

AGREEMENT BETWEEN
COUNTY OF SAN MATEO
AND
SAN MATEO ROTARY FLORITAS ASSOCIATES, L.P.
FOR

**Assistance in Property Acquisition for the Construction of Rotary
Floritas Senior Housing**

For the period of

Upon Execution to 8/31/2058

Contact Person: Marina Yu
Telephone number: (650) 802-5039

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
SAN MATEO ROTARY FLORITAS, L.P.**

THIS AGREEMENT, entered into this _____ day of _____,
20____, by and between the COUNTY OF SAN MATEO, hereinafter called "County,"
and San Mateo Rotary Floritas, L.P., hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, Rotary Haciendas Inc. is a nonprofit corporation, and Mid-Peninsula Housing Coalition, an affordable housing developer, has formed an affiliated nonprofit corporation, known as Mid-Peninsula Coastside, Inc.; and

WHEREAS, the above-referenced nonprofit corporations have joined as co-general partners in a limited partnership known as the San Mateo Rotary Floritas, L.P. ("Contractor") to construct San Mateo Rotary Floritas, which consists of 50 units of affordable senior housing located at Flores Street and 27th Avenue, San Mateo ("Project"); and

WHEREAS, the total Project costs are currently estimated at \$11.9 million; and

WHEREAS, the Project has been approved for low-income housing tax credits and has further received a funding commitment from the City of San Mateo of up to \$3 million; and

WHEREAS, Contractor has applied for County funds to assist in the acquisition of the property; and

WHEREAS, on May 6, 2003, the Board of Supervisors approved the CDBG, ESG, and HOME Action Plan for FY 2003-04, which included \$400,000 of HOME funds for this activity;

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

<u>CONTRACT AMOUNT</u> \$400,000.00	<u>CONTRACT TERM</u>
	Start Date : Upon Execution
	End Date : 8/31/2058
<u>COUNTY REPRESENTATIVE</u>	<u>CONTRACTOR REPRESENTATIVE</u>
Steve Cervantes	Rotary Haciendas, Inc.
Director Office of Housing	Larry Ivich
Belmont, CA 94002	c/o The Rotary Club
(650) 802-5050 Fax:(650) 802-5049	P.O. Box 95
	San Mateo, CA 94401
	(650) 345-8222 Fax: (650) 571-5625
	Mid-Peninsula Coastsides Inc.
	Fran Wagstaff
	658 Bair Island Road, Suite 300
	Redwood City, CA 94063
	(650) 299-8000 Fax: (650) 299-8910

1. Exhibits.

The following exhibits are attached hereto and incorporated by reference herein:

Exhibit A: Description of Services

Exhibit B: Payments

Exhibit C: Compliance Equal Benefits Form

Exhibit D: Monitoring

Exhibit E: Program Specific Requirements

Exhibit F: Assurance of Compliance with Section §504

Exhibit G: Property Description

2. Services to be performed by Contractor.

In consideration of the payments set forth herein and in Exhibit "B," Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A."

3. Payments.

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the

County's total fiscal obligation under this Agreement exceed (**Four-hundred thousand dollars**), ~~\$400,000.00~~.

4. Term and Termination.

Subject to compliance with all terms and conditions, and except as otherwise provided herein, the term of this Agreement shall be from execution through 8/31/2058.

This Agreement may be terminated by Contractor, the County of San Mateo Human Services Director or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party, except as provided in Exhibit A, Sections C and G and Exhibit E, Section 1.

In the event of termination, County may accelerate payment on the Promissory Note referenced in Exhibit A and exercise all of its remedies at law or in equity.

5. Availability of Funds.

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the County learns of said unavailability of outside funding.

6. Relationship of Parties.

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless.

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting.

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance.

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by the County of San Mateo Office of Risk Management, and Contractor shall use diligence to obtain such issuance and to obtain such approval. The Contractor shall furnish the County of San Mateo Human Services Agency, Office of Housing with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the County of San Mateo Human Services Agency, Office of Housing of any pending change in the limits of liability or of any cancellation or modification of the policy.

