

183



SUBMITTAL TO THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FROM: Redevelopment Agency

SUBMITTAL DATE:
September 3, 2009

SUBJECT: Approval of Standard Agreement No. 08-FWHG-4464 for the Joe Serna, Jr. Farmworker Housing Grant Program

RECOMMENDED MOTION: That the Board of Directors:

1. Adopt Resolution Number RDA 2009-029 approving the Joe Serna Jr., Farmworker Housing Grant Program Standard Agreement by and between the Redevelopment Agency for the County of Riverside and the California Department of Housing Community Development; and
2. Authorize the Executive Director or designee to execute the Standard Agreement, and all other grant documents and amendments, subject to County Counsel approval, as required by HCD for the participation in the Joe Serna, Jr. Farmworker Housing Grant Program.

Continued

Dan Martinez for

Dan Martinez

Robert Field
Executive Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2009/2010

COMPANION ITEM ON BOARD OF SUPERVISORS AGENDA:

SOURCE OF FUNDS: Joe Serna, Jr. Farmworker Housing Grant Program	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *Jennifer L. Sargent*
Jennifer L. Sargent

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: *Michelle Clack*
DATE: 9/3/09
Departmental Concurrence

Dep't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: 4.2-6/17/08

District: 4th

Agenda Number:

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

4.5
RDA-001a-F11.doc
FRM 11 (REV 08/2003)

BACKGROUND: The lack of affordable housing in the Unincorporated Eastern Coachella Valley has been an ongoing concern for the Redevelopment Agency for the County of Riverside ("Agency"). The Agency established the Mobile Home Tenant Loan ("MHTL") Program in 1999 to remove the substandard and dilapidated mobile homes from unpermitted mobile home parks. The MHTL Program has been successful in assisting more households with additional funding from the Joe Serna Jr. Farmworker Housing Grant Program ("FWHG"). To date the Agency has been able to assist over 630 households in the Unincorporated Eastern Coachella Valley by providing them with a decent and safe homeownership opportunity.

Throughout the years the Agency has established a precedent with the State of California Department of Housing and Community Development ("HCD") by applying to the FWHG funds to assist the very low-income farmworker households. The allocations that have been awarded are used as a matching source of funds with our existing MHTL Program. The Agency began applying for funding as a matching source since 2001 and has continued to apply on a yearly basis when the Notice of Availability for Funding is available. In 2001 and 2004 the Agency was awarded \$1,000,000, and in 2005, 2007 and 2008 the Agency was awarded \$1,500,000.

The 2008 funding application was approved for submission to HCD by the Board on June 17, 2008. The Agency was notified by HCD that the funding application was approved as submitted to be used as a matching source with the Agency's existing MHTL Program. HCD has recently requested a resolution for the execution of the 2008 funding contract.

The attached Resolution Number RDA 2009-029 will authorize the Executive Director or designee to execute the Standard Agreement, and all other grant documents as required by the HCD for the participation in the Joe Serna, Jr. Farm Worker Housing Grant Program, and any amendments thereto.

Agency Counsel has approved the revised resolution as to form and staff recommends its approval.

2
3 **RESOLUTION No. RDA 2009-029**
4 **APPROVAL OF STANDARD AGREEMENT NO. 08-FWHG-4464 FOR THE JOE**
5 **SERNA, JR. FARMWORKER HOUSING GRANT PROGRAM**

6 **WHEREAS**, the Redevelopment Agency for the County of Riverside ("Agency")
7 is a Redevelopment Agency duly created, established and authorized to transact
8 business and exercise its powers, all under and pursuant to the provisions of the
9 Community Redevelopment Law, which is Part 1 of Division 24 of the California Health
10 and Safety Code (commencing with Section 33000 et seq.); and

11 **WHEREAS**, the Agency is providing the farmworker community with an
12 opportunity of homeownership through its existing Mobile Home Tenant Loan ("MHTL")
13 Program; and

14 **WHEREAS**, the Joe Serna, Jr. Farmworker Housing Grant funds will be used as
15 a matching source of funds for the existing MHTL Program; and

16 **WHEREAS**, the California Department of Housing and Community Development
17 ("HCD") issued a Notice of Funding Availability ("NOFA") on January 11, 2008 for the
18 Joe Serna Jr., Farmworker Housing Grant Program; and

19 **WHEREAS**, the Agency responded to the January 11, 2008 NOFA and was
20 notified by HCD that the Agency was awarded an allocation of \$1.5 million for the use in
21 the Mobile Home Tenant Loan Program.

22 **BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED** by the Board of
23 Directors of the Redevelopment Agency for the County of Riverside, in regular
24 assembled on September 15, 2009:

- 25 1) The Redevelopment Agency for the County of Riverside hereby agrees
26 to use the Joe Serna, Jr. Farmworker Housing Grant Program funds as
27 stated in our application, for eligible activities defined by HCD, and in
28 accordance with the Joe Serna, Jr. Farmworker Housing Grant
Program guidelines.

RESOLUTION NUMBER RDA 2009-029

JOE SERNA, JR. FARM WORKER HOUSING GRANT PROGRAM

FORM APPROVED COUNTY COUNSEL
BY: MICHELLE CLACK
DATE: 9/3/09

Exhibit “A”

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (Rev 06/03)

AGREEMENT NUMBER 08-FWHG-4464
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:
 STATE AGENCY'S NAME
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 CONTRACTOR'S NAME
Redevelopment Agency for the County of Riverside
- The term of this Agreement is: Upon HCD approval through **October 30, 2011**
- The maximum amount of this Agreement is: **\$1,500,000**
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Authority, Purpose and Scope of Work	5 page(s)
Exhibit A-1 – Memorandum of Understanding	5 page(s)
Exhibit B – Budget Detail and Payment Provisions	5 page(s)
Exhibit C – HCD General Terms and Conditions	14 page(s)
Exhibit D – State of California General Terms and Conditions	6 page(s)
Exhibit E – Special Conditions	
Exhibit F – Additional Provisions	

TOTAL NUMBER OF PAGES ATTACHED: 35 pages

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

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) Redevelopment Agency for the County of Riverside		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Robert Field, Executive Director		
ADDRESS 1325 Spruce Street Ste. 400 Riverside, CA 92504		
STATE OF CALIFORNIA		
AGENCY NAME Department of Housing and Community Development		<input checked="" type="checkbox"/> Exempt from: Department of General Services Approval
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Stacy Q. Hernandez, Contracts Manager, Budget & Contracts Branch		
ADDRESS 1800 Third Street, Room 350, Sacramento, CA 95811		

