

RESOLUTION NO. 94-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
RIDGECREST APPROVING AN AGREEMENT FOR
NUTRITION SERVICES FOR ELDERLY PERSONS.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIDGECREST
RESOLVES that the Agreement for Nutrition services for Elderly Persons, attached hereto
and hereby incorporated by this reference as Exhibit "A", as one and the same is hereby
approved and the Mayor is authorized to execute and the City Clerk to attest to the
agreement.

BE IT FURTHER RESOLVED that, to the extent that the City is self-insured, the
City does hereby agree to indemnify and defend officers, agents and employees of the
County of Kern from costs, liability or damages, including attorney's fees, arising out of any
act or omission to act, including any negligent act or omission to act, by the City, its
offices, agents or employees arising under the agreement.

APPROVED AND ADOPTED this 6th day of July, 1994, by the following vote:

AYES: Mayor Corlett, Council Members Auld, Bitney, Bryan, and Parode.

NOES: None.

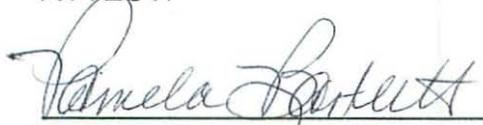
ABSTAIN: None.

ABSENT: None.



Kevin S. Corlett, Mayor

ATTEST:



Pamela Bartlett, City Clerk

384-94

A G R E E M E N T
FOR
NUTRITION SERVICES
(County - City of Ridgecrest)

THIS AGREEMENT, is entered into this *20th* day of *July*, 1994 by and between the COUNTY OF KERN, a political subdivision of the State of California, (hereinafter "County") and, CITY OF RIDGECREST, a Municipal Corporation, (hereinafter "Contractor"):

WITNESSETH:

WHEREAS, the Congress of the United States has made certain funds available under Title III of the Older Americans Act of 1965, as amended, (herein "Act") for the purpose of Services to elderly persons; and

WHEREAS, the State of California (herein "State") has designated the California Department of Aging (herein "CDA") as the single state agency responsible for the administration of all programs funded pursuant to the Act; and

WHEREAS, CDA has designated the Kern County Office on Aging as the Area Agency on Aging for this area (Planning and Services Area #33) and has approved the County's Area Plan for providing services to the elderly; and

WHEREAS, County and the State of California, through CDA, have entered into an agreement that provides that the State will provide County with funding from Federal and State sources to enable County to implement its Area Plan; and

WHEREAS, County intends to provide services to the elderly by contracting with public and private organizations; and

WHEREAS, Contractor represents it is qualified and willing to provide certain services to the elderly in a cost effective manner and pursuant to the terms of this agreement.

NOW, THEREFORE, IT IS MUTUALLY AGREED between County and Contractor as follows:

1. **Definitions:**

a. Except to the extent modified or supplemented by this agreement or any agreement between CDA and County, any term defined in Title III of the Older Americans Act of 1965, as amended, (42 U.S.C. Section 3001 et seq.) its implementing regulations (45 CFR Section 1321 et seq.) and CDA's Title III Program Manual shall have the same meaning when used herein.

