

FARMBUDSMAN PROGRAM OPERATING AGREEMENT

BY AND AMONG

THE COUNTY OF SOLANO

AND

THE COUNTY OF YOLO

AND

THE SOLANO COMMUNITY COLLEGE SMALL BUSINESS DEVELOPMENT CENTER

Dated as of

January 16, 2013

OPERATING AGREEMENT

This Operating Agreement (“Agreement”) is made and entered into as of this 16th day of January, 2013 by and among the COUNTY OF SOLANO (“Solano”), the COUNTY OF YOLO (“Yolo”) (collectively referred to as “Counties”) and the SOLANO COMMUNITY COLLEGE SMALL BUSINESS DEVELOPMENT CENTER (“SBDC”) for the purpose of administering a Farmbudsman Program that serves farmers, ranchers and agriculture-related businesses in the jurisdictions of Solano and Yolo Counties.

RECITALS

- A. On November 16, 2011, the Solano and Yolo Counties Joint Economic Summit identified that an agricultural ombudsman program (Farmbudsman Program or “Program”) as a key opportunity to enhance the value of agriculture within the two counties and decrease actual and perceived regulatory obstacles on agriculture-related businesses seeking to expand, enhance and/or maintain their operations. The concept of the Farmbudsman was based on the Farm Assistance, Revitalization and Marketing (FARM) coordinator position that existed in Solano County from 2008 to 2009. In addition, the concept of the ombudsman position is incorporated into the General Plans adopted by Solano County in 2008 and Yolo County in 2009.
- B. On January 24, 2012, presentations were made to the respective meetings of the Solano County Board of Supervisors and Yolo County Board of Supervisors on the outcome of the Joint Economic Summit. Both Boards concurred with the concept of developing a public-private partnership to facilitate the establishment of an agricultural ombudsman program to serve existing and future agriculture-related businesses in both counties.
- C. Between July 26, 2010 and June 21, 2012, the Yolo Agriculture and Food Alliance hosted a series of study sessions with interested stakeholders from the Agriculture Community in Solano and Yolo Counties, including representatives from the Farm Bureaus of the respective counties, to facilitate the development of the desired attributes of a Farmbudsman program and the public-private partnership to support the Farmbudsman program.

- D. The Solano Community College Small Business Development Center is authorized to provide Farmbudsman-related services in Solano and Yolo Counties. The SBDC mission is to assist entrepreneurs in order to enhance the entrepreneur's business skills and to expand, enhance and/or maintain business operations. The SBDC uses State and Federal funds, augmented by local match requirements, to provide these services. This Agreement, to the extent permitted by State and Federal guidelines, will enable the SBDC to leverage funds provided by Solano and Yolo for the Farmbudsman Program as local match requirements.
- E. Counties seek to establish a Farmbudsman Program that serves the jurisdictions of both Solano and Yolo Counties by assisting farmers, ranchers and agriculture-related businesses with various permitting processes, including assistance with agricultural permitting and standards as required by Regulatory Agencies. The Program's objective is to facilitate and expedite the development of promising value-added agricultural projects. After approximately 30 months of the Farmbudsman Program in 2015, the Counties anticipate the economic benefit of the Farmbudsman Program will outweigh the cost of the program. Measures of success of the Farmbudsman Program include:
- 20 percent increase in approvals of agriculture-related projects;
 - 500 new agriculture-related jobs have been added by 2015; and
 - 5 new processors have been added between 2012 and 2015.

Now, THEREFORE, Solano, Yolo, and SBDC for good and valuable consideration, agree as follows:

ARTICLE 1: TERMS AND DEFINITIONS

The following terms and definitions apply to this Agreement:

