

RESOLUTION NO. 22-23-44

RESOLUTION 22-23-44 APPROVING THE 2023-2025 FISCAL YEAR OPERATION AND MAINTENANCE CONTRACT BETWEEN THE STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND STANISLAUS REGIONAL HOUSING AUTHORITY

CONTRACT #23-OMS-17850

WHEREAS, the California Department of Housing and Community Development has provided an Operation and Maintenance Contract, also known as a Standard Agreement, for the **2023-2025** Fiscal Year for the Westley Migrant Center; and

WHEREAS, the Stanislaus Regional Housing Authority, acting through its Board of Commissioners, having the authority to enter into this contract, desires to approve this Operation and Maintenance Contract for the **2023-2025** operation of the Westley Migrant Center.

NOW, THEREFORE, BE IT RESOLVED, the Board of Commissioners of the Stanislaus Regional Housing Authority, hereby approves the Operation and Maintenance Contract #23-OMS-17850 in an amount **not to exceed \$2,185,697.00** and authorizes its Executive Director to execute said contract, and any amendments to said contract, on behalf of the Stanislaus Regional Housing Authority.

PASSED AND ADOPTED this 20th day of July 2023, by the following votes:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

Attest: _____

Chairperson

Approved: _____

Secretary

EXHIBIT A**AUTHORITY, PURPOSE AND SCOPE OF WORK****1. Authority and Purpose**

Pursuant to Chapter 8.5 (commencing with Section 50710) of Part 2, Division 31, of the Health and Safety Code ("Statutes"), the Department of Housing and Community Development ("Department") is responsible for the administration of a program in order to provide housing and housing-related services for migratory workers and their families in California and may contract with housing authorities and other appropriate local, public and private non-profit agencies for the purpose of securing or obtaining such housing and other related services.

In accordance with the Statutes and the Office of Migrant Services (OMS) Program Regulations set forth in California Code of Regulations ("CCR") Title 25, Division 1, Chapter 7, Subchapter 7, commencing with Section 7600 ("Program Regulations"), the Department shall provide housing units and related facilities at the location set forth in Exhibit A-1 of this Agreement ("Housing Center" or "Migrant Center"). These housing units and related facilities shall at all times remain legally severable from the real property on which they are placed, and the title of these units shall be in the name of the Department. Upon termination of this Agreement, the Department shall have the right to remove these housing units and related facilities without reimbursement to the Contractor.

The Contractor agrees to comply with the terms and conditions of this Agreement, and all Exhibits hereto.

2. Scope of Work

- A. The Contractor shall permit occupancy of the Housing Center for migratory workers and their families in accordance with the applicable Statutes and Program Regulations and provide operations services ("Work") which are further described as all administrative, fiscal and management services; employment of staff; and purchasing, rental or use of supplies and materials as needed to operate, maintain, rehabilitate and protect the Housing Center pursuant to the terms and conditions of this Agreement. The Department reserves the right to review and approve all Work performed by the Contractor in relation to this Agreement. Any proposed revision to the Work must be submitted in writing for review and approval by the Department. Any approval shall not be presumed unless such approval is made by the Department in writing.
- B. The Work shall generally consist of operations, maintenance, and oversight of Department-approved rehabilitation and improvement of the Housing Center.
- C. The commonly accepted name and street address of the Housing Center is:

OMS – Rural Development
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Approved Date:

Prep. Date: (date inserted by Contract Manager when each SA is created)

EXHIBIT A

Westley Migrant Center
696 Livingston Circle
Westley, CA 95387

3. Term

All activities set forth in this Agreement and program funds allocated pursuant to Exhibit B-1 must be expended by June 30, 2024. All activities set forth in this Agreement and program funds allocated pursuant to Exhibit B-2 must be expended by June 30, 2025. Any costs incurred after June 30, 2025 are not eligible for reimbursement. This agreement expires on September 30, 2025.

4. Department Contract Coordinator

The coordinator of this Agreement for the Department is the Manager of the OMS Program, Division of Financial Assistance, or the Manager's designee. Unless otherwise informed, any notice, report, or other communication required by this Agreement must be mailed by first class mail to the Department Coordinator at the following address:

OMS Program Manager
Department of Housing and Community Development
Division of Financial Assistance
Post Office Box 952054
Sacramento, CA 94252-2054

5. Contractor Contract Coordinator

The Contractor's Contract Coordinator for this Agreement is listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class mail to the contact at the following address:

Stanislaus Regional Housing Authority
Jim Kruse
P.O. Box 581918
Modesto, CA 95358
JKruse@stanregionalha.org

EXHIBIT A-1

LEGAL DESCRIPTION

That certain land designated parcel 1 of that certain map filed October 10, 1989 in book 42 of parcel maps, at page 39, Stanislaus County records.

Also excepting therefrom all oil, gas, asphaltum and other hydrocarbon and all other minerals including such rights of access to and the use of such parts of the surface as may be necessary for mining and saving said minerals as excepted in the deed from United States of America, to housing authority of Stanislaus county dated February 15, 1957 and recorded march 18, 1957 in volume 1416 of official records, at page 531, as instrument no. 7286.

Being a portion of APN 016-020-017.

DRAFT

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Agreement Amount

- A. For the purposes of performing the Work, the Department agrees to provide the amount of \$548,248.00 for fiscal year 2023/24 and \$575,012.00 for fiscal year 2024/25, not to exceed \$1,123,260.00 (total for *two-years funding pursuant to this biannual contract*). At the sole discretion of the Department, this amount may be adjusted per annum in accordance with the grant allocation provided by the State of California to the Department, which may require an amendment to this Agreement.
- B. Unless amended, the Department is not liable for any costs for the Work in excess of the amount of this Agreement, nor for any unauthorized or ineligible costs.
- C. Funds provided under this Agreement are provided in the form of a grant only for the approved purposes and itemized amounts as stated in Exhibit B-1, Year One Operating Contract Budget and Exhibit B-2, Year Two Operating Contract Budget (“Budgets”) attached hereto and incorporated herein.
- D. Upon Year 2 of this Agreement’s term, Exhibit B-2 may be modified to adjust line item amounts in accordance with the Contractor’s Year 2 allocation, as granted by the State of California to the Department.
- E. Any adjustments to the Year 1 or Year 2 Budget require prior written approval of the Department, and may require written justification from the Contractor and an amendment to this Agreement.

2. Disbursement of Funds

- A. Upon receipt of a certified resolution, determined to be legally sufficient by the Department, and the execution of this Agreement, the Department agrees to disburse to the Contractor, funds not to exceed the total amount stated in Paragraph 1.A of this Exhibit.
- B. The Department shall disburse requested funds for Work performed on behalf of, or by the Contractor (and actions that are to be performed and documented by the Contractor pursuant to statute, regulation, contract, or schedule). Such Work will need to be evidenced and documented by the Contractor, including equivalent services performed by the Contractor (as opposed to hiring a third party) that have been approved beforehand by the Department, as required in this Agreement.
- C. The Department further agrees to disburse said funds only for the approved purposes and itemized amounts as described in the Budgets.