(1) **Worker's Compensation and Employer's Liability Insurance.** If the Contractor has employees, the Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

(2) **Liability Insurance.** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below, unless waived by the County.

Such insurance shall include:

- (a) Comprehensive General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Compliance with laws; payment of Permits/Licenses.

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations.

In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-discrimination.

A. *Section 504 applies only to Contractor who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.

B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.

C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.

D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

12. Retention of Records.

Contractor shall maintain all required records for three (3) years after the County makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

13. Merger Clause.

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the

rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

14. Contract Law.

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

15. Notices.

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United State mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

In the case of the County:

County of San Mateo
Steve Cervantes
262 Harbor Blvd. Bldg. A
Belmont, CA 94002

In the case of Contractor, to:

San Mateo Rotary Floritas, L.P.
c/o Mid-Peninsula Coastside Inc., its General Partner;
658 Bair Island Road, Suite 300
Redwood City, CA 94063

And

Rotary Haciendas, Inc.
Po Box 95
San Mateo, CA 94401

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
Rose Jacobs-Gibson, President, Board of Supervisors,
San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

San Mateo Rotary Floritas, L.P.

By: **Rotary Haciendas, Inc., a California nonprofit
public benefit corporation, its general
partner**

By:  _____

Name: Larry Ivich

Title: President

Date: 9/23/03

By: **Mid-Peninsula Coastside, Inc., a California
nonprofit public benefit corporation, its
general partner**

By:  _____

Name: Anna Cheng Kramer

Title: Assistant Secretary

Date: 9/23/03

HOME-assisted units must meet both HOME affordability rent and occupancy requirements as enumerated below. Eleven (11) of the Project's units shall be HOME-assisted.

2. HOME Definitions

The following definitions and dollar amounts referred to in these definitions may be adjusted from time to time based action by the United States Department of Housing and Urban Development (HUD) or any successor agency, and any such adjustments shall be incorporated by reference into this Agreement.

- a. High HOME Rent is rent that does not exceed the lesser of (1) the Section 8 Fair Market Rents (FMRs), as established by HUD under 24 CFR Part 888, for existing housing minus tenant-paid utilities, or (2) 30% of annual income for households at the HOME income limit for San Mateo County, adjusted for family size, less tenant-paid utilities, which amount is presently calculated by San Mateo County at 120% of the Low HOME Rent as defined below.

If tenant is paying any utilities, a "utility allowance" must be deducted from the above rent figures. This allowance is calculated by HUD under 24 CFR Part 880 - 886 and should be obtained annually by contacting the San Mateo County Housing Authority.

- b. Low HOME Rent is rent that is 30% of annual income for households at the Very Low-Income limit for San Mateo County, adjusted for family size, minus tenant paid utilities.

If tenant is paying any utilities, a "utility allowance" must be deducted from the above rent figures. This allowance is calculated by HUD under 24 CFR Part 880 - 886 and should be obtained annually by contacting the San Mateo County Housing Authority.

- c. Very Low-Income is the qualifying income with adjustments for family size, for very low-income households as established by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended. These income limits are adjusted from time to time.

- d. HOME Income is income at 120% of the Very Low-Income adjusted for family size as calculated by HUD and adjusted from time to time.

3. Rent and Occupancy Restriction

At least 20% of the 11 HOME assisted units (at least 3 units) must be occupied by households whose income does not exceed the Very Low-Income limit as specified above, as such limit may be adjusted from time to time by HUD or any successor

agency. The rent on said units, including tenant paid utilities, may not exceed the Low HOME Rent specified above, as such rent may be adjusted from time to time by HUD or any successor agency.

All remaining HOME assisted units (up to 8 units) must be occupied by households whose income does not exceed the HOME Income Limit as specified above, as such limit may be adjusted from time to time by HUD or any successor agency. The rent on said units, including tenant paid utilities, may not exceed the High HOME Rent, as such rent may be adjusted from time to time by HUD or any successor agency.

