the original agreement, one copy of the cover page, and direct the Clerk of the Board to return all signed 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 Jason Fox CAO Approval Cheryl Dillingham

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

TYPE OF ITEM:

Consent

Departmental

Public Hearing

Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Fennell Seconded by Supervisor Bass

Ayes Sundberg, Fennell, Lovelace, Bohn, Bass

Nays _____

Abstain _____

Absent _____

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

Dated: 5/31/2016

By: Bass

Kathy Hayes, Clerk of the Board

DISCUSSION:

The waiver from the provisions of the Nuclear Free Ordinance is requested since 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 offset the local cost of enforcing certain State-mandated programs. Cooperative Agreement No. 16-0282-SA provides funding for Humboldt County's Nursery Inspection and Enforcement Program. The Agriculture Department enforces laws and regulations pertaining to the production and sales of nursery stock, including but not limited to licensing requirements and nursery stock cleanliness standards. The County nursery inspection program is conducted in accordance with the State-County Nursery Inspection Program Memorandum of Understanding between CDFA and the California Agricultural Commissioner's and Sealer's Association. The amount reimbursable under this agreement shall not exceed \$1,398.00 based on 92.04 reimbursable acres as reported by Humboldt County. County inspections are reimbursed on a per acre basis for inspection and enforcement activities at a rate of \$15.19 per acre.

In Humboldt County there are 84 licensed wholesale and retail nurseries. Humboldt County nurseries produce a wide range of plant products the most important being cut flowers and reforestation conifers. Approval of this agreement is consistent with your Board's Strategic Priority Framework and core role of enforcing laws and regulations to protect residents.

FINANCIAL IMPACT:

Cooperative Agreement No. 16-0282-SA provides \$1,398.00 for the Humboldt County Nursery Inspection and Enforcement Program in fiscal year 2016-17. Payment is made in arrears to Humboldt County on the basis of monthly invoices and upon meeting specific contractual requirements. The department's revenue and expenditure accounts were previously funded in anticipation of this agreement therefore no supplemental budget accompanies this request.

OTHER AGENCY INVOLVEMENT:

CDFA, Auditor-Controller

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board discretion

ATTACHMENTS:

One complete Cooperative Agreement No. 16-0282-SA, and one copy of the cover page.

**COOPERATIVE AGREEMENT
SIGNATURE PAGE**

AGREEMENT NUMBER
16-0282-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, 2016 through June 30, 2017

3. The maximum amount of this Agreement is: \$1,398.00
One Thousand Three Hundred Ninety Eight Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits and attachments which are by this reference made a part of the Agreement:

Exhibit A: Recipient and Project Information	1 Page
Exhibit B: General Terms and Conditions	2 Page
Exhibit C: Payment and Budget Provisions	1 Page(s)
Attachments: Scope of Work and Budget	7 Page(s)

Name of Project: Nursery Inspection Program

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)

5-31-16

PRINTED NAME AND TITLE OF PERSON SIGNING

Mark Lovelace, Chair, Board of Supervisors

ADDRESS

5630 S. Broadway, Eureka, CA 95503

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, BRANCH CHIEF, OFFICE OF GRANTS ADMINISTRATION

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:
County shall inspect all nursery stock at all producer/wholesale nursery locations within the County and enforce all laws and regulations pertaining to nursery stock.
2. The Managers for this Agreement are:

FOR CDFA:	FOR RECIPIENT:
Name: Erin Lovig	Name: Jeff Dolf
Section/Unit: PHPPS/PEST EXCLUSION	Section/Unit: COUNTY OF HUMBOLDT
Address: 1220 N Street, Room 344	Address: 5630 S. Broadway
City/State/Zip: Sacramento, CA 95814	City/State/Zip: Eureka, CA 95503
Phone: 916-654-04335	Phone: 707-445-7223
Email Address: erin.lovig@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 and Budget.