EXHIBIT B

- D. The Department shall reimburse the Contractor monthly in arrears for the Contractor's actual and necessary expenses in accordance with the Budget and upon receipt of a Request for Reimbursement. Requests for Reimbursement may be mailed to the Department or submitted via email to OMSProgram@hcd.ca.gov.
- E. The Contractor shall provide the Department with a monthly Request for Reimbursement no later than fifty (50) days after the end of each reporting month. The Request for Reimbursement must include adequate source documentation evidencing funds were spent consistent with the terms of this Agreement. Adequate source documentation can be a combination of any of the following: signed timesheets, payroll reports, general ledgers that originate outside of the Contractor's sole control (i.e. through an Accounting Branch/Unit), the summary page of utility bills, bank statements, receipts, or any other relevant documentation as requested by the Department and subject to clarification.
- F. The Department cannot commence processing payment until it has received adequate source documentation, therefore the Department will withhold reimbursement until all required documentation is received and verified. The Department will withhold payment for disputed items, but all non-contested items will be processed for invoicing and repayment to the Contractor.
- G. Upon expiration of this Agreement, funds provided through this Agreement, which are in excess of actual and necessary expenses, may be disbursed and deposited into an OMS reserve account established and funded pursuant to Health and Safety Code Section 50710.1(b). Prior to said approval, the Department must certify that there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of the requesting Housing Center, which affect the immediate health and safety of residents. Pursuant to applicable law, the cumulative balance of the reserve account may not exceed 10 percent of the operating funds annually committed to the Contractor by the Department, unless specifically authorized by the Department. The Department has ultimate discretion as to whether said funds will be disencumbered or preserved within the OMS reserve account.
- H. Funds in the reserve account must be used only for capital improvements such as replacing or repairing structural elements, furniture, fixtures, or equipment of the Housing Center, the replacement or repair of which are reasonably required to preserve the Housing Center. Withdrawals from the reserve account may only be made upon receipt of written approval from the Department. Withdrawal requests must detail the amount and nature of expenditures and include the most recent bank statement from the reserve account. Withdrawals or expenditures made without prior Department approval are not authorized.
- I. The statutory reserve account referenced above in paragraph 2(G) and 2(H), the general operations account, the CARE account, the account which holds the tenant security deposits, and any other reserve accounts that the contractor may hold with Departmental approval, must be maintained separately from one another.

EXHIBIT B

- J. If the Contractor is in violation of any provision of this Agreement, the Department may, at its sole discretion, withhold payment of funds under this Agreement until such violations are corrected.
- K. The expenditure period for FY 2023-2024 ends on June 30, 2024, the expenditure period for FY 2024-2025 ends on June 30, 2025. All Requests for Reimbursement shall be submitted to the Department by August 31, 2025. The Department will not process Requests for Reimbursement submitted to the Department after September 30, 2025.

3. Advances

- A. Upon the effective date of this Agreement, the Contractor may upon written request, obtain an advance of funds in an amount not to exceed twenty percent (20%) of the total Agreement amount, which reflects the annual operating costs of the Housing Center. The annual operating costs *does not include the amount of funds allocated for Minor Rehabilitation as specified in line item 304 of the Budget, as stated in paragraph 1. A and 4. A.* To request an advance of funds, the Contractor cannot have an outstanding advance balance from the prior contract period, as further specified below.
- B. Advance balances will be deemed outstanding if Contractors have not, within 60 days of the end of the prior fiscal year (July 1st through June 30th), submitted acceptable invoices to cover the advances or deposited remaining funds to the reserves (with Department approval). Failure to submit acceptable invoices or deposit remaining funds to the reserves will result in the return of any remaining funds to the Department.
- C. Advanced funds must be recaptured during the final three months of invoices. If the Contractor has an outstanding advance balance at the end of the fiscal year, the Department is not required to provide an advance in the subsequent fiscal year.

4. Line Item Changes

The Contractor may upon prior written approval by the Department, transfer any approved allocations, or portions thereof, to other cost categories listed in the Budget for that fiscal year. In no event, shall the total amount of this Agreement be exceeded without prior execution of a formal amendment to this Agreement.

5. Special Funding Conditions

- A. Funds allocated for Minor Rehabilitation as specified in line item 304 of the Budget shall be subject to the following provisions:
 - 1) Funds may be spent only for the items and activities, in the maximum amounts specified, and according to the priority expressed in Item G of the Budget.
 - 2) Notwithstanding Paragraph 4 of this Exhibit, these funds shall not be subject to transfer to other cost categories.

EXHIBIT B

- 3) All reimbursements shall be in arrears and shall require submission of invoices and related supporting documentation in a manner directed by the Department.
 - 4) Any funds not expended upon the expiration of this Agreement shall be automatically disencumbered on that date and shall not be available for additional expenditures or reimbursements except as provided in Health and Safety Code Section 50710.1(b) and as further specified in paragraph 2(G)-(H).
- B. Funds allocated in Item B, line 209 “Major Equipment Repair/Maintenance” of the Budget shall be spent only for the items, and in the maximum amounts, specified in Item F of the Budget.
- C. Funds allocated in Item B, line 401 “Administrative Support Services” of the Budget shall be calculated as 10% of the total Budget per year, and shall be spent on administrative costs incurred by the Contractor to administer the OMS program.

6. Availability of Funds

The obligations under this Agreement are hereby made expressly contingent upon the availability of projected rental income and other funds for the purposes of performing the services identified in this Agreement. It is understood that this Agreement may have been written prior to the beginning of the fiscal year in order to expedite contract processing. However, should adequate funds not be appropriated by the Legislature for the current fiscal year, or should other funds be reduced as a result of a court order or any other incident deemed legally binding by the Department, the Department may exercise its option to cancel this Agreement. Additionally, the Department, in its sole discretion, may opt to reduce the on-season period, unless the Department and the Contractor either amend this Agreement, or mutually agree to budget reductions and a rescission of a portion of the encumbered funds as a means to mitigate the lack of funds.