FORM APPROVED COUNTY COUNSEL
 BY:  9/2/07
 MICHELLE CLACK DATE

EXHIBIT AAUTHORITY, PURPOSE AND SCOPE OF WORK
(HOMEOWNERSHIP)**Section 1: Authority & Purpose**

This Standard Agreement (hereinafter "Agreement") will provide official notification of the conditional reservation of funds under the State's administration of the Joe Serna, Jr. Farmworker Housing Grant Program (herein after the "Program") pursuant to Chapter 3.2 of Part 2 of Division 31 of the Health and Safety Code (commencing with Section 50517.5), and the regulations promulgated thereunder as set out in Subchapter 3 of Chapter 7 of Division 1 of Title 25, California Code of Regulations (commencing with Section 7200). Hereinafter, the regulations contained in Subchapter 3 as amended and in effect from time to time are referred to as the "Program Regulations." The Program is administered by the State of California Department of Housing and Community Development (hereinafter the "State or Department") for purpose of providing financing for construction or rehabilitation of housing for agricultural employees and their families. This Agreement is entered into under the authority of, and in furtherance of the purposes of, the Program. In accepting this conditional reservation of funds, the Contractor agrees to comply with the terms and conditions of this Agreement, the representations contained in the Contractor's application for this funding allocation (the "Application"), the requirements of the authorities cited above, and the terms, conditions and requirements of the Notice of Funding Availability ("NOFA") under which Contractor applied for this award of Program funds. As used in this Agreement, the Regulatory Agreement, and other documents entered into between the State and Contractor, the term "Contractor" has the same meaning as "Grantee" in the Program Regulations, and "Sponsor" in the NOFA.

All funds provided through this Agreement are general obligation bond funds pursuant to the Housing and Emergency Shelter Trust Fund Act of 2006. As such, pursuant to Government Code section 16727, Grantee and Sponsor shall ensure that expenditures of the proceeds of the Program grant or loan are limited to those costs associated with the acquisition or construction of capital assets.

Section 2: Term of Agreement

The term of this Agreement commences upon approval by the State and will expire on **October 30, 2011**.

Section 3: Contract Amount, Lien Position, and Terms

- A. For the purposes of performing the Work, the State agrees to provide the amount shown on Page 1, Section 3 of this Agreement (STD. 213). In no instance shall the State be liable for any costs for the Work in excess of this amount, nor for any unauthorized or ineligible costs.

EXHIBIT A

- B. Funds shall be provided in the form of a grant in the amount of \$1,500,000.
- (1) If Program funds are used in the development of the subdivision, a master Grant Lien and Regulatory Agreement between the Contractor and the State shall be recorded in the position indicated in Section 5. Such lien shall be partially released as individual lots are transferred to assisted and non-assisted households.
 - (2) Upon transfer of title to the individual agricultural worker household and before disbursement of subsequent grant funds, a Homeowner Grant Lien Agreement, to be recorded in the position indicated in Section 5, for a term of not less than twenty (20) years.
 - (3) For Manufactured Homes, a Promissory Note Security Agreement and Grant Agreement shall be executed for a period not to exceed ten (10) years.
 - (4) For homeownership rehabilitation, a Homeowner Grant Lien Agreement shall be recorded for a period of twenty (20) years.
 - (5) Any proposed resale restrictions shall be submitted to and approved by the State prior to the release of all or any portion of the Grant Lien and Regulatory Agreement.

Section 4: Scope of Work

- A. The Contractor shall perform the Work as described in the Application, which is on file at the Department of Housing and Community Development (HCD), Division of Financial Assistance, 1800 Third Street, Room 390, Sacramento, California. All written materials or alterations submitted as addenda to the original Application and which are approved in writing by the Program Manager or higher Departmental official, as appropriate, are hereby incorporated as part of the Application. The State reserves the right to require the Contractor to modify any or all parts of the application in order to comply with Program requirements. The Application and any approved modifications and additions thereto are hereby incorporated into this Agreement.
- B. The State reserves the right to review and approve all Work to be performed by the Contractor in relation to this Agreement. Any proposed revision to the Work must be submitted in writing for review and approval by the State. Any approval shall not be presumed unless such approval is made by the State in writing.
- C. The Work generally shall consist of the development or acquisition and development of the real property specifically identified in the legal description attached hereto and made a part hereof as Exhibit A-1 (the "Development Property") and more generally described as follows:

EXHIBIT A

- (1) Development Location: Eastern Coachella Valley of Riverside County.
- (2) Description of Development: The Redevelopment Agency will use the Serna Program funds to assist qualified agricultural households being displaced by Code violations and Health and Safety Code issues in purchasing new HUD certified manufactured home units.
- (3) Total Units: 100 Serna-assisted units: 80-100
- (4) Application #: 7732
- (5) Date of Staff Report Approved by Director: August 21, 2008
- (6) General Purposes (check all applicable): Manufactured Structure
 Acquisition Predevelopment Site Development New Construction Rehabilitation Refinancing Other: Roll over as mortgage assistance
- (7) End of Borrowers Fiscal Year: June 30.

Hereinafter, in this Exhibit A and all other Exhibits, the Work to be undertaken on the Development Property is referred to as the "Development."

Section 5: Funding Sources, Lien Positions, and Match

A. Funding Sources and Lien Positions:

LAND ACQUISITION AND INFRASTRUCTURE FUNDING:

Source	Lien Position	Amount
N/A		
Total Construction Period Financing:		

CONSTRUCTION AND PERMANENT FUNDING:

Source	Lien Position	Amount
Sema Grant Funds	1	1,500,000.00
MHTL	2	4,000,000.00
Owners contribution	N/A	8,800,00
Total Development Cost:		\$5,508,800.00

B. Total Match: \$5,008,800.00

EXHIBIT A

Section 6: State Contract Coordinator

The coordinator of this Agreement for the State is the Program Manager of the Joe Serna, Jr. Farmworker Housing Grant Program, Division of Financial Assistance. Any notice, report, or other communication required by this Agreement shall be mailed by first class to the State Contract Coordinator at the following address:

State of California
Department of Housing and Community Development
Division of Financial Assistance
Joe Serna, Jr. Farmworker Housing Grant Program
P.O. Box 952054, MS 390-2
Sacramento, CA 94252-2054
Attention: Serna Program Manager
Phone: (916) 322-1560

Section 7: Contractor Contact Coordinator

The Contractor's contact for this Agreement is listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class to the contact at the following address:

Contractor:	Redevelopment Agency of the County of Riverside	
Name:	Monica Telles	
Phone:	(760) 863-2541	
Fax:	(760) 863-2551	
Email:	mtelles@rivcoda.org	
Address:	1325 Spruce Street Ste. 400 Riverside, CA 92507	