The specific units affected by this Restriction shall be "floating" units, that is, there shall be no specified HOME-assisted units as long as there are a minimum number of units occupied in compliance with the HOME requirements specified above.

In the event that the income of a qualifying tenant increases so that the tenant no longer meets the income criteria, the Contractor will be allowed a variance to the income criteria of this Restriction until such time as said formerly qualifying tenant vacates the unit, or another unit of comparable size in the Project becomes available, at which time that unit must be rented to a qualifying tenant and the restriction shall transfer to the new unit.

C. Security

Prior to any disbursement of funds, Contractor shall execute and deliver a Promissory Note ("Note") and Deed of Trust in favor of the County in an amount equal to Four Hundred Thousand Dollars (\$400,000) to secure the performance of all terms and conditions of this Agreement. The Deed of Trust shall be secured by subject property described in Exhibit G and be recorded in the Office of the Recorder of the County of San Mateo. The principal amount under the Note shall bear a simple interest rate of three percent (3%) per annum.

The term of the Note and Deed of Trust shall begin from the date of execution and extend for Fifty-Five (55) Years, beginning from the effective date of HOME affordability deed restriction referred to in Section B of this Exhibit. The Note and Deed of Trust shall be executed prior to any disbursement of funds under this Agreement.

D. Repayment

1. The parties to this Agreement acknowledge that the City of San Mateo ("City") has committed to providing financing up to Three Million Dollars to assist the Project, and as such, the repayment terms described below for the County funding may be modified to reflect a repayment schedule based on the relative proportion of the City and the County's funding investment in the Project. Any modifications concerning repayment shall be done in writing between Contractor and the Director of Housing.

2. Unless otherwise agreed to in writing between the Contractor and the Director of Housing, repayment shall be made according to the following terms: No payments shall be required until beginning in the fifth year of Project operations, at such time Contractor shall make payments out of surplus cash as defined below. Payments shall be applied first to interest before making any principal reductions.

3. Surplus cash shall be defined as follows:

All rental and incidental income from Project, but excluding tenant security deposits (and any interest earned on said deposits) and capital contributions by Contractor, Project Owners or its partners, less the following to the extent consistent with an annual independent financial audit to be provided by Contractor or Project Owners: all actual Project operating expenses, utilities, maintenance expenses, real estate taxes, operating reserves not to exceed 3% of operating expenses, replacement reserves not to exceed 0.6% of actual hard cost of construction, property management fee not to exceed 7.0 % of gross effective income, principal and interest paid on loans in superior position to the County loan, deferred developer fee (if any), partnership management fee, and investor asset management fee. Any changes in the formula for calculating surplus cash shall be negotiated in writing between County and Contractor.

The annual audit must indicate that the operating and replacement reserves were actually funded before Project can include these amounts in the calculation to determine Surplus Cash. If the reserve amounts actually taken exceed the above allowances, Contractor or Project Owners shall obtain approval from County in writing to allow Project to include the higher reserve amounts in the calculation for Surplus Cash. Depreciation will not be allowed as an operating expense for purposes of calculating Surplus Cash.

A copy of the annual independent financial audit shall be delivered to the County not later than 120 days after the end of Project's fiscal year. Payment to the County out of Surplus Cash flow shall be delivered to the County not later than 120 days after the end of each fiscal year beginning in the fifth year of Project operations described earlier.

E. Prepayment

Prepayments may be made at any time without penalty.

F. Due on Sale, Refinance or Transfer of Title

Contractor shall not sell or refinance the property or assign its rights under this Agreement without obtaining the prior written consent of the County. In the event of a sale or transfer of the subject property or any interest therein by Contractor, the entire principal balance of the Note, including any accumulated interest, shall be immediately due and payable. With the prior written consent of the County, the County Note may be assumed or transferred if the property that is the subject of this

Agreement is transferred to an owner who continues an eligible HOME use and the new owner agrees in writing to the terms and conditions of this Agreement and the Note and Deed of Trust.

