

LOAN RESOLUTION
(Labor Housing Loan to Nonprofit Corporation)

LOAN RESOLUTION OF _____, 20_____

RESOLUTION OF THE BOARD OF DIRECTORS
OF _____ PROVIDING FOR
BORROWING \$ _____ TO FINANCE HOUSING AND RELATED FACILITIES FOR
DOMESTIC FARM LABOR, THE COLLECTION, HANDLING, AND DISPOSITION OF INCOME, THE
ISSUANCE OF INSTALLMENT PROMISSORY NOTE AND REAL ESTATE SECURITY INSTRUMENT,
AND RELATED MATTERS

Whereas _____ (herein referred to as
“Corporation”) is a nonprofit corporation duly organized and operating under

(authorizing State statute)

The Board of Directors of the Corporation (herein referred to as the “board”) has decided to provide certain housing and related facilities for domestic farm labor;

The board has determined that the Corporation is unable to provide such housing and facilities with its own resources or to obtain from other sources for such purpose sufficient credit upon terms and conditions which the Corporation could reasonably be expected to fulfill;

BE IT RESOLVED:

1. Application for Loan. The Corporation shall apply for and obtain a domestic farm labor housing loan (herein called “the loan”) of \$ _____ through the facilities of the United States of America acting through Rural Development, United States Department of Agriculture (herein called “the Government”) pursuant to title V of the Housing Act of 1949. The loan shall be used solely for the specific eligible purposes for which it is approved by the Government, in order to provide housing and related facilities for domestic farm labor. Such housing and facilities and the land constituting the site are herein called “the housing.”

2. Execution of Loan Instruments. To evidence the loan the Corporation shall issue a promissory note (herein referred to as “the note”), signed by its President and attested by its Secretary, with its corporate seal affixed thereto, for the amount of the loan, payable in installments over a period of _____ years, bearing interest at the rate of 1 percent per annum, and containing other terms and conditions prescribed by the Government. To secure the note or any indemnity or other agreement required by the Government, the President and Secretary are hereby authorized to execute a real estate security instrument giving a lien upon the housing and upon such other real property of the Corporation as the Government shall require, including an assignment or security interest in the rents

and profits as collateral security to be enforceable in the event of any default by the Corporation, and containing other terms and conditions prescribed by the Government. The President and Secretary are further authorized to execute any other security instruments and other instruments and documents required by the Government in connection with the making or insuring of the loan. The indebtedness and other obligations of the Corporation under the note, the related security instruments, and any related agreements are herein called the "loan obligations."

3. Equal Opportunity and Nondiscrimination Provisions. The borrower will comply with (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Form RD 400-1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause," to be incorporated in or attached as a rider to each construction contract the amount of which exceeds \$10,000 and any part of which is paid with funds from the loan, (c) Form RD 400-4, entitled "Assurance Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof, and any other undertakings and agreements required by the Government pursuant to lawful authority.

4. Supervised Bank Account. The proceeds of the note and the amount of \$_____ to be contributed by the Corporation from its own funds and used for eligible loan purposes shall be deposited in a "supervised bank account" as required by the Government. Amounts in the supervised bank account exceeding \$100,000 shall be secured by the financial institution in advance in accordance with the U. S. Treasury Department regulations, 31 CFR part 202. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals from the supervised bank account by the Corporation shall be made only on checks signed by the _____ of the Corporation and countersigned by a representative of Rural Development, and only for the specific loan purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of Rural Development, and the supervised bank account shall be closed.

5. Accounts for Housing Operations and Loan Servicing. The Corporation shall establish on its books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by Section 9.

The Treasurer of the Corporation shall execute a fidelity bond, with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Corporation in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this resolution.

6. General Fund Account. By the time the loan is closed the Corporation shall from its own funds deposit in the General Fund Account the amount of \$_____. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. The Corporation may also in its discretion at any time deposit therein other funds, not otherwise provided for by this resolution, to be used for any of the purposes authorized in section 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by the Corporation in trust for the Government as security for the loan obligations.