Section 8: Special Condition(s)

A. For all activities:

- (1) By April 30, 2008 the Contractor must demonstrate to the satisfaction of the State that it has made satisfactory and reasonable progress in complying with the pre-disbursement conditions, or the State, solely at its opinion, may disencumber funds or terminate this Agreement.
- (2) The Contractor shall ensure that all conditions, which must be satisfied or completed prior to disbursement of Program funds, as specified in Exhibit B, prior to October 30, 2008 or the State, solely at its option may disencumber funds or terminate this Agreement.
- (3) Other conditions reasonably necessary to ensure the security of the JSJFWHG and to ensure compliance with JSJFWHG Program

EXHIBIT A

Regulations and the terms and conditions of the proposed development are as follows:

- (a) These funds are to be used for mortgage assistance for the purchase of new HUD certified manufactured homes, occupied by eligible agricultural households.
- (b) A Subsequent Homeowner Grant Lien Agreement shall be recorded in no lower than 1st position, against each manufactured home assisted with Program funds.
- (4) The administration and procedures for the administration of this activity shall be in accordance to the Memorandum of Understanding entered into between the Department and the Contractor. Attached as Addendum 1-A
- (5) Contractor shall maintain that space rents for these homes will remain in compliance with HCD's affordable guidelines.

END OF GENERAL AND SPECIAL CONDITIONS

EXHIBIT A-1

Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING REGARDING
WORK DESCRIPTION & PROGRAM ADMINISTRATION

1. General Description of the Work.

The State, through the Department of Housing and Community Development ("HCD"), operates the Joe Serna, Jr. Farmworker Housing Grant Program (the "Program") established by Chapter 3.2 of Part 2 of Division 31 of the Health and Safety Code, commencing with Section 50517.5 (the "Program Statutes"). The Program is implemented through regulations found in subchapter 3 of Chapter 7 of Division 1 of Title 25, California Code of Regulations, commencing with Section 7200 (the "Regulations"). Pursuant to the Regulations, generally speaking, the housing component of the Program has five major stages: (1) making funds available through issuance of a Notice of Funding Availability ("NOFA"); (2) selection of developments for funding through application of the requirements of the Regulations and underwriting standards; (3) closing of grant awards (involving the execution and recording of grant documents); (4) disbursement of funds and construction oversight; and (5) long-term monitoring for compliance with the Regulations and grant documents. The State also has established the Joe Serna, Jr. Farmworker Families Facing Displacement/Manufactured Housing Component (the "JSJFFD/MHC"). This Program is subject to the requirements of Program Statutes, Program Regulations, and subdivisions 3 and 5 of line 2240-104-0001 of the Budget Act of 2000 ("Budget Act") for the purpose of making Program grants to provide affordable housing alternatives to farmworker families facing displacement because of conditions that are a danger to the health and safety of the residents because of overcrowding, lack of adequate infrastructure, or substantial violations of the health and safety standards.

Through this Agreement, the State shall make available \$1.5 million to Contractor for the purpose of conducting the work under stages 1 through 5 above for developments that also provide assistance to agricultural households facing displacement due to serious health and safety issues relative to their current housing situation.

2. Termination.

This Agreement shall terminate on December 30, 2011.

3. Applicable Statutes and Regulations.

Contractor shall administer all funds made available hereunder in conformance with: (1) the Program statutes; (2) Health and Safety Code Section 50517.5; (3) the Regulations to the extent and as described in Attachment B; (4) the Budget Act; and (5) the Application which is incorporated herein by this reference.

EXHIBIT A-1

4. Selection of Developments for Funding.

Contractor shall utilize its existing process to solicit applications and select developments for receipt of a Program grant that are otherwise eligible under the Regulations and that meet the following special requirements: (1) the development shall provide agricultural households housing under this Program only to agricultural households facing displacement because of conditions that are a danger to the health and safety of the residents because of overcrowding; lack of adequate infrastructure, or substantial violations of health and safety standards; and (2) eligible costs include improvements to common areas, associated infrastructure, and related facilities.

Contractor is authorized to and shall select developments to receive Program grants utilizing its existing process and underwriting standards, as described in the Application. In determining which otherwise eligible applications are to receive a Program grant, the primary criterion to be utilized by Contractor shall be whether the development needs Program funds to enhance financial feasibility, as determined by Contractor.

5. Closing of Grant Awards.

HCD shall provide Contractor with sample copies of a promissory note, deed of trust, and grant lien agreement (the "grant lien documents") in both hard copy and electronic form to be used to document and secure each Program grant. Contractor shall be responsible for: (a) accurately inserting the deal-specific information into the grant lien documents for each grant made using Program funds; (b) submitting the grant lien documents into escrow; and (c) preparing escrow instructions.

HCD shall provide Contractor with sample copies of escrow instructions to ensure that the grant lien documents are appropriately executed and, where applicable, notarized and recorded. In general, escrow instructions shall include a requirement that the escrow officer acknowledge receipt of the instructions and shall include instructions for: (a) completion and execution of grant lien documents, including promissory note, notarized deed of trust and notarized grant lien and regulatory agreement; (b) ALTA policy of title insurance and fire/hazard insurance; (c) disbursements of grant proceeds and transfers of title; (d) requests for Notice of Default or and Sale; (e) order and priority of recordation of grant lien documents; (f) instructions for return of executed and recoded documents; and (g) copies of other participants' documents, closing statement, proof of hazard insurance. The parties acknowledge and agree that the grant lien documents will be recorded in a superior position to the loan documents securing Contractor's Agricultural Housing Assistance Loan Fund (AGHL) loan to a development.