EXHIBIT B-1
YEAR TWO OPERATING CONTRACT BUDGET
 THIS IS NOT AN INVOICE

Contract No.		
Term: July 1, 2023 - June 30, 2024		
	CONTRACTOR FUNDS	STATE FUNDS
A. CENTER PERSONNEL		
101 Permanent Salaries/Wages	\$	\$ 150,769.00
102 Temporary Salaries/Wages		0.00
103 Personnel Benefits		82,553.00
SUBTOTAL	\$ 0.00	\$ 233,322.00
B. OPERATING EXPENSES		
201 Center Office Supplies	\$	\$ 1,500.00
202 Household Supplies		2,200.00
203 Communications		3,200.00
204 Travel		400.00
205 Auto Repairs/Maintenance		615.00
206 Gas/Oil		1,800.00
207 Minor Equipment Repair/Maintenance		1,200.00
208 Purchases Under \$150		200.00
209 Major Equipment Repair/Maintenance		19,570.00
211 Equipment Rental		0.00
212 Electricity and Gas		70,000.00
213 Garbage, Trash		16,000.00
214 Sewer, Water		57,000.00
215 Other Costs		2,000.00
217 Property and Liability Insurance		25,550.00
218 Other Insurance		1,643.00
219 Advertising		300.00
SUBTOTAL	\$ 0.00	\$ 203,178.00
C. MAINTENANCE EXPENSES		
301 Electrical/Plumbing/Paint/Solar Supplies	\$	\$ 22,000.00
302 Lumber and Materials		8,000.00
303 Grounds Maintenance		7,500.00
304 Minor Rehabilitation		15,000.00
SUBTOTAL	\$ 0.00	\$ 52,500.00
D. CONTRACTOR ADMINISTRATION		
401 Administrative Support Services	\$	\$ 49,115.00
402 Travel		600.00
403 Audit		1,550.00
SUBTOTAL	\$ 0.00	\$ 51,265.00
E. DEBT SERVICE & REPLACEMENT		
501 Reserves	\$	\$ 0.00
502 Payment		7,983.00
SUBTOTAL	\$ 0.00	\$ 7,983.00
TOTAL	\$ 0.00	\$ 548,248.00

OMS - Rural Development

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Approved Date:

Prep. Date: (date inserted by Contract Manager when each SA is created)

EXHIBIT B-1
 THIS IS NOT AN INVOICE

Contract No.		
Term: July 1, 2023 - June 30, 2024		
	CONTRACTOR FUNDS	STATE FUNDS
F. APPROVED EQUIPMENT REPAIR AND MAINTENANCE		
Refrigerators	\$	\$ 3,600.00
Ranges		2,600.00
Water Heaters		4,250.00
Mattress Sets		3,900.00
Mattress Sets		3,150.00
Mattress Covers		630.00
Mattress Covers		840.00
Adjustable Bed Frames		600.00
TOTAL LINE 209	\$ 0.00	\$ 19,570.00
G. APPROVED REHABILITATION ACTIVITIES		
A.M. Landscape Equipment (riding mower, push mower, chainsaw)	\$	\$ 3,000.00
A.M. Bi-annual Clean Up at WWTP		12,000.00
TOTAL LINE 304	\$ 0.00	\$ 15,000.00

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EXHIBIT B-2
YEAR TWO OPERATING CONTRACT BUDGET
 THIS IS NOT AN INVOICE

Contract No.		
Term: July 1, 2024 - June 30, 2025		
	CONTRACTOR FUNDS	STATE FUNDS
A. CENTER PERSONNEL		
101 Permanent Salaries/Wages	\$	\$ 158,308.00
102 Temporary Salaries/Wages		0.00
103 Personnel Benefits		86,681.00
SUBTOTAL	\$ 0.00	\$ 244,989.00
B. OPERATING EXPENSES		
201 Center Office Supplies	\$	\$ 1,500.00
202 Household Supplies		2,200.00
203 Communications		3,400.00
204 Travel		400.00
205 Auto Repairs/Maintenance		615.00
206 Gas/Oil		1,850.00
207 Minor Equipment Repair/Maintenance		1,250.00
208 Purchases Under \$150		250.00
209 Major Equipment Repair/Maintenance		19,570.00
211 Equipment Rental		0.00
212 Electricity and Gas		75,000.00
213 Garbage, Trash		16,500.00
214 Sewer, Water		57,200.00
215 Other Costs		2,200.00
217 Property and Liability Insurance		28,100.00
218 Other Insurance		1,807.00
219 Advertising		300.00
SUBTOTAL	\$ 0.00	\$ 212,142.00
C. MAINTENANCE EXPENSES		
301 Electrical/Plumbing/Paint/Solar Supplies	\$	\$ 24,200.00
302 Lumber and Materials		8,700.00
303 Grounds Maintenance		8,000.00
304 Minor Rehabilitation		15,300.00
SUBTOTAL	\$ 0.00	\$ 56,200.00
D. CONTRACTOR ADMINISTRATION		
401 Administrative Support Services	\$	\$ 51,548.00
402 Travel		600.00
403 Audit		1,550.00
SUBTOTAL	\$ 0.00	\$ 53,698.00
E. DEBT SERVICE & REPLACEMENT		
501 Reserves	\$	\$ 0.00
502 Payment		7,983.00
SUBTOTAL	\$ 0.00	\$ 7,983.00
TOTAL	\$ 0.00	\$ 575,012.00

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Prep. Date: (date inserted by Contract Manager when each SA is created)

EXHIBIT B-2
THIS IS NOT AN INVOICE

Contract No.		
Term: July 1, 2024 - June 30, 2025		
	CONTRACTOR FUNDS	STATE FUNDS
F. APPROVED EQUIPMENT REPAIR AND MAINTENANCE		
Refrigerators	\$	\$ 3,600.00
Ranges		2,600.00
Water Heaters		4,250.00
Mattress Sets		3,900.00
Mattresses		3,150.00
Mattress Covers		630.00
Mattress Covers		840.00
Adjustable Bed Frames		600.00
TOTAL LINE 209	\$ 0.00	\$ 19,570.00
G. APPROVED REHABILITATION ACTIVITIES		
A.M. Landscape Equipment (riding mower, push mower, chainsaw)	\$	\$ 3,300.00
A.M. Bi-annual Clean Up at WWTP		12,000.00
TOTAL LINE 304	\$ 0.00	\$ 15,300.00

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EXHIBIT D

OMS PROGRAM GENERAL TERMS AND CONDITIONS

1. Seasonal Operations

- A. The Department shall designate a period of one hundred eighty (180) days each calendar year, unless otherwise extended or reduced by written agreement between the Department and the Contractor, during which the Migrant Center must be open to migratory agricultural workers and their households for occupancy, which period will be referred to as the "on-season." The remaining period of time during each calendar year will be referred to as the "off-season."
- B. During the on-season:
- 1) All common facilities of the Migrant Center subject to this Agreement, other than the housing units, must be available, as required by the Department, for the purpose of childcare services, health care services, educational programs, and other services approved by the Department and the Contractor for the benefit of resident migratory agricultural workers and their households.
 - 2) With reasonable discretion, residents of the Migrant Center, after prior notice to the Contractor, must be permitted to use the common facilities of the Migrant Center at any time such facilities are not required for use of programs scheduled by the Department or the Contractor, such as childcare programs, health programs, or educational programs.
- C. During the off-season, the Migrant Center must be available for such other use and subject to such other conditions as mutually agreed upon in writing by the Department and the Contractor, which must not be inconsistent or incompatible with the purposes of this Agreement.
- D. Migrant Center operations and alternative uses must not overlap, and Migrant Center operations must take precedence.

