

## **AGREEMENT**

**THIS AGREEMENT**, is entered into as of \_\_\_\_\_, between the COUNTY OF TULARE, referred to as COUNTY, and SELF-HELP ENTERPRISES, referred to as CONSULTANT, with reference to the following:

A. WHEREAS, COUNTY has entered into Standard Agreement No. 06-STBG-2598, referred to as STANDARD AGREEMENT and attached as Exhibit A, to receive funding from the Community Development Block Grant General Allocation from the State of California, Department of Housing and Community Development, referred to as HCD, to finance a Water Connection Program in the unincorporated community of Plainview, referred to as PROGRAM, in which Targeted Income Group, referred to as TIG, residents of Plainview, as defined by HCD, will receive assistance for water connections; and

B. WHEREAS, CONSULTANT meets the requirements as outlined by CDBG Program and COUNTY subrecipient procurement requirements and has expertise in carrying out water connection programs; and

C. WHEREAS, COUNTY wishes to enter into a professional services agreement with CONSULTANT for purposes of implementing the PROGRAM mentioned above utilizing CDBG funds; and

### **ACCORDINGLY, IT IS AGREED:**

1. TERM: This Agreement shall become effective upon the execution of this Agreement by the Tulare County Board of Supervisors and shall expire on December 31, 2009, the closeout date of the STANDARD AGREEMENT, Exhibit A, or the latest amendment of the closeout date thereto unless otherwise terminated as provided in this Agreement.

2. SERVICES:

a. CDBG-Eligible: CONSULTANT agrees to provide professional services for the PROGRAM and to be compensated by COUNTY as outlined below in Paragraph 3, PAYMENT FOR SERVICES.

3. PAYMENT FOR SERVICES: The COUNTY shall pay CONSULTANT a sum not to exceed \$152,174 for services provided pursuant to this Agreement subject to the following conditions:

- a. Tulare County CDBG Water Connection Program for Plainview Residents
  - i. \$12,174 of CDBG funds will be spent only for CDBG-eligible activity delivery, as defined by HCD and outlined in SCOPE OF WORK, Exhibit B.
  - ii. \$140,000 of CDBG funds will be spent only for water connection assistance as outlined in SCOPE OF WORK.
- b. General Conditions
  - i. The compensation to be provided to CONSULTANT under this Agreement will be reduced due to any inability to provide services, whether such an inability is due to CONSULTANT activities or other activities or

**TULARE COUNTY AGREEMENT NO. \_\_\_\_\_**

circumstances beyond the control of CONSULTANT.

ii. COUNTY must approve budget changes in writing prior to any budget adjustment or amendment. The budget adjustment and amendment process is outlined in CONSULTANT BUDGET.

iii. By the fifteenth (15th) day of the second (2nd) month of the project and monthly thereafter, CONSULTANT shall submit monthly invoice statements stating the services provided and the actual costs of the previous month.

iv. All invoices will be submitted through the Resource Management Agency to the Community Development and Redevelopment Division for approval prior to payment by the Auditor's Office. Invoices shall be in the form and contain the information requested by COUNTY and shall be subject to approval by COUNTY, which approval shall not be unreasonably withheld. COUNTY will endeavor to make payments within thirty (30) days of receipt of approved invoice. COUNTY will endeavor to notify CONSULTANT of any objections, questions, or complaints regarding any particular invoice within fifteen (15) days of receipt of such invoice. If COUNTY determines that any amounts were improperly billed and/or paid to CONSULTANT, or CONSULTANT was improperly underpaid, adjustments by such amounts may be made in the payment on the current or a later invoice with explanation provided. No interest or penalties shall accrue for late payments.

v. All CDBG funds shall be expended one (1) month prior to the expiration date of the STANDARD AGREEMENT.

4. PERFORMANCE REQUIREMENTS: CONSULTANT shall be held to the same goals, milestones, performance measurements, laws, regulations, and requirements as entered into by COUNTY in the STANDARD AGREEMENT and outlined in the SCOPE OF WORK.

5. REPORTING REQUIREMENTS: CONSULTANT shall assist COUNTY in fulfilling all reporting requirements as entered into by COUNTY in the STANDARD AGREEMENT.

6. COMPLIANCE WITH LAW: CONSULTANT shall provide services in accordance with all of the provisions of Federal, State, and local laws; current and future enacted Federal, State, and local governmental guidelines, policies and available funding covenants; and the rules and regulations governing the HCD CDBG Program (42 U.S.C. 5301, 24 CFR Part 570, Subpart I, and California Administrative Code Sections 7050 through 7124). With respect to CONSULTANT'S employees, CONSULTANT shall comply with all laws and regulations pertaining to wages and hours, State and Federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment. In addition, CONSULTANT agrees to fully comply with all Federal, State and local laws, regulations, and directives that apply to the work involved in the project, including but not limited to the applicable laws and regulations specified in the STANDARD AGREEMENT.

7. RECORDS: CONSULTANT shall maintain complete and accurate records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. In addition, CONSULTANT shall maintain complete and

accurate records with respect to any payments to employees or subcontractors. All such records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible. Upon request, CONSULTANT shall make such records available to the Auditor of Tulare County and to his agents and representatives, for the purpose of auditing and/or copying such records for a period of five (5) years from the expiration date of this Agreement.

8. MONITORING: COUNTY will monitor CONSULTANT during the term of this Agreement for compliance with any or all applicable requirements as outlined in Paragraph 6 of this Agreement and for attainment of expenditure milestones and PROGRAM goals outlined in the STANDARD AGREEMENT and SCOPE OF WORK.

9. INSURANCE: Prior to approval of this Agreement by COUNTY, CONSULTANT shall file with the Clerk of the Board of Supervisors evidence of the required insurance as set forth in INSURANCE REQUIREMENTS attached as Exhibit C.

10. INDEPENDENT CONSULTANT STATUS:

a. This Agreement is entered into by both parties with the express understanding that CONSULTANT will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute CONSULTANT or any of its agents, employees or officers as an agent, employee or officer of COUNTY.

b. CONSULTANT agrees to advise everyone it assigns or hires to perform any duty under this agreement that they are not employees of COUNTY. Subject to any performance criteria contained in this Agreement, CONSULTANT shall be solely responsible for determining the means and methods of performing the specified services and COUNTY shall have no right to control or exercise any supervision over CONSULTANT as to how the services will be performed. As CONSULTANT is not COUNTY'S employee, CONSULTANT is responsible for paying all required State and Federal taxes. In particular, COUNTY will not:

- i. Withhold FICA (Social Security) from CONSULTANT'S payments.
- ii. Make State or Federal unemployment insurance contributions on CONSULTANT'S behalf.
- iii. Withhold State or Federal income tax from payments to CONSULTANT.
- iv. Make disability insurance contributions on behalf of CONSULTANT.
- v. Obtain unemployment compensation insurance on behalf of CONSULTANT.

c. Notwithstanding this independent contractor relationship, COUNTY shall have the right to monitor and evaluate the performance of CONSULTANT to assure compliance with this Agreement.

11. INDEMNIFICATION: CONSULTANT shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including COUNTY property, arising from, or in connection with, the performance by CONSULTANT or its agents, officers and employees under this Agreement. Such

indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefit payable by or for either party under worker's or workmen's compensation, disability benefits or other employee entitlements. This indemnification specifically includes any claims that may be made against COUNTY by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against COUNTY alleging civil rights violations by CONSULTANT under Government Code sections 12920 et seq. (California Fair Employment and Housing Act), and any fines or penalties imposed on COUNTY for CONSULTANT'S failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

12. CONFLICT OF INTEREST:

- a. CONSULTANT agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interests or appearance of conflicts of interests, including, but not limited to Government Code Section 1090 et seq., and the Political Reform Act, Government Code Section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including CONSULTANT for this purpose, from the making of any decision on behalf of COUNTY in which such officer, employee or CONSULTANT has a direct or indirect financial interest. A violation can occur if the public officer, employee or CONSULTANT participates in or influences any COUNTY decision which has the potential to confer any pecuniary benefit on CONSULTANT or any business firm in which CONSULTANT has an interest, with certain narrow exceptions.
- b. CONSULTANT agrees that if any facts come to its attention, which raise any questions as to the applicability of conflicts of interest laws, it will immediately inform COUNTY designated representative and provide all information needed for resolution of this question.