EXHIBIT A-1

6. Disbursement of Funds.
Contractor shall request disbursement of funds using a Request for Funds form provided by HCD. Funds shall not be requested any sooner than forty-five (45) days prior to the anticipated closing of escrow. Contractor may request that the entire amount of the Program grant for a particular development be disbursed at one time. Prior to the first disbursement of Program funds, Contractor shall submit to HCD a completed set of project-specific grant lien documents and escrow instructions for the funds being requested for HCD's review and approval. Disbursement of funds shall be to an interest-bearing escrow account with a financial institution insured by either the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation and that is acceptable to HCD. Upon completion of each particular development, any interest earned on Program funds shall be returned to the State.
7. Construction Oversight and Monitoring.
Contractor shall oversee the work being paid for with Program grant funds in the same manner that it oversees work funded utilizing a capital loan provided under the AGHL, as described in the Application. If the work will involve progress payments to be paid from the proceeds of the Program grant, Contractor shall use the same process for release of Program grant funds as it would use for progress payments from AGHL capital loan proceeds.
8. Long-Term Monitoring.
The Program requires that a Contractor oversee the long-term monitoring and compliance of Program-funded developments. To satisfy this requirement, for all developments that have received Program grant funds, Contractor shall provide the State with the annual report described in Attachment B. In addition, Contractor shall transmit copies of all information gathered pursuant to its loan monitoring activities of its own capital loan to a development within 30 days of placement of the information in the AGHL capital loan file maintained by Contractor for the development.
9. Match.
The Standard Agreement requires that each grant be matched by an amount as proposed in the approved Application.
10. Reporting.
In addition to any other reporting requirements contained in this Agreement, Contractor shall also provide the following information.
 - A. Close of Escrow:
Within forty-four (44) working days of the close of an escrow funded with Program funds, Contractor shall transmit the following documents to HCD:
 - (1) a complete set of the loan documents for the Joe Serna, Jr. Grant;
 - (2) the original JSJFWHG Program Promissory Note Security Agreement and Grant Agreement for a Manufactured Home (Note), and conformed

EXHIBIT A-1

copies of the recorded grant lien agreement; (3) copy of the signed escrow instructions submitted by Contractor to escrow; (4) copy of the escrow closing statement; (5) conformed copies of all notices of default and sale; (6) conformed copies of any subordination agreements subordinating the HCD grant lien documents; and (7) Settlement Statement. Contractor shall retain copies of all documents transmitted to HCD.

B. Interim Reports:

Contractor shall provide HCD written progress reports by the following dates:

December 30, 2008

June 30, 2009

December 30, 2009

June 30, 2010

December 30, 2010

Each interim report shall contain, at a minimum, the following information:

For grants awarded but not yet closed: the grantee's name; grant amount; estimate closing date; the development name and location; type of activity (new construction or rehabilitation) and general description of the development; number of units by bedroom size; description of how Program funds will be used; description of health services to be provided; and description of any problems delaying original estimated closing date.

For closed grants: the grantee's name; grant amount; closing date; the development name and location; type of activity (new construction or rehabilitation) and general description of the development; number of units by bedroom size; description of how Program funds will be used; status of construction; description of health services to be provided; and any particular problems leading to delay of original estimated date of completion.

C. Cumulative Program Reports

No later than June 30, 2008, Contractor shall provide HCD a cumulative report containing all of the information required for an interim report and containing the following additional information:

Details about the developments operated using Program funds identifying information related to the following elements:

Provision of housing for agricultural households facing displacement from existing labor camps, mobile home parks, and other housing because of the existence of conditions that are a danger to the health and safety of the residents due to overcrowding, lack of adequate infrastructure, or substantial violations of the health and safety standards;

Scope and nature of the completed improvements to the site;

An itemized cost breakdown with backup financial documentation; and

EXHIBIT A-1

A rent and occupancy schedule verifying that all occupants are eligible and that they are paying appropriate rents.

Contractor shall continue to provide HCD with updated cumulative Program reports as listed on B above, until the last development funded with Program funds is constructed and a valid Notice of Completion has been recorded.

- D. **Transfer of Files.**
Upon termination of this Agreement, Contractor shall transfer all Program grant files to HCD.

Sharon Sarno, Manager
Serna Single Family

Executive Director
Redevelopment Agency for the County
of Riverside

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS
(HOMEOWNERSHIP)

1. BUDGET AMOUNT – Uses of Program Funds

NUMBER	ITEM	BUDGET AMOUNT
1	The Redevelopment Agency of the County of Riverside is replacing 80 to 100 manufactured homes that violate health and safety codes. The Serna Program funds will help qualified agricultural households to acquire the new code compliant units in the Eastern Coachella Valley of Imperial County.	\$1,500,000
	TOTAL	\$1,500,000

2. METHOD OF DISBURSEMENT

- A. Upon receipt of a certified resolution from the Contractor's governing body, if the Contractor is a public body, or a loan authorization, if the Contractor is a private entity, authorizing execution of this Agreement; approval by the State of a complete contract package; the proper execution of the required documents and instruments; and compliance with all pre-disbursement conditions, the State agrees to disburse to, or on behalf of, Contractor Program funds not to exceed the total amount set forth on Page 1 Section 3 of this Agreement subject to the terms and conditions of this Agreement and other applicable agreements. With the prior written approval of the State, the Contractor may transfer any allocations or portions thereof set forth in the approved budget to other allocated items of said budget, as long as the basic nature of the Program award is not modified.
- B. The executed relevant Program documents and the initial disbursement of funds shall be deposited in an escrow established with an escrow or title insurance company chosen by the Contractor and approved by the State. The deposit of documents and funds shall be governed by written instructions issued by the State which shall establish terms and conditions for the delivery and recordation of documents and the disbursement from escrow of grant proceeds. The State may provide for an alternate funding procedure if set forth in Exhibit A.
- C. For each disbursement of funds, the Contractor agrees to submit, in a form and manner determined by the State, a written request for

EXHIBIT B

disbursement and to attach to this request any documents required by the State. With each request, the Contractor shall certify that the funds requested shall be used only for the purposes authorized by the State. Each request must be signed by the Contractor (or his/her designee).

- D. Payments shall be disbursed in accordance with the payment method and schedules set forth herein, and funds shall be disbursed only for payment of obligations which are due. The State may release funds to a third party escrow holder to disburse funds in accordance with these requirements provided that the State concludes in its sole discretion that adequate safeguards are in place to ensure compliance with the requirements of this Agreement, and with the Development Agreement if one is required by the State.
- E. Any funds disbursed by the State to, or on behalf of, the Contractor and not applied toward approved development costs in accordance with the Development Agreement referenced herein, shall be repaid to the State, with interest earned, upon demand.
- F. Each request for funds must be submitted to:

Department of Housing and Community Development
Division of Financial Assistance
Joe Serna, Jr. Farmworker Housing Grant Program
P.O. Box 952054, MS 390-2
Sacramento, CA 94252-2054

3. PRECONDITIONS TO DISBURSEMENT

- A. Prior to disbursement of any funds, the Contractor shall evidence the following to the State's satisfaction:
 - (1) All local approvals have been granted and development conditions have been fulfilled, and that any terms and conditions of such approvals or conditions are not contrary to the terms of the Contractor's application as approved. If any approvals or conditions cannot be fulfilled prior to disbursement because Program funds are necessary for their completion, the Contractor shall specify in detail what these terms and conditions are, why and how much Program funds are necessary for their completion, and when completion is anticipated. The State may approve a disbursement prior to completion of these conditions if such a disbursement is not inconsistent with the State's security. The matters subject to this paragraph include both mandatory discretionary approvals, and may include zoning matters, utility

EXHIBIT B

service, and other approvals or conditions, which affect the Development or operation of the Development.