2. Financial Management

A. Rents and Other Receipts

Pursuant to applicable law, the Contractor shall collect when due, all rents, charges, and other amounts receivable on the Department's account in connection with the management and operation of the Migrant Center, in accordance with rates established by the Department. Such receipts collected under this provision must not be used for the operations or maintenance of the Migrant Center. Pursuant to Government Code §11259, all revenue must be remitted by the Contractor to the Department via check, along with a copy of the corresponding Monthly Rental Income Report, no later than fifty (50) days after the end of each month, to the following address:

EXHIBIT D

California Department of Housing and Community Development
Attention: Accounting Branch
2020 W. El Camino Avenue, Suite 300
Sacramento, CA 95833

B. Security Deposits

The Contractor shall collect, deposit, and disburse security deposits, if required, in compliance with any Department regulations or State laws governing tenant security deposits. Security deposits must be deposited into a separate account from the general operating account, reserve account, and CARE account. This account must be regularly maintained by the Contractor.

C. Account Maintenance

The Contractor shall maintain and safeguard all bank accounts associated with the Migrant Center in a way necessary to conduct their operations successfully and from which they may accurately report operational results for review, and otherwise comply with the terms of this agreement. The Contractor shall provide the Department with statements from all bank accounts associated with Migrant Center operations at least once annually at the beginning of each fiscal year, and upon request from the Department. Statements may be sent electronically to OMSProgram@hcd.ca.gov.

D. Accounting System

The Contractor shall develop a systematic method to record the business transactions of the Migrant Center that appropriately reflects the complexity of Migrant Center operations and the Department's requirements to be consistent with Exhibit B, Section 2(E). The Contractor may be required to implement and use bookkeeping and accounting systems acceptable to the Department.

3. Occupancy and Eviction

The Contractor shall terminate occupancy of a housing unit by any individual pursuant to the reasons and procedures pursuant to Program Regulations. Whenever possible, prior to eviction of any person pursuant to Program Regulations, the Contractor shall use its best efforts to correct the problem with the Resident or through the Resident Council. All proceedings with regard to this paragraph must be consistent with the Program Regulations.

4. Maintenance

The Contractor shall maintain the Migrant Center at all times in a safe and sanitary condition and in accordance with standards prescribed by State law, local ordinances, and the Department through this Agreement.

EXHIBIT D

The Contractor will also be responsible for the coordination and maintenance of any broadband internet systems that need to be installed, maintained, or replaced so to provide internet services to the residents of the Migrant Center. The Contractor shall contract accordingly with third parties to facilitate the installation, maintenance and replacement of related broadband internet services and provide said party reasonable access to the Migrant Center for the purpose of facilitating internet services within the Migrant Center. Any access to individual units must adhere to standard protocol, including but not limited to, providing residents proper notice of entry.

5. **Acquisitions and Property**

If property costing less than one hundred fifty dollars (\$150.00) per item is properly acquired with Agreement funds and is expected at the time of acquisition to be used indefinitely for the purpose for which it was purchased, title to such property must vest with the Contractor at the time of acquisition. If property acquired with Agreement funds has a cost of \$150.00 or more per item or is not expected at the time of acquisition to be used indefinitely for the purpose for which it was acquired, title to such property must vest with the Department. If property purchased under this Agreement is diverted to uses inconsistent with the purposes of this Agreement, the Contractor shall be liable for the replacement value of such property. If property with a unit price of \$5,000.00 or more is acquired or disposed of, the Contractor shall notify the Department within thirty (30) days of that acquisition or disposal so that the Department may properly account for acquisition or disposal of said property.

6. **Termination of Agreement**

- A. The Contractor may terminate this Agreement prior to the expiration date of this Agreement without cause, only upon conclusion of the on-season period and thirty (30) days prior written notice to the Department. This Agreement may be terminated by the Department at any time, upon thirty (30) days prior written notice to the Contractor.
- B. In the event that the Contractor terminates this Agreement, the Contractor shall provide the Department or the Department's designee with an option to assume responsibility for the continued operation of the Migrant Center, under the same terms and conditions contained in this Agreement, until another mutually agreeable location for the housing units and related facilities can be found and the housing units and related facilities are relocated to that site. The Department shall have one year from the date of exercise of said option to complete this operation and/or relocation.

7. **Reporting Requirements**

- A. Pursuant to Health and Safety Code Section 50717, the Contractor must provide the Department with a report that contains the data specified below about the agricultural workers that reside at the Migrant Center during the most recently concluded contract period. The purpose of gathering the data is to determine the needs of the residents

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EXHIBIT D

served at the Housing Center and how to better serve those needs. *The report shall be in an aggregate and anonymous format without any individual identifiable information.*

The report shall include the following information:

- a. The number of units rented to migratory and non-migratory households;
 - b. Where the migratory agricultural workers are migrating from;
 - c. Household incomes;
 - d. Race or ethnicity of members of each household;
 - e. Genders of members of each household;
 - f. The number of school-aged children, including the number of participants on the Migrant Education Programs and the number of residents enrolled in K-12 programs;
 - g. Information regarding the intended schooling for the children once the migrant center closes;
 - h. Where members of the household reside when not in the migrant center, and whether they own or rent;
 - i. If members of the household are elderly or disabled;
 - j. If the Migrant Center has an approved proposal allowing for an exemption for immediate family members of the agricultural worker to reside within a 50-mile radius of the Migrant Center during the off-season, the number and percentage of units allocated to non-migrant agricultural workers, and the number of children enrolled in the local school district, grades K-12 shall also be provided; and
 - k. Any additional information requested by the Department
- B. The Contractor shall notify the Department and provide a copy of any ordinances or Notices to Comply received from any regulatory body, including utility providers serving the Housing Center, which will affect the operation of the Housing Center, within five (5) days of receipt. Failure to provide said ordinances or notices will constitute a breach of this Agreement, and Contractor may be liable for any penalties the Department may receive as a consequence of failure to adequately provide it timely notice.
- C. The Contractor shall provide the Department with an annual financial audit for each fiscal year, due no later than nine (9) months after the end of each fiscal year, in accordance with generally accepted government auditing standards (GAGAS) and the requirements of the federal OMB Circular A-133.

8. **Inspections**

At all reasonable times during the term of this Agreement, and upon prior notice to the Contractor, representatives of the Department shall have access to the Contractor's premises for the purpose of ensuring compliance with this Agreement.

9. **Contractors and Subcontractors**

The Contractor shall not enter into any agreement with any subcontractor, for ten thousand dollars (\$10,000.00) or more, without the prior written approval from the Department. Such

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approval must not be unreasonably withheld by the Department. A subcontractor is not eligible to receive funds if they are not licensed by the appropriate regulatory body, not in good standing with the State of California, or is in any other way determined to be ineligible by the Department at its sole and reasonable discretion. Any agreement between the Contractor and subcontractors shall include all relevant terms and conditions of this Agreement and its attachments. In the event the Contractor purchases materials, services, or subcontracts performance of this Agreement, the Contractor shall adopt the following procedures which must be implemented in a manner consistent with State law:

- A. The Contractor shall invite bids for subcontracts, services and/or materials from as many prospective bidders as practical and receive no fewer than three (3). Any deviations from this process must be pre-approved by OMS prior to entering an agreement with a subcontractor.
- B. The Contractor shall award a rehabilitation (or construction) contract and/or any service or purchase agreement to the lowest responsible bidder or reject all bids; provided, however, that no awards must be made without prior written approval of the State.
- C. The Contractor shall award no subcontract, service contract and/or purchase agreement if the lowest responsible bid exceeds that amount allocated to the corresponding budget item in Exhibit B (unless modified in writing as permitted under this Agreement).
- D. The Contractor shall maintain and make available to the State detailed records and accounts of all subcontracts, purchases of materials and/or services made under the above procedure.