- 1.1 Client: The term "Client" is the person or entity receiving Farmbudsman services affecting agriculture-related businesses in either Solano or Yolo County.
- 1.2 Farmbudsman: The term "Farmbudsman" is the consultant contracted by SBDC to provide agriculture ombudsman services to farmers, ranchers and agriculture-related businesses that are, or will be located, in Solano or Yolo County.
- 1.3 Farmbudsman Services: The term "Farmbudsman Services" includes consulting or training services provided to farmers, ranchers and agriculture-related businesses located in, or that will be locating in, Solano or Yolo County to help navigate the various permitting processes for value-added agricultural projects as required by Regulatory Agencies.
- 1.4 Ancillary Services: The term "Ancillary Services" is consulting or training services that are not directly related to assisting farmers, ranchers and agriculture-related businesses in navigating permitting processes, including but not limited to business planning and developing financial projections, connections to financing options, marketing plans and other services offered by SBDC, subject to the requirements as prescribed by State and Federal funding.
- 1.5 Farmbudsman Project: The term "Farmbudsman Project" is an interaction with a client that will consume more than two hours of consultant time to provide Farmbudsman Services and Ancillary Services.

1.6 Regulatory Agencies: The term "Regulatory Agency" is a public agency that has the legal authority to regulate a component of an agriculture-related project.

ARTICLE 2: TERM OF THE AGREEMENT

2.1 Term: The initial term of this Agreement shall be approximately thirty (30) months, commencing on January ____, 2013 ("Commencement Date") and ending no later than June 30, 2015 ("Expiration Date").

2.2 Extensions: The Agreement may be extended on an annual basis upon mutual agreement of all parties ("Additional Term(s)").

2.3 Termination: In order to allow for a full implementation of the Program, this Agreement shall not be terminated prior to the Expiration Date except as provided in Section 2.4 or Article 8 below. Any party may terminate its participation for Additional Terms upon written notice no later than 90 days prior to the Expiration Date or commencement of an Additional Term.

2.4 Counties Obligation Subject to Availability of Funds: Counties' obligations under this Agreement are subject to the availability of authorized funds. The Counties may individually or jointly terminate this Agreement, or any part of the Agreement and amend that party's obligation accordingly, without prejudice to any right or remedy of the Counties, for lack of appropriation of funds. If expected or actual funding is withdrawn, reduced or limited in any way prior to the expiration date set forth in this Agreement, or any subsequent Amendment, the Counties may jointly or individually, upon written Notice as outlined in Section 2.3 to SBDC, terminate this Agreement in whole or in part.

ARTICLE 3: RIGHTS AND RESPONSIBILITIES

The parties of this Agreement shall form a Farmbudsman Program Committee that meets at least quarterly to monitor the Farmbudsman Program and provide overall guidance to the Farmbudsman consultant as follows.

3.1 Membership: Membership of this committee shall consist of the Solano County Administrator or designee, the Yolo County Administrator or designee, the Solano County Agricultural Commissioner or designee, the Yolo County Agricultural Commissioner or designee, the Solano County Director of Resource Management or designee, the Yolo County Director of Planning and Public Works or designee, and the SBDC Director. A quorum consists of at least two Solano representatives, two Yolo representatives and SBDC.

3.2 Work Plan: The Farmbudsman Program Committee will establish annually activity targets designed to meet the goals, objectives and performance standards established for the Farmbudsman Program. Activity targets may be modified by consensus of the Farmbudsman Program Committee. An Initial Farmbudsman Annual Work Plan is attached as Exhibit A.

3.3 Contract Administration: SBDC will serve as the administrator for the Farmbudsman contract, which will be procured in a manner consistent with other consulting services acquired by SBDC to deliver business assistance programs. Selection of the Farmbudsman will be done in consultation with, and at the concurrence of, the Farmbudsman Program Committee. Terms of any contract cannot exceed the terms of this Agreement. The Farmbudsman shall serve on an at-will basis and shall not be an employee

of SBDC or the Counties. The description of desired qualifications of the Farmbudsman is included in Exhibit B.

3.3.1 Client Scopes of Work: For client interactions that develop into a Farmbudsman Project, the Farmbudsman, in consultation with the SBDC Director, will develop a scope of work for the Farmbudsman and the client that: 1) defines the expectations of the project; 2) determines the types of services required; 3) anticipated timelines; 4) estimated billable hours; and 5) anticipated source of funding. The SBDC Director will validate there is sufficient resources to meet the expectations of the scope of work. Scopes of Work in excess of 20 billable hours for Farmbudsman Services require approval by the Farmbudsman Program Committee.