- (2) Prior to any temporary or permanent displacement necessitated by the proposed Development, the Contractor shall provide a relocation plan conforming to the requirements of state law and regulations (California Code of Regulations, Title 25, section 6000 et seq), to be reviewed and approved by the State. Any anticipated relocation costs shall be shown in the proposed Development Budget.
 - (3) The value of the Development Property and the Development are sufficient to secure the Program funds. The State shall have the option of determining the method of ascertaining value of the Development Property and the Development. Any appraisal or other method of determining value shall be subject to State approval.
 - (4) Necessary and appropriate conditions of other participating State programs have been satisfied or completed.
 - (5) Submittal of the terms and conditions of financial assistance from funding sources other than the State and other sources of match.
 - (6) Commitment of match as required by Exhibit C, Paragraph 3.
 - (7) Compliance with the insurance requirements of Exhibit C, Paragraph 20.
- B. Prior to the disbursement of any Program funds, or at such other time specified by the State, the following documents shall be completed, approved by the State and, where appropriate, executed:
- (1) A Grant Lien and Regulatory Agreement between the Contractor and the State will be recorded in the position indicated in Exhibit A, for a term not less than the term specified in Exhibit A. In the case of a subdivision development, upon transfer of title to the individual agricultural worker household, and before disbursement of subsequent grant funds, a Homeowner Grant Lien Agreement, to be recorded in the position indicated in Exhibit A, Section 5, Funding Sources, Lien Positions, and Match, for a term of not less than twenty (20) years.
 - (2) If funds are to be used for predevelopment costs: consultant contracts; Architect's Agreement; preliminary plans, work write-ups

EXHIBIT B

endorsements as might be required or requested by the State, insuring that the Regulatory Agreement is prior to any liens, encumbrances or other matters of record affecting the Development except those approved in writing by the State and consistent with the Staff Report identified in Exhibit A, Section 4.C.5.

4. ADDITIONAL CONSTRUCTION AND DISBURSEMENT CONDITIONS

- A. Prior to the disbursement of any Program funds, or at such other time specified by the State, the Contractor shall provide evidence of financing commitments in amounts no less than those determined by the State to be necessary to complete construction or rehabilitation, and to ensure project feasibility and affordable housing costs to the targeted group of farmworker households. The terms and conditions of such loans and grants shall be subject to the review and approval of the State prior to grant or loan closing.
- B. If the Contractor is proposing to select a general building contractor by other than the competitive bid process (e.g. by negotiation, design-build, construction management [unless all trades are competitively bid], self-contracting with an entity with which the Contractor has an identity of interest), Contractor shall, before executing a construction agreement, furnish to the State the results of an independent cost estimate. This estimate shall be performed by a construction professional, approved by the State. It shall confirm that the costs proposed by non-competitive process method are reasonable and with the norms found in the local area where the project is to be constructed. Such estimate shall be approved by the State prior to the disbursement of any funds except those allocated for site acquisition or predevelopment activities.
- C. This commitment is subject to the availability of funds.

5. DISENCUMBRANCE OF FUNDS

In the event the Contractor does not utilize the Program funds authorized by this Agreement within the time periods specified in Exhibit A, the State, at its sole discretion, and upon written notice to the Contractor, may determine that the funds, or a portion of the funds, no longer are required for the Contractor's performance under the terms of this Agreement. Upon written notice to the Contractor, the State may reduce the amount of Program funds and disencumber from this Agreement the amount determined to be no longer required. The written notice to the Contractor shall indicate the effective date and the amount of such reduction and disencumbrance from the total amount of this Agreement. In the alternative, the State may, at its sole discretion, terminate this Agreement pursuant to Exhibit C, Paragraph 14.

EXHIBIT C

HCD GENERAL TERMS AND CONDITIONS

1. Title to Development Property

The Contractor shall hold fee title to the Development Property identified in Exhibit A-1 unless provided otherwise in Exhibit A, Section 8, Special Conditions. The status and nature of Contractor's title and interest in the property, as well as all matters affecting title, shall be subject to the approval of the State.

2. Commitment of State Funds

A. The State and the Contractor shall enter into a Grant Lien and Regulatory Agreement which together with this Agreement and any additional documents the State may deem necessary or permit shall control the use of Program funds provided to the Contractor. The disbursement of funds hereunder is expressly conditioned upon the execution of those agreements by the Contractor and the State.

B. In the event that a state or federal governmental entity which has the authority to do so determines that the applicable statutes, regulations, or any use of Program funds or funds from other sources contemplated by this Agreement, is unlawful or contrary to any applicable provision of federal or state law, this Agreement shall be deemed modified to eliminate such unlawful use or application and/or to add necessary restrictions or requirements. In the event of such determination, the State shall notify Contractor, in writing, of the specific modification to this Agreement which is required by such determination. The Contractor shall have fifteen (15) calendar days after receipt of such notice to terminate this Agreement and return any and all funds advanced including interest earned on such funds. If the Contractor fails to do so within the fifteen-day (15-day) period, the modification shall become part of this Agreement effective on the date of receipt of notice and binding on the parties hereto.

3. Matching Share

A. The Contractor shall contribute to the Development the amount of funds described in Exhibit A, Section 5.B. as its matching share, which shall be at least equal to the State's award which amount will be obtained from one or more of the sources (and respective amounts) described in Exhibit A.

B. The Contractor shall provide evidence acceptable to the State of the commitment of the matching share from the sources of such funds prior to disbursement of Program funds pursuant to this Agreement. The State will determine the valuation of a given matching share where necessary.

EXHIBIT C

- C. The Contractor's matching share shall be used concurrently with the Program funds disbursed under this Agreement, unless different provisions are set forth in Exhibit A.