- b. *Elderly persons shall mean a person aged sixty or older.*
2. *The term of this Agreement shall commence on July 1, 1994 and shall continue through June 30, 1997, unless sooner terminated as provided in paragraph 8.*
3. *Services and Staffing to be Provided by Contractor:*
- a. *Contractor shall operate a project which will provide the services, programs activities and related unit of service described in the Project Objectives (Exhibit "A") attached hereto and incorporated herein by this reference as if set forth in full.*
- b. *Contractor shall list all full and part-time employees, in-kind and volunteer positions in the budget (exhibit "B") by program category attached hereto and incorporated herein by this reference.*
4. *Project Direction, Monitoring and Review:*
- a. *County's Office on Aging Contract Administrative Procedures, Assessment Procedures and Contract Monitoring Procedures, as amended from time to time are hereby made a part of this agreement and incorporated herein as if set forth in full. A copy of said procedures may be obtained at the Offices of the Kern County Office on Aging.*
- b. *County or CDA may monitor, assess or audit Contractor's facilities, project, records, reports and/or procedures at any reasonable time during regular business hours.*
- c. *Contractor's personnel (at Contractor's expense) shall attend conferences and meetings as reasonably required by County, for purposes of information sharing or training. County shall make every effort to schedule said conferences and meetings so that they shall not interfere with Contractor's normal day-to-day operations.*
- d. *Contractor shall not use contract funds to pay the salary or expenses of any individual who is engaged in activities designed to influence legislation or appropriations pending before the Congress or the State Legislature.*
- e. *Contractor shall provide County, in a timely manner, the statistical and other information which County requires in order to meet the planning, coordination, evaluation and reporting requirements of the CDA.*
- f. *Contractor shall specify the manner in which contractor intends to satisfy the service needs of low-income minority individuals in the area served, including attempting to provide such services at least in proportion to the number of low-income minority older persons in the population serviced by the provider.*

g. Contractor shall provide recipients with an opportunity to contribute to the cost of the services.

h. Contractor shall, with the consent of the older person, or his/her representative, bring to the attention of appropriate officials for follow-up, conditions or circumstances which place the older person, or the household of the older person, in imminent danger.

i. Contractor shall, where feasible and appropriate, make arrangements for the availability of services to older persons in weather related emergencies.

j. Contractor shall assist participants in taking advantage of benefits under other programs.

k. Contractor shall assure that all services funded under this Agreement are coordinated with other appropriate services in the community, to insure that these services do not constitute an unnecessary duplication of services provided by other sources.

l. Contractor shall insure that no information about or obtained from any elderly person receiving services hereunder is voluntarily or otherwise disclosed in any form that identifies such an elderly person without first obtaining the written consent of such elderly person.

5. County's and Contractor's Fiscal Obligations:

a. In consideration of Contractor's satisfactory performance of its duties under this agreement, County shall pay and Contractor shall accept as payment in full an amount not to exceed ONE HUNDRED FORTY ONE THOUSAND FIVE HUNDRED THIRTY TWO DOLLARS AND NO/100. (\$141,532.00).

b. Funds payable pursuant to this Agreement shall be dispersed in a manner such that the time periods between payments to the Contractor and the Contractor expending these funds is minimized.

c. All such payments, shall be paid to Contractor only upon receipt and approval by County of a Claim for Payment (Form AC 580 1110 005) to be provided by County.

d. Payment may be reduced in any budget category by the amount of the unexpended allocation from prior years.

e. All funds shall be spent in accordance with Contractor's approved budget documents (exhibit "B").

f. This Agreement shall be effective only in the event CDA approves funding to implement County's Area Plan for Fiscal Year 1994-95.

6. *Service Contributions*

- a. *Contractor shall provide each elderly person with an opportunity to voluntarily contribute to the cost of the services.*
- b. *Contractor shall protect the privacy of each elderly person with respect to his/her contributions.*
- c. *Contractor shall establish appropriate procedures to safeguard and account for all contributions.*
- d. *Contractor shall develop a suggested contribution schedule for services provided under this part. In developing a contribution schedule, the contractor shall consider the income ranges of elderly persons in the community and the contractor's other sources of income. However, means tests may not be used. Contractors shall use such contributions to expand services.*
- e. *Contractor shall not deny any elderly person a service because the older person will not or cannot contribute to the cost of the service.*

7. *Performance Standards:*

- a. *Contractor shall promptly establish and maintain services in accordance with its Statement of Project Objectives (Exhibit "A") and to remain ready, willing and able to provide such services to all eligible elderly persons within its service area throughout the term of this agreement, subject to circumstantial or temporary reductions in delivery of the total number of service units for conditions beyond its control.*
- b. *This agreement shall not be construed to exclude County from pursuing any remedy it may have to insure that Contractor provides the service units specified in the Project Objectives (Exhibit "A") including without limitation, the right to reduce payment to Contractor in accordance with subdivision "c" of this paragraph. The selection by County of one remedy or course of action shall not preclude County from pursuing another or different remedy or course of action.*
- c. *In the event of the services delivered by Contractor during any quarter of the fiscal year is less than one-fourth (1/4) of the total number of service units provided for herein the County may reduce its payment of grant funds to Contractor in the ensuing quarter in proportion to the reduction in the level of services delivered by Contractor. If Contractor's under performance occurs during the last quarters (April 1 to June 30, 1994, April 1 to June 30, 1996, and April 1 to June 30, 1997), the amount of the payment reduction as calculated*