3.3.2 Invoices: SBDC will be responsible for invoicing Solano and Yolo on a quarterly basis for services provided during the previous quarter under this Agreement. SBDC agrees to invoice only the appropriate agency in accordance with Section 3.3.3, below, and shall not look to the other county for reimbursement.

3.3.3 Billable Hours: SBDC will track and report all billable hours for Farmbudsman Program services under this Agreement by client and project. Billable hours for existing farming, ranching and agricultural-related operations in Solano and Yolo Counties will be based on where the farming, ranching or agricultural-related activity affected by the Farmbudsman services will occur. Where more generalized Farmbudsman services are provided to both counties and approved by the Farmbudsman Program Committee in the Annual Work Plan, the billable hours will be split equally between Solano and Yolo, regardless of the actual participation by the respective counties. If the query for Farmbudsman services is exploratory in nature, the billable hours are charged to the destination county as identified by the client.

3.3.4 Office Space: SBDC will provide the Farmbudsman program access to office space, meeting room, telephone, computer with Internet connectivity, printer and fax machine in a manner consistent with other SBDC business assistance consultants. These expenses are sole the responsibility of the SBDC, with exception of the General Administration reimbursement as outlined in Section 4.3.1.

3.4 Performance Evaluation: The Farmbudsman Program Committee will evaluate the performance of the Farmbudsman program against goals, performance standards and objectives defined in the Work Plan. In the event the Farmbudsman is unable or unwilling to meet the expectations of the Farmbudsman Program Committee, if so directed by the Committee, the release of the Farmbudsman will be effectuated by SBDC in accordance with the terms of any applicable consulting agreement.

3.5 Reporting Requirements: SBDC will provide financial status reports and performance reports on a quarterly and annual basis. The financial status reports will be submitted in a format acceptable to the respective County Auditor-Controllers. At minimum, the performance information provided by SBDC should include:

- List of clients served by the program;
- Activities in which the client participated;
- Funding source used to provide the services;
- Type of project the client activity supported;
- Outcomes of the interaction with the client;
- Licenses, permits and registrations that were facilitated to obtain; and
- Other data to demonstrate the effectiveness of the Farmbudsman Program.

ARTICLE 4: SHARED COSTS

4.1 County of Solano: Solano shall pay SBDC up to \$27,000 annually to reimburse SBDC for services provided under this Agreement. Upon submission of an invoice by SBDC to Solano, and upon approval of Solano's representative, Solano shall pay SBDC.

4.2 County of Yolo: Yolo shall pay SBDC up to \$27,000 annually to reimburse SBDC for services provided under this Agreement. Upon submission of an invoice by SBDC to Yolo, and upon approval of Yolo's representative, Yolo shall pay SBDC.

4.3 Grants: Counties and SBDC are encouraged to seek grants and other funding sources to provide additional resources for the Farmbudsman Program. If other funding is acquired, the use of that funding may add to Solano and Yolo funding identified in Sections 4.1 and 4.2.

4.4 SBDC: SBDC shall seek to leverage the dollars provided by Solano and Yolo, pursuant to Section 4.1 and 4.2 above, to the greatest extent possible in accordance with Federal and State guidelines. When applicable, SBDC will seek to utilize other available funding sources to provide Farmbudsman services and reserve the Counties as the funder of last resort. All funds will be appropriated as follows:

4.4.1 General Administration: SBDC shall receive reimbursement of General Administration costs related to the delivery of services under this Agreement. Total reimbursement shall not exceed 7.5% of the approved services reimbursed under this Agreement.

4.4.2 Client Fees: The SBDC may collect client fees for activities to providing Farmbudsman services as established in the Annual Work Plan and consistent with nominal fees as permitted by other business assistance programs provided by SBDC.

4.4.3 Farmbudsman Services: Farmbudsman Services are reimbursed under this Agreement.

4.4.4 Ancillary Services: In the course of providing Farmbudsman services, SBDC may discover that the client may require or benefit from Ancillary Services. To the extent possible in accordance with Federal and State guidelines, SBDC is encouraged to avail clients of these services. Ancillary services are not reimbursed under this Agreement.