10. Waiver

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded pursuant to this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy provided therein or by law. The failure of the Department to enforce at any time the provisions of this Agreement, or to require at any time performance by the Contractor of any of the provisions contained herein, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce such provisions.

11. Force Majeure

Neither the Department nor the Contractor shall be deemed to be in default in the performance of the terms of this Agreement if either party is prevented from performing the terms of this Agreement by causes beyond its control, including, without being limited to: acts of God or the public enemy; interference, rulings or decisions by municipal, federal, state, or other governmental agencies, boards or commissions; any laws and/or regulations of such municipal, state, federal, or other governmental bodies; or any catastrophe resulting from flood, fire,

EXHIBIT D

explosion, or other causes beyond the control of the defaulting party. If any of the stated contingencies occur, the party delayed by force majeure shall immediately give the other parties written notice of the cause of delay. The party delayed by force majeure shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other parties written notice thereof and shall resume operations under this Agreement.

12. **Licenses and Permits**

The Contractor shall procure or cause to be procured all permits and licenses necessary to accomplish the Work set forth in this Agreement and give all notices necessary and incident to the lawful performance of the Work. The Contractor shall keep informed of, observe, comply with, and cause all of its agents and employees to observe and comply with all prevailing federal, state, and local laws, rules and regulations made pursuant to those federal, state, and local laws, which in any way affect the conduct and performance of the Work set forth in this Agreement.

13. **Litigation**

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. The Contractor shall notify the Department immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement or the Department and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.
- C. The Department, promptly after receiving notice thereof, shall notify the Contractor in writing of the commencement of any claim, suit, or action against the Department or its officers or employees for which the Contractor must provide indemnification under this Agreement. To the extent permitted by law, the Department shall authorize the Contractor or its insurer to defend such claims, suits or actions and shall provide it or its insurer, at the Contractor's expense, information, and assistance both necessary and available for such defense. The failure of the Department to give such notice, information, authorization, or assistance, shall not relieve the Contractor of its indemnification obligations.

14. **Disputes**

Except as otherwise provided in this Agreement, any dispute arising under or relating to the performance of this Agreement shall be reviewed and decided solely by the Department OMS

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Program Manager. The Manager's decision shall be provided to the Contractor in writing. The decision of the Program Manager shall be final and conclusive unless within thirty (30) days from the date of receipt of such a copy, the Contractor transmits to the Department a written appeal. Pending the final decision by the Director of the Department or Designee, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the written decision of the Program Manager, which is the subject of the Contractor's appeal.

15. **Audit/Retention and Inspection of Records**

The Contractor agrees that the Department or its delegate will have the right to review, obtain, and copy all records pertaining to performance of this Agreement. The Contractor agrees to provide the Department or its delegate with all relevant information requested and shall permit the Department or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts and other material that may be relevant to a matter under investigation for the purpose of determining compliance with Public Contract Code ("PCC") § 10115, et seq., Government Code ("GC") § 8546.7 and 2 CCR §1896.60 et seq. The Contractor further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

The Contractor shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC § 10115.10.

16. **Insurance**

- A. The Contractor shall carry, maintain, and enforce general liability and property insurance in the amounts not less than \$1,000,000.00 per occurrence. Fire insurance must be in an amount to adequately protect the interests of the contractor and the State of California and its officers and employees. All liability coverage must name the State of California as Additional Insured. All property coverage must name the State of California as Loss Payee with a maximum \$25,000.00 deductible per occurrence. For additional information on the Department's Insurance Guidelines, please refer to our website at http://www.hcd.ca.gov/grants-funding/already-have-funding/docs/Insurance_Guidelines.pdf.
- B. The Contractor shall provide the Department with a current copy of the Certificate of Coverage upon every premium renewal.
- C. The Contractor shall pay premiums out of the General Operating Account and premiums will be treated as an operating expense.
- D. The Contractor shall investigate and furnish the owner with full reports on all accidents, claims, and potential claims for damage relating to the Project. The Contractor will cooperate with the owner's insurers in connection therewith.

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17. Prevailing Wage

- A. Where funds provided through this Agreement are used for construction work, or in support of construction work, Contractor shall ensure compliance with the requirements of the Labor Code commencing with Section 1720 (which pertains to the payment of prevailing wages and administered by the California Department of Industrial Relations).
- B. For the purposes of this requirement "construction work" includes, but is not limited to rehabilitation, alteration, demolition, installation, or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work must be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract"). Where the construction contract will be between the Contractor and a licensed building contractor, Contractor shall serve as the "awarding body" as that term is defined in the Labor Code. Where Contractor will provide funds to a third party that will enter into the construction contract with a licensed building contractor, the third party shall serve as the "awarding body". The construction contract and any amendments thereto shall be subject to the prior written approval of the Department. Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certification from the awarding body that prevailing wages have been or will be paid.
- C. Notwithstanding any other provisions of this Agreement, after seeking appropriate recourse as set forth in the Section above, any controversial claim arising out of or relating to this Agreement or breach thereof shall be settled by arbitration at the election of either party in accordance with California Public Contract Code Section 10240 et seq., and judgment or award rendered by the arbitration may be entered in any court having jurisdiction thereof.

EXHIBIT E

SPECIAL TERMS AND CONDITIONS:
RURAL DEVELOPMENT (RD) MANAGEMENT PLAN

1. Personnel Policy and Staffing Arrangements

- A. Identify each position in the Contractor's Organization that is involved in the day-to-operations and maintenance of the property described in Exhibit A.
- B. Describe the fundamental responsibilities and duties of each position identified in section 1.A. above, including the lines of authority and accountability within the Contractor's organization.
 - 1) Identify responsible person residing upon the premises that shall have charge of every unit.
 - 2) Identify the position responsible for determining tenant eligibility and for drafting the waiting list.
 - 3) Identify the position responsible for knowing and administering State and local laws and OMS regulations regarding termination of leases and evictions.
- C. Describe hiring practices of Contractor's Organization.
- D. Describe the standards and plans for training employees on their job-related responsibilities and applicable OMS Statutes and Program Regulations. Describe how such training will be achieved.