4. Contractor's Application for Funds

- A. The Contractor has submitted to the State the Application identified in Exhibit A for funding under the Program. The State is entering into this Agreement on the basis of, and in substantial reliance upon, the Contractor's facts, information, assertions and representations contained in that Application, and in any subsequent modifications or additions thereto approved by the State including, but not limited to changes detailed in the Staff Report presented to the Local Assistance Loan and Grant Committee (hereinafter, the "Loan Committee") and subsequent changes thereto approved by the Director of Housing and Community Development.
- B. The Contractor warrants that all information, facts, assertions and representations contained in the Application and approved modifications and additions thereto disclosed to the Contractor are true, correct and complete to the best of the Contractor's knowledge. In the event that any part of the Application and any approved modification and addition thereto is untrue, incorrect, incomplete or misleading in such a manner that would substantially affect the State's approval, disbursement, or monitoring of Program funds and the activities governed by this Agreement, then the State may declare a breach hereof and take such action or pursue such remedies as are provided for breach hereof.
- C. The Contractor, development team, financing structure, type, number and size of Serna Program assisted and non-assisted units, other housing costs, and other material aspects of the Development shall remain as set forth in the Application as reflected in the Staff Report identified in Exhibit A, Section 4.C.5. Any changes thereto must be specifically approved in advance and in writing by the State. Such changes, if of a substantial nature, may require recommendation by the Loan and Grant Committee, approval by the Director and/or an amendment to this Agreement.
- D. Any conflict between the Application submitted and the Staff Report shall be resolved in favor of the provisions of the Staff Report. Any conflict between the Staff Report and this Agreement shall be resolved in favor of this Agreement.

5. Compliance with Laws and Regulations

The Contractor agrees that at all times its acts with respect to the Development and use of Program funds and match committed herein shall be in conformity with all laws applicable to the Development including those of the State of California, all federal

EXHIBIT C

laws, all local rules or ordinances, all requirements of the Program including the statutes and rules and regulations referenced in Exhibit A, Section 1 of this Agreement, and the duly adopted policies and procedures of the State pertaining thereto.

6. Hazardous Substances

A. For the purpose of this Agreement, a "Hazardous Substance":

is any hazardous or toxic material, substance or waste which is, or may become, regulated in any manner, including, but not limited to, statute, law, ordinance, resolution, code, rule, regulation, order, or decree, by the federal government of the United States, the State of California, or any local or regional government body with regulatory authority and jurisdiction;

includes, but is not limited to, those materials or wastes that are defined, or which come to be defined, by the federal government of the United States, the State of California, or any local or regional government body with regulatory authority and jurisdiction as "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," or "hazardous substance";

includes, but is not limited to, any substance, product, waste or other material which may give rise to liability under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance, strict liability, or any reported decisions of a state or federal court;

includes, but is not limited to, petroleum and or petroleum products not contained in a regularly operated motor vehicle for the purpose of fuel and/or lubrication;

includes, but is not limited to, asbestos, lead-based paint, radon gas, landfill gas, natural gas, formaldehyde, fuel or chemical storage tanks; and includes, but is not limited to, any soil or water contaminated by a material noted above.

B. For the purpose of this Agreement, "Hazardous Substance Laws" are all local, state, and federal environmental laws, ordinances, and regulations relating to any Hazardous Substance.

C. Prior to the drawdown of funds for acquisition of the Development Property or for the construction of improvements, the Contractor shall perform, or cause to be performed, a "Phase 1" environmental audit to determine the possible presence of Hazardous Substances on the Development Property and in any improvements thereon. For the completion of any environmental audits, hazardous substance removal plans, hazardous substance operations and maintenance plans, or other hazardous work done pursuant to this paragraph, the Contractor shall employ personnel with the training, experience, references, and insurance coverage that evidence an ability to competently complete the

EXHIBIT C

relevant task. It is fully understood that the State may, in its sole discretion, decline to release any funds for acquisition or construction work until all possible violations of Hazardous Substance Laws have been resolved. The Contractor, or the entity preparing the environmental audit, shall provide a copy of the environmental audit for the State and shall provide a certification as to the accuracy of the environmental audit and the methodology employed in its preparation. The "Phase 1" environmental audit shall include at a minimum:

- (1) A historical review of the uses and improvements made to the Development Property. This historical review shall include an appropriately designed chain-of-title search using the complete records of the appropriate county recorder in order to discover relevant deeds, property descriptions, covenants, restrictions, and other recorded documents;
- (2) An analysis of old aerial photographs, if available, to determine the construction or destruction of buildings and the existence of ponds and disposal areas on the Development Property over time;
- (3) An investigation of the Development Property and sites within 2,000 feet of the Development Property with regard to the Environmental Protection Agency's National Priority List, Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) list, and any similar state lists;
- (4) A description of sites within 2,000 feet of the Development Property which may contain hazardous substances that could impact the Development Property;
- (5) A review of building, zoning, planning, sewer, water, fire, environmental, and other records that would have information on the Development Property and the sites described in subparagraph c.(4), above;
- (6) A review of the files and records of the Department of Health Services, Solid Waste Management Board, Regional Water Quality Control Board, Air Quality Management District, and other relevant boards or agencies whose actions may affect, or may have affected, the Immediate Development Property or the sites described in subparagraph c.(4), above;
- (7) An inspection of the Development Property and all existing improvements with particular attention to the use of hazardous substances on the land, within structures, as building components, or in operating equipment;

EXHIBIT C

- (8) Findings from interviews with neighbors to determine prior uses of the Development Property;
 - (9) A completed Property/Environmental Information Disclosure form signed by the Contractor or other party with knowledge of the Development Property. (Copies available upon request.);
 - (10) An indication as to whether present or past owners or tenants have stored, created, or discharged hazardous materials or wastes, and a review of whether appropriate procedures, safeguards, permits and notices are in place;
 - (11) An asbestos report based on comprehensive inspection for asbestos-containing building materials if any structure exists in the Development Property. The inspection must be performed by an inspector certified by the Environmental Protection Agency. The report must provide enough information to enable any building demolition or removal that may occur to comply with applicable local, state, and federal laws and regulations regarding the demolition of buildings containing asbestos;
 - (12) A discussion of the hazards, if any, posed by the presence of radon gas, underground storage tanks, contaminated soil, contaminated group water, landfill gas, or other dangerous soil gases;
 - (13) A clear, concise, and prominent summary of the reports' findings, conclusions, and recommendations; and
 - (14) An indication of the qualifications of the environmental auditor and the subcontractors used in preparing the report.
- D. In the event the "Phase 1" environmental audit indicates the possible presence of Hazardous Substances as determined by the State on the Development Property, and the Contractor desires to proceed with the Development, Contractor shall determine if hazardous substances are actually present, and to what extent they are present. This "Phase 2" environmental audit may include: (1) testing underground storage tanks for content and integrity, (2) analyzing soil gas, (3) bulk soil sampling, (4) groundwater and surface water sampling, (5) analyzing local geology for potential chemical spill pathways, and (6) listing individual groundwater wells and subsurface water bodies that may be affected by a hazardous substance release. In the event that the State determined, based on the Phase 2 audit, that Hazardous Substances are actually present, Contractor shall prepare and submit to the State a detailed plan it would be willing to follow to remove or mitigate these hazards in a manner which will result in full compliance with all applicable Hazardous Substance Laws. This plan shall include time frames, costs, sources of funds, necessary governmental approvals

EXHIBIT C

and any other relevant information related to the scope of the work needed to remove or mitigate the presence of Hazardous Substances. The State reserves the right to terminate this Agreement pursuant to Exhibit C, paragraph 14 if it determines, in its sole discretion, that the additional risks and costs posed by the presence of Hazardous Substance, would jeopardize the security of Program funds, render the Development impossible or financially infeasible, or present an undue risk of liability to the State.

