

Form RD 3560-40
(02-05)

FORM APPROVED
OMB NO. 0575-0189

LOAN AGREEMENT
(Labor Housing Loan to Individual)

1 Parties and Terms Defined. This agreement dated _____ (1) _____ of the (2)
Undersigned _____
herein called "Borrower" whether one or more, whose post office address is _____ (3)

with the United States of America acting through Rural Development, United States Department of Agriculture, herein called "the Government," is made in consideration of a loan, herein called "the loan," to Borrower in the amount of \$ _____ (4) _____ made, or to be made by the Government pursuant to title V of the Housing Act of 1949 to provide housing and related facilities for domestic farm labor. Such housing and related facilities, together with the site, may be referred to herein as "the housing." The indebtedness and other obligations of Borrower under the note evidencing the loan, the related security instrument, and any related agreement are herein called the "loan obligations."

2 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.

3 Supervised Bank Account. The proceeds of the note and the amount of \$ _____ (5) _____ to be contributed by the borrower 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 U.S. Treasury Department regulations, 31 CFR part 202. As provided therein the funds shall, until duly expended, collaterally secure the loan obligations. Withdrawals from the supervised bank account by the Borrower shall be made only on checks signed by the _____ (6) _____ of the Borrower and countersigned by a representative of Rural Development, and only for the specific loan purposes approved in writing by the Government. The Borrower'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.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0189. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The borrower executes the Loan Agreement at loan closing. The Loan Agreement sets forth the terms of the Agency financing and is the instrument that becomes their legal obligation to comply with all Agency program requirements.

(see reverse)

- PROCEDURE FOR PREPARATION : 7 CFR part 3560.
- PREPARED BY : Servicing Official.
- NUMBER OF COPIES : Original and one copy.
- SIGNATURES REQUIRED : Original signed by borrower.
- DISTRIBUTION OF COPIES : Original retained in file. Copy to the borrower.

INSTRUCTIONS FOR PREPARATION

- Item 1 Insert the date the agreement is signed which must be prior to the loan approval date.
- Item 2 Type the name of the borrower as it will appear on the promissory note.
- Item 3 Type the borrower's address as it will appear on the promissory note.
- Item 4 Insert the amount of loan in figures as it will be shown on the promissory note.
- Item 5 Insert the amount of the borrower's contribution.
- Item 6 Insert the title of the authorized representative of the borrower.
- Item 7 Insert an amount equal to no less than two percent of the total development cost of the project.
- Item 8 Insert, in most cases, no less than one-tenth of the aggregate sum specified in Item 9.
- Item 9 Insert an amount equal to no less than 10 percent of the total development cost or appraised value, whichever is greater.
- Item 10 Insert a number of days, normally 30.
- Item 11 Borrower's signature.

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4 Accounts for Housing Operations and Loan Servicing. Borrower shall establish 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 8 (a).

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

6 Operation and Maintenance Account. Not later than the 15th of each month sufficient amounts from the General Fund Account shall be transferred to the Operation and Maintenance Account to enable Borrower 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, 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 or income or revenue from the housing.

7 Debt Service Account. Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 6, 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 Borrower in trust for the Government as security therefor.

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8 Reserve Account.

(a) Immediately after each transfer to the Debt Service Account as provided in section 7, 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 agreement and until so used shall be held by the Borrower in trust as security for the loan obligations. Transfers at a rate not less than \$ (8) annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of \$ (9) 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 Borrower, consist of an amount, referred to as the "prepayment reserve," by which Borrower 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 Borrower—

- (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 6.
- (3) To make improvements or extensions to the housing.
- (4) For other purposes desired by Borrower which in the judgment 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.
- (5) For any purpose desired by Borrower, provided Borrower determines that after such disbursement (a) the amount in the Reserve Account will be not less than that required by section 8 (a) to be accumulated by that time, and (b) during the next 12 months the amount in the Reserve Account will likely not fall below that required to be accumulated by the end of such period.

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(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in section 8 (a) and is not agreed between the borrower and the Government to be used for purposes authorized in section 8 (a) shall be applied promptly on the loan obligations.

9 Regulatory Covenants. So long as the loan obligations remain unsatisfied, Borrower shall—

(a) Impose and collect such fees, assessments, rents, and charges that his income 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 his 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 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 obligations, and submit regular and special reports concerning the housing or Borrower'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 the housing for any purpose other than as labor housing and related facilities for domestic farm laborers.

(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 the transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(h) Submit the following to the Government for prior review and approval not less than (10) days before the effective dates.

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(1) Annual budgets and operating plans, including proposed rents and charges and other terms of rental agreements for occupancy and compensation to employees chargeable as operating expenses of the housing.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(i) If required by the Government, modify and adjust any matters covered by section 9 (e).

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

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

11 General Provisions.

(a) It is understood and agreed by Borrower that any loan made or insured 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) Borrower shall also comply with all covenants and agreements set forth in the note, security instrument, and any related agreements executed by Borrower in connection with the loan.

(c) The provisions of this agreement are representations to the Government to induce the Government to make a loan to Borrower as aforesaid. If Borrower should fail to comply with or perform any provision of this agreement or any requirement made by the Government pursuant hereto, such failure shall constitute default as fully as default in payment of amounts due on the loan. 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.

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

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(e) Any provisions of this agreement may be waived by the Government, or changed by agreement between the Government and Borrower to any extent such provisions could legally have been foregone, or agreed to in any amended form, by the Government initially. Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This agreement may be cited in the security instrument and other instruments or agreements as the "Loan Agreement of _____ **(1)** _____ 20____."

(date of agreement)

(11)

Witness

Borrower

(11)

Witness

Borrower