

Form RD 3560-41
(02-05)

FORM APPROVED
OMB NO 0575-0189
Exp. Date: MM/DD/YY

(LABOR HOUSING LOAN AND GRANT TO A NONPROFIT CORPORATION)

LOAN AND GRANT RESOLUTION OF _____, 20____

RESOLUTION OF THE BOARD OF DIRECTORS OF _____
_____ PROVIDING FOR OBTAINING FINANCIAL ASSISTANCE IN THE AMOUNT \$ _____ TO AID IN FINANCING FEDERALLY DEFINED LOW-RENT HOUSING AND RELATED FACILITIES FOR LOW-INCOME DOMESTIC FARM LABOR, AND RELATED MATTERS.

Whereas _____
(herein referred to as the "Corporation") is organized and operating under _____ and the board of _____
(authorizing State statute)
directors of the Corporation has determined that —

- (a) The Corporation should provide low-rent housing and related facilities for low-income domestic farm labor, as defined in title V of the Housing Act of 1949.
- (b) The estimated total cash development cost of such housing and facilities amounts to \$ _____.
- (c) For such purpose the Corporation is able to furnish from its own resources \$ _____.
- (d) The Corporation will need financial assistance in the amount of \$ _____ which the Corporation is unable to obtain from other sources for such purpose upon terms and conditions which the Corporation could reasonably be expected to fulfill.
- (e) Of such amount of needed financial assistance the Corporation will be able to repay, with interest at 1% per annum, the amount of \$ _____ over a repayment period of _____ years, if the balance of \$ _____ is made available to the Corporation as a grant.
- (f) The housing and related facilities will fulfill a pressing need in the area in which they are or will be located.
- (g) The housing and facilities cannot be provided without the aid of a grant in the amount stated above:

These requirements do not supersede the applicable requirements for receipt of Federal funds stated in 7 CFR parts 3015, "Uniform Federal Assistance Regulations," 3016, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," or 3019, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

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THEREFORE BE IT RESOLVED:

1. Application for Loan and Grant. The Corporation shall apply to the United States of America, acting through Rural Development, United States Department of Agriculture (herein called "the Government") for a loan of \$_____ and a grant of \$_____, pursuant to Title V of the Housing Act of 1949. The loan and the grant shall be used only for the specific eligible purposes approved by the Government, in order to provide low-rent housing and related facilities for low-income domestic farm labor. Such housing and facilities and the land constituting the site may be referred to herein as the "housing."

2. Execution of Loan and Grant 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 a rate not to exceed _____ percent per annum, and containing other terms and conditions prescribed by the Government. To evidence the obligations of the grant, the Corporation shall execute an instrument in the form attached hereto entitled "Labor Housing Grant Agreement" and referred to herein as the "Grant Agreement," evidencing terms and conditions upon which the grant is made by the Government and the obligations of the Corporation with respect thereto. To secure the note and/or all other obligations and agreements of the Corporation with respect to the loan as required by the Government, the President and the Secretary are hereby authorized to execute a security instrument giving a lien upon or security interest in the housing and such other property as the Government shall require, including an assignment of or security interest in the rents and profits as collateral security to be enforceable in the event of any default by the Corporation. The President and the Secretary are further authorized to execute any other security and other instruments, agreements, and documents required by the Government for the loan or grant. The indebtedness and other obligations of the Corporation under the note, Grant Agreement, this resolution, the security instrument, and any other instruments and agreements related to the loan or grant are herein called the "loan and grant obligations."

3. Equal Employment Opportunity under Construction Contracts and Nondiscrimination in the Use of Occupancy and Housing and in Any Other Benefits of the Loan or Grant. The President and the Secretary are hereby authorized and directed to execute on behalf of the Corporation (a) any undertakings and agreements required by the Government regarding nondiscrimination in the use and occupancy of housing, (b) Form RD 400- 1, "Equal Opportunity Agreement," involving an Equal Opportunity Clause to be incorporated in or attached as a rider to each construction contract which exceeds \$ 10,000 in amount and is paid for in whole or in part with loan or grant funds, and (c) Form RD 400-4, "Assurance Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof.

4. Supervised Bank Account. The proceeds of the loan and grant and the amount of \$_____ to be contributed by the Corporation from its own fund and used for approved eligible 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 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 and grant 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 the County Supervisor or other authorized official of Rural Development, and only for the specific eligible purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors of 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 or grant funds are paid in full, any balance remaining in the supervised bank account shall be treated as a refund of loan and grant funds in the same ratio as that between the amounts of the loan and grant, 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 or grant obligations continue: 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 and grant are 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 and grant 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 and 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 and, unless the Government gives prior written consent, are not 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 while they continue and, until so used, shall be held by the Corporation in trust for the Government as security for the loan and grant obligations.

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 and grant 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 judgment of the Government likely will promote the loan or grant purposes without jeopardizing collectability of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectability of the loan.

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

10. Regulatory Covenants. So long as the loan or grant obligations continue, 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 Corporation'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 and payment of expenses attributable to the housing or to any other property securing the loan or grant obligations, and submit to the Government regular and special reports concerning the housing or the Corporation's financial affairs, including any information required by the Government regarding income of the occupants of the housing.

(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 low-rent housing and related facilities for low-income domestic farm labor, as those terms are defined by the Government.
- (2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan or grant obligations.
- (3) Not cause or permit voluntary dissolution of the Corporation, nor merge or consolidate with any other organization, nor transfer or encumber title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or other conveyance or encumbrance, nor engage in any other new business, enterprise, or venture than operation of the housing.
- (4) Not 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 not less than _____ days before the effective dates:

- (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 for occupancy of the housing.
- (4) Rates of compensation to 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 this resolution, the note, Grant Agreement, security instrument, and any related agreement executed by the Corporation in connection with the loan or grant.

(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 and grant 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 Corporation's operations or affairs which may affect the housing, the loan or grant 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 understood and agreed by the Corporation that any loan or grant 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 and grant, enforce such limitations, and protect the Government's financial interest in the loan and grant and the security.

(b) The provisions of this resolution are representations of the Corporation to induce the Government to make or insure a loan or make a grant to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any of its loan or grant obligations, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of default, the Government at its option may declare the entire amount of the loan and grant 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 the financial assistance. 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 elsewhere as the "Loan and Grant Resolution of _____, 20____." (date of this resolution)

CERTIFICATE

The undersigned, _____, the Secretary of the corporation identified in the foregoing 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)

(SEAL)