2. Center Occupancy, Tenants and Eligibility

- A. Describe how the units will be advertised. Indicate minimum levels planned regardless of occupancy.
- B. Describe the methods that will be used to achieve and maintain the highest possible level of occupancy.
- C. Describe the methods that will be used to communicate with applicants, tenants, and members of the public regarding center policies and OMS regulations.
- D. Describe any orientation services to be provided to tenants to acquaint them with the center and care of units. Indicate what printed information will be given to applicants.
- E. Describe any plans for a Resident Council and how the Contractor will work with the Council.

EXHIBIT E

- F. Describe the specific documentation that will be acceptable to determine an applicant's eligibility.
- G. Describe the specific criteria that will be utilized for evaluating an individual applicant's prior conduct.
- H. Describe where the Tenant Grievance and Appeals Procedure will be posted at the Center and otherwise made available to the tenants. Identify which staff position will be responsible for responses to and consideration of a tenant grievance.

3. **Rent and Other Income Collection Policies and Records Keeping**

- A. Describe the rent and other income collection policy and procedure, covering such matters as where the collection point is, when the collection is made, which staff position handles the collection, provisions for handling collection after normal business hours, recording and safeguarding collections.
- B. Describe the security deposit policy and procedure, covering such matters as where the collection point is, when the collection is made, which staff position handles the collection, provisions for handling collection after normal business hours, recording and safeguarding collections.
- C. Describe the type of accounting method (cash or accrual) and financial records that will be used, how will they be maintained, and which staff position will prepare and maintain them.
- D. Describe how applications and other records relevant to tenants and eligibility will be maintained, and which staff position will prepare and maintain them.
- E. Describe how rental and other income is reported and remitted to the Department, and which staff position will prepare and process them.

4. **Plans and Procedures for Effective Center Maintenance and Repair**

- A. Describe the general plan for preventative maintenance.
- B. Describe the general maintenance procedures and schedules or cycles.
- C. Describe the policy and procedure for tenants to prepare and submit maintenance requests.
- D. Describe the general timing for handling purchase orders and payments.

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- E. Describe the policy for budgeting for and/or requesting use of reserves for funding major maintenance or replacement items.
- F. Describe where the center's as-built plans and specifications will be located and identify the staff position responsible for updating it as modifications occur.
- G. Describe the plan to inform and encourage tenants in use of energy and water conservation practices.
- H. Describe the plan to utilize energy and water conservation practices in the common areas of the center.

5. Plans and Procedures for Supplemental Services

- A. Describe the types of supplemental services such as laundry and vending machines that will be provided to benefit tenants.
- B. Describe who will be responsible for maintaining any equipment and stocking any vending machines.
- C. Describe the general terms of vendor contracts that supply these services.
- D. Describe the safekeeping and recording practices of any cash collections from use of this equipment.

EXHIBIT F

SPECIAL TERMS AND CONDITIONS

Rural Development (RD) Management Agreement

1. **General**

A. Appointment and Acceptance

The Department appoints the Contractor to manage the property described in Paragraph 1.B. of this Exhibit, and the Contractor hereby accepts the appointment, subject to the terms and conditions set forth in this Agreement.

B. Housing Center Description

The property to be managed by the Contractor under this Agreement is a housing center ("Housing Center") consisting of the land, buildings, and other improvements hereto identified as Housing Center Contract Number 23-OMS-17850. The Housing Center is further described as follows:

Name: Westley Migrant Center
Location:
City: Westley
County: Stanislaus
State: California
No. of Dwelling Units: 86
Type of Units:
 Family Elderly Mixed Congregate

C. Identity of Interest

The Contractor shall disclose to the Department and the United States Department of Agriculture Rural Development ("RD") any and all identities of interest that exist or shall exist between the Contractor and the Department, suppliers of material and/or services, or vendors in any combination of relationship.

D. RD and Department Requirements

In performing its duties as prescribed in this Agreement, the Contractor shall comply with all relevant requirements of RD and the Department which include preparation of forms, exhibits and reports in the format prescribed by RD and the Department.

E. Plans and Specifications

As soon as possible, the Department shall furnish the Contractor with a complete set of "as-built" plans and specifications and copies of all guarantees and warranties relevant to construction, fixtures, and equipment. With the aid of this information and inspection

EXHIBIT F

by competent personnel, the Contractor shall become thoroughly familiar with the character, location, construction, layout, plan, and operation of the Housing Center.

F. Compliance with Governmental Orders

The Contractor shall take such action as may be necessary to comply promptly with any and all governmental orders or other requirements affecting the Housing Center, whether imposed by federal, state, county or municipal authority subject, however, to the limitation stated in Paragraph 3.D. of this Exhibit with respect to litigation and repairs. The Contractor shall take no action so long as the Department is contesting, or has affirmed its intention to contest, any such order or requirement. The Contractor shall notify the Department in writing of all notices of such orders or other requirements, within seventy-two (72) hours from the time of their receipt of such notices.

G. Nondiscrimination

In the performance of its obligations under this Agreement, the Contractor shall comply with the provisions of any federal, state or local Fair Housing law prohibiting discrimination in housing on the grounds of race, color, religion, sex, familial status, national origin, or handicap. Other nondiscrimination provisions include Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241), Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as they relate to the RD multi-family housing program.

H. Fidelity and Insurance Coverage

- 1) The Department shall inform the Contractor of insurance required for the Housing Center and its operations. The Contractor shall obtain such insurance and maintain that such insurance is in effect at all times. Premiums shall be paid out of the General Operating Account and treated as operating expenses. All insurance shall be placed with companies, on conditions, in amounts, and with beneficial interests appearing thereon as shall be acceptable to the Department and RD, provided that the same shall include public liability coverage with the Contractor designated as one of the insured, in amounts acceptable to the Contractor, the Department and RD. The Contractor shall investigate and furnish the Department with full reports on all accidents, claims, and potential claims for damage relating to the Housing Center and shall cooperate with the Department's insurers in connection therewith.
- 2) The Contractor shall furnish, at its own expense, fidelity coverage to the Department, with copy to the RD Servicing Office on the employees of the Contractor who are entrusted with the receipt, custody, and disbursement of any Housing Center monies, securities, or readily saleable property other than money or securities. The minimum coverage of forty thousand dollars (\$40,000) shall be provided. The Contractor shall obtain coverage from a company licensed to provide coverage in the project locality. Coverage shall be in force to coincide

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with the assumption of fiscal responsibility by the Contractor until that responsibility is relinquished.

- 3) Endorsement listing RD projects separate from other projects or operations shall be obtained and made part of the coverage policy or bond. The other terms and conditions of the coverage, and the surety thereon, shall be subject to the requirements and approval of the Department.

I. Purchases and Contracts

- 1) With prior approval of the Department, and as allocated in the Budget, the Contractor shall obtain contracts, materials, supplies, utilities, and services on the most advantageous terms to the Housing Center, and the Contractor is authorized to solicit bids, either formal or informal, for those items which can be obtained from more than one source. The Contractor shall secure and credit to the Department all discounts, rebates, or commissions obtainable with respect to purchases, service contracts, and all other transactions on the Department's behalf.
- 2) The Contractor shall employ persons and/or services to perform duties and responsibilities at the Housing Center site as described in the Management Plan. Compensation of such persons and/or services shall be paid as a direct expense to the Housing Center as specified in the Management Plan and this Exhibit. The Contractor shall employ sufficient resources within the Contractor's operation to fulfill Contractor's obligation to the Department under the terms of this Exhibit.

