

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Agricultural Commissioner *David Beersmith*

BOARD AGENDA # \*B-2

Urgent  Routine

AGENDA DATE August 25, 2015

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Authorize the Agricultural Commissioner to Sign the Certified Farmers Market Inspections Agreement with the California Department of Food and Agriculture for Fiscal Year 2015-2016

STAFF RECOMMENDATIONS:

Authorize the Agricultural Commissioner to sign the Certified Farmers Market Inspections Agreement for Fiscal Year 2015-2016.

FISCAL IMPACT:

The total amount of the Cooperative Agreement with the California Department of Food and Agriculture (CDFA) for Certified Farmers Market Inspections is \$7,200. An increase in revenue and appropriations of \$7,200 has been requested as part of the Agricultural Commissioner's Final Budget for Fiscal Year 2015-2016.

BOARD ACTION AS FOLLOWS:

No. 2015-398

On motion of Supervisor Monteith, Seconded by Supervisor O'Brien  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Withrow

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1)  Approved as recommended
- 2)  Denied
- 3)  Approved as amended
- 4)  Other:

MOTION:

ATTEST: *Christine Ferraro*  
CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Authorize the Agricultural Commissioner to Sign the Certified Farmers Market Inspections Agreement with the California Department of Food and Agriculture for Fiscal Year 2015-2016

**DISCUSSION:**

The Stanislaus County Agricultural Commissioner currently conducts inspections of all certified farmers' markets in the county as well as inspecting the production sites of the certified producers who sell agricultural products at these markets. In recent years it has come to light that agricultural products are being sold in certified farmers' markets using deceptive practices, namely producers selling products that they did not grow.

In 2014, Assembly Bill 1871 was introduced with the intent of protecting the integrity of the certified farmers' markets as well as the use of the term "California Grown", making it unlawful for any person or entity to make any false, deceptive, or misleading statements or representations relating to the sale or availability of agricultural products. This bill was to encourage the direct sale by farmers to the public of all types of California agricultural products, while ensuring and maintaining the quality and wholesomeness of the products and ensuring that the sale of these products is done without fraud, deception, or misrepresentation.

It was felt that additional inspections of both the markets and the production sites would help accomplish this goal and therefore the bill allowed the California Secretary of Agriculture to enter into a cooperative agreement with county agricultural commissioners to conduct these inspections. The funding to conduct the additional inspections comes from increased assessments on the markets and producers. Assembly Bill 1871 was signed by Governor Brown on September 26, 2014.

This Cooperative Agreement provides funding for the Stanislaus County Agricultural Commissioner to conduct the additional inspections of market sites and the additional inspections of the production sites of the certified producers.

**POLICY ISSUE:**

Approval of this item supports the Board Priority of promoting A Strong Agricultural Economy/Heritage, by helping to promote the direct marketing of wholesome agricultural products in Stanislaus County.

**STAFFING IMPACT:**

There are no staffing impacts associated with this Cooperative Agreement. Existing Agricultural Commissioner staff will conduct the required inspections.

**CONTACT PERSON:**

Milton O'Haire, Agricultural Commissioner

209-525-4730

California Department of Food and Agriculture  
AGREEMENT  
GAU-03 (Rev.4/15)

**COOPERATIVE AGREEMENT  
SIGNATURE PAGE**

AGREEMENT NUMBER
15-0277-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 STANISLAUS

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

3. The maximum amount of this Agreement is: \$7,200.00  
Seven Thousand Two 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: 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: Certified Farmers Market Inspections

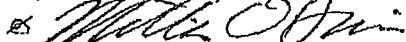
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

**RECIPIENT**

RECIPIENT'S NAME (Organization's Name)

COUNTY OF STANISLAUS

BY (Authorized Signature)



DATE SIGNED (Do not type)

8-26-15

PRINTED NAME AND TITLE OF PERSON SIGNING

Milton O'Haire / Agricultural Commissioner

ADDRESS  
3800 Cornucopia Way, Suite B, Modesto, CA 95358-9494

STATE OF CALIFORNIA

AGENCY NAME

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

BY (Authorized Signature)



DATE SIGNED (Do not type)

8/28/15

PRINTED NAME AND TITLE OF PERSON SIGNING

CRYSTAL MYERS, MANAGER, FEDERAL FUNDS MANAGEMENT OFFICE

ADDRESS

1220 N STREET, ROOM 120  
SACRAMENTO, CA 95814

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**COOPERATIVE AGREEMENT  
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• Scope of Work

Exhibit B: 2 Page(s)  
• Payment Provisions and Budget  
• Budget

Exhibit C: General Terms and Conditions

APPROVED AS TO FORM,  
STANISLAUS COUNTY COUNSEL  
BY

*Deirdre McStrath*  
DATE: 8/17/15 2 Page(s)

Name of Project: Certified Farmers Market Inspections

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

RECIPIENT

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

BY (Authorized Signature)

*[Signature]*

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

3800 Cornucopia Way, Suite B, Modesto, CA 95358-9494

STATE OF CALIFORNIA

AGENCY NAME

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)**

BY (Authorized Signature)