13. TERMINATION:

- a. Without Cause: COUNTY or CONSULTANT will have the right to terminate this Agreement without cause by giving thirty (30) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. COUNTY will pay to CONSULTANT the compensation earned for work performed and not previously paid for to the date of termination. COUNTY will not pay lost anticipated profits or other economic loss. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONSULTANT of any and all plans, specifications and estimates, and other documents prepared by CONSULTANT in accordance with this Agreement. No sanctions will be imposed.
- b. With Cause: This Agreement may be terminated by either party should the other party:
  - i. be adjudged a bankrupt, or
  - ii. become insolvent or have a receiver appointed, or

- iii. make a general assignment for the benefit of creditors, or
- iv. suffer any judgment which remains unsatisfied for thirty (30) days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
- v. materially breach this Agreement. Material breach includes but is not limited to CONSULTANT failing to perform obligations under this Agreement, and CONSULTANT failing to perform obligations in accordance with the program time schedule/milestones set forth in Exhibit A. STANDARD AGREEMENT.

For any of the occurrences except item v., termination may be effected upon written notice by the terminating party specifying the date of the termination. Upon a material breach, the Agreement may be terminated following the failure of the defaulting party to remedy the breach to the reasonable satisfaction of the non-defaulting party within FIVE (5) days of the receipt of written notice specifying the breach. If the breach is not remedied within that FIVE (5) day period, the non-defaulting party may terminate the agreement on further written notice specifying the date of termination. If the nature of the breach is such that it cannot be cured within a five (5) day period, the defaulting party may, submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent shall not be unreasonably withheld, the defaulting party shall immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate upon written notice specifying the date of termination. COUNTY will pay to CONSULTANT the compensation earned for work performed and not previously paid for to the date of termination. COUNTY will not pay lost anticipated profits or other economic loss, nor will COUNTY pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. If the expense of finishing CONSULTANT'S scope of work exceeds the unpaid balance of the agreement, CONSULTANT must pay the difference to COUNTY in addition to any liquidated damages set forth in Section 14. "Liquidated Damages", owed by CONSULTANT for days of delayed program milestone goals caused by the CONSULTANT. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONSULTANT of any and all plans, specifications and estimates, and other documents prepared by CONSULTANT by the date of termination in accordance with this Agreement. Sanctions taken will be possible rejection of future proposals based on specific causes of non-performance.

b. Effects of Termination: Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where CONSULTANT'S services have been terminated by COUNTY, said termination will not affect any rights of COUNTY to recover damages against CONSULTANT.

c. Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of COUNTY for which CONSULTANT'S services are to be performed, may immediately suspend performance by CONSULTANT, in whole or in part, in response to health, safety or financial emergency, or a failure or

refusal by CONSULTANT to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

14. LIQUIDATED DAMAGES. The parties agree that time is of the essence regarding completion of the project pursuant to this Agreement. If the project is not completed according to the time schedule/milestones set forth in the STANDARD AGREEMENT, Exhibit A, this delay will constitute a breach of contract by CONSULTANT. Such breach will cause a hardship upon COUNTY and there will be extreme difficulty and uncertainty in fixing the actual damages to COUNTY at the time of such breach. "Actual damages" from CONSULTANT'S breach of project completion date include but are not limited to monetary damages, COUNTY'S loss of good will or credibility with other parties COUNTY contracts with, and future loss of funding to COUNTY. The parties hereby agree to reasonable liquidated damages based on the circumstances existing at the time this Agreement is entered into. As such, if CONSULTANT breaches the promise to complete project in accordance with the schedule/milestones set forth in STANDARD AGREEMENT, EXHIBIT A, by failing to complete project within the time frame promised, then CONSULTANT must pay the sum of \$1,000 per calendar day of delayed completion to COUNTY as reasonable liquidated damages. The parties do not consider these amounts to be penalties. The parties agree that the liquidated damages set forth in this Section do not include damages sustained by COUNTY as a result of COUNTY paying excess of the cost of this Agreement when COUNTY terminates pursuant to Section 13, "TERMINATION," and finishes the scope of work. If COUNTY terminates in accordance with Section 13, "TERMINATION," and finishes the scope of work, CONSULTANT will pay COUNTY the cost to complete the scope of work that exceeds the cost of this Agreement, in addition to any liquidated damages for delayed project completion set forth in this Section.

COUNTY will deduct liquidated damages determined by this Section from any retention or amount due to CONSULTANT pursuant to this Agreement, and will bill CONSULTANT for any liquidated damages in excess of retention or amounts due to CONSULTANT. CONSULTANT will pay COUNTY within thirty (30) days of receiving a bill for liquidated damages.

If COUNTY partially causes the delay of CONSULTANT'S completion of the project pursuant to this agreement, the liquidated damages owed by CONSULTANT will not include days of delayed completion caused by COUNTY. The COUNTY Resource Management Agency Director may choose to grant CONSULTANT extensions of time for the number of days of delayed completion caused by COUNTY.

Liquidated damages will not be assessed against CONSULTANT when the delay in completion of the work is due to unforeseeable cause beyond the control and without the fault or negligence of the CONSULTANT.

In the event this liquidated damages clause is not upheld, COUNTY may seek actual damages for delayed completion caused by CONSULTANT. Notwithstanding the breach of project completion date addressed in this Section, COUNTY may recover actual damages for any other breaches of this Agreement by CONSULTANT.

15. ENTIRE AGREEMENT REPRESENTED: This Agreement represents the entire agreement between CONSULTANT and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

16. HEADINGS: Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

17. NOTICES:

a. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY:  
William L. Hayter  
Assistant Director  
Resource Management Agency  
5961 S. Mooney Blvd.  
Visalia, California 93277  
Phone No.: (559) 733-6291 ext. 4006  
Fax No.: (559) 730-2653

With A Copy To:  
Laurie Mercer  
Community Development Specialist IV  
Resource Management Agency  
5961 S. Mooney Blvd.  
Visalia, California 93277  
Phone No.: (559) 733-6291 ext. 4307  
Fax No.: (559) 730-2591

CONSULTANT:  
Peter Carey  
Self-Help Enterprises  
P.O. Box 6520  
Visalia, CA 93290  
Phone No.: (559) 651-1000, ext. 681  
Fax No.: (559) 651-3634

b. Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth (5th) day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

18. CONSTRUCTION: This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

19. NO THIRD PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

20. GOVERNING LAW: This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties

agree that this contract is made in and shall be performed in Tulare County, California.

21. **WAIVERS:** The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

22. **EXHIBITS AND RECITALS:** The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

23. **CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

24. **FURTHER ASSURANCES:** Each party will execute any additional documents and perform any further acts which may be reasonably required to effect the purposes of this Agreement.

25. **ASSURANCES OF NON-DISCRIMINATION:** CONSULTANT shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by State or Federal law or regulation.

26. **ASSIGNMENT/SUBCONTRACTING:** Unless otherwise provided in this Agreement, COUNTY is relying on the personal skill, expertise, training and experience of CONSULTANT and CONSULTANT'S employees and no part of this Agreement may be assigned or subcontracted by CONSULTANT without the prior written consent of COUNTY.

27. **DISPUTE RESOLUTION:** If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within thirty (30) days, either party may pursue litigation to resolve the dispute.

28. **PROFESSIONAL MANNER:** CONSULTANT shall provide the services contemplated by the Agreement in a professional manner and quality satisfactory to the COUNTY.

29. **DOCUMENT OWNERSHIP:** All finished or unfinished documents, data, studies, computer programs, methodological explanations, surveys, models, photographs, and reports



prepared by CONSULTANT under the Agreement shall be considered the property of the COUNTY. Upon completion of the services to be performed or upon termination of the Agreement, these materials shall be turned over to the COUNTY, provided that in any case CONSULTANT may, at no additional expense to the COUNTY, make and retain copies thereof as it desires. CONSULTANT further agrees to keep those materials, which may not be public records under the laws of the State of California confidential.