4.5 Annual Savings: To the extent there are funds remaining at the close of a fiscal year (defined as July – June), such funds will be retained by the respective County to supplement future fiscal year appropriations, subject to the availability of funds as identified in Section 2.4. If Counties augment future fiscal year appropriations beyond the \$27,000 identified in Sections 4.1 and 4.2, the amount that the SBDC can seek in reimbursement will be adjusted by that fiscal year's appropriations.

ARTICLE 5: NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communication under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

To the County of Solano

Solano County
675 Texas St., Suite 6500
Fairfield, CA 94533
Attn: Stephen Pierce, Public Communications Officer
Voice: 707-784-6100
Fax: 707-784-7975
Email: spierce@solanocounty.com

To the County of Yolo

Yolo County
625 Court St., Room 202
Woodland, CA 95695
Attn: Dirk Brazil, Assistant County Administrator
Voice: 530-666-8150
Fax: 530-668-4029
Email: dirk.brazil@yolocounty.org

To the SBDC

Solano College SBDC
360 Campus Lane, Suite 102
Fairfield, CA 94534
Attn: Charles Eason, Director
Voice: 707-864-3382
Fax: 707-864-8025
Email: charles.eason@solano.edu

ARTICLE 6: INDEMNIFICATION

6.1 Solano's Indemnification: Solano agrees to indemnify and hold harmless Yolo and SBDC, and their employees, agents and elective and appointive boards from and against any damages, such as property damage, personal injury, and liabilities of every kind, nature and description, including costs and attorney's fees, arising directly or indirectly out of any negligent or intentional acts or omissions of Solano, its employees, or invitees in the course of the performance of actions under this Agreement.

6.2 Yolo's Indemnification: Yolo agrees to indemnify and hold harmless Solano and SBDC, and their employees, agents and elective and appointive boards from and against any damages, such as property damage, personal injury, and liabilities of every kind, nature and description, including costs and attorney's fees, arising directly or indirectly out of any negligent or intentional acts or omissions of Yolo, its employees, or invitees in the course of the performance of actions under this Agreement.

6.3 SBDC's Indemnification: SBDC agrees to indemnify and hold harmless Solano and Yolo, and their employees, agents and elective and appointive boards from and against any damages, such as property damage, personal injury, and liabilities of every kind, nature and description, including costs and attorney's fees, arising directly or indirectly out of any negligent or intentional acts or omissions of SBDC, its employees, or invitees in the course of the performance of actions under this Agreement.

ARTICLE 7: INSURANCE

Each party will maintain status as legally self-insured public entities for general liability. Excess liability coverage with limits to five million dollars (\$5,000,000) shall be provided through participation in an excess insurance authority or purchase of excess coverage by the parties.

ARTICLE 8: DEFAULT AND REMEDIES

8.1 Dispute Resolution: If any party defaults in its performance, the aggrieved party shall promptly notify the defaulting party in writing. Any dispute shall be first addressed at an administrative level between the parties.

8.2 Default Defined: Any party's failure to pay any amount due under this Agreement or to perform any other obligation required by this Agreement within thirty (30) days' written notice from another party that such amount or obligation is due, shall constitute a default (a "Default") hereunder.

8.3 Remedies Available: Upon the occurrence of a Default, the non-defaulting parties may stop all payments or performance required hereunder, and may take any other remedial action available to it under the law or equity, including but not limited to specific performance. Failure to cure a default within the 30-day notice period shall constitute good cause for termination as set forth in Section 2.3 above.

ARTICLE 9: MISCELLANEOUS

9.1 Amendments: This Agreement may be amended only by written agreement signed by all of the parties.

9.2 Waivers: No waiver of any provision of this Agreement will be valid unless it is in writing and signed by the party benefiting from said provision. No waiver by any party, at any time, of any breach of a provision of this Agreement will be deemed a waiver of a breach of any other provision of this Agreement or consent to any subsequent breach of the same or any other provision of this Agreement. If any action by a party requires the consent or approval of the other party to this Agreement, such consent or approval on anyone occasion will not be deemed a consent to or approval of such action on any subsequent occasion or a consent or approval to any other action.