in accordance with this subdivision shall constitute a liability of Contractor which is payable to County or, at county' option, applied as an advance payment on the subsequent year's grant award. Should the Contractor's operations cease for a period of three (3) consecutive months in any given Budget Year, this contract shall be automatically terminated.

8. Termination:

a. This agreement may be canceled or terminated at any time by either party upon the giving of at least thirty days written notice to the other party: the effective date of such termination shall be specified in said notice.

b. County may terminate this agreement immediately if:

1) funds are unavailable; or

2) Contractor fails to initiate delivery of services within thirty days of commencement of this agreement.

c. Notwithstanding the above, the failure of Contractor, its officers, agents or employees to comply with the terms of this agreement or directions by or on behalf of County issued pursuant hereto, shall constitute a material breach and County may terminate this agreement immediately. County's failure to exercise this right of termination shall not constitute a waiver of such right, which may be exercised at any subsequent time.

9. Capital Asset Equipment:

a. At termination or completion of the project supported by this agreement, Contractor shall dispose of all "non-expendable equipment" which was purchased wholly or in part with Federal or State funds, in accordance with Federal, State and County procedures. If said equipment is to continue to be used to further the purpose of the Act by Contractor, said equipment shall remain with and continue to be used by Contractor subject to County's written consent.

10. Law and Regulations

a. Contractor shall comply with the provisions of the Act, any amendments thereto, Federal and State regulations now or hereafter enacted pursuant to the Act, applicable provisions of CDA's Title III Program Manual and of the Sub-Grant Award conditions between CDA and County, and any other statute, regulation or guideline applicable to Contractor's project.

11. Nondiscrimination in Providing Services and Employment

a. Contractor shall provide services to any person determined to be eligible to receive Contractor's services pursuant to the provisions of the Act unless such person is considered to be a source of disruption to other persons receiving services or is not capable of benefitting from such services.

b. In providing services to the elderly, Contractor shall not discriminate against or deny service to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, and shall not discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age or sex. Contractor shall also insure that the evaluation and treatment of employee and applicants for employment are free of such discrimination

c. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135-11139.5)

12. Contractor Assurances:

1. The Grantee shall assure the Department that it will abide by the Drug-Free Workplace Act of 1990, by signing the Drug-Free Workplace Certification, STD.21.
2. With grants in excess of \$100,000, the Contractor shall comply with all applicable orders or requirements issued under the following laws:
 - a. Clean Air Act as amended (42 USC 1857)
 - b. Clean Water Act as amended (33 USC 1368)
 - c. Federal Water Pollution Control Act as amended (33 USC 1251, et seq.)
 - d. Environmental Protection Agency Regulations (40 CFR Part 15 and Executive Order 11738).

13. Licenses:

a. Contractor and its personnel shall obtain and maintain, during the term of this agreement, all appropriate licenses, permits and certificates required by all applicable local, State, and/or Federal laws, regulations, guidelines, and directives for the operation of its facility and for the provision of services hereunder. On request, a copy of each license, permit or certificate shall be provided to County.