- E. The State may waive or reduce any of the requirements in Exhibit C, paragraph 6, subparagraphs "C." and "D." if it determines that equivalent studies or plans have been completed or that other evidence satisfactory to the State exist which eliminates the necessity of undertaking any of the activities required by subparagraphs "C." and "D." However, a PROPERTY/ENVIRONMENTAL INFORMATION DISCLOSURE must always be completed prior to the draw down of funds for acquisition of the Development Property or for the construction of improvements.
- F. Upon the completion of an environmental audit, hazardous substance removal, or any related work required under this paragraph, the Contractor shall complete a CERTIFICATION OF COMPLETION OF HAZARDOUS SUBSTANCE REMEDIATION (copies available upon request), certifying that the work has been appropriately completed.
- G. At all times, the Contractor shall comply and cause the Development and all subcontractors, agents, or employees to comply with all Hazardous Substance Laws. Contractor shall immediately notify the State in writing of:
- (1) the discovery by the Contractor, or any of its subcontractors, agents or employees working with the Development Property, of any concentration or amount of Hazardous Substance on or under the Development Property requiring notice to be given to any governmental entity or agency under Hazardous Substance Laws. In the event of such a discovery, work shall be halted on any portion of the Development that may result in violation of occupational health and safety regulations, in violations of public health regulations, in waste or increased costs of hazard removal or mitigation, or in exposing Development residents to an unreasonable risk of harm. Work may be resumed when the State determines that appropriate precautions are taken to avoid these results;
 - (2) any knowledge by the Contractor or its subcontractors, agents or employees that the Development does not comply with any Hazardous Substance Laws;

EXHIBIT C

- (3) the receipt by the Contractor or its subcontractors, agents or employees of written notice of any legal actions or claims regarding Hazardous Substances affecting the Development; and
- (4) the discovery by the Contractor or its subcontractors, agents or employees, of any occurrence or condition on any real property located within 2,000 feet of the Development Property that could cause the Development Property or any part thereof to be designated as "border zone property" under the provisions of Health and Safety Code Section 25220, et seq.

In the event the Contractor or its subcontractors, agents or employees is not in compliance with all Hazardous Substance Laws, the Contractor shall attain compliance, or ensure compliance not more than thirty (30) days after the Contractor's receipt of written notice by the State to do so.

- H. The Contractor hereby agrees to indemnify and hold the State harmless for any and all liability arising out of the presence of hazardous substances at the Development during the longer of the term of this Agreement or the term of the Regulatory Agreement. Liability may be established by, among other forms of demands, a demand in the form of a judgment, a settlement, or an administrative order; and may include costs, fees, penalties, interest, and other costs related thereto. Whereas the purpose of this indemnity is to protect the State from harm, the State's rights to recover accrue as soon as the liability is incurred. "Any and all liability" includes, but is not limited to, liability for: (1) the clean-up of hazardous substances; (2) claims for contribution or apportionment of remedies; and (3) claims for physical or other damages to persons, property, or natural resources. The duty of the Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the Civil Code. The Contractor's duties herein arise regardless of the existence or degree of fault or negligence, whether active or passive, on the part of the State. This subparagraph is in addition to any other indemnity provision of this Agreement and is not to be considered in any manner to supersede any other indemnity provision of this Agreement or of the Program Documents.
- I. The Contractor releases the State from any and all claims that the Contractor may currently or subsequently have against the State, arising out of the presence of hazardous substances at the Development. The Contractor expressly waives the protection of Civil Code Section 1542.

7. Regulatory Agreement and Additional Documents

Prior to the initial disbursement of Program funds, the Contractor shall execute, enter into, and where appropriate, acknowledge the documents described in this Exhibit C,

EXHIBIT C

paragraph 7. Forms for the documents described in subparagraphs "A." through, and including, "D." shall be provided by the State.

- A. The Contractor and the State shall enter into a Regulatory Agreement governing the acquisition, construction or rehabilitation, ownership, occupancy, management, maintenance and operation of the Development for a term of not less than the number of years set forth in Exhibit A, Section 3. The Regulatory Agreement shall be recorded in the office of the county recorder for the county in which the Development Property is located and shall constitute a lien on the Development Property running with the land which shall be binding on all successors-in-interest, assignees and transferees of the Contractor. In the case of a grant for development of a subdivision, the Regulatory Agreement initially shall be recorded as a blanket lien on the entire development property; and partially released as individual lots are transferred to Serna Program assisted and non-assisted households.
- B. At the option of the State, the State and Contractor shall enter into a Development Agreement governing the construction work to be performed by the Contractor and the use and disbursement of the proceeds of Program funds and match. The Development Agreement shall contain those provisions deemed necessary by the State to protect the State's interests and ensure compliance with Program requirements.
- C. The Contractor shall comply with, and fulfill its obligations under, all the applicable documents called for in this Agreement. Any breach or violation by the Contractor or Contractor's successor-in-interest of any provision of any of the required documents, shall constitute a breach or violation of this Agreement and shall be subject to the remedies provided herein.
- D. The Contractor shall execute and enter into those additional agreements and documents as the State may deem reasonable and necessary to meet the Program requirements and the terms and conditions (including the pre-disbursement conditions set forth in Exhibit A hereof) of this Agreement. Said additional agreements and documents shall be subject to the approval of the State and may include, but shall not be limited to:
 - (1) A construction or rehabilitation agreement for the approved construction work;
 - (2) Any agreement or agreements for the design of or supervision during construction or rehabilitation of the Development, or both design and supervision;

EXHIBIT C

- (3) Documents required by other lenders or alternative sources of financing for the Development as set forth in the Application, or as a condition to the award of Program funds; and
- (4) Promissory Note and Deed of Trust.

8. Construction Work

- A. The Contractor shall ensure that the construction or rehabilitation work for the Development, and all other work to be funded in whole or in part by Program funds is performed in a competent and professional manner at the lowest reasonable cost.
- B. A written construction agreement for the construction or rehabilitation work shall be required and shall be subject to the prior approval of the State. Any amendments to such Agreement shall be subject to the approval of the State.

