



County of Santa Cruz

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OFFICE OF THE AGRICULTURAL COMMISSIONER

DAVID W. MOELLER
AGRICULTURAL COMMISSIONER
SEALER OF WEIGHTS AND MEASURES
DIRECTOR, MOSQUITO AND VECTOR CONTROL

August 10, 1999

AGENDA: August 24, 1999

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: PETROLEUM PRODUCT INSPECTIONS PROGRAM


Dear Members of the Board:

For several years, the California Department of Food and Agriculture (CDFA) has provided funding to the Agricultural Commissioner's Office for local inspection of establishments selling or distributing petroleum products. The inspections verify that the establishments meet the legal requirements for product labeling, advertising and quality. The State has provided \$3,900.00 per year to partially reimburse the County for this work under a Memorandum of Understanding.

However, beginning with the 1999/2000 fiscal year, the State is replacing the MOUs with a contract with each County to conduct this program. The State is proposing a five-year contract to last from July 1, 1999 to June 30, 2004. Funding in the first year will be \$3,900.00. These funds were included in our 1999/2000 Budget Request and approved by your Board.

It is therefore RECOMMENDED that your Board approve the contract with CDFA to conduct the Petroleum Products Inspection Program under State contract 99-0311 and authorize the Agricultural Commissioner to sign the contract.

Sincerely,


David W. Moeller
Agricultural Commissioner

PETROLEUM PRODUCTS INSPECTION
PROGRAM

August 10, 1999

Agenda Date: August 24, 1999

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RECOMMENDED:



SUSAN A. MAURIELLO

County Administrative Officer

cc: CAO
County Counsel
Auditor-Controller

Attachment: ADM-29

COUNTY OF SANTA CRUZ
REQUEST FOR APPROVAL OF AGREEMENT

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TO: Board of Supervisors
County Administrative Officer
County Counsel
Auditor-Controller

FROM: Santa Cruz County Agricultural Commissioner (Dept.)

(Signature) 8/10/99 (Date)

The Board of Supervisors is hereby requested to approve the attached agreement and authorize the execution of the same.

1. Said agreement is between the Santa Cruz County Agricultural Commissioner's Office (Agency)
California Department of Food and Agriculture, Division of Measurement Standards
and 8500 Fruitridge Road, Sacramento, CA 95826 (Name & Address)

2. The agreement will provide Reimbursement for a petroleum product device inspection program.

3. The agreement is needed, to partially reimburse the County for the cost of the program.

4. Period of the agreement is from July 1, 1999 to June 30, 2004

5. Anticipated ^{revenue} cost is \$ 3,900.00 per fiscal year (Fixed/deduction/Monthly/other; Not to exceed)

6. Remarks: This agreement is on the Board of Supervisors Continuing Agreements list and
is the same as last year. This was formerly an MOU. It does not have a County contract
number.

7. ^{revenue} ~~Appropriation~~ is budgeted in 103300 (Index#) 0726 (Subobject)

NOTE: IF APPROPRIATIONS ARE INSUFFICIENT, ATTACH COMPLETED FORM AUD-74

Appropriations are available and have been encumbered. Contract No. R-707 Date 8/11/99
N/A
GARY A. KNUTSON, Auditor - Controller
By Ronald J. Silva Deputy.

Proposal reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize the
to execute the same on behalf of the
(Agency).

Remarks: County Administrative Officer
By John Date 8/16/99
(Analyst)

Agreement approved as to form. Date _____

Distribution:
Bd. of Supv. - White
Auditor-Controller - Blue
County Counsel - Green *
Co. Admin. Officer - Canary
Auditor-Controller - Pink
Originating Dept. - Goldenrod

*To Orig. Dept. if rejected.

State of California)
County of Santa Cruz) ss

I, _____ ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz,
State of California, do hereby certify that the foregoing request for approval of agreement was approved by
said Board of Supervisors as recommended by the County Administrative Officer by an order duly entered
in the minutes of said Board on _____

_____ 19 _____ By _____ Deputy Clerk

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THIS AGREEMENT, made and entered into this 12th day of June 1999,
in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE

Secretary

AGENCY

Department Of Food And Agriculture

TAXPAYER'S FEDERAL EMPLOYER
IDENTIFICATION NUMBER
946-000-534

, hereafter called the State, and

CONTRACTOR'S NAME

County of Santa Cruz

, hereafter called the Contractor

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows:
(Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.)

Contractor agrees to furnish all labor, equipment, materials and supplies necessary to provide inspection of service stations, quick-lube & oil change shops, and auto service shops on behalf of the California Department of Food and Agriculture, Division of Measurement Standards. The purpose of this agreement is to determine compliance with the Business and Professions Code Division 5 for petroleum products and automotive products advertising and labeling. All activities and applicable fees are outlined in the attached "Work Plan" identified as Exhibit A and by this reference made a part hereof.


The term of this agreement is July 1, 1999 through June 30, 2004. The total amount payable under this agreement shall not exceed \$19,500.00 based upon a maximum amount not to exceed \$3,900.00 per fiscal year.

Payment under this agreement shall be quarterly in arrears, upon submission of an invoice, in triplicate. Invoice(s) shall be on official county letterhead, stating the total number of initial inspections conducted, the number of designated samples taken, and the total amount to be reimbursed to the County for the quarter.

Invoice(s) shall be submitted, referencing Contract No. 99-03 11 to: Department of Food and Agriculture, Division of Measurement Standards, Attention David R. Lazier, 8500 Fruitridge Road, Sacramento, California 95826.

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

The provisions on the reverse side hereof constitute a part of this agreement.
IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA		CONTRACTOR -4084252320	
AGENCY	CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.)		
Department Of Food And Agriculture	County of Santa Cruz		
BY (AUTHORIZED SIGNATURE)	BY (AUTHORIZED SIGNATURE)		
X	X 		
PRINTED NAME OF PERSON SIGNING	PRINTED NAME AND TITLE OF PERSON SIGNING		
Alice L. Wright	David W. Moeller, Agricultural Commissioner		
TITLE	ADDRESS		
Contract Officer	701 OCEAN STREET SANTA CRUZ CA 95060		
AMOUNT ENCUMBERED BY THIS DOCUMENT	PROGRAM CATEGORY (CODE AND TITLE)	FUND TITLE	Department of General Services Use Only
\$ 19,500.00	50.50.01	CA/General	
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT	(OPTIONAL USE)		
\$ 0.00	99/00\$3,900;00/01\$3,900;1/02\$3,900;2/03\$3,900;03/04; \$3,900		
TOTAL AMOUNT ENCUMBERED TO DATE	T E M CHAPTER STATUTE FISCAL YEAR		
\$ 19,500.00	8570-001-0001 50 99 9 9 1 0 0		
OBJECT OF EXPENDITURE (CODE AND TITLE)		00 00/01 02 02/03	
56944		01 01/02 03 03/04	
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.			
SIGNATURE OF ACCOUNTING OFFICER		DATE	
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CONTRACTOR		STATE AGENCY	
		DEPT OF GEN SER.	
		CONTROLLER	

GEN. SERV. DEPT. APPROVAL
NOT REQUIRED PER
SAM 1215

1. The 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, material men, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this contract.
2. The 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 State of California.
3. The State may terminate this agreement and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained 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. The cost to the State shall be deducted from any sum due the Contractor under this agreement, and the balance, if any, shall be paid the Contractor upon demand.
4. Without the written consent of the State, this agreement is not assignable by Contractor either in whole or in part.
5. Time is of the essence in this agreement.
6. No alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
7. 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 and per diem, unless otherwise expressly so provided.

LABOR CODE/WORKER'S COMPENSATION

Contractor certified and is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or 10 undertake self-insurance in accordance with the provisions of that Code and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement.

SUBCONTRACTING

Contractor shall not subcontract any services under this Agreement without prior approval of the State's representatives.

PROFESSIONAL WORK

All work is to be performed in accordance with all acceptable State standards.

RESOLUTIONS

A copy of a resolution, order, motion, or ordinance of the local governing body by law having authority to enter into the proposed contract authorizing execution of agreements must be included **when** contracting parties are county, city, district, board or commissions.

AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE

By signing this agreement, Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U. S. C. 12101 et seq), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

DRUG-FREE WORKPLACE ACT OF 1990 CERTIFICATION

By signing this agreement, the contractor or grantee hereby certifies under penalty of perjury under the laws of the State of California that the contractor or grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et. seq.) and will provide a drug-free workplace by taking the following actions:

- (1) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- (2) Establish a Drug-Free Awareness Program to inform employees about:
 - (a) The dangers of drug abuse in the workplace;
 - (b) The person's or organization's policy of maintaining a drug-free workplace;
 - (c) Any available counseling, rehabilitation, and employee assistance programs; and,
 - (d) Penalties that may be imposed upon employees for drug abuse violations.
- (3) Every employee who works on the proposed contract will:
 - (a) Receive a copy of the company's drug-free workplace policy statement; and,
 - (b) Agree to abide by the terms of the company's statement as a condition of employment on the contract.

DISPUTES

Any dispute under the terms of this Agreement which is not disposed of within a reasonable period of time not to exceed ten days by the Contractor and State employees normally responsible for the administration of this Agreement shall be brought to the attention of the Chief Executive Officer, or designated representative, of each organization who shall use their best efforts to jointly resolve the dispute.

NATIONAL LABOR RELATIONS BOARD CERTIFICATION

Contractor, by signing this agreement, **does** swear under penalty of perjury that no more than one final unappealable **finding** of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a Federal court which orders the Contractor to comply with an order of the National Labor Relations Board (Public Contract Code Section 10296).

STATEMENT OF COMPLIANCE

The Contractor's signature affixed hereon and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the Contractor has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Code of Regulations Section 8103.

NONDISCRIMINATION CLAUSE (OCP-1)

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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. Contractors 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 12900 et seq.) **and** the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 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 agreements.

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

AUDIT

Contractor shall be subject to the examination and audit of the Auditor General for a period of three years after final payment under this agreement (Government Code 8546.7). The examination and audit shall be confined to those matters connected with the performance of this contract including but not limited to the cost of administering the contract.

AMENDMENT/CANCELLATION

This agreement may be amended upon written mutual consent, or canceled by either party, upon thirty days written notice unless otherwise stated. In the event the State cancels this agreement due to Contractor's Breach of Contract, the State shall have the authority to terminate this agreement immediately upon giving notice to the Contractor.

DISABLED VETERAN-OWNED BUSINESS ENTERPRISE AUDIT

Contractor agrees that the awarding department or its delegatee will have the right to review, obtain, and copy all records pertaining to performance of the Agreement. Contractor agrees to provide the awarding department or its delegatee with any relevant information requested and shall permit the awarding department or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with Public Contract Code Section 10115 et seq. and Title 2, California Code of Regulations, Section 1896.60 et seq. Contractor further agrees to maintain such records for a period of three (3) years after final payment under the Agreement.

PERSONAL SERVICES

This Agreement has complied with the Standards set forth in Government Code Section 19130(b), Public Contract Code Section 10337.

BUDGET ACT

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 the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.

INVOICES AND PAYMENTS

The Contractor shall render invoices in arrears, in triplicate, for charges in accordance with the payment provisions of the Standard Agreement. Payment shall be made in accordance with the State Prompt Payment Act.

In the best interest of the State, in accordance with California Business and Professions Code Section 13434, and under the authority of the Secretary of the Department of Food and Agriculture (CDFA), the Division of Measurement Standards (Division) and the County of Santa Cruz agree to the following:

- The CDFA will pay said County \$75.00 for each initial inspection of establishments selling or distributing petroleum products, including liquefied petroleum gas (LPG) used as an engine fuel; provided the inspection is done to determine compliance with California Business and Professions Code, Division 5, Chapters 14, 14.5 and 15. The total allocation to said County for these inspections shall not exceed the amount specified for each fiscal year of the agreement as identified on the Standard Agreement. This represents 52 initial inspections' per fiscal year.
- An initial inspection is the first inspection in the fiscal year of a location where the primary business is the sale of petroleum products (i.e., retail service stations, distributors of engine fuels, oils, quick-lube shops, LPG, etc.).
- Said County will provide to the Division, during the third quarter of each year of this agreement, a list of the name and physical address of each location in the county having retail engine fuel dispensers in commercial use. If this list is provided on a computer disk, the data must be IBM compatible, and in one of the following formats: dBase III+, IV, V, Microsoft Access, or an ASCII **comma** delimited test file. The structure of the data must include the following field names and lengths.

FIELD NAME	FIELD TYPE	FIELD LENGTH
Name	Character	30
Address	Character	30
City	Character	30
Zip Code	Character	5
county	Character	2

- A "3.5" diskette, or electronic data transfer (E-mail) may be utilized. Only data provided in the proper format on a computer disk or by electronic transfer shall be considered as one (1) initial inspection for reimbursement purposes and may be billed as such.
- The Division reserves the right to, at its discretion, assign and direct the County to take designated samples of automotive or petroleum products for the purpose of marketplace surveys. The locations visited for the purpose of obtaining these designated samples shall be counted as inspections authorized by this agreement. The assigned number of inspections at brake shops, quick-lube shops, and other retail establishments selling petroleum products or automotive products shall not exceed 10% of the total annual initial inspections authorized. Unless directed otherwise, all samples are to be submitted to the Division's Santa Cruz laboratory.

- Sample containers and subvention sample identification tags will be provided by the Division. Payment for samples and transportation of the sample to the Division's Santa Cruz laboratory shall be the responsibility of said County. The color coded subvention sample identification tags must be used on subvention samples to identify them for reimbursement verification.
- Follow-up enforcement action due to a sample not meeting product specifications shall be the responsibility of the Division, or the Division and the County, and will be handled in accordance with the guidelines established in the Division's "Citation Procedure Manual".
- An initial inspection shall include the verification of compliance with the appropriate provisions of the Business and Professions Code and California Code of Regulations relating to the advertising and labeling of petroleum and automotive products, and to verify compliance with the provisions of Section 13660 at the location. Each initial inspection report shall include: name, address, and telephone number of the establishment inspected; the business operator's name; date inspected; the County inspector's name; inspection results with all violations noted; and all corrective action required. These records shall be maintained at said County Office of Weights and Measures for County of Santa Cruz, for a period of three years. The business operator's name and telephone number are not required on the initial inspection report if that information, as well as the initial inspection reports are kept and made available to a representative of the CDFA, Division of Measurement Standards, upon request.
- Said County will use the inspection and sampling procedures outlined in the Division of Measurement Standards' "Petroleum Products Inspection and Sampling Procedure Manual".
- Said County agrees that appropriate enforcement action shall be taken upon discovery of violation(s) at the location being inspected. The enforcement actions will be handled in accordance with the guidelines established in the Division's "Citation Procedure Manual". When an enforcement action other than the issuance of a Notice of Violation (NOV) is specified and said County is unable to take that action, the Division shall take the specified enforcement action.
- Funds will be disbursed to said County on approval of an invoice submitted quarterly. The invoice shall be on an official county letterhead stating the total number of initial inspections conducted, the number of designated samples taken, and the amount of money requested.

NOTE: All invoices must carry the following language:

In accordance with the California Business and Professions Code Section 13434, funds have been allocated for CDFA to pay the County of Santa Cruz the sum of \$3,900.00 per fiscal year.

The County has complied with the conditions as required.

Approved: _____ Date: _____
Division of Measurement Standards