30. FUNDING CLAUSE: CONSULTANT acknowledges that the COUNTY is dependent upon certain Federal and State funding to pay for the Water Connection Program provided for in this Agreement. If such funding is discontinued or reduced, COUNTY may exercise its sole discretion to reduce the amount of Water Connection Program funds or terminate the Agreement by giving the CONSULTANT 30 calendar days notice of the reduction or termination.

31. UNEMPLOYMENT INSURANCE COMPLIANCE: CONSULTANT acknowledges that this Agreement is subject to filing obligations pursuant to Unemployment Insurance Code Section 1088.8. Accordingly, COUNTY has an obligation to file a report with the Employment Development Department, which report will include CONSULTANT'S full name, social security number, address, the date this contract was executed, the total amount of the contract, the contract's expiration date or whether it is ongoing. CONSULTANT agrees to cooperate with COUNTY to make such information available and to complete DE Form 542. Failure to provide the required information may, at COUNTY'S option, prevent approval of this Agreement, or be grounds for termination by COUNTY.

32. IMPROPER USE OF FUNDS: CONSULTANT shall hold harmless, defend and indemnify COUNTY from any liability, action or losses incurred by COUNTY as a result of CONSULTANT'S improper use of funds under this Agreement.

33. CLOSE-OUTS: CONSULTANT'S obligation to COUNTY shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to COUNTY), and determining the custodianship of records. Close out of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre close-out contract activities.

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THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

Date: \_\_\_\_

BY: \_\_\_\_\_  
Chairman, Board of Supervisors

"COUNTY"

ATTEST: JEAN ROUSSEAU  
County Administrative Officer/Clerk of the Board  
of Supervisors of the County of Tulare

By: \_\_\_\_\_  
Deputy Clerk

CONSULTANT

Date: 7/1/08

By: \_\_\_\_\_  
Title: \_\_\_\_\_ Peter M. Gray  
President/CFO

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
"CONSULTANT"

Note: Corporations Code Section 313 requires that contracts with a corporation shall be signed by the (1) chairman of the Board, the president or any vice-president and (2) the secretary, any assistant, the chief financial officer, or any assistant treasurer; unless the contract is also accompanied by a certified copy of the Board of Directors resolution authorizing the execution of the contract.

Approved as to Form  
County Counsel

By: Nina D. [Signature] 20081245  
Deputy 7/18/08

## EXHIBIT "A" - STANDARD AGREEMENT

Tulare County Water Connection Program for Plainview Residents  
 STATE OF CALIFORNIA  
 STANDARD AGREEMENT  
 STD 213 (Rev 06/03)

**CONTRACTOR'S COPY**

AGREEMENT NUMBER

06-STBG-2598

REGISTRATION NUMBER

1. 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

County of Tulare

2. The term of this

Agreement is: Upon HCD Approval through 05/31/2009

3. The maximum amount

of this Agreement is: \$ 546,250.00

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made part of the Agreement.

Exhibit A - Authority, Purpose and Scope of Work 10 page(s)

Exhibit B - Budget Detail and Payment Provisions 4 page(s)

Exhibit C - HCD General Terms and Conditions 8 page(s)

Exhibit D - State of California General Terms and Conditions 6 page(s)

Exhibit E - Special Terms and Conditions 5 page(s)

Exhibit F - Additional Provisions N/A

TOTAL NUMBER OF PAGES ATTACHED:

33 pages

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

## CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

County of Tulare

BY (Authorized Signature)

DATE SIGNED (Do not type)

7/24/07

PRINTED NAME AND TITLE OF PERSON SIGNING

ALLEN ISHIDA

CHAIRMAN, BOARD OF SUPERVISORS

ADDRESS

2300 W. Barrel Avenue, Suite G, Visalia, CA 93277-9394

## STATE OF CALIFORNIA

AGENCY NAME

Department of Housing and Community Development

BY (Authorized Signature)

DATE SIGNED (Do not type)

8-15-07

PRINTED NAME AND TITLE OF PERSON SIGNING

Dennis L. Montgomery Manager, Business Management Branch

ADDRESS

1800 Third Street, Room 350, Sacramento, CA 95814

California Department of General  
Services Use Only

AUG 13 2007

☒ Exempt from: Department of  
General Services  
Approval

TULARE COUNTY AGREEMENT NO 23219

## EXHIBIT A

### AUTHORITY, PURPOSE AND SCOPE OF WORK

#### **Section 1: Authority & Purpose**

This Agreement will provide official notification of the grant award under the State's administration of the federal Community Development Block Grant Program (hereinafter, "CDBG" or "the Program") for Non-entitlement jurisdictions pursuant to the provisions of 42 U.S. Code 5301 et seq., 24 Code of Federal Regulations (CFR) Part 570, Subpart I, and 25 California Code of Regulations (CCR), Sections 7050 et seq. In accepting this grant award, the Grantee agrees to comply with the terms and conditions of this Agreement and all exhibits hereto, the representations contained in the Grantee's application (hereinafter, "the Application") which is hereby incorporated by reference as if set forth in full, and the requirements of the authorities cited above. For purposes of this Agreement, use of the term "Grantee" shall be a reference to "Contractor". Any changes made to the Application after this Agreement is executed must receive prior written approval from the Department.

#### **Section 2: Scope of Work**

- 1) The Contractor shall perform the Scope of Work as described in the Application, which is on file at the Department of Housing and Community Development, Division of Financial Assistance, 1800 Third Street, Room 390, Sacramento, California and which is incorporated herein by reference. All written materials or alterations submitted as addenda to the original Application and which are approved in writing by the CDBG Program Manager or higher Department official, as appropriate, are hereby incorporated as part of the Application. The Department reserves the right to require the Contractor to modify any or all parts of the Application in order to comply with CDBG requirements. The Department 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 Department. Any approval shall not be presumed unless such approval is made by the Department in writing.
- 2) The grant activity shall principally benefit Targeted Income Group (TIG) households and shall consist of:
  - Looleville Water System
  - Plainview Water System
  - Richgrove Water System

#### **Section 3: Term of Agreement and Deadlines**

With the exception of the Grant Closing Requirements set forth in Exhibit C, Paragraph 9, the Grantee shall complete the grant activity(ies) by the termination date set forth on the front page of this Agreement, unless a written request for an extension is approved ninety (90) days prior to grant expiration in writing by the Department.

## EXHIBIT A

### Section 4: Expenditure Milestones

The Grantee must meet expenditure milestones set by the Department as follows: The stated percent of awarded funds must be expended by the milestone noted.

- 1) All Program Activities, except set-aside activities:

25% by 12/31/2007 *> 4 mos*  
75% by 06/30/2008  
100% by 12/31/2009 *> 6 mos*

- 2) All Project Activities, except set-aside activities:

25% by 12/31/2007  
75% by 06/30/2008  
100% by 12/31/2009

- 3) If the Grantee does not meet the expenditure milestones as set by the Department, per Title 25, CCR, Section 7066 (d) and (e); the Department will disencumber the difference between what was expended for the program activity and that milestone.

### Section 5: State Contract Coordinator

The State Contract Coordinator of this Agreement for the Department is the CDBG Program Manager, Division of Financial Assistance, or the Program Manager's designee. Unless otherwise informed, 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:

Allen Jones, CDBG  
Division of Financial Assistance  
Department of Housing and Community Development  
P. O. Box 952054  
Sacramento, California 94252-2054

## EXHIBIT A

### Section 6: Contractor Contact Coordinator

The Contractor's Contact Coordinator 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:	County of Tulare
Name:	Laurie Mercer, Community Development Specialist
Phone:	(559) 733-6291
Address:	5961 South Mooney Blvd. Visalia, CA 93277

### Section 7: Special Conditions - General

Failure to meet the following special conditions may result in termination of this Agreement. Within the specified amount of time from this Agreement's execution date, if applicable, the Grantee must comply with the following special conditions:

#### A) 90-DAY CONDITIONS

The following conditions apply to all activities, including set aside activities. The Grantee must comply within ninety (90) days of this Agreement's execution.