9.3 Force Majeure: No party is responsible for performance in accordance with the terms of this Agreement to the extent performance is prevented, hindered, or delayed by fire, flood, earthquake, elements of nature or acts of God, acts of war (declared and undeclared), riots, rebellions, revolutions, or terrorism, whether foreseeable or unforeseeable ("Force Majeure").

9.4 Assignment: Neither the Solano, Yolo nor SDBC may assign this Agreement in whole or in part (whether by operation of law or otherwise) to any other entity, agency, or person without the prior written consent of the other parties.

9.5 Binding Effect: This Agreement will be binding on the parties and their permitted successors and assigns.

9.6 Governing Law: The Agreement and performance under it will be exclusively governed by the laws of the State without regard to its conflict of law provisions.

9.7 Construction: The article and section headings used in this Agreement are inserted for convenience only and do not affect the meaning or interpretation of this Agreement. This Agreement, and any other document or agreement referred to or executed and delivered in connection with this Agreement, shall not be construed against any party as the principal draftsman.

9.8 Integration: This Agreement (including all addenda and exhibits and any amendments signed by both parties) contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings, and agreements, whether verbal, written, or implied, between the parties with respect to the subject matter.

9.9 Severability: If any term, provision, covenant or condition of this Agreement is held invalid, void or unenforceable by a court of competent jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable and binding on the parties.

9.10 Signature Authority: The parties signing this Agreement on behalf of Solano, Yolo and SBDC certify that they are authorized to do so.

IN WITNESS WHEREOF, the County of Solano, the County of Yolo and the Solano College Small Business Development Center have caused this Agreement to be executed the day and date first above written.

COUNTY OF SOLANO, a political subdivision of the State of California

COUNTY OF YOLO, a political subdivision of the State of California

By Linda J. Seifert, Chair

By Duane Chamberlain, Chair

APPROVED AS TO FORM

APPROVED AS TO FORM

County Counsel

County Counsel

SOLANO COMMUNITY COLLEGE SMALL BUSINESS DEVELOPMENT CENTER

By Jowel C. Laguerre, Ph.D.
Superintendent/President

APPROVED AS TO FORM

Counsel of Record

ATTACHMENTS:
Exhibit A: Initial Farmbudsman Program Annual Work Plan
Exhibit B: Desired Qualifications of a Farmbudsman Consultant

EXHIBIT A
INITIAL FARBUDSMAN PROGRAM ANNUAL WORK PLAN

The Farmbudsman Program Committee, in conjunction with the Farmbudsman, will establish specific activity targets for Year One and subsequent years of the Farmbudsman Program. The following Work Plan outlines the initial expectations of the Farmbudsman Program.

General Expectations: The goal of Solano and Yolo Counties is to preserve and enhance agriculture as viable industry for its cultural, environmental and economic benefit to the respective counties. The Farmbudsman Program's objective is to facilitate and expedite the development of promising value-added agricultural projects. Activities of the Farmbudsman will reflect the desirable attributes as described in Exhibit B and will lead to a successful Farmbudsman Program. After three years of operation, the measures of success of the Farmbudsman Program include:

- 20 percent increase in approvals of agriculture-related projects in each county;
- 500 new agriculture-related jobs have been added by 2015 in each county; and
- 5 new processors in each county have been added between 2012 and 2015.

County Agriculture Orientation: The Farmbudsman will meet with and become familiar with key industry groups from each county, including but not limited to:

- a) Solano County Farm Bureau
- b) Yolo County Farm Bureau
- c) Suisun Valley Growers and Vintners
- d) Solano EDC
- e) Capay Valley Valley Vision
- f) Solano County Agriculture Advisory Committee
- g) Solano County Wool Growers
- h) Yolo County Wool Growers
- i) California Cattlemen's Association
- j) Solano Grown
- k) Clarksburg Wine Growers and Vintner Association
- l) Farmers' Market Associations
 - Pacific Coast Farmers' Market Association
 - Davis Farmers Market
 - Green Valley Certified Farmers' Market
- m) Solano Land Trust
- n) Yolo Land Trust
- o) Yocha Dehe Wintun Nation
- p) Roots to Wine
- q) Yolo County Ag Futures Alliance