14. Indemnification and Insurance:

a. Contractor agrees to indemnify and hold County harmless from any and all liability, suits, claims, losses, damages, costs and expenses, accruing or resulting to any and all persons, caused solely by Contractor's negligence or wrongful act; and County agrees to indemnify and hold Contractor harmless from any and all liability, suit, claims, losses, damages caused by County's negligence or wrongful act. In the event of any damage caused by the concurring negligence or wrongful acts of the parties, the damage resulting therefrom shall be apportioned in accordance with the principles of comparative negligence.

b. Without limiting Contractor's indemnification, Contractor shall maintain in force at all times during the performance of this agreement and such time as it uses property allocable hereto all appropriate policies of insurance, hereinafter described, covering its operations hereunder. Certificates with significant endorsements, evidencing the maintenance of such insurance coverage shall be in a form acceptable to County and sent to the County's Office on Aging on or before the effective date of this agreement. Said Office on Aging shall be given notice in writing at least thirty days in advance of cancellation, non-renewal or material change of any policy of insurance. County, its officers and employees, and the State of California, its officers, agents, employees and servants, shall be named as additional insureds on all policies of liability insurance. All policies of insurance shall be issued by a company or companies authorized by law to transact insurance business in the State of California and acceptable to County. Contractor shall not be paid for any services rendered or expenses incurred during any period in which required insurance was not in effect.

c. The policies of insurance which must be secured are:

1) General Liability: Insurance coverage shall include, (1) a general liability policy covering property damage and personal injury and (2) an automobile liability policy covering public liability, personal injury and property damage. Single Limit liability amount shall not be less than Five Hundred Thousand Dollars (\$500,000) per occurrence.

2) Workers' Compensation: All employees of Contractor must be included under a Workers' Compensation policy in an amount and with coverage sufficient to meet all requirements of the Labor Code of the State of California.

d. *In those instance where Contractor is self-insured, County shall be provided with detailed documentation of the contractor's provisions for coverage. Such self insurance must be acceptable to County and approved by County prior to the effective date of this agreement or prior to implementation of such self insurance program.*

15. Fidelity Bond:

a. *All of contractors officers, employees, and agents handling or having access to funds (other than petty cash) received or disbursed by Contractor pursuant to this agreement shall be covered by a blanket fidelity bond in an amount not less than \$10,000.00 for each Contractor. Contractor shall notify in writing County's Office on Aging if the bond is canceled or reduced, in which event the County may withhold further payment until proper coverage has been obtained.*

b. *In instances where the Contractor is a Public Agency and wishes to meet the Blanket Fidelity Bond requirements by self-bonding or wishes to have the Bond requirement waived by the county shall be provided with detailed documentation of the contractor's provisions for coverage or rationale for requesting a waiver. Decisions regarding the adequacy of self-bonding or whether to grant a waiver of this requirement shall be made by the Director of the Kern County Office on Aging in consultation with County Counsel's Risk Manager.*

16. Reports, Records and Audits:

a. *Reports: Contractor shall submit informational reports as required by CDA and/or County (on forms provided by or acceptable to County) concerning Contractor's program and fiscal activities.*

b. *Project Records: Contractor shall maintain adequate project records of services provided in sufficient detail to permit an evaluation of services and accountability of expenditures. All project records shall be retained for a minimum of five years following expiration or termination of this agreement, or until County, CDA, State and/or Federal audit findings applicable to such services are fully resolved, whichever is later. All project records shall be retained by Contractor at its address as set forth herein and during such retention period shall be made available at reasonable times to authorized County, CDA, or Federal representatives for the purposes of project review and/or fiscal audit. In addition to requirements set forth under this paragraph, Contractor shall comply with any additional project report requirements of CDA or County.*

c. Financial Records: Contractor shall prepare and maintain complete financial records in accordance with generally accepted accounting principles and the procedures set out by the CDA and/or County. Entries in all financial records shall identify and track the categorical sources of revenue and income for the purposes of which each is intended as identified in Contractor's budget (Exhibit "B"). Such records shall also identify all costs by each category of program activity by each line item identified on said budget. All financial records must be readily traceable to applicable source documentation (e.g., employee timecards, remittance advises, vendor invoices, utilization records, subsidiary ledgers and journals, appointment logs, etc.). Any apportionment of costs shall be made in accordance with the provisions of CDA's Title III Program Manual and the Fiscal Management Manual for Kern County Office on Aging Service Providers. All financial records shall be retained for a minimum of five years following expiration or termination of this agreement or until County, CDA or Federal audit findings are fully resolved, whichever is later. All financial records shall be retained by Contractor at its address as set forth herein and during such retention period shall be made available at reasonable times to authorized County, CDA, State or Federal representatives for the purpose of inspection or audit.