##### 1) Environmental Compliance

The Grantee shall have satisfied all National Environmental Policy Act (NEPA) requirements and California Environmental Quality Act (CEQA). The level of compliance varies by the activity that has been funded. Reviewed for CEQA and NEPA must be approved by Department staff prior to incurring costs on activities

##### 2) Acquisition/Relocation Compliance

The Grantee must document that it is in compliance with the Uniform Relocation Act and Section 104 (d) before release of funds. The Grantee must submit a specific relocation assistance plan for each activity which may result in temporary or permanent displacement. For projects where there will be temporary or permanent displacement, the Grantee must submit signed General Information Notices (GINs) for each tenant who was residing in the project at the time of application submittal. If a Grantee believes that there will be no displacement as part of their activities, then they must submit a letter explaining why no displacement or relocation will occur and Department staff will respond in writing and concur or not.

## EXHIBIT A

### 3) Program Income Reuse Plan

The Grantee must submit a copy of its plan for administering Program Income. The plan must include a discussion of how the Grantee will collect and disburse Program Income for CDBG eligible activities. The Grantee must also submit program guidelines for managing the program income revolving loan account activities.

### 4) Site Control

Site control, if applicable, of the proposed project property must be obtained by one (1) of the following:

- a. Fee title;
- b. A leasehold interest on the project property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with all program requirements;
- c. An option to purchase or lease;
- d. A disposition and development agreement with a public agency; or
- e. A land sales contract, or other enforceable agreement for the acquisition of the property.

### 5) Funding Commitments and Project Cost Estimates

- a. For projects, all funding required for project completion must be documented and committed. If all funding is not committed, the Department shall terminate this Agreement pursuant to Exhibit D, Paragraph 6. If the Grantee has applied for other funding prior to the execution of this Agreement, the Grantee must notify the Department as soon as that Application is approved or denied. If the Grantee must apply for other funding after the execution date of this Agreement, the Grantee must apply at the earliest possible opportunity offered by the other funding source(s) and notify the Department as soon as that Application is approved or denied.
- b. For projects, a recent third party cost estimate must be provided by the engineer or architect for the project.

### 6) Compliance With All Loans and/or Grant Agreements

Pursuant to Exhibit C, paragraph 18 of this Agreement, the Grantee is required to be in compliance with State and Federal Laws and Regulations that pertain to matters applicable to the Grantee. Prior to disbursement of any funds under this CDBG Grant, the Grantee shall be in compliance with all loan and or grant agreements of which it is a party to and that are administered by the Department.

## EXHIBIT A

### 7) Easements and Rights-of-Way

When required for completion of the CDBG project, the Grantee must obtain all easements and rights-of-way within twelve (12) months of execution of this Agreement. Failure to obtain these may result in termination of this Agreement.

### 8) Section 504 Accessibility Requirements

Section 504 regulations apply when CDBG funds are used on a new construction housing or community facility project or when an existing community facility or housing project with fifteen (15) or more units is being purchased and/or "substantially" rehabilitated. Qualified CDBG assisted housing units are required to have a certain percentage be designed and made adaptable for persons with mobility and sensory impairments. Any community facilities or a housing project site or those being developed with CDBG funds must also, to the greatest degree feasible, be made accessible to disabled persons.

The Grantee shall provide documentation, satisfactory to the Department, verifying that the required housing units/or community facility in the project comply with the accessibility standards. CDBG funds will not be released until the necessary documentation, typically in the form of a certification from the project's architect, is provided. Lastly, all programs funded with CDBG funds must to the greatest degree possible be conducted in buildings, which meet Section 504 accessibility standards.

If the work to be performed under this Agreement involves Public Works, the following special conditions will apply:

### 9) Project Timeline or Schedule

Within ninety (90) days following execution of this Agreement, the Grantee shall submit to the Department for review and approval a project timeline schedule. If the CDBG project is part of a larger project, the data and timeline for both the larger project and the CDBG funded project must be submitted. The following list of key project events, if applicable, must be part of the schedule:

- a. Completion of all surveys, studies, testing and design
- b. Completion of the NEPA and CEQA Environmental Review.
- c. Acquisition of site control sufficient to construct then project.
- d. Approval of the plans and specifications with authorization to go out to bid by the legislative body.



## EXHIBIT A

- e. Execution of the construction contract;
- f. Pre-construction meeting with the construction Contractor;
- g. Construction period (Start-End);
- h. Connection of TIG households to the system;
- i. Final acceptance of work and filing the notice of completion; and
- j. Project close-out.

### B) SPECIAL CONDITIONS - PUBLIC WORKS

#### 1) Water and Sewer Laterals or Other Utility Service Connections

CDBG funds expended on private property improvements may only benefit TIG households. If installation and/or replacement of water and/or sewer or other utility service connections occurs on private property, CDBG funds may be used to pay only the cost of improvements associated with TIG households. The service lateral occurring on private property is the portion of the lateral extending across the private property from the public right-of-way boundary to the TIG housing unit, [24 CFR 570.202(b)(6)]. Water and sewer lateral connections constructed on private property as "housing rehabilitation" [24 CFR 570.202(b)(6)], must comply with the documentation requirements of the housing rehabilitation activity. Water and sewer lateral connections constructed in the public right-of-way and not designated as "housing rehabilitation" are not subject to these additional conditions.

#### 2) Assessment Districts

CDBG funds may be used to pay for improvements financed by special assessments as provided for in 24 CFR 570.482 (b) *Special assessments under the CDBG program*. Special assessment means the recovery of capital costs of an improvement through a fee or charge levied or filed as a lien against a property as a direct result of a benefit derived from the improvement. It does not include periodic charges based on the use of a public improvement, such as monthly water or sewer user charges, even if such charges include the recovery of the capital costs of the improvement [24 CFR 570.200 (c)(1), General Policies, Special Assessments Under the CDBG Program, *Definition of special assessment*].

If the project will include the formation and implementation of an assessment district, the Grantee must submit within ninety (90) days of execution of this Agreement, an assessment district formation and implementation timeline schedule which shows that the CDBG funds will be expended and benefits will accrue to the TIG beneficiaries before the end of this CDBG contract. Key time events must include, if applicable, the following items:

## EXHIBIT A

- a. Filing of the environmental Notice of Determination for the project with the County Clerk;
- b. Adoption of the Resolution of Intention to form the assessment district by the legislative body;
- c. Holding the protest hearing and recording the assessments and assessment diagram;
- d. Awarding the construction contract and sale of bonds; and
- e. Filing the construction contract notice of completion.

### 3) User Fees

CDBG funds may be used to pay reasonable user fees established by the legislative body as a one time charge to gain access to a public improvement. This one time charge may not include real estate, property or ad valorem taxes even if such taxes include the recovery of all or a portion of the capital costs of the public improvement [24 CFR 570.200 (c)(1)].

### 4) Rate Structure

If the project includes the construction of, or improvements to, an enterprise agency such as a water, sewer, solid waste, natural gas or electric power utility, the Grantee shall provide an assurance that the Grantee will provide for future maintenance and capital replacement of the benefiting enterprise agency. The Grantee must submit documentation to CDBG of the following, within ninety (90) days of the execution of this Agreement:

- a. A copy of the previous years revenue and expenditure budget showing all revenues and expenditures of the enterprise agency involved. Revenues should include all monthly user charges, hookup fees, connection fees, extension fees, plant expansion fees, land development fees and any other fees or charges related to operation, maintenance, capital improvement or development of the enterprise agency involved. Expenditures should include all operating expenses including: labor, materials, equipment, testing, administration, licensing and other costs to operate the system. The budget should include a revenue and expenditure plan for capital replacements and for future growth or expansion. The plan should include the payment of any existing or future capital finance obligations such as revenue bonds or certificates of participation.
- b. A draft copy of projected revenues and expenditures for the following three (3) years. The draft of future revenues and expenditures must include all the features listed in "a)" above.
- c. A certified copy of the present resolutions and/or ordinances which establish the existing monthly user charges, hookup fees, connection fees, extension fees, plant expansion fees, land development fees and any other fees or charges related to the revenues which finance the enterprise agency.