2. Management Plan

- A. The Contractor shall advise and assist the Department in the preparation of the Management Plan for the Housing Center specified in Paragraph 1.B. of this Exhibit.
- B. The Contractor shall be provided with the completed Management Plan prior to execution of this Agreement, which shall include the following:
 - 1) Policies and procedures to be followed in the management of the Housing Center.
 - 2) Identification of Contractor's duties and supervisory relationships for project site and office staff; and
 - 3) Pro rata division of singularly incurred operating expense common to the Contractor and the Department.
- C. The Contractor shall periodically review the Management Plan and advise the Department of necessary or desirable changes.

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3. **Budget**

- A. The Contractor shall prepare a proposed Operating Contract Budget for submission to the Department. For each subsequent fiscal year, the Contractor shall prepare a new budget. Adjustments exceeding 10% of the proposed Operating Contract Budget require an amendment to this Agreement.
- B. The Department shall forward the proposed budget to RD using the formats and categories of RD Form 3560-7, "Multiple Family Housing Center Budget".
- C. The Contractor shall operate and maintain the Housing Center within reasonable tolerance of the expense category subtotals of the accepted budget as stated in Exhibit B-1, Year 1 and Exhibit B-2, Year 2 ("Budget") as defined by RD and the Department.
- D. Notwithstanding any other provisions of this Agreement, the Contractor shall obtain prior written approval from the Department for any expenditure of the Housing Center which exceeds ten thousand dollars (\$10,000) in any one instance for:
 - 1) Litigation,
 - 2) Labor,
 - 3) Materials; or
 - 4) Other expenditure in connection with the maintenance and repair of the Housing Center.

This limitation is not applicable for recurring expenses within the limits of the Budget; or any emergency repairs which involve manifest danger to persons or property, or that are required to avoid suspension of any necessary service to the Housing Center. In the event that emergency repairs are necessary, the Contractor shall contact the Department as promptly as possible.

4. **Housing Center Management**

The Contractor shall:

- A. Operate the Housing Center according to the Management Plan and in compliance with the Department's loan agreement with RD, this Agreement, and any applicable RD and Department regulations and guidelines.
- B. Participate in any conference with RD and/or Department officials involving management of the Housing Center.
- C. Participate in the on-site final inspection of the Housing Center, required by RD prior to initial occupancy.

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- D Prepare Form RD 3560-7 as a quarterly report and Department Monthly Operating and Rent Collection Reports beginning at initial occupancy until no longer required by RD or the Department.
- E Represent the Department in matters related to management of the Housing Center, including but not limited to the Department's interest at tenant grievance hearings.

5. Liaison with Architect and General Contractor

During the planning and construction phases, maintain direct liaison with the architect and general contractor, in order to:

- A. Coordinate management concerns with the design and construction of the Housing Center.
- B. Facilitate completion of any corrective work; and
- C. Facilitate the Contractor's responsibilities for arranging utilities and services pursuant to Paragraph 9.F. of this Exhibit.

The Contractor shall keep the Department advised of all significant matters of this nature.

6. Rentals and Leases

In accordance with the Management Plan and all other provisions of this Agreement, the Contractor agrees to:

- A. Market the rental housing units, observing all requirements of the Affirmative Fair Housing Marketing Plan, and maintain records of any marketing activity for compliance review purposes.
- B. Show the premises and available units to all prospective tenants without regard to race, color, national origin, sex, religion, familial status, handicap, or age; and shall provide for reasonable accommodation to individuals with disabilities.
- C. Take and process all rental applications. If an application is rejected, inform the applicant of the reason for rejection in writing. The rejected application, with the written reason for rejection, shall be kept on file until a compliance review has been conducted. If the rejection is due to information obtained from a Credit Bureau, the source of the report must be revealed to the applicant according to the Fair Credit Reporting Act.
- D. Follow tenant selection policy as stipulated in the Management Plan and maintain a current list of prospective tenants.
- E. Prepare and execute all dwelling leases and parking permits in a form approved by and in compliance with the relevant provisions of RD, the Department and other State regulations, in its name, identified thereon as the Contractor for the Department.

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- F. In no event, collect rent or other charges exceeding amounts specified by the Department for dwelling units, facilities, and other services.
- G. Determine eligibility and prepare eligibility certifications in accordance with RD and Department requirements using reports furnished by the Department.
- H. Counsel all prospective tenants regarding eligibility, and when available, make referrals to local social service and community agencies in cases of financial hardship or other circumstances deemed appropriate by the Contractor.
- I. Ensure full compliance with the terms of the lease by each tenant and emphasize voluntary compliance.
- J. Avoid involuntary termination of tenancies to the maximum extent consistent with sound management of the Housing Center.
- K. Initiate actions, subject to the Management Plan, and RD and Department regulations, to terminate any tenancy when, in the Contractor's judgment there is material noncompliance with the lease or other good cause for such termination.
- L. In the case of termination, properly notify the tenant of his/her right to appeal the proposed action according to RD and Department regulations. Attorney's fees and other necessary costs incurred in connection with such actions shall have advance by the Department and be paid out of the General Operating Account within the itemized limit of the Budget.
- M. Represent the Department's interest at tenant grievance hearings.

7. Reports

- A. Upon request by the Department, RD or the Office of the Inspector General, the Contractor shall provide reports regarding the Housing Center's financial, physical, or operational condition and occupancy.
- B. The Contractor shall assist the Department in initiating or completing all additional reporting forms and data prescribed by RD affecting the operation and maintenance of the Housing Center.

8. Financial Management

- A. Rents and Other Receipts

The Contractor shall collect when due, all rents, charges, and other amounts receivable on the Department's account in connection with the management and operation of the Housing Center. Such receipts shall be deposited immediately in the project's General Operating Account with F & M Bank, whose deposits are insured by an agency of the Federal Government.

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B. Security Deposits

The Contractor shall collect, deposit, and disburse security deposits, if required, in compliance with any Department regulations or State laws governing tenant security deposits. Security deposits shall be deposited in a separate account, at the Bank indicated above. This account shall be carried in the Department's name and designated of record as: "F & M Bank Security Deposit Account." This account shall be regularly maintained by the Contractor.

C. Account Maintenance

The Contractor shall maintain and safeguard the Housing Center's General Operating Account and tenant's Security Deposit Account according to the current requirements set forth in Paragraph XIII.B.2 of Exhibit B of Subpart C of Part 1930, which is part of the "Multiple Housing Management Handbook."