Local Government Orientation: The Farmbudsman will meet with key people in local, state and federal government and set up training with various departmental staffs to facilitate the navigation of agriculture-related projects through the various agencies, including but not limited to:

Solano County

- a) Agriculture Commissioner/Sealer of Weights and Measures – Jim Allan
- b) Resource Management Planning Division – Mike Yankovitch and Jim Leland
- c) Resource Management Building Official – David Cliché
- d) Resource Management Environmental Health Division – Terry Schmidtbauer

Yolo County

- a) Agriculture Commissioner/Sealer of Weights and Measures – John Young
- b) Planning and Public Works Planning Division – John Bencomo and David Morrison
- c) Planning and Public Works Building Official – Lonell Butler
- d) Health Department Environmental Health Services – Leslie Limbo

State and Federal Agencies

- a) California Department of Alcoholic Beverage Control (winery and wine tasting licensing)
- b) California Department of Public Health (food processing permits)
- c) Delta Protection Commission (agriculture conservation easement programs)
- d) University of California Cooperative Extension
 - Small Farms Program – Shermain Hardesty
 - Regional Farm Advisors – Morgan Doran

Reading List: The Farmbudsman will become familiar with studies, summits, plans, codes and ordinances related to agriculture in Solano and Yolo Counties, including but not limited to:

- a) Solano and Yolo County Joint Economic Summit
- b) Yolo Food Connect Summit
- c) The Food Chain Cluster Study: Integrating the Food Chain in Solano and Yolo Counties to Create Economic Opportunities and Jobs
- d) The Solano County Agricultural Futures Project
- e) Sharpening the Focus of Yolo County Land Use Policy
- f) Solano County 2008 General Plan
- g) Yolo County: 2030 Countywide General Plan
- h) Solano County Middle Green Valley Specific Plan
- i) Solano County Suisun Valley Strategic Plan
- j) Solano County Ordinance
- k) Yolo County Ordinance
- l) Yolo Agricultural Permit Manual

EXHIBIT B
DESIRED QUALIFICATIONS OF A FARBUDSMAN CONSULTANT

The establishment of a Farmbudsman program to provide agriculture ombudsman services is part of the Solano and Yolo Counties' efforts to expand the economic viability of existing farmers, ranchers and agriculture-related businesses and to expand the overall economic impact of agriculture on the local economy by attracting additional agriculture-related business activity. The primary expectation of the Farmbudsman consultant is to assist farmers, ranchers and agriculture-related businesses to navigate the various permitting processes, including assistance with agricultural permitting and standards as required by Regulatory Agencies. In preparing farmers, ranchers and agriculture-related businesses to access the permitting process, the Farmbudsman may be required to direct clients to other business assistance services to enhance the viability of their requested endeavor. The anticipated result of that navigation assistance and linkage to business assistance services is the development of promising value-added agricultural projects that preserve and enhance agriculture in Solano and Yolo Counties.

A desirable Farmbudsman consultant will be able to demonstrate their ability to:

- Work with farmers, ranchers and agriculture-related businesses in order to provide assistance on technical, regulatory, and governmental processes and issues that will result in development and delivery of agriculture-related projects that increase the value and contribution of agriculture in the Solano and Yolo Counties region.
- Serve as an ombudsman to the agricultural communities by representing their interests to the various Regulatory Agencies.
- Interpret and apply applicable federal, state, and local laws, rules, and regulations to determine compliance with standards and regulatory limitations.
- Gather, organize, analyze, and present complex data, information, evidence and facts orally and in written reports.
- Coordinate with committees, commissioners, county departments, advisory boards, and other public and private agricultural support organizations to research and assess economic and growth needs.
- Serve as liaison and technical advisor to public bodies, planning officials, task forces, and law and code enforcement bodies on issues affecting the agricultural communities.
- Understand the economic, environmental, resource, legal, and human issues affecting rural-urban communities and potential agriculture-related projects.
- Assess information requests and research related land use regulations and policies to compile and analyze data on economic, social, regulatory and physical factors affecting land use.
- Use computers and related software such as project management, word processing, spreadsheet, graphic, and presentation software.
- Establish and maintain harmonious working relationships with all those contacted in the course of work.