## EXHIBIT A

- d. A listing of the number of each of the various types of monthly users for each separate type of user fee listed in the resolution described in "c)" above.
- e. A written plan, approved by the legislative body, for increases in monthly user charges and fees necessary to meet the projected increases in costs, if any, which develop during the three (3) year period.

### 5) Site Control

Documentation of site control by recordation of fee title or easement for all sites required for project completion must be submitted to CDBG prior to going out to bid on the project.

### 6) Payment for Targeted Income Households

In order to comply with the provisions of the Housing and Urban Development (HUD), Rural Economic Recovery Act of 1983, the Grantee shall not attempt to recover any capital costs of the public improvement assisted by CDBG funds by assessing any amount against properties owned and occupied by TIG families, unless:

- a. CDBG funds are used to pay the assessment for the TIG families; or
- b. The CDBG funds are used to pay the assessment for the lowest TIG families (fifty percent (50%) of county median income or below) and the Grantee certifies to the Department that it lacks sufficient CDBG funds to pay the assessment of all TIG families (above fifty percent (50%) of median, up to eighty percent (80%) of median).

## C. SPECIAL CONDITIONS - COMMUNITY FACILITIES

If the work to be performed under this Agreement involves Community Facilities, the following special conditions will apply:

The following applies to real property which was acquired or improved in whole or in part using CDBG funds in excess of \$25,000.

- 1) The property must be used to meet the low-income benefit as specified in the Application until five (5) years after expiration of this Agreement. The Grantee should prepare a lease/or rent limitation agreement with the users of such property to assure the continuing benefit, or
- 2) If the property does not meet the requirements of paragraph #1 above, then the Grantee shall notify the Department that the following requirements have been met:
  - a. If the property is controlled by a third party, then the third party shall pay to the Grantee's CDBG program an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, and improvement to, the property; or

## EXHIBIT A

- b. If the property is controlled by the Grantee then, the Grantee shall pay to the Grantee's CDBG program an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, and improvement to, the property; and
- c. The Grantee determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which doesn't meet the low-income benefit.

### D) SPECIAL CONDITIONS - INFRASTRUCTURE IN SUPPORT OF MULTI-FAMILY, NON-SENIOR NEW CONSTRUCTION HOUSING

If CDBG funds will be used for infrastructure costs in support of multi-family, non senior newly constructed housing, the following applies:

- 1) The proportion of the total cost of developing the project to be borne by CDBG funds is not greater than the proportion of units occupied by TIG households; and
- 2) Not less than twenty percent (20%) of the units must be occupied by TIG households at affordable rents.

### E) SPECIAL CONDITIONS - HOUSING ACQUISITION

If the work to be performed under this Agreement involves Housing Acquisition, the following special conditions will apply:

- 1) If CDBG funds are to be used for a homebuyer assistance program, the Grantee must:
  - a. Submit a copy of its Homebuyer Assistance Program Guidelines to the Department for review and approval within ninety (90) days of the execution of this Agreement; and
  - b. Provide homeownership assistance in all target areas identified in the Application.

## EXHIBIT A

- 2) If the Grantee proposed to assist homebuyers to purchase newly constructed units in its CDBG application under the Housing Acquisition activity, such units must meet the following requirements:
  - a. Have been available for sale to the general public;
  - b. The development of the new subdivision must not be dependent upon the funding of the homebuyer loan; and
  - c. CDBG funds may not be used for construction.
  - d. Homebuyer assistance loans will not be approved prior to the foundation of the housing being in place.

### G) SPECIAL CONDITIONS - HOUSING REHABILITATION

If the work to be performed under this Agreement involves Housing Rehabilitation, the following special conditions will apply:

- 1) The Grantee must submit a copy of its Rehabilitation Program Guidelines to the Department for review and approval within ninety (90) days of the execution date of this Agreement.

*Note regarding Affordable Rent:* If the Grantee's housing rehabilitation program provides for rehabilitating rental properties, the Grantee must submit to the Department, within ninety (90) days of the execution date of this Agreement, its provisions for assuring "affordable rent" for the TIGs. The Grantee may include this information as part of the Program Guidelines.

- 2) Rehabilitation programs which included more than one (1) target area within the application must perform housing rehabilitation work in all target areas.
- 3) All sweat equity will be counted at ten dollars (\$10) per hour regardless of the homeowner's qualifications or experience.
- 4) All gas tax funds used as leverage in support of the housing rehabilitation activity must be restricted to the street(s) on which CDBG assisted units will be located and in the vicinity of the individual housing rehabilitations.

**EXHIBIT B**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Grant Budget**

Specifics of the grant budget shall be agreed upon by the Department and the Grantee prior to the drawdown of any funds

**2. Contract Amount**

For the purposes of performing the Scope of Work, the Department agrees to provide the amount shown below of this Agreement. In no instance shall the Department be liable for any costs for the Scope of Work in excess of this amount, nor for any unauthorized or ineligible costs. Funds shall be provided in the form of a grant for the following purposes:

\$505,350.00 (03J.) Water/Sewer Imp.

\$40,900.00 (21A.) General Admin..

Total: \$546,250.00

**3. Line Items**

- A) The following limits apply to the expenditure of funds for general administration. The amount shown above for general administration is the amount requested in the Grantee's application, unless that amount exceeded the CDBG general administration cap of seven and a half percent (7.5%) of the grant request. If the amount requested for general administration exceeded seven and a half percent (7.5%), the Department reduced the general administration request to meet that limitation and re-allocated the excess to program implementation. Costs for the annual audit are a general administration expense and are subject to the seven and a half percent (7.5%) limitation.

The State may approve a request from the Contractor to reallocate funds between the authorized activities and itemized amounts stated in Section 2 of Exhibit B. Changes in the aggregate of 10 percent or less of the total grant amount between activity categories or line items during the term of this Agreement, and expenditures pursuant thereto, may be made only after the State's express written approval, but do not require a written amendment to this Agreement.

- B) The Department may approve a request from the Contractor to reallocate funds between the authorized activities and itemized amounts stated in Exhibit B, Section 2. Changes in the aggregate of ten percent (10%) or less of the total grant amount between activity categories or line items during the term of this Agreement, and expenditures pursuant thereto, may be made only after the Department's express written approval, but do not require a written amendment to this Agreement.

## EXHIBIT B

- C) Unless incorporated in a written amendment to this Agreement, no change greater than ten percent (10%) of the total grant amount between activity categories or line items during the term of this Agreement shall be made, and no change in which the aggregate results in greater than ten percent (10%) of the total grant amount in adjustments between activity categories or line items during the term of this Agreement shall be made. Any such contract amendment must be executed by the Department prior to expenditures pursuant thereto.

### 4. Leverage

The Grantee has committed leveraged funds in its application. These funds must be expended by the termination date of this Agreement. The Grantee will report on the value of other contributions included as leverage to the project activity(ies). Required contributions to be reported on, as described in the Application, are:

#### SOURCE

\$110,500.00 I.000-03J. Local - Other

**Total: \$110,500.00**

#### SOURCE

\$17,000.00 P000-03J. Private-Other

**Total: \$17,000.00**

### 5. Program Income

If the Grantee has committed program income funds in its application, this Program Income and/or any additional program income committed to an activity must be spent before grant funds are drawn down for the activity(ies), and must be expended by the termination date of this Agreement. Any program income in a local revolving loan account or revolving loan fund designated for the same activity(ies) as any open grant activity must also be spent before grant funds are drawn down for the activity(ies). The Grantee will report on the expenditure of the program income on the Funds Request Form, the Quarterly Program Income Report, and the Annual Program Income Report.

### 6. Expenditure of Funds

#### A) General Administration

Costs for general administration may not be incurred nor funds expended until execution by the Department of this Agreement, unless the Grantee has received prior written approval from the Department. If such approval is desired before execution of this Agreement by the Department, the Grantee shall make the request for approval in writing.