D. Accounting System

The Contractor shall develop a systematic method to record the business transactions of the Housing Center that appropriately reflects the complexity of Housing Center's operations and the Department's requirements. The Contractor may be required to implement and use bookkeeping and accounting systems acceptable to RD and the Department.

9. Housing Center Maintenance and Repair

The Contractor agrees to:

- A. Maintain and repair the Housing Center in accordance with the Management Plan and local codes and keep it in a condition acceptable to the Department and RD at all times. This shall include, but is not limited to cleaning, painting, decorating, plumbing, carpentry, grounds care, energy conservation measures and practices; and other such maintenance and repair work as may be necessary, subject to any limitations imposed by the Department in addition to those contained herein. Special attention shall be given to preventive maintenance, and to the greatest extent feasible, the services of regular maintenance employees shall be used.
- B. Purchase all materials, equipment, tools, appliances, supplies, and services necessary for proper maintenance and repair of the Housing Center as stipulated in the Management Plan, Budget, and/or other written documentation from the Department.
- C. Subject to the Department's prior written approval, contract with qualified independent contractors for the maintenance and repair of air-conditioning and heating systems, elevators, and for extraordinary repairs beyond the capability of regular maintenance employees. Any identity of interest shall be identified in accordance with Paragraph 1.C. of this Exhibit.

EXHIBIT F

- D. Systematically receive and promptly investigate all service requests from tenants, take such action as may be justified, and maintain records of the same. Emergency requests shall be received, and services provided on a twenty-four (24) hour basis. Serious complaints shall be reported to the Department after investigation.
- E. Advise the Department of any cost-effective and adaptable energy conservation measures or practices that should be used in the Housing Center. The Contractor shall encourage their use and shall assist the Department during any installation of these measures or institution of practices.
- F. In accordance with the Management Plan, make arrangements for utilities including water, electricity, gas, fuel oil, sewage and trash disposal, vermin extermination, decorating, laundry facilities, and telephone service.

10. Taxes, Fees and Assessments

The Contractor shall pay all taxes, assessments, and government fees promptly when due and payable. The Contractor shall evaluate local property taxes to insure they bear a fair relationship to the Housing Center value and if they do not, at the direction of the Department, appeal such taxes on behalf of the Department or assist the Department in the appeal, whichever is required by local jurisdiction or is appropriate.

11. Contractor's Compensation

The Contractor shall be compensated for its services for providing management described in this Agreement, and the Department's Management Plan, by monthly fees, to be paid from the General Operating Account and treated as a project operation and maintenance expense. Such fees shall be payable on the first day of each month for the preceding month.

12. Term of Agreement

This Exhibit shall be in effect for the period as stated in Exhibit A, Paragraph 3 of this Agreement, subject, however, to the following conditions:

- A. This Agreement shall not be binding upon the Contractor and Department ("Principal Parties") until approved by RD.
- B. This Agreement may be terminated, only upon conclusion of the on-season period by the mutual consent of the Principal Parties, provided that at least thirty (30) days advance written notice thereof is given to either Principal Party and reasons for the termination are submitted to RD.
- C. In the event that a petition in bankruptcy is filed by or against either of the Principal Parties, or in the event that either makes an assignment for the benefit of creditors or takes advantage of any insolvency act, the other party may terminate this Agreement without notice to the other however, a prompt written notice outlining the basis for such termination is submitted to RD.

EXHIBIT F

- D. It is expressly understood and agreed by and between the Principal Parties, that the Department may terminate this Agreement with cause upon the issuance of a 30-day written notice of cancellation to the Contractor. It is further understood and agreed that no liability shall attach to either of the Principal Parties in the event of such termination, to the extent permitted by State law.
- E. Upon termination of this Agreement, the Contractor shall submit to the Department all Housing Center books and records and any financial statements required by RD. After the Principal Parties have accounted to each other with respect to all matters outstanding as of the date of termination, the Department shall promptly reimburse the Contractor all sums due after deduction of any sums or damages due the Department, in form and principal amount satisfactory to the Contractor, against any obligations or liabilities which the Contractor may properly have incurred on behalf of the Department hereunder.

13. Contractor's Indemnification

Notwithstanding any provision of this Agreement, it is understood and agreed:

- A. The Department has assumed and shall maintain its responsibility and obligation throughout the term of this Exhibit for the finances and the financial stability of the Housing Center, to the extent that funds are appropriated to the Department by the legislature for this purpose; and
- B. The Contractor shall have no obligation, responsibility, or liability to fund authorized project costs, expenses, or accounts other than those funds generated by the Housing Center itself or provided to the Housing Center or to Contractor by Department. In accordance with the foregoing, Department agrees that Contractor shall have the right at all times to secure payment of its compensation, as provided for under Paragraph 11 of this Exhibit, from the Operating and Maintenance Account, immediately when such compensation is due and without regard to other Housing Center obligations or expenses provided the Contractor has satisfactorily discharged all duties and responsibilities under this Agreement. Moreover, the Department, to the extent permitted by State law, hereby indemnifies Contractor and agrees to hold it harmless with respect to Housing Center costs, expenses, accounts, liabilities and obligations during the term of this Exhibit and further agrees, to the extent permitted by State law, to guarantee to Contractor the payment of its compensation under Paragraph 11 of this Exhibit during the term of this Agreement to the extent that the Housing Center's Operating and Maintenance Account is insufficiently funded for this purpose. To the extent permitted by state law, intentional failure of the Department at any time to abide by and to fulfill the foregoing shall be a breach of this Agreement, entitling Contractor to obtain from Department, upon demand, and to the extent permitted by State law, full payment of all compensation owed to Contractor through the date of such breach and entitling Contractor, at its option, to terminate this Agreement forthwith.

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Prep. Date: (date inserted by Contract Manager when each SA is created)

EXHIBIT F

14. Interpretive Provisions

- A. This Agreement and its Exhibits constitute the entire Agreement between the Department and the Contractor with respect to the management and operation of the Housing Center. No change shall be valid unless agreed upon by the Principal Parties, approved by RD, and amended by the Department.
- B. This Exhibit has been executed in several counterparts, each of which shall constitute a complete original Exhibit, which may be introduced in evidence or used for any other purpose without production of any of the other counterparts.
- C. At all times, this Exhibit shall be subject and subordinate to all rights of RD, and shall work to the benefit of, and constitute a binding obligation upon the Principal Parties and their respective successors and assigns. To the extent that this Exhibit confers rights upon the consenting parties, it shall be deemed to work to their benefit, but without liability to either in the same manner, and work with the same effect as though the consenting parties were primary parties to this Exhibit.

The Principal Parties (by their duly authorized officers) have executed this Management Agreement on the date first above written.

Department of Housing and Community Development

(Contractor)

By: _____

By: _____

Title: OMS Program Manager

Title: Executive Director

Witness: _____

Witness: _____

As lender or insurer of funds to defray certain costs of the project and without liability for any payments hereunder, Rural Development hereby concurs with this Management Agreement.

United States Department of Agriculture
Rural Development

By: _____

Title: _____

Date: _____

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