*[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

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**EXHIBIT A**

**RECIPIENT AND PROJECT INFORMATION**

1. CDFA hereby awards an Agreement to the Recipient for the project described herein:  
The County will inspect as outlined in the Food and Agricultural Code, Division 17, Chapter 10.5, the California Code of Regulations, Title 3, Subchapter 4, Article 6.5; and any established Certified Farmers Market and/or State policies and procedures.
2. The Managers for this Agreement are:

<b>FOR CDFA:</b>		<b>FOR RECIPIENT:</b>	
Name:	Kiley Potter	Name:	Milton O'Haire
Section/Unit:	Inspections Svcs / Insp & Compl	Section/Unit:	COUNTY OF STANISLAUS
Address:	2800 Gateway Oaks Dr., Suite 100	Address:	3800 Cornucopia Way, Suite B
City/State/Zip:	Sacramento, CA 95833	City/State/Zip:	Modesto, CA 95358-9494
Phone:	916-900-5198	Phone:	209-525-4730
Email Address:	kiley.potter@cdfa.ca.gov	Email Address:	agcom50@stancounty.com

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

## **SCOPE OF WORK**

The County agrees to provide market and production site inspections for the Certified Farmer's Market (CFM) Program. These services are in addition to the normal inspection activities being performed by the County and those required under statute. The services provided under this agreement should be consistent with normal inspection procedures currently performed by the County. Services to be invoiced under this Cooperative Agreement will commence no earlier than July 1, 2015.

Inspection hours and workdays should vary where appropriate and practical. The County shall provide necessary inspection supplies and equipment, with the exception of forms and supplies routinely provided by the California Department of Food and Agriculture (CDFA). The rate of \$400 per inspection for both production site inspections and market site inspections includes, but is not limited to, the following services rendered by the County: tasks, hours of enforcement work, mileage, and travel time incurred.

The County shall invoice CDFA for work performed under this agreement within 30 days after the end of each month in which services were provided. The invoice to be used by the County will be the CFM Program County Invoice provided by CDFA. Refer to the instructions that accompany the form when preparing and submitting the invoice.

Tasks performed by the County include:

### **PRODUCTION SITE INSPECTIONS**

- Number of Growing Grounds and Storage Spaces Inspected
- Number of Acres Inspected
- Number of Noncompliances Issued
- Name and Number of Inspectors or Title
- Total Number of Inspection Hours Worked
- Total Cost Including Personnel, Mileage and Overhead
- Name and Signature of Authorized County Personnel Submitting Invoice

### **MARKET SITE INSPECTIONS**

- Travel to and from CFM where producers are selling
- Verification of the producer's certificate
- Perform a complete inventory of commodities on display
- Perform a complete inventory of commodities in vehicle, if available
- Document and process evidence obtained by photography
- Compose narrative of findings at CFM
- Correspondence with production site county when investigations are necessary



(Rev. 2/2015)

## **PRODUCER AND MARKET INVESTIGATIONS**

- Correspondence with the proper counties regarding evidence obtained within 48 hours of the CFM inspection
- Preparing Notices of Proposed Actions when necessary
- Conducting Administrative Hearings when necessary

For production site inspections which are the result of an investigation, please do not inform the producer of any specific commodities which may be under investigation prior to the site inspection.

Refer to the instructions that accompany the CFM Program County Invoice when preparing and submitting the invoice.

Inspections shall be performed as outlined in the Food and Agricultural Code, Division 17, Chapter 10.5; the California Code of Regulations, Title 3, Subchapter 4, Article 6.5; The County shall follow established direct marketing practices and procedures and any State policies and procedures.

The State shall perform evaluations of county inspections, which could include but are not limited to; on-site observations; assessment of inspection procedures and review of non-compliances and other reports for accuracy and consistency.

## 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. 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.





# 2015-2016 Certified Farmers Market Fiscal Display

County Stanislaus

Cooperative Agreement # \_\_\_\_\_

<b>Market Site Inspections:</b>					
	<b>Amount</b>		<b>Rate</b>		<b>Total</b>
<b>Regular</b>	7	@	\$ 400.00	=	<u>\$ 2,800.00</u>
<b>Production Site Inspections:</b>					
	<b>Amount</b>		<b>Rate</b>		<b>Total</b>
<b>Regular</b>	11	@	\$ 400.00		<u>\$ 4,400.00</u>
<b>COOPERATIVE AGREEMENT TOTAL:</b>					<u>\$ 7,200.00</u>

Operational needs may require changes to line item expenditures within the agreement budget. If changes are needed, the total agreement amount may not be exceeded. Actual invoices must reflect these changes. If additional funding is required, a budget amendment must be submitted for approval.

Hours, average rate, mileage, and other costs are included in the cost of the inspection. Amounts will be reflected in invoices submitted for payment and may not exceed the cooperative agreement total, unless, a budget amendment has been submitted and approved.

## 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, 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.