9. Fiscal Administration

- A. The Contractor must employ a fiscal officer or bookkeeper who shall have the responsibility for the fiscal management, accounting and record keeping activities for the Development. The Contractor must establish and maintain fiscal control and accounting procedures in accordance with generally accepted accounting principles and guidelines prescribed by the State in order to ensure that Program funds and funds from other sources are adequately controlled and properly disbursed.
- B. After giving the Contractor prior reasonable notice, the State shall be given access to and the right of inspection of all of the Contractor fiscal records directly or indirectly pertaining to the Development. The Contractor agrees to retain the above-mentioned records for a period of three (3) years after the expiration of this Agreement.
- C. All income derived from Program funds shall be reported to the State. Any income earned with Program funds shall be used for the purposes of the Program, subject to the prior written approval of the State. Any earned income not utilized for State-approved purposes, or any Program funds not utilized by the Contractor for the purposes specified in this Agreement by the termination date specified shown on Exhibit A, Section 2, of this Agreement must be remitted to the Department within thirty (30) days of said termination date.

EXHIBIT C

17. Restrictions on Transfer and Change of Ownership

The Contractor shall not, without the prior written approval of the State:

- A. sell, transfer, convey, encumber, hypothecate or pledge any of the Development or the Development Property, or any portion or interest in either of them; or
- B. if the Contractor is a partnership, discharge or replace any general or managing partner or amend, modify or add to its partnership agreement except that the Contractor may sell or transfer limited partnership interests without such approval.

18. Relocation

The Contractor shall comply with all requirements of California relocation law, if applicable.

19. Retention of Records

- A. The Contractor shall retain all books and records relevant to this Agreement for a minimum of three (3) years after the expiration of the Agreement and any and all amendments hereto, or for three (3) years after the conclusion or resolution of any and all audits or litigation relevant to this Agreement, whichever is later. The State, the Bureau of State Audits, the Department and/or their representatives shall have unrestricted reasonable access to all locations, books and records for the purpose of monitoring, auditing or otherwise examining said locations, books and records, with or without prior notice.
- B. The Contractor shall adequately document each transaction to permit the determination, through an audit if requested by the State, of the accuracy of the records and of the expenditures paid in whole or in part, with Program funds. If the allowability of an expenditure cannot be determined because records or documentation are inadequate, the questionable expenditure shall be disallowed. The Contractor shall reimburse the State for the amount of the disallowed expenditures of Program funds by the Contractor. Determination by the State of allowability of any expenditure shall be final.

20. Insurance

- A. Prior to the disbursement of funds under this Agreement and thereafter during the term hereof, the Contractor shall obtain, carry, and maintain in force, or cause to be obtained, carried, or maintained in force comprehensive general liability insurance and property damage insurance issued by carriers acceptable to the State, and in such amounts and forms as required by the provisions of this Agreement and the Regulatory Agreement.

EXHIBIT C

- B. The Contractor will ensure that the State of California and its officers and employees are named as additional named insured on the general liability insurance policy required by subparagraph d for the purposes of any claims arising at any time during or after the terms of this Agreement with respect to the performance of this Agreement or any act or omission thereunder. That policy also shall provide for notice to the State in the event of any lapse of coverage and in the event of any claim thereunder.
- C. Additional requirements for builder's risk, casualty and title insurance for the State's Regulatory Agreement may be imposed by the State prior to disbursement of Program funds.
- D. Upon demonstration of cause satisfactory to the State, the requirements of subparagraphs "A." and "B." above may be satisfied by the Contractor providing evidence of an alternative to conventional insurance sufficient to provide equivalent protection.
- E. The Contractor shall provide evidence satisfactory to the State of compliance with the insurance requirements of this paragraph prior to any disbursement of funds.

21. Publicity

The Contractor agrees that if this Development is used for any promotional purpose, the State shall be given suitable acknowledgment of its contribution to the Development. The Contractor expressly agrees that any on-site sign posted acknowledging financial contributors or other support to the Development shall reference the State in a suitable fashion.

22. Prevailing Wage

- A. Where funds provided through this Agreement are used for construction work, or in support of construction work, the Contractor shall ensure that the requirements of Chapter 1 (commencing with section 1720) of part 7 of the Labor Code (pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations) are met.
- B. For the purposes of this requirement "construction work" includes, but not limited to the rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract"). Where the construction contract will be between the Contractor and a licensed building contractor, Contractor shall serve as the

EXHIBIT C

"awarding body." Prior to any disbursement of funds, including but not limited to release of any final retention payment, the State may require a certification from the awarding body that prevailing wages have been or will be paid.

23. Disputes

- A. The Contractor shall continue with the responsibilities under this Agreement during any dispute.
- B. The Contractor shall notify the State immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement or the State, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the State.

EXHIBIT D

State of California
General Terms and Conditions

1. **Approval**

This Agreement is of no force and effect until signed by both parties.

2. **Amendment**

No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. **Assignment**

This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. **Indemnification**

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, suppliers, laborers and any other person, firm or corporation furnishing or supplying work services, materials or supplies in connection with the performance of this Agreement, 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 Agreement.

5. **Disputes**

Contractor shall continue with the responsibilities under this Agreement during any dispute.

6. **Termination for Cause**

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. [See Exhibit C for additional breach, notice and provisions.]

7. **Independent Contractor**

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 the State.

EXHIBIT D

14. Conflict of Interest

Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

A. Current State Employees (Public Contracts Code section 10410):

1. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
2. No officer or employee shall contract on his or her own behalf as an independent Contractor with any state agency to provide goods or services.

B. Former State Employees (Public Contracts Code section 10411):

1. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
2. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

C. If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Public Contracts Code section 10420).

D. Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Public Contracts Code section 10430 (e))

EXHIBIT D

15. Labor Code/Workers' Compensation

Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code section 3700)

16. Americans With Disabilities Act

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

17. Contractor Name Change

An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change, the State will process the amendment.

18. Corporate Qualifications to Do Business in California

- A. If Contractor is a corporation, the State may verify that the Contractor is currently qualified to do business in California in order to ensure that all obligations due to the State are fulfilled.
- B. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the State not be subject to the franchise tax.
- C. Both domestic and foreign corporations (those incorporated outside California) must be in good standing in order to be qualified to do business in California. If Contractor is a corporation, the State will determine whether Contractor is in good standing by contacting the Office of the Secretary of State.

19. Resolution

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

EXHIBIT D

20. Air or Water Pollution Violation

Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of the provisions of federal law relating to air or water pollution.

21. Payee Data Record Form Std. 204

This form must be completed by all contractors that are not another state agency or other government entity.

22. National Labor Relations Board Certification

If Contractor is receiving federal funds under this Agreement, Contractor certifies that no more than one (1) 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 Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Not applicable to public entities.)