G. Acceleration of Note

In the event Contractor breaches any of the terms and conditions of this Agreement after notice and an opportunity to cure as provided in Exhibit E herein, the Contractor will be in default of the terms and conditions of this Agreement as well as the Note, and the County may demand immediate and full payment of the principal amount of the Note and any accrued interest, and/or may initiate foreclosure proceedings under the Deed of Trust.

H. Title Policy

Contractor shall secure at the close of escrow the issuance of a CLTA policy of title insurance in the amount not less than the face value of the Note, clear of any title defects which would prevent the operation of the proposed project. Contractor shall pay all recording fees, escrow fees, the premium for the title insurance policy, all fees and cost for any new financing, and shall pay any applicable transfer taxes.

I. Fire and Extended Coverage

Contractor at its costs shall maintain on the improvements associated with the Project a policy of standard fire and extended coverage during the life of the Note and Deed of Trust securing this Agreement, or any subsequently executed document which replaces the Note and Deed of Trust, with vandalism and malicious mischief endorsements, to the extent of at least the full replacement value of the improvements which are part of the premises. The insurance policy shall be issued in the names of Contractor and the County as their interests appear. The insurance policy shall contain a lender's loss payable endorsement, providing that any proceeds shall be payable to the County as its interests appear.

In the event that Contractor shall undertake to restore the damaged improvements or to reconstruct the destroyed improvements within a period of sixty (60) days of receipt of insurance proceeds, such insurance proceeds received by the County shall be released to Contractor as payments are required for said purposes, and upon completion of such restoration or reconstruction, any balance thereof remaining shall be paid to Contractor forthwith.

In the event that Contractor shall fail to undertake the restoration or reconstruction of such improvements within sixty (60) days after receipt of insurance proceeds following any such damage or destruction, there shall be paid and released to the County from such insurance proceeds a sum equal to the cost of clearing the premises in the event Contractor does not at its own expense clear the premises within said period. The balance shall be held to compensate the parties to this Agreement as if the premises

were sold. Contractor shall also sell the vacant land on the open market and the proceeds of said land sale shall be distributed among the parties to this Agreement.

Exhibit B Payments

Disbursement of Funds

Funding provided under this Agreement shall be used for real property acquisition and other incidental eligible costs in connection with the acquisition described in **Exhibit A**. No funds shall be disbursed until the completion of the environmental review process required under the HOME Program. None of the funds under this Agreement shall be used for salary, fringe benefits or other compensation of employees of Contractor and/or its affiliates.

Property Acquisition

County shall deposit the necessary funds for property acquisition directly into escrow together with enabling escrow instructions. Escrow shall be held by a mutually agreed-upon escrow holder. Contractor shall request in writing the amount necessary for County to deposit into escrow.

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form

I Vendor Identification

Name of Contractor: San Mateo Rotary Floritas, L.P.
Contact Person: Larry Ivich, President, Rotary Haciendas, Inc.
Address: 2701 Flores St.
San Mateo, CA 94403
Phone Number: (650) 345-8222
Fax Number:

II Employees

Does the Contractor have any employees? [] Yes [X] No
Does the Contractor provide benefits to spouses of employees? [] Yes [] No

If the answer to one or both of the above is no, please skip to Section IV.

III Equal Benefits Compliance (Check one)

- [] Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
[] Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
[] No, the Contractor does not comply.
[] The Contractor is under a collective bargaining agreement which began on (date), and expires on (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Signature: [Handwritten Signature]
President
Title

Larry Ivich
Name (Please Print)
9/23/03
Date

Exhibit D Monitoring

During the predevelopment and construction phases of the Project, Contractor shall submit a **Quarterly Report** within 30 days of the end of each quarter which shall detail the status of the Project. The report should be in the form of a narrative description of all activities performed in relation to the project including all pre-development activities. The report should include an updated project time-line and indicate the status of the Project in relationship to this time-line. If the timeline is different from the previous one submitted, Contractor shall explain the changes. This report requirement is in addition to any information submitted with requests for reimbursement.

Upon Project completion, Contractor shall provide certain demographic and other data as required to the Office of Housing in order to close out the Project under HUD requirements. Thereafter, Contractor shall provide annual budgets and certified annual financial reports to the County within 90 days after the end of the Project's fiscal year.