d. Preservation of Records: Within forty-eight hours after Contractor's facility is closed or Contractor discontinues operations, Contractor shall notify County in writing and make arrangements for the preservation of the project and financial records in accordance with paragraphs 16b and 16c above.

e. Audit Reports:

1) The County Auditor-Controller will perform a financial and compliance audit in accordance with audit guidelines issued by the California Department of Aging. The audit will be performed during normal business hours at a time mutually agreeable to the auditors and Contractor.

2) In the event that Contractor has an audit performed by an independent auditor, and if said audit meets the requirements of the "Single Audit Act of 1984" (31 USC Section 7501 et seq.), and the above referenced audit guides, such audit may be accepted by the County in place of a County audit. Such report must be filed with County's Office on Aging within thirty (30) days after its completion. Acceptance of such audit by the County does not preclude County from performing any additional audit work required to follow-up on findings, as deemed necessary by the County.

3) *Any funds reimbursed in the contract for direct audit or follow-up work as necessitated by the CDA audit requirements and performed by the Kern County Auditor-Controller's Office shall be used for payment to the Kern County Auditor-Controller's Office for audit-related services. Funding earmarked for this purpose shall be reimbursed to the County Auditor-Controller's Office by the Office on Aging completion of the audit and a request for an interdepartmental transfer from the Auditor-Controller's Office.*

4) *In the event the Contractor has an independent audit, the agreement between Contractor and the independent auditor shall provide for access during normal business hours to the independent auditor's workpapers by Federal, State or County auditors, or their authorized agents as may be deemed necessary to carry out their audit responsibility. The audit agreement must also require the Contractor's independent auditor to retain the audit workpapers for not less than three (3) years from the date the audit was completed for the review purposes. Failure of Contractor to comply with these terms shall constitute a material breach of this agreement upon which County may cancel, terminate, or suspend this agreement and pursue any remedy available for reimbursement of funds.*

f. *Closeout Financial Reports:* *Contractor shall provide County with two copies of a closeout financial report within forty-five days following the termination of this agreement. The report shall be prepared on a form in accordance with written guidelines provided Contractor by County.*

17. *Assignment and Subcontracting:*

a. *Contractor may not delegate its duties and/or assign its rights hereunder, either in whole or in part, without the prior written consent of County. Approval of the provisions of any subcontract by County shall not be construed to constitute a determination of the allowability of any cost under this agreement. In no event shall approval of any subcontract by County be construed as effecting any increase in the amount of the county's obligation herein.*

18. *Integration:*

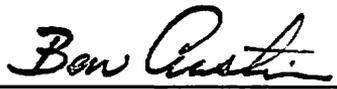
a. *The body of this agreement, together with the exhibits attached hereto, express the understandings of the parties concerning it. Amendments to this agreement shall formally be approved and executed in writing by the parties hereto prior to becoming effective.*

19. Budget Revision:

a. Internal budget revisions and budget revisions (Revisions to Exhibit "B") which reflect a change in State and/or Federal funding only may be made administratively by the written consent of the Director of the County's Office on Aging and the Contractor. Such budget changes and revisions shall not be retroactive. Changes in the amount of funding provided by this contract may be made administratively by the written consent of the Director of the County's Office on Aging and the Contractor to reflect an increase or decrease of State and/or Federal funds.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this contract the day and year first above written.

COUNTY OF KERN

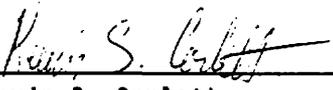
BY 
Chairman, Board of Supervisors

"COUNTY"

APPROVED AS TO CONTENT:
Office on Aging

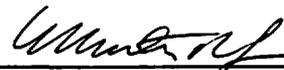

Eddy Laine, Director

CITY OF RIDGECREST

BY 
Kevin S. Corlett
Mayor

"CONTRACTