



Sandra Rivera
Agency Director

Agenda Item _____ July 9, 2024

June 25, 2024

224 West Winton Ave
Room 110
Hayward, California
94544-1215

Surplus Property Commission
Administration Building
1221 Oak Street, Suite 536
Oakland, California 94612

phone
510.670.5333
fax
510.670.6374

Dear Board Members:

www.acgov.org/cda

**SUBJECT: APPROVE STANDARD SERVICES AGREEMENT WITH
WENTE BROS. WINERY FOR VINEYARD
MANAGEMENT AT THE AGRICULTURAL RESOURCE
CENTER**

RECOMMENDATION:

That the Commission of the Surplus Property Authority of the County of Alameda:

1. Approve the Standard Services Agreement (Procurement Contract No. 27301) with Wente Bros. Winery (Principal: Niki Wente; Location: Livermore, CA) to provide vineyard management services at the Agricultural Resource Center for the period of 7/1/24 through 11/30/27, for a total amount not to exceed \$34,334;
2. Adopt a Resolution to waive the County’s competitive procurement process for this Agreement; and
3. Delegate Authority to the Agency Director, or her designee, to approve additional amendments per the Additional Provisions of the contract, not to exceed a total of \$3,000 per occurrence for the period of 7/1/24 through 11/30/27.

DISCUSSION/SUMMARY:

The Martinelli Center is located at the Agricultural Resource Center (ARC) on Greenville Road in Livermore. The ARC is a 13,000 square foot facility, which encompasses the 5,000 square foot Martinelli Event Center space, the Community Development Agency’s (CDA) Agriculture Field Station, and the East County Offices for the Planning Department. In addition to the County offices, the ARC tenants include the Alameda County Resource Conservation District, the Livermore Valley Winegrowers’ Association, and the Master Gardeners Program, who have all been tenants for the past twenty years.

The ARC property includes a vineyard which consist of 3.7 acres with 2547 vines of Sauvignon Blanc and 1451 vines of Petite Sirah grapes. This vineyard requires regular maintenance by trained professionals.

On June 21, 2004, an Agreement was executed between Wente Bros. Winery and the “Owner” of the property identified as James Sorenson, Manager, Surplus Property Authority. The term of this contract was June 21, 2004, through November 1, 2005, with automatic renewal each year on November 1st. This relationship has continued since that time. In April 2024, Wente Bros. Winery requested a new agreement to formalize the relationship and responsibilities for vineyard management. A new Agreement with Wente Bros. Winery is necessary to ensure the continued health and vitality of the vineyard at the ARC.

SELECTION CRITERIA AND PROCESS:

On April 17, 2024, Wente Bros. Winery submitted a proposal for vineyard Maintenance at the ARC. County staff also reached out to the Livermore Valley Winegrowers’ Association (LVWA) requesting that it contact its members to identify any other wineries with an interest and ability to manage the vineyards at the ARC to meet the County’s informal competitive process requirements. On April 23, 2024, the LVWA notified County staff that after contacting its members, no wineries had the bandwidth or interest in assuming responsibility for another vineyard. After requesting a Sole Source Waiver, CDA staff was directed to contact other vendors that provide vineyard management services. Staff contacted a vineyard in San Martin, California but it is no longer providing those services. The other vendors that staff identified are located in San Mateo, Redwood City, Geyserville, and Napa, outside of Alameda County. Therefore, a Waiver of the County’s Procurement Process for Competitive Bidding for vineyard management is requested.

FINANCING:

The funding for this contract is included in SPA’s proposed FY 2024-2025 Budget. There is no increase in Net County Cost as a result of this action.

VISION 2026 GOAL:

The maintenance of the vineyards at the ARC in Livermore meet the 10X goal pathway of **Maintenance and Preservation** in support of our shared vision of a **Healthy Environment**.

Very truly yours,

DocuSigned by:



~~Sandra Rivera~~, Manager
Surplus Property Authority

cc: Susan S. Muranishi, County Administrator
Donna R. Ziegler, County Counsel
Melissa Wilk, Auditor-Controller
Peilin Chen, County Administrator’s Office
Caitlyn M. Gulyas, Office of the County Counsel
Lucy Romo, Community Development Agency

RESOLUTION NUMBER R-2024-363

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, AUTHORIZING THE WAIVER OF THE COMPETITIVE BIDDING SELECTION PROCESS FOR VINEYARD MAINTENANCE SERVICES AT THE AGRICULTURAL RESOURCE CENTER IN LIVERMORE

WHEREAS, the Agricultural Resource Center (ARC) located at 3585 Greenville Road in Livermore has a vineyard that consists of 3.7 acres with 2,547 vines of Sauvignon Blanc and 1,451 vines of Petite Sirah grapes.

WHEREAS, the vineyard at the ARC has been and will continue to be part of the aesthetic draw to using the Martinelli Event Center for weddings and other events.

WHEREAS, the maintenance of a vineyard requires specific expertise and technical knowledge to ensure its continued viability.

WHEREAS, On June 21, 2004, an Agreement was executed between Wente Bros. Winery (Wente) and the County of Alameda Surplus Property Authority (SPA) for a term of June 21, 2004, through November 1, 2005, with automatic renewal each year on November 1st.

WHEREAS, SPA desires to enter into a new agreement in order to formalize the relationship and responsibilities for vineyard management.

WHEREAS, Wente submitted a bid for vineyard management services in April 2024.

WHEREAS, SPA has determined that Wente has the necessary professional qualifications and has demonstrated competence in providing vineyard management services based on their familiarity with the project and past performance.

WHEREAS, the Surplus Property Authority of the County of Alameda wishes to acquire the services of Wente Bros. Winery for the period of 7/1/2024 to 11/30/2027 in an amount not to exceed \$34,334 to manage and maintain the vineyards at the ARC.

WHEREAS, County Administrative Code Sections 4.12.020 and 4.12.070 require the solicitation of bids for contracts more than \$100,000 except in unusual cases where the Board of Supervisors ("Board") has, by resolution, found and determined the public interest would not be best served by complying with the competitive procurement requirement set forth in Section 4.12.020.

WHEREAS, County Administrative Code Section 4.12.040 allows informal requests for quotation in the open market to be taken for contracts for \$100,000 or less.

WHEREAS, no other wineries in Alameda County that were contacted submitted bids, there are no vineyard maintenance companies in Alameda County, and the only identified vineyard maintenance companies are located more than 50 miles away from the ARC and therefore not readily available to respond to urgent or emergency needs.

WHEREAS, public interest will be best served by proceeding with Wente rather than engaging in the competitive procurement process.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The findings stated in the recitals to this Resolution are restated in full and adopted by reference.
2. The Board of Supervisors, sitting as the Surplus Property Authority Commission of the County of Alameda finds that given the nature of the work and amount of the contract, it is not in the best interest of the County of Alameda to utilize a competitive selection process for vineyard maintenance services at the ARC.
3. The requirements in Administrative Code Sections 4.12.010 and 4.12.020 for the solicitation of bids are hereby waived for the selection of vineyard maintenance services at the ARC.

The **FOREGOING** was **PASSED** and **ADOPTED** by the following vote of the Alameda County Board of Supervisors this 23 day of July, 2024, to wit:

AYES: Supervisors Carson, Haubert, Marquez, Tam, & President Miley - 5

NOES: None

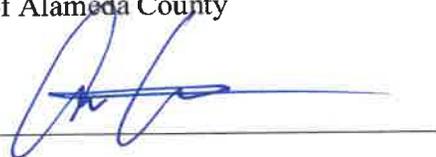
EXCUSED: None

ABSTAINED: None

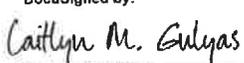


Nate Miley
President of the Board of Supervisors
County of Alameda, State of California

ATTEST:
Clerk of the Board of Supervisors,
County of Alameda County

By: 

APPROVED AS TO FORM:
Donna R. Ziegler, County Counsel

DocuSigned by:

648710A22864451...
Caitlyn M. Gulyas
Deputy County Counsel



**COUNTY OF ALAMEDA
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of July 1, 2024, is by and between the County of Alameda, hereinafter referred to as the "County", and Wente Bros. Winery, hereinafter referred to as the "Contractor".

WITNESSETH

Whereas, County desires to obtain Vineyard Management services which are more fully described in Exhibit A hereto ("Vineyard Management Services"); and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide Vineyard Management Services, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

- Exhibit A Definition/Description of Services
- Exhibit A-1 Deliverables
- Exhibit B Payment Terms
- Exhibit C Insurance

The term of this Agreement shall be from July 1, 2024 through November 30, 2027.

The compensation payable to Contractor hereunder shall not exceed thirty-four thousand, three hundred, thirty-four dollars (\$34,334) for the term of this Agreement. The County neither warrants nor guarantees any minimum compensation to the Contractor under this Agreement. Payment to Contractor shall be based on actual services performed on behalf of the County.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

WENTE BROS. WINERY

By: Nate Miley
Signature

DocuSigned by:
By: Niki Wente
A0FEF370A2DB453...
Signature

Name: Nate Miley
(Printed)

Name: Niki Wente
(Printed)

Title: President of the Board of Supervisors

Title: Director, Vineyard Operations

Date: 7/25/2024

Date: 6/13/2024

Approved as to Form:

DocuSigned by:
By: Caitlyn M. Gulyas
648710A22884451...
Caitlyn Gulyas, Deputy County Counsel
County Counsel Signature

By signing above, the signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.



GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the County determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, County may upon two week's notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments.

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively

“Liabilities”) except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to County, including defense costs, and shall not be limited by any insurance limits.

3. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees’ Retirement Association (ACERA) or California Public Employees’ Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.
4. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with the County maintain in force, at minimum, those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein. The County and all parties as set forth on Exhibit C shall be considered an additional insured or loss payee if applicable. All of Contractor’s available insurance coverage and proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages. Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement. Contractor’s insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to County. Contractor’s excess and umbrella insurance shall also apply on a primary and non-contributory basis for the benefit of the County before County’s own insurance policy or self-insurance shall be called upon to protect it as a named insured
5. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.
6. **WORKERS’ COMPENSATION:** Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

7. CONFORMITY WITH LAW AND SAFETY:

- a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.
- b. Accidents: If a death, serious personal injury, or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.
- c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.

8. DEBARMENT AND SUSPENSION CERTIFICATION: (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

- a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.
- b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.

9. **PAYMENT:** For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.
10. **TRAVEL EXPENSES:** Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
11. **TAXES:** Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
12. **OWNERSHIP OF DOCUMENTS:** Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the County and any assignee of the County an express royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In Contractor's contracts with other Contractors, Contractor shall expressly obligate its Sub-Contractors to grant the County the aforesaid assignment and license rights as to that Contractor's Documents and Materials. Contractor agrees to defend, indemnify, and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such selection. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

13. **CONFLICT OF INTEREST; CONFIDENTIALITY:** The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner

with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

14. **NOTICES:** All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County:	COUNTY OF ALAMEDA 224 W. Winton Avenue, Room 110 Hayward, CA 94544 <u>Attn: Sandra Rivera, Manager, Surplus Property Authority</u>
To Contractor:	WENTE BROS. WINERY 5050 Arroyo Road Livermore, CA 94550 <u>Attn: Niki Wentz, Director of Vineyard Operations</u>

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

15. **USE OF COUNTY PROPERTY:** Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
16. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:** Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
 - a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
 - d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.
 - e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
 - f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.
17. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's

employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.

18. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

19. **DOCUMENTS AND MATERIALS:** Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.
20. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.

21. **TERMINATION:** The County has and reserves the right to suspend, terminate, or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate, or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination, or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its Vineyard Management Services shall not exceed \$9,383 payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.
22. **SMALL LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION:**

Contractor is approved by County to participate in contract without SLEB participation. As a result, there is no requirement to be certified or subcontract with another business in order to satisfy the County's Small and Emerging Locally owned Business provision. The approval is based on approval by the Board of Supervisors at the time of authorization of the contract.
23. **FIRST SOURCE PROGRAM:** For contracts over \$100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.
24. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.
25. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
26. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
27. **HEADINGS** herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.

28. **ADVERTISING OR PUBLICITY:** Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.
29. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
30. **ASSURANCE OF PERFORMANCE:** If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
31. **SUBCONTRACTING/ASSIGNMENT:** Contractor shall not subcontract, assign, or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.
 - a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Paragraph shall confer no rights on any party and shall be null and void.
 - b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.
 - c. Contractor shall require all subcontractors to comply with all indemnification and insurance requirements of this agreement, including, without limitation, Exhibit C. Contractor shall verify subcontractor's compliance.
 - d. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.
32. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.
33. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and

enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

34. **PATENT AND COPYRIGHT INDEMNITY:** Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software (“Contractor Products”) provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, “Losses”) arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit, or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County’s prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.
- a. If Contractor is obligated to defend County pursuant to this Paragraph 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney’s fees and costs) incurred in relationship with County’s defense and/or settlement of such proceeding.
 - b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.
 - c. Notwithstanding this Paragraph 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.
35. **OTHER AGENCIES:** Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.
36. **EXTENSION:** This agreement may be extended for three years by mutual agreement of the County and the Contractor.
37. **SIGNATORY:** By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

[END OF GENERAL TERMS AND CONDITIONS]

**ADDITIONAL PROVISIONS**

Additional Services. During the Term, County may request that Contractor furnish additional materials or perform additional services which are not described in the Basic Services and are either desired by County or recommended by the Contractor (collectively, the "**Additional Services**"). In response to a request by County to perform any such Additional Services, or if Contractor believes that Additional Services are necessary or desirable for operation of the Property as a vineyard, Contractor will deliver to County a written proposal describing the timetable for the furnishing, delivery, and/or performance of the Additional Services and an estimated cost for Contractor to furnish, deliver, and/or perform such Additional Services. Upon the County's written approval of any such proposal by Contractor, such proposal shall be deemed an amendment to this Agreement. The Basic Services and any and all such approved Additional Services shall be referred to collectively hereunder as the "**Services**".

Payment of Compensation via Grape Sales. If Contractor and County have entered into an agreement whereby Contractor has agreed to purchase and/or sell on County's behalf all or a portion of the grapes produced by the Vineyard ("**Grapes**") during the Term (a "**Wine Grape Purchase Agreement and Wine Grape Sale Agreement**"), notwithstanding any term to the contrary in the applicable Wine Grape Purchase Agreement and Wine Grape Sale Agreement, Contractor shall be entitled to receive and retain all proceeds from Grapes on an annual basis ("**Grape Sales**") until such time as all outstanding Compensation and accrued interest thereon (for the current and all prior Vineyard Years) has been paid in full. As evidence of the outstanding balance of Compensation and accrued interest, Contractor shall (a) provide County with copies of all receipts and invoices generated in conjunction with Contractor's Grape Sales to third-parties, and (b) after conducting all Grape Sales for a given Vineyard Year, provide County with an accounting which documents any Compensation and accrued interest remaining unpaid. Likewise, if Contractor and County have entered into a Wine Grape Purchase Agreement and/or Wine Grape Sale Agreement for Grapes grown during the Term, at Contractor's election, on or before September 1 of each Vineyard Year, Contractor may elect to receive all Grapes, and have the exclusive right to sell such Grapes to any Contracting Winery (as defined below). Contractor shall remit to County any excess revenue earned from Grape Sales once all outstanding Compensation and accrued interest have been paid in full. Contractor hereby agrees to use commercially reasonable efforts to obtain the highest purchase price for all Grapes. Notwithstanding the foregoing, Contractor may purchase Grapes from County, but such Grape Sales shall be conducted only pursuant to the terms of a written Wine Grape Purchase Agreement and/or Wine Grape Sale Agreement executed by authorized representatives of Contractor and County.

Approved as to Form:

DocuSigned by:
By: Caitlyn M. Gulyas
648/10A22P64451...
Caitlyn Gulyas, Deputy County Counsel

EXHIBIT A

DEFINITION OF SERVICES

1. Contractor shall provide Vineyard Management Services described in Exhibit A-1 at the property located at [insert address] (the "Martinelli Center" or "Vineyard").
 - a. This Exhibit A has been drafted to include the requirements contained in the Proposal response of Contractor (Response), and additional services that the County obtained through negotiations, if any. In the event of any conflict (direct or indirect) among any of the exhibits, the Proposal, the more stringent requirements providing the County with the broader scope of services shall have precedence, such that this Exhibit A including all attachments, and the scope of work described in Contractor's proposal shall be performed to the greatest extent feasible.
 - b. Contractor shall provide, as requested, on a non-exclusive basis, Vineyard Management Services as described in Exhibit A-1. Contractor understands that they are one vendor on a list that may provide Vineyard Management Services.
 - c. The Proposal may be relied upon to interpret this Contract and shall be applied in such a manner so that the obligations of the Contractor are to provide the County with the broadest scope of services for the best value.

2. Contractor project team will consist of the following Key Personnel and subcontractors, as applicable during the contract term:

Name	Title	Telephone	Email Address
Niki Wente	Director, Vineyard Operations	925-456-2300	Niki.Wente@Wentevineyards.com

Contractor agrees that it shall not transfer or reassign the individuals identified above as Key Personnel or substitute subcontractors without the express written agreement of County, which agreement shall not be unreasonably withheld. Should such individual or individuals in the employ of Contractor no longer be employed by Contractor during the term of this Agreement, Contractor shall make a good faith effort to present to County an individual with greater or equal qualifications as a replacement subject to County's approval, which approval shall not be unreasonably withheld.

3. The approval of County to a requested change shall not release Contractor from its obligations under this Agreement.

EXHIBIT A-1

DELIVERABLES

The Martinelli Center vineyards consist of +/- 3.7 acres of vineyard

- Block # 72285 Approximately 2547 vines of Sauvignon Blanc
- Block # 72286 Approximately 1451 vines of Petite Sirah

1. Contractor shall furnish the farming equipment, materials and the labor necessary to cultivate and maintain the Vineyard, including, without limitation, the management and supervision of the laborers at the Vineyard.
2. Contractor shall provide the management and supervision of vineyard maintenance.
3. Services to include:
 - a. Pre-pruning
 - b. Pruning
 - c. Wires Up
 - d. Wires Down
 - e. Irrigating
 - f. Herbicide
 - g. Floor Management
 - h. Technical Assistance

EXHIBIT B

PAYMENT TERMS

1. County will issue payment to Contractor upon receipt and approval of monthly invoices.
2. Invoices will be reviewed for approval by the County, Community Development Agency.
3. Total payment under the terms of this Agreement will not exceed the total amount of \$34,334. This cost includes all taxes and all other charges.

Wente Bros. Winery - Vineyard Management Services

Service	Year 1 (7/1/2024- 6/30/2025) 12 months	Year 2 (7/1/2025- 6/30/2026) 5% increase	Year 3 (7/1/2026-6/30/2027) 5% increase	Extension* 7/1/2027 - 11/30/2027 5% Increase	Total
Pre-pruning	\$106	\$111	\$116	\$93	\$426
Pruning	\$2,143	\$2,251	\$2,363	\$1,891	\$8,648
Wires Up	\$459	\$482	\$506	\$405	\$1,852
Wires Down	\$495	\$520	\$546	\$436	\$1,996
Irrigating	\$1,246	\$1,308	\$1,374	\$1,099	\$5,026
Herbicide	\$707	\$742	\$779	\$623	\$2,851
Floor Management	\$390	\$410	\$430	\$344	\$1,574
Technical Assistance	\$2,964	\$3,113	\$3,268	\$2,615	\$11,960
Total	\$8,510	\$8,936	\$9,382	\$7,506	\$34,334
*Extension will align with end of farming season in 2026/2027					