EXHIBIT B

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 mutual and proportional 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, and the agents and employees of Recipient, in the performance of this Agreement, are not officers, employees, or agents of the CDFA. The Recipient's obligation to pay its contractors is an independent obligation from the CDFA's obligation to make payments to the Recipient. Recipient agrees to comply with all applicable State and local laws and regulations during the term of this Agreement. All contractors/consultants shall have the proper licenses/certificates required in their respective disciplines. The contract shall not affect the Recipient's overall responsibility for the management of the project, and the Recipient shall reserve sufficient rights and control to enable it to fulfill its responsibilities under this Agreement.

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 parties may terminate this Agreement should either party fail to perform the requirements of this Agreement at the time and in the manner herein provided. However each party 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 applicable to sponsored agreements.

12. Reporting Requirements

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

17. Suspension of Payments

Payment under this Agreement may be suspended or terminated, or both, and Recipient may be subject to debarment if the CDFA determines that Recipient has breached the terms of this Agreement. Upon discovery of any violations of the Agreement terms and conditions, Recipient will be advised in writing of the terms breached and the reasons for imposing suspension of payments. A determination of breach may be appealed in writing and addressed to the CDFA, Legal Hearing and Appeals Office at:

California Department of Food and Agriculture
Attn: Legal, Hearing and Appeals Office
1220 N Street, Suite 400
Sacramento, CA 95814

EXHIBIT C

PAYMENT AND BUDGET PROVISIONS

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 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 the 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. 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.
- 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.

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 nursery establishments.

REPORT NUMBER 7



NURSERY INSPECTION REPORT

SUBMIT QUARTERLY

COUNTY:	MONTH/YEAR:
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A. NURSERY INSPECTIONS				
TYPE	NUMBER OF LOCATIONS INSPECTED	TOTAL ACRES INSPECTED	NUMBER OF NON-COMPLIANCES	HOURS
PRODUCTION / WHOLESALE *				
REINSPECTION FOR NONCOMPLIANCE				
- RETAIL				
- WHOLESALE				
NEMATODE CERTIFICATION				
OTHER - Special Survey				
TOTAL HOURS SECTION A				

B. LICENSING ACTIVITIES				
TYPE	NEW LICENSES	RENEWALS	NUMBER ISSUED	HOURS
NUMBER OF NURSERIES LICENSED *				
FEE EXEMPT LICENSES				
OTHER Issued temporary license to retailer				
TOTAL HOURS SECTION B				

C. ENFORCEMENT ACTIONS (Office, Administrative, Court Hearings)			
ACTIVITY	TYPE	NUMBER	HOURS
TOTAL HOURS SECTION C			

D. PROGRAM SUPPORT ACTIVITIES (Planning, Training, Administration, etc.)	
ACTIVITY	HOURS
TOTAL HOURS SECTION D	

E. COMMENTS

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* SEE SUPPLEMENTAL SHEET(S) FOR DETAILED LISTING OF ACTIVITIES.

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:	AGREEMENT NUMBER:	MONTH/YEAR:
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PRODUCTION / WHOLESALE INSPECTIONS						
NAME OF NURSERY	LICENSE NUMBER	DATE(S) INSPECTED	NO. OF ACRES			CDFA USE ONLY
			TYPE 1*	TYPE 2*	TYPE 4*	

NUMBER OF LOCATIONS INSPECTED:		TOTAL ACRES:			
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NURSERY LICENSE ACTIVITY			
NAME OF NURSERY LICENSED (Use firm name)	NEW (LICENSE NUMBER)	RENEWAL (LICENSE NUMBER)	CDFA USE ONLY

SIGNATURE:	TITLE:	DATE:
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* 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 & 4 = 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:	AGREEMENT NUMBER:	MONTH/YEAR:
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PRODUCTION / WHOLESALE INSPECTIONS (continued)

NAME OF NURSERY	LICENSE NUMBER	DATE(S) INSPECTED	NO. OF ACRES			CDFA USE ONLY
			TYPE 1*	TYPE 2*	TYPE 4*	

NUMBER OF LOCATIONS INSPECTED:		TOTAL ACRES:	0.00	0.00	0.00
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* **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 & 4** = 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.