## EXHIBIT B

### B) Program Implementation and Activity(ies) Delivery

Costs for program implementation and activity(ies) delivery may not be incurred nor funds expended until the Grantee has received written approval from the Department satisfying the special conditions set forth in Exhibit A, Section 7. If such approval is desired before execution of this Agreement by the Department, the Grantee shall make the request for approval in writing.

Grant Administration

### C) The Grantee agrees to administer this Agreement in accordance with the provisions of Section 7098 through and including Section 7124 of Title 25 of the CCR.

## 7. Method of Payment

The Grantee shall submit all forms to the Department of Housing and Community Development, Community Development Block Grant Program, MS 330, P.O. Box 952054, Sacramento, California 94252-2054, or any other address of which the Grantee has been notified in writing. The Department shall not authorize payments unless it determines that the grant activity(ies) has been performed in compliance with the terms of this Agreement and its exhibits.

### A) Advances and Reimbursements

1. For All Activity(ies): To receive an advance or reimbursement for the grant activity(ies) performed, the Grantee shall submit, on forms provided by the Department, a duly executed Funds Request form, or other form as supplied by the Department.
2. For Lump Sum Draws for Housing Rehabilitation Activity(ies): If the Grantee is using a lump sum draw down payment method for a Housing Rehabilitation activity, the funds disbursed to the Grantee under a lump sum cash request are subject to the expenditure requirements contained in the Federal regulations at 24 CFR 570.513. Any funds drawn down under a lump sum arrangement must be expended by the termination date of this Agreement.

### B) Final Payment Requests

1. For Grantees on the advance payment system. The last advance payment must be submitted ninety (90) days prior to the termination date of this Agreement



**EXHIBIT B**

2. For Grantees on the reimbursement payment system. All requests for final reimbursement must be submitted within forty-five (45) days after the termination date of this Agreement.
3. For all requests for any grant funds that have not been previously requested. If the final cash request for funds expended during the contract term has not been requested by the forty-fifth (45th) day after this Agreement's termination date, the Department will disencumber any funds remaining in the Agreement.

EXHIBIT C

HCD GENERAL TERMS AND CONDITIONS

1) **Effective Date, Commencement of Work and Completion Dates**

This Agreement is effective upon approval by the State which is the date stamped by the Department in the lower right hand corner of the Agreement. The Contractor agrees that Scope of Work shall not commence, nor will any costs be incurred to be paid with CDBG funds, prior to the effective date of the Agreement. The Contractor agrees that the work shall be completed by the termination date specified on the front page of the Agreement (as stated in Exhibit A, Section 3) and that the services be provided for the full term of the Agreement.

2) **Sufficiency of Funds and Termination**

- A) The Department may terminate this Agreement at any time for cause by giving at least fourteen (14) days notice in writing to the Contractor. Cause shall consist of violations of any terms and/or special conditions of this Agreement, upon the request of HUD, or withdrawal of the Department's expenditure authority. Upon termination of this Agreement, unless otherwise approved in writing by the Department, any unexpended funds received by the Grantee shall be returned to the Department within fourteen (14) days of the Notice of Termination.
- B) It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays which would occur if the agreement were executed after the determination was made.
- C) This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the federal fiscal year 2005, 2006 and 2007 for multi-year contracts, for the purposes of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or State Legislature or any statute enacted by the Congress or the State Legislature which may affect the provisions, terms or funding of this Agreement in any manner.
- D) If Congress does not appropriate sufficient funds for the program, the Department may amend the Agreement to reflect any reduction in funds or it may terminate this Agreement by giving fourteen (14) days written notice to the Grantee.

## EXHIBIT C

### 3) Meeting National Objectives

All grant activities performed under this Agreement must meet a national objective of the CDBG Program. The national objective for this grant activity is:

Benefit to TIG Households

The CDBG funded activities shall benefit TIG households, as specified in the grant Application, and this benefit must be achieved by the grant expiration date. Households whose incomes are in the lowest TIG may not be excluded from participation in any CDBG-funded activities.

### 4) Inspections of Grant Activity

- A) The Grantee shall inspect any grant activity performed hereunder to ensure that the grant activity is being and has been performed in accordance with the applicable Federal, State and/or local requirements, and this Agreement.
- B) The Department reserves the right to inspect any grant activity performed hereunder to see that the grant activity is being and has been performed in accordance with the applicable Federal, State and/or local requirements, and this Agreement.
- C) The Grantee agrees to require that all grant activity found by such inspections not to conform to the applicable requirements be corrected, and to withhold payment to the contractor or subcontractor until it is so corrected.

### 5) Insurance

The Grantee shall have and maintain in full force and effect during the term of this agreement such forms of insurance, at such levels, as may be determined by the Grantee and the Department to be necessary for specific components of the grant activity described in Exhibit A.

### 6) Contractors and Subcontractors

- A) The Grantee shall not enter into any Agreement, written or oral, with any contractor without the prior determination by of the contractor's eligibility. A contractor or subcontractor is not eligible to receive grant funds if the contractor is not licensed in good standing in California, or is listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.
- B) The agreement between the Grantee and any contractor shall require the contractor and its subcontractors, if any, to:
  - 1) Perform the grant activity in accordance with Federal, State and local housing and building codes as are applicable.

### EXHIBIT C

- 2) Comply with the applicable State and Federal requirements described in Exhibits D and E of this Agreement which pertain to, among other things, labor standards, non-discrimination, Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace.
- 3) Maintain at least the minimum State-required Worker's Compensation Insurance for those employees who will perform the grant activity or any part of it.
- 4) Maintain, if so required by law, unemployment insurance, disability insurance and liability insurance in an amount to be determined by the Department which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by the contractor or any subcontractor in performing the grant activity or any part of it.
- 5) Retain all books, records, accounts, documentation, and all other materials relevant to the Agreement for a period of four (4) years from date of termination of the Agreement, or four (4) years from the conclusion or resolution of any and all audits or litigation relevant to the agreement or this Agreement and any amendments, whichever is later.
- 6) Permit the State, Federal government, the Bureau of State Audits, the Department of Housing and Community Development and/or their representatives, upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to the Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.

#### 7) Periodic Reporting Requirements

During the term of the Agreement, the Grantee must submit the following reports by the deadlines noted or as otherwise required at the discretion of the Department. The Grantee's performance under this Agreement will be based in part on whether it has submitted the reports on a timely basis.

- A) Financial and Accomplishment Report (FAR) (semi-annual). Submit forty-five (45) days after June 30th and 30 days after December 31st of each year during the term of the contract.
- B) Grantee Performance Report (annual). Submit thirty (30) days after June 30th each year during the term of the contract.
- C) Section 3 Report (annual). Submit thirty (30) days after June 30th each year during the term of the contract.
- D) Wage Compliance Report (semi annual & annual). Submit forty-five (45) days after June 30th, and 30 days after December 31st of each year during the term of the contract, if applicable.
- E) Quarterly Program Income Report. Submit on or before January 31st, April 30th, and October 31st of each year during the term of the contract.

## EXHIBIT C

- F) Annual Program Income Report. Submit forty-five (45) days after June 30th each year.
- G) Fund Request Form (quarterly). Submit on or before January 31st, April 30th, August 15th, and October 31st of each year during the term of this Agreement.
- H) Performance measurement data shall be submitted to the Department in a format and frequency determined by the Department. Failure to submit such data as required may result in Fund Request Forms being held from processing until the required performance data has been satisfactorily submitted.
- I. Any other reports that may be required as a Special Condition of this contract.

### 8) Monitoring Requirements

CDBG may perform a program and/or fiscal monitoring of the grant. The Grantee will be required to resolve any monitoring findings to CDBG's satisfaction by the deadlines set by the Department.

### 9) Grant Closing Requirements

- A) By forty-five (45) days after the termination date of this Agreement, the Grantee must submit the following:
  - 1) The Final Financial and Accomplishment Report (FAR). The period of this report is the final period of the grant
  - 2) The Final Fund Request, if any, for final reimbursement.
- B) By ninety (90) days after the termination date of this Agreement, the Grantee must submit the following:
  - 1) The Final Grantee Performance Report (GPR).
  - 2) Closeout Certification Letter.
  - 3) Unexpended Funds. If the Grantee has grant funds that were received but not expended, these funds must be accounted for and returned in a check made payable to the Department.
  - 4) Closeout Financial and Accomplishment Report (FAR). The period of this report is from the Start Date of the Agreement to the End Date of the Agreement
  - 5) Evidence, satisfactory to the Department, of compliance with any other Special Conditions of this Agreement.
  - 6) Audit report. The Grantee must submit a final audit report to the State Controller's Office pursuant to the requirements of Federal Office of Management and Budget (OMB) Circular A-133.

## EXHIBIT C

### 10) Obligations of Grantee with Respect to Certain Third Party Relationships

The Grantee shall remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the program with respect to which assistance is being provided under this agreement to the Grantee. The Grantee shall comply with all lawful requirements of the Department necessary to ensure that the program with respect to which assistance is being provided under this Agreement to the Grantee is carried out in accordance with the State's Assurance and Certifications, including those with respect to the assumption of environmental responsibilities of the Department under Section 104(h) of the Housing and Community Development Act of 1974.

### 11) Signs

If the Grantee places signs stating that the Department is providing financing, it shall indicate in a typeface and size commensurate with the Department's funding portion of the project that the Department is a source of financing through the CDBG Program.

### 12) Audit/Retention and Inspection of Records

- A) The Grantee must have intact, auditable fiscal records at all times. If the Grantee is found to have missing audit reports from the State Controller's Office ("SCO") during the term of this Agreement, the Grantee will be required to submit a plan to the Department, with task deadlines, for submitting the audit to the SCO. If the deadlines are not met, the Grantee will be subject to termination of this Agreement and disencumbrance of the funds awarded. The Grantee's audit completion plan is subject to prior review and approval by the Department.
- B) Grantee agrees that the Department or its delegatee will have the right to review, obtain, and copy all records pertaining to performance of the contract. Grantee agrees to provide the Department or its delegatee with any relevant information requested and shall permit the Department or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with PCC § 10115 et seq., GC § 8546.7 and 2 CCR §1896.60 et seq. Grantee further agrees to maintain such records for a period of four (4) years after final payment under the contract. Grantee shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC § 10115.10.
- C) An expenditure which is not authorized by this Agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the Department or its designee by the Grantee. Expenditures for grant activities not described in Exhibit A shall be deemed authorized if the performance of such grant activity is approved in writing by the Department prior to the commencement of such grant activity.
- D) Absent fraud or mistake on the part of the Department, the determination by the Department of the allowability of any expenditures shall be final.

## EXHIBIT C

- E) Pursuant to OMB Circular A-133, the Grantee shall perform an annual audit at the close of each fiscal year in which this Agreement is in effect. Audit costs for this Agreement are a general administration expense and are subject to the general administration expenditure limits associated with this Agreement. The costs of the CDBG-related portion of the audit may be charged to the program in accordance with Public Law 98-502, OMB Circular A-133 and Section 7122 of Title 25 California Code of Regulations.

Notwithstanding the foregoing, the Department will not reimburse the Grantee for any audit cost incurred after the expiration date of this Agreement

- F) The audit shall be performed by a qualified State, Department, local or independent auditor. The contract for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
- G) If there are audit findings, the Grantee must submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, the audit process ends and the State will notify the Grantee in writing. If the Department is not in agreement, the Grantee will be contacted in writing and told what corrective actions must be taken. This action could include the repayment of disallowed costs or other remediation.
- H) The Department shall not approve any expenditures for the audit prior to receiving an acceptable audit report.
- I) If so directed by the Department upon termination of this Agreement, the Grantee shall cause all records, accounts, documentation and all other materials relevant to the grant activity to be delivered to the State as depository.

### 13) **Conflict of Interest of Members, Officers, or Employees of Contractors, Members of Local Governing Body, or other Public Officials**

No member, officer, or employee of the Grantee, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for grant activities to be performed in connection with the program assisted under this Agreement. The Grantee shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section

## EXHIBIT C

### 14) Waivers

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the State to enforce at any time the provisions of this Agreement or to require at any time performance by the Grantee of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the State to enforce these provisions.

### 15) Litigation

- A) If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B) The Grantee shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department, 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 Department.

### 16) Lead-Based Paint Hazards

Activities performed with assistance provided under this Agreement are subject to lead-based paint hazard regulations contained in Title 8 and Title 17 of the California Code of Regulations and 24 CFR Part 35. Any grants or loans made by the Grantee with assistance provided under this Agreement shall be made subject to the provisions *for the elimination or mitigation of lead-based paint hazards under these Regulations*. The Grantee shall be responsible for the notifications, inspections, and clearance certifications required under these Regulations.

### 17) Prevailing Wages

- A) Where funds provided through this Agreement are used for construction work, or in support of construction work, 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.



**EXHIBIT C**

- B) For the purposes of this requirement "construction" work" includes, but is not limited to 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 "awarding body" as that term is defined in the Labor Code. Where Contractor will provide funds to a third party that will enter into the construction contract with a licensed building contractor, the third party shall serve as the "awarding body." Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certification from the awarding body that prevailing wages have been or will be paid.

**18) Compliance with State and Federal Laws and Regulations**

- A) The Grantee agrees to comply with all State laws and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Grantee, its subgrantees, contractors or subcontractors, and the grant activity, and any other State provisions as set forth on Exhibit D.
- B) The Grantee agrees to comply with all Federal laws and regulations applicable to the CDBG Program and to the grant activity, and with any other Federal provisions as set forth on Exhibit E.

**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.

**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

**State of California**  
**General Terms and Conditions**

**8) Non-Discrimination Clause**

- A) During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- B) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

**9) Timeliness**

Time is of the essence in this Agreement.

**10) Governing Law**

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

**11) Child Support Compliance Act**

If this Agreement is in excess of \$100,000, by executing this Agreement, Contractor acknowledges and agrees to the following.

- A) Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

**EXHIBIT D**

**State of California**  
**General Terms and Conditions**

- B) Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**12) Severability**

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

**13) Drug-Free Workplace Requirements**

Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and shall provide a drug-free workplace by taking the following actions:

- A) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- B) Establish a Drug-Free Awareness Program to inform employees about: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available counseling, rehabilitation and employee assistance programs; and (4) penalties that may be imposed upon employees for drug abuse violations.
- C) Every employee who works on the proposed contract will: (1) receive a copy of the Contractor's drug-free workplace policy statement; and (2) agree to abide by the terms of the Contractor's statement as a condition of employment under this agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Government Code section 8350 et seq.)

EXHIBIT D

State of California  
General Terms and Conditions

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California:

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**

**State of California**  
**General Terms and Conditions**

**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**

**State of California  
General Terms and Conditions**

**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.)

**EXHIBIT E****SPECIAL TERMS AND CONDITIONS****Section 1: Anti-Lobbying Certification**

The Grantee shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant activity and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

"The undersigned certifies, to the best of his or her knowledge or belief, that:

- A) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- B) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions."

**Section 2: Bonus or Commission, Prohibition Against Payments of**

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of

- A) Obtaining the Department's approval of the application for such assistance, or
- B) The Department's approval of the applications for additional assistance, or
- C) Any other approval or concurrence of the Department required under this Agreement, Title I of the Housing and Community Development Act of 1974, or the State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.



## EXHIBIT E

### Section 3: Citizen Participation

The Grantee is subject to the requirements concerning citizen participation contained in Federal regulations at 24 CFR 570.486, Local Government Requirements.

### Section 4: Clean Air and Water Acts

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

### Section 5: Conflict of Interest of Certain Federal Officials

No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

### Section 6: Environmental Requirements

The Grantee shall comply with the provisions of the National Environmental Policy Act (NEPA) by following the procedures contained in 24 CFR Part 58.

### Section 7: Equal Opportunity

#### A) The Civil Rights, Housing and Community Development, and Age Discrimination Acts Assurances

During the performance of this Agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, handicap, religion, familial status, or religious preference, under any grant activity funded by this Agreement, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, the Age Discrimination Act of 1975, the Fair Housing Amendment Act of 1988, and all implementing regulations.