7. Operation and Maintenance Account. Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account, sufficient amounts to enable the Corporation to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes and insurance, normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

8. Debt Service Account. Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by the Corporation in trust for the Government as security therefor.

9. Reserve Account. (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this resolution and until so used shall be held by the Corporation in trust as security for the loan obligations. Transfers at a rate not less than \$_____ annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of \$_____ and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Corporation, consist of an amount, referred to herein as the "prepayment reserve," by which the Corporation is "ahead of schedule" as defined in the regulations of Rural Development. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Corporation:

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Corporation which in the judgement of the Government likely will promote the loan purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in section 9.(a), and is not agreed between the Corporation and the Government to be used for purposes authorized in section (b) shall be applied promptly on the loan obligations.

10. Regulatory Covenants. So long as the loan obligations remain unsatisfied, the Corporation shall:

(a) Impose and collect such fees, assessments, rents, and charges that the income of the Corporation will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the Corporations's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and disposition of income from the payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit to the Government regular and special reports concerning the housing or the Corporation's financial affairs.

(d) Not charge rents to domestic farm labor that exceed the rents approved by the Agency after considering the income of the occupants, Agency and non-Agency rental assistance available and the necessary costs of operation, debt service, and adequate maintenance of the housing.

(e) Maintain the housing at all times in a safe and sanitary condition in accordance with standards prescribed by state and local law, and Agency requirements.

(f) When making occupancy decisions, ensure that domestic farm labor applicants will always receive priority.

(g) Unless the Government gives prior consent:

- (1) Not use or permit use of the housing for any purpose other than as housing and related facilities for domestic farm labor.
- (2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.
- (3) Not cause or permit voluntary dissolution of the Corporation, nor merge or consolidate with any other organization, nor cause or permit any transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise, nor engage in any other new business, enterprise, or venture than operation of the housing.
- (4) Not cause or permit the issuance or transfer of any stock, borrow any money, nor incur any liability aside from current expenses as defined in section 7.

(h) Submit the following to the Government for prior review and approval not less than _____ days before the effective dates, unless approval is waived by the Government:

- (1) Annual budgets and operating plans.
- (2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.
- (3) Proposed rents and charges and other terms of rental agreements.
- (4) Rates of compensation of officers and employees of the Corporation payable from or chargeable to any account provided for in this resolution.

(i) If required by the Government, modify and adjust any matters covered by section 10.(e).

(j) Comply with all its agreements and obligations in or under the note, security instrument, and any related agreement executed by the Corporation in connection with the loan.

(k) Not alter, amend, or repeal without the Government's consent this resolution or the bylaws or articles of incorporation of the Corporation, which shall constitute parts of the total contract between the Corporation and the Government relating to the loan obligations.

(l) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Corporations's operations or affairs which may affect the housing, the loan obligations, or the security.

11. Refinancing of Loan. If at any time it appears to the Government that the corporation is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the Corporation will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12. General Provisions.

(a) It is expressly understood and agreed that any loan made will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

(b) The provisions of this resolution are representations to the Government to induce the Government to make a loan to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any provision of this resolution or any requirement made by the Government pursuant to this resolution, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable, and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Upon request by the Government the Corporation will permit representatives of the Government to inspect and make copies of any of the records of the Corporation pertaining to this loan. Such inspection and copying may be made during regular office hours of the Corporation, or any other time the Corporation and, the Government finds convenient.

(d) Any provisions of this resolution may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Corporation, after this resolution becomes contractually binding, to any extent such provisions could legally have been foregone, or agreed to in amended form, by the Government initially.

(e) Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This resolution may be cited in the security instrument and any other instruments or agreements as the "Loan Resolution of _____ 20____." (date of this resolution)

President (Signature)

Board Member (Signature)

Board Member (Signature)

CERTIFICATE

The undersigned, _____, the Secretary of the Corporation identified in the foregoing Loan Resolution, hereby certifies that the foregoing is a true copy of a resolution duly adopted by the board of directors on _____ 20____, which has not been altered, amended, or repealed.

(Date)

Secretary (Signature)

(SEAL)