INSTRUCTIONS FOR REPORT NUMBER 7 (Form 64-057)

Nursery Inspection Report - Submit Monthly

Include time spent on activities related to enforcement of State Nursery Laws and Regulations. *Do not report time spent on inspections of nursery stock shipments in transit or at destination, or inspections conducted to certify for export. These are quarantine activities.*

Section A. Nursery Inspections

Report in this section the number of regulatory inspections and the total time spent for such inspections. Regulatory inspections include inspecting nurseries for pest cleanliness, labeling, and grades and standards. Several partial inspections may be required to complete a required inspection at a given location. Such inspections should be counted as one inspection at a given location. Time spent by county personnel in nurseries for collecting, preparing and submitting pest specimens and/or plant samples for identification by the CDFA Diagnostics Lab (Activity code 70 in Form 65-020, Pest and Damage Record), and for providing information on pest control operations for pest cleanliness may be included for determining the hours for a given location. Details of the nursery, such as name of nursery, license number, acreage used for production, storage and sale of nursery stock, type of nursery stock, etc., must be entered on the supplemental sheet for report number 7.

The time spent on follow-up inspections of nurseries to determine compliance with pest cleanliness requirements, complaints, spot checks, reconditioning nursery stock, and release or disposition of lots placed on hold for noncompliance, etc., must be indicated under 'reinspection for noncompliance.'

Nursery inspection for nematode certification at a given location, such as for supervision of soil fumigation, sampling for nematodes, etc., must be reported on a different form (Form 64-054, NURSERY STOCK NEMATODE CERTIFICATION). However, the total time spent on nursery inspections for nematode certification during the month must be included in the last column of Report 7 and in the total hours for section A.

Section B. Licensing Activities

Report in this section the time spent by county personnel in nurseries for initial inspection of new applicants for a License to Sell Nursery Stock, or for verifying a License to Sell Nursery Stock. Indicate the number of nurseries licensed under the column 'new' or 'renewals' as appropriate, and the time spent on such activity in the last column (hours). Name(s) of nursery must be entered on the supplemental sheet for report number 7

Section C. Enforcement Actions

Report in this section the time spent by county personnel on enforcement actions, such as administrative hearings, court hearings, and disciplinary actions related to nursery laws.

Section D. Program Support Activities

Report in this section the time spent by county personnel on program support activities such as planning, training, administration, etc., that are essential for enforcement of nursery laws and regulations.

Section E. Comments

Use this section to report any additional information regarding regulatory nursery inspections and/or related activities, which is pertinent but not reported in the sections above.

County Letterhead

Date _____

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

County of _____
Cooperative Agreement Number 16- XXXX- SA
Fiscal Year 16/17
Invoice for _____ Quarter
Invoice Number _____

Sample Invoice

Invoice must be accompanied by
Report 7 Supplement Page

Invoice Detail	Amount	Reimbursement Rate	Totals
Type 1 Acres =	100 X	15.19 =	\$1,519.00
Type 2 and 4 Acres =	100 (/4 = 25) X	15.19 =	\$379.75
Nursery License/Renewal	3 X	\$75.00 each license =	\$225.00
Invoice Total			\$2,123.75

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

Signature Block

(Original Signature)
(Title)

The amount payable under this agreement shall not exceed **\$1,398.00** (rounded to the nearest dollar) based on **92.04** reimbursable acres as reported by the Recipient. Recipient shall be paid on a per acre basis for inspection and enforcement activities at a rate of **\$15.19** per reimbursable acre.

Recipient shall be paid a current 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 quarterly in arrears upon submission and approval of an itemized invoice and Report 7 Supplement Forms (see attached sample invoice). Recipient shall submit an itemized invoice referencing the Cooperative Agreement Number and sent to:

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