Exhibit E
Additional Program Requirements

1. BREACH OF AGREEMENT

This Agreement is governed by applicable federal statutes and regulations, as referred to elsewhere herein. Any material deviation by Contractor for any reason from the requirements thereof, or from any other provision of this Agreement, shall constitute a breach of this Agreement and may be cause for termination at the election of County or upon the direction of HUD. County may terminate this Agreement for cause after giving Contractor notice of any breach or default and 30 days to cure said breach or default. In the event of termination by whatever means, County may accelerate payment on the Note and exercise all of its remedies at law or in equity.

County reserves the right to waive any and all breaches of this Agreement, and any such waiver shall not be deemed a waiver of all previous or subsequent breaches. In the event County chooses to waive a particular breach of this Agreement, it may condition same on payment by Contractor of actual damages occasioned by such breach of Agreement and shall make every effort to resolve the same quickly and amicably.

2. AGREEMENT TERMINATION

In the event Contractor is unable to fulfill its responsibilities under this Agreement for any reason whatsoever, including circumstances beyond its control, County may terminate this Agreement in whole or in part in the same manner as for breach hereof.

3. CONFLICT OF INTEREST

No members, officers, or employees or agents of County, no member of the County's Board of Supervisors, and no other public official who exercises any function or responsibility with respect to this program during his/her tenure, or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or a related subcontract, or the proceeds thereof.

No members, officers, or employees or agents of Contractor, no member of the Board of Directors of Contractor, and no other official who exercises any function or responsibility with respect to this program during his/her tenure, or for one year thereafter, shall have any interest, direct or indirect, in the Agreement or a related contract, or the proceeds thereof.

Contractor shall incorporate the above provisions into all contracts awarded in connection with this Agreement.

Housing Act, as amended in 1988, also establishes requirements for the design and construction of new rental or for sale multifamily housing to ensure a minimum level of accessibility for persons with disabilities. Multifamily dwelling units in buildings containing 4 or more units served by one or more elevators, or ground floor dwellings units with 4 or more units, constructed for first occupancy after March 13, 1991, must be designed and constructed in a manner that the public and common use portions of such dwellings are readily accessible to and usable by disabled persons. All premises within such dwellings must incorporate features of adaptive design regarding accessibility routes into and through the dwelling and design features within the units. (Regarding accessibility design issues, State accessibility requirements will prevail if they are stricter than federal requirements.)

C. Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services, programs or benefits supported by Federal funds.

D. Rehabilitation Act of 1973, Section 504, which prohibits discrimination against otherwise qualified handicapped persons in the provision of programs, facilities and employment supported by Federal funds.

In the case of multifamily rental housing, projects of five or more units must be designed and constructed to be readily accessible to and usable by persons with disabilities. For new construction involving five or more units, and substantial rehabilitation projects of 15 or more units (with substantial rehabilitation defined as rehabilitation costs representing 75 percent or more of the replacement costs of the completed facility), the following requirements must be followed - a minimum of 5 percent of the dwelling units must be accessible to individuals with mobility impairments and an additional 2 percent accessible to individuals with sensory impairments. At the minimum, one unit shall be made accessible to mobility-impaired individuals and one unit accessible to sensory impaired individuals. When less than substantial rehabilitation is undertaken in multifamily rental housing projects of any size, these alterations must, to the maximum extent feasible, make the dwelling units accessible to and usable by individuals with disabilities, until a minimum of 5 percent of the dwelling units (but not less than one unit) are accessible to persons with mobility impairments; for this category of less than substantial rehabilitation, the additional 2 percent of the units for persons with sensory impairments does not apply. Also for this category of rehabilitation, if undertaking accessibility alterations imposes undue financial and administrative burdens on the operation of the multifamily housing project, the alterations are not required.

In the case of non-housing facilities involving new construction, the facilities shall be designed and constructed to be readily accessible to and usable by persons with disabilities. For facilities involving alterations, to the extent possible, the alterations should ensure that such facilities are readily accessible to and usable by individuals with disabilities. An element of an existing non-housing facility need not be made accessible, if doing so, would impose undue

financial and administrative burdens on the operation of the recipient program or activity. (However, State law will prevail if State accessibility requirements are stricter than federal 504 requirements.) Recipients are still required to take other actions that would ensure that persons with disabilities receive the benefits and services of the program.

E. Davis-Bacon Act, which requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with Federal funds shall be paid prevailing wages of the locality as determined by the Secretary of Labor.

F. Flood Disaster Protection Act of 1973, which provides that no federal financial assistance for acquisition or construction purposes may be approved for an area having special flood hazards unless the community in which the area is located is participating in the National Flood Insurance Program.

G. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which provides for relocation assistance for any family, individual, business, non-profit organization or farm displaced as a result of acquisition of property with federal funds.

H. Executive Order 11246, amended by Executive Order 12086, Equal Employment and Contracting Opportunities, which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federally assisted construction contracts.

I. Housing and Urban Development Act of 1968, Section 3, which requires that, in the planning and carrying out of any project assisted under the Act, that to the greatest extent feasible, opportunities for training and employment be given to low and moderate income persons residing within the unit of local government in which the project is located, and that contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the same unit of local government as the project.

J. Lead-Based Paint Poisoning Act, which prohibits the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance.

K. Housing & Community Developments Act of 1974, 24 CFR Part 5 which provides that assistance shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any Contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR part 24. This provision covers all Contractors and subrecipients, as well as subcontractors of Contractor or subrecipient, whose names are included in the "List of Parties Excluded from

Federal Procurement and Nonprocurement Programs.” Inclusion in the aforementioned List during the term of this agreement would constitute grounds for contract termination as described in Sections 1 and 2 herein this Exhibit. The aforementioned List can be found on the Web at <http://epls.arnet.gov>.

7. UNIFORM ADMINISTRATIVE REQUIREMENTS

A. Contractor, if a governmental entity or public agency, shall comply with the requirements and standards of OMB Circular No. A-87, “Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally Recognized Indian Tribal Governments”, OMB Circular A-133, “Audits of State, Local Governments and Non-Profit Organizations”, and applicable sections of 24 CFR §85 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”, as set forth in 24 CFR §570.502(a).

B. Contractor, if a non-profit organization, shall comply with the requirements and standards of OMB Circular No. A- 122, “Cost Principles for Non-Profit Organizations, OMB Circular A-133 Audits of State, Local Governments and Non-Profit Organizations”, and applicable Attachments to OMB Circular No. A-110, as set forth in 24 CFR §570.502(b).

C. The CFDA # for the entitlement programs to which this applies are as follows:

- 1) Community Development Block Grant (CDBG): 14.218
- 2) Emergency Shelter Grant (ESG): 14.231
- 3) HOME Investment Partnership (HOME): 14.239
- 4) McKinney Supportive Housing: 14.235

Exhibit F

**Assurance of Compliance with Section 504 of the
Rehabilitation Act of 1973, as Amended**

The undersigned (hereinafter called the "Contractor (s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor (s) gives/give this assurance in consideration of and for the purpose of obtaining contracts after the date of this assurance. The Contractor (s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor (s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- a. Employs fewer than 15 persons (0 Employees)
- b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a)), has designated the following person (s) to coordinate its efforts to comply with the DHHS regulations.

Name of 504 Person - Type or Print

San Mateo Rotary Floritas, L.P.
658 Bair Island Road, Suite 300
Redwood City, CA 94063

Name of Contractor(s) – type or Print

I certify that the above information is complete and correct to the best of my knowledge.

9/23/04

Date

Lang Smith, President
Andrew Smith, Asst. Sec'y

Signature and Title of
Authorized Official

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations)...other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."

Exhibit G
Property Description

Legal Description of 2701 Flores Street, San Mateo

Real property in the City of San Mateo, County of San Mateo, State of California, described as follows:

Lot 16 and a Portion of Lot 23, as designated on the map entitled "Map Showing a Subdivision of Lots 1, 2, 19, 21 of the Beresford Park Tract San Mateo County, Cal. Belonging to E.T. Anthony" which map was filed in the office of the Recorder of San Mateo County, State of California on May 9, 1890 in liber "A" of Maps at page 17 and a copy entered into Book 1 of Maps at page 67, being more particularly described as follows:

Beginning at the Southeasterly Corner of 27th Avenue (formerly Elm Avenue) and Flores Street (formerly 2nd Avenue) as said Avenue and Street are shown on the map above referred to; thence Northeasterly along the Southeasterly line of 27th Avenue 183.70 feet to the Northeasterly line of said Lot 16; thence Northeasterly line of lots 16 and 23, a distance of 200 feet to the Northeasterly line of the lands conveyed to Dino Mangiantini and Pia Mangiantini, his wife by Deed recorded June 2, 1948 in book 1535 at page 65, (34125-H); thence at right angles Southeasterly along said Norhtwesterly line and its extension thereof, a distance of 61.24 feet to the Northeasterly line of the lands conveyed to Sara V. Johnson by Deed recorded April 14, 1949 in Book 1649 at page 76 (85712-H); thence at right angles Northwesterly along said line 10.50 feet; thence at a right angle Southwesterly along the Northwesterly line of the Johnson property 122.46 feet to the Northeasterly line of Flores Street; thence Northwesterly along Flores Street, a distance of 189.50 feet to the point of beginning.


APN: 039-381-110

JPN 039-038-381-11A

**SAN MATEO COUNTY
MEMORANDUM**

DATE: 9/15/2003

TO: Priscilla Harris Morse **FAX:** 363-4777 **PONY:** EPS 163

FROM:  Lucho Bravo (650) 802-5100
FAX: (650) 596-3478 **PONY:** HSA210

SUBJECT: Contract Insurance Approval

The following is to be completed by the department before submission to Risk Management:

CONTRACTOR NAME: Rotary Floritas, L.P.

DOES THE CONTRACTOR TRAVEL AS A PART OF THE CONTRACT SERVICES?:
No

NUMBER OF EMPLOYEES WORKING FOR CONTRACTOR: 1

DUTIES TO BE PERFORMED BY CONTRACTOR FOR COUNTY: County is providing CDBG funding for the construction of Senior Units.

The following will be completed by Risk Management:

INSURANCE COVERAGE:	Amount	Approve	Waive	Modify
Comprehensive General Liability	\$ <u>1m</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Motor Vehicle Liability	\$ <u>1m</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Professional Liability	\$ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Workers' Compensation	<u>statutory</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS/COMMENTS:


Risk Management Signature

9-15-03
Date



Acordia of California, Inc.
45 Fremont Street, Suite 800
San Francisco, CA 94105
(415) 541-7900 Fax (415) 541-7195

FAX MEMO

Confidentiality Notice: The materials and information conveyed within this facsimile transmission are private and confidential, and are the property of the sender. Further, this transmission is a privileged and protected communication, and is intended only for the use of the individual(s) or entity(ies) named above. If you are not the intended recipient, be advised that any unauthorized disclosures, copying, distribution, or the taking of any action in reliance on the contents of this transmission is strictly prohibited. If you have received this transmission in error, please notify the sender immediately by telephone to arrange for the destruction and/or return of the forwarded documents to the sender.

DATE:	September 12, 2003
TO:	Marina Yu
COMPANY:	County of San Mateo
FAX NUMBER:	650-802-5049
FROM:	Lauren N. Cox 415-512-3694 Lauren_Cox@Acordia.com
REGARDING:	San Mateo Rotary Floritas Associates LP Certificate of Insurance
# OF PAGES:	3

As you requested . . .

Cc: Andrea Papanastassiou, Mid-Peninsula 650-299-8010

Locho - here is Potency
Insurance

CERTIFICATE OF INSURANCE

ISSUE DATE:

9/12/03

PRODUCER:

ACORDIA OF CALIFORNIA INSURANCE SERVICES, INC.
 45 FREMONT STREET, SUITE 800
 SAN FRANCISCO, CALIFORNIA 94105 415-541-7900

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER OTHER COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY LETTER A	Travelers Indemnity Company of Illinois
COMPANY LETTER B	Travelers Indemnity Company of Illinois
COMPANY LETTER C	Travelers Indemnity Company of Illinois
COMPANY LETTER D	State Compensation Insurance Fund
COMPANY LETTER E	Aetna Casualty & Surety

INSURED:

San Mateo Rotary Floritas Associates, L.P.
 658 Bair Island, Suite 300
 Redwood City, CA 94063

Company:

COVERAGES AND LIMITS

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO. LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF. DATE	POLICY EXP. DATE	DESCRIPTION	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMM. GENERAL LIAB. <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCURRENCE <input type="checkbox"/> OWNER'S & CONTRACT'S PROT	PJ-830-265X4826-TIL 03	1-1-03	1-1-04	GENERAL AGGREGATE PROD-COMP/OP AGG. PERS & ADV. INJURY EACH OCCURRENCE FIRE DAMAGE (One Fire) MEDICAL EXPENSE (One Person)	2,000,000 2,000,000 1,000,000 1,000,000 50,000 5,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY	PJ-810-265X4826-TIL 03	1-1-03	1-1-04	COMBINED SINGLE LIMIT BODILY INJURY (Per Person) BODILY INJURY (Per Accident) PROPERTY DAMAGE	1,000,000
C	EXCESS LIABILITY <input checked="" type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM	PSMJ-CUP-346K065-2-TIL-03	1-1-03	1-1-04	EACH OCCURRENCE AGGREGATE	10,000,000 10,000,000
D	WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY	Group 498 Unit 3231	10-1-02	10-1-03	<input checked="" type="checkbox"/> STATUTORY LIMITS EACH ACCIDENT DISEASE - POLICY LIMIT DISEASE - EACH EMPLOYEE	1,000,000 1,000,000 1,000,000
E	OTHER INSURANCE Employee Dishonesty	005BU103137233BCM	1-1-03	1-1-04	Each Occurrence	2,000,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

Certificateholder is named as Additional Insured per CG D105 attached. Re: Future acquisition and development of 2701 Flores Street, San Mateo, CA. Subject to ten (10) days notice of cancellation for non-payment of premium

NAME AND ADDRESS OF CERTIFICATE HOLDER:

County of San Mateo
 San Mateo County Office of Housing c/o Marina Yu
 262 Harbor Blvd. Bldg A
 Belmont, CA 94002

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE:

COMMERCIAL GENERAL LIABILITY

POLICY NUMBER: PJ-630-265X4826-TIL03

NAMED INSURED: San Mateo Rotary Floritas Associates, L.P.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BLANKET ADDITIONAL INSURED – OWNERS, LESSEES
OR CONTRACTORS**

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

PROVISIONS:

1. WHO IS AN INSURED (SECTION II) is amended to include as an insured any person or organization (called hereafter "insured") whom you have agreed in a written contract, executed prior to loss, to name as additional insured, but only with respect to liability arising out of "your work" or your ongoing operations for that additional insured performed by your or for you.
 1. The limits which you agreed to provided; or
 2. The limits shown on the declarations, whichever is less.
2. With respect to the insurance afforded to Additional Insureds the following conditions apply:
 - a. Limits of Insurance – The following limits of liability apply:
 1. The limits which you agreed to provided; or
 2. The limits shown on the declarations, whichever is less.
 - b. This insurance is excess over any valid and collectible insurance unless you have agreed
3. This insurance does not apply:
 - a. on any basis to any person or organization for whom you have purchased an Owners and Contractors Protective policy.
 - b. to "bodily injury," "property damage," "personal Injury," or "advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:
 1. The preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and
 2. Supervisory, inspection or engineering services.

CERTIFICATE HOLDER:

County of San Mateo its officers, agents, employees
and servants
San Mateo County Office of Housing c/o Marina Yu
262 Harbor Blvd. Bldg A
Belmont, CA 94002