#### B) Rehabilitation Act of 1973 and the "504 Coordinator"

The Grantee further agrees to implement the Rehabilitation Act of 1973, as amended, and its regulations, 24 CFR Part 8, including, but not limited to, for Grantees with 15 or more permanent full or part time employees, the local designation of a specific person charged with local enforcement of this Act, as the "504 Coordinator."

**EXHIBIT E****C) The Training, Employment, and Contracting Opportunities for Business and Lower-Income Persons Assurance of Compliance**

- 1) The grant activity to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the order of priority provided in 24 CFR 135.34(a)(2).
- 2) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this agreement. The parties to this agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- 3) The Grantee will include these Section 3 clauses in every contract and subcontract for work in connection with the grant activity and will, at the direction of the State, take appropriate action pursuant to the contract or subcontract upon a finding that the Grantee or any contractor or subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and, will not let any contract unless the Grantee or contractor or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- 4) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this agreement shall be a condition of the Federal financial assistance provided to the grant activity, binding upon the Grantee, its successors, and assigns. Failure to fulfill these requirements shall subject the Grantee, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the agreement through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135

**D) Assurance of Compliance with Requirements Placed on Construction Contracts of \$10,000 or more**

The Grantee hereby agrees to place in every contract and subcontract for construction exceeding \$10,000 the Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity (Executive Order 11246), the Standard Equal Employment Opportunity, and the Construction Contract Specifications. The Grantee furthermore agrees to insert the appropriate Goals and Timetables issued by the U.S. Department of Labor in such contracts and subcontracts.

**EXHIBIT E****Section 8: Flood Disaster Protection**

This Agreement is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). No portion of the assistance provided under this agreement is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of said Act.

The use of any assistance provided under this agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this agreement shall contain certain provisions. These provisions will apply if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq.

These provisions shall obligate the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(s) of the Flood Disaster Protection Act of 1973. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this agreement.

**Section 9: Labor Standards--Federal Labor Standards Provisions**

The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of:

**Davis-Bacon Act (40 USC 276a - 276a-5)** requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000.

**Copeland "Anti-Kickback" Act (47 USC 276(c))** requires that workers be paid at least once a week without any deductions or rebates except permissible deductions.

**Contract Work Hours and Safety Standards Act - CWHSSA (40 USC 327 - 333)** requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage after they have worked 40 hours in one week.

**EXHIBIT E**

**Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5** are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

**Section 10: Procurement**

The Grantee shall comply with the procurement provisions in 24 CFR Part 85.36, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments.

**Section 11: Program Income**

"Program Income" means gross income earned by the Grantee from grant-funded activities and subject to CDBG regulatory requirements pursuant to 24 CFR 570.489 (c), Program Administrative Requirements, Program Income. These regulations include the requirement that the Grantee record receipt and expenditure of program income as part of the financial transactions of the grant activity.

Prior to closing out this agreement, the Department shall review the actual national objective and/or public benefit achievements of the Grantee. In the event that the national objective and/or public benefit requirements are not met, the Department may, in its sole discretion, impose any or all of the following remedies: recapture of part or all of the program income; reimbursement of part or all of the grant amount; and/or exclusion of the Grantee from further CDBG funding for a period of time to be determined by the State.

**Section 12: Relocation, Displacement, and Acquisition**

The provisions of the Uniform Relocation Act, as amended, 49 CFR Part 24, and Section 104(d) of the Housing and Community Development Act of 1974 shall be followed where any acquisition of real property is carried out by the Grantee and assisted in whole or in part by funds allocated by CDBG.

**Section 13: Uniform Administrative Requirements**

The Grantee shall comply with applicable uniform administrative requirements as described in 24 CFR §570.502, including cited sections of 24 CFR part 85.

## **EXHIBIT "B" - SCOPE OF WORK**

### **Tulare County Water Connection Program for Plainview Residents**

There are approximately 200 dwellings in the water service area eligible for Community Development Block Grant (CDBG) grants for the purpose of connecting to the new water distribution system. The County has budgeted \$12,174 for Activity Delivery and \$140,000 for grants to program participants for a total CDBG budget of \$152,174.

The Scope of Work follows:

#### **A. Program Implementation**

Provider shall effect the connection of approximately 195 legal dwellings occupied by targeted income group (TIG) households in the community of Plainview to be funded through Community Development Block Grant #06-STBG-2598.

The connection program TIG income residents will be implemented in accordance with project guidelines as adopted by the County and milestones established by the Department of Housing and Community Development through the following activities:

1. Market the program to income-eligible households. Provide outreach services to locate eligible applicants.
2. Determine and document eligibility of participants.
3. Conduct on-site pre-inspections to estimate the amount of work required to complete the water connection.
4. Solicit bids from qualified contractors, prepare bid documents for property owners, and forward bid information to property owners.
5. Monitor progress of authorized contractors, and verify completion of work prior to payment.
6. Make payment to contractors after inspection and approval of work by participant and County Building Inspector.
  - Provide technical assistance to owners who will perform the actual water connection work themselves.
  - Assist owners to secure labor and material repairs from contractor responsible for construction defects for one year from date of final approval by the County of Tulare Building Division Inspector.

#### **B. Administration:**

1. Provide all necessary information and financial statements to the County of Tulare in

## **EXHIBIT "B" - SCOPE OF WORK**

### **Tulare County Water Connection Program for Plainview Residents**

areas of General Administration of the program which may include, but are not limited to, CDBG records system, special condition compliance, and monitoring.

2. Provide the County with necessary technical assistance to implement and administer the State Grant Agreement.
3. Provide monthly reports to the County on progress and performance in relation to the State Grant Agreement.
4. Prepare reports which demonstrate compliance with CDBG program procedures and Federal and State regulations.
5. Prepare and retain all pertinent records and documents sufficient to reflect all charges submitted.
6. Accomplish milestones in accordance with the County's HCD agreement (attached hereto as Exhibit A) and/or approved amendments.

**EXHIBIT "C" - INSURANCE REQUIREMENTS**  
Tulare County Water Connection Program for Plainview Residents

*CONSULTANT shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property, which may arise from, or in connection with, performance under the Agreement by CONSULTANT, its agents, representatives, employees or subcontractors, if applicable.*

A. Minimum Scope & Limits of Insurance

1. Coverage at least as broad as Commercial General Liability Insurance of \$1,000,000 combined single limit per occurrence. If the annual aggregate applies it must be no less than \$2,000,000.
2. Comprehensive Automobile Liability Insurance (if applicable) of \$1,000,000 per occurrence.
3. Workers' Compensation and Employer's Liability Insurance as required by law. Deductibles and Self-Insured Retentions

B. Specific Provisions of the Certificate

1. The Certificate of Insurance for General Liability and Comprehensive Automobile Liability Insurance must meet the following requirements:
  - a. *Name the COUNTY, its officers, agents, employees and volunteers, individually and collectively, as additional insureds.*
  - b. *State that such Insurance for additional insureds shall apply as primary insurance and any other insurance maintained by COUNTY shall be excess.*
  - c. *Provide that coverage shall not be suspended, voided, canceled, reduced in coverage, or otherwise materially changed except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to COUNTY.*
2. The Certificate of Insurance for Workers' Compensation must include the following waiver of subrogation:
  - a. *Waiver of Subrogation. CONSULTANT waives all rights against COUNTY and its agents, officers, and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers liability.*

C. Deductibles and Self-Insured Retentions

The COUNTY Risk Manager must approve any deductible or self-insured retention that exceeds \$100,000.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A (-) from a company admitted to do business in California. Any waiver of these standards is subject to approval by COUNTY Risk Manager or County Risk Manager's designee.

**EXHIBIT "C" - INSURANCE REQUIREMENTS**  
Tulare County Water Connection Program for Plainview Residents

E. Verification of Coverage

Prior to approval of this Agreement by COUNTY, CONSULTANT shall file with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to COUNTY. COUNTY reserves the right to require certified copies of all required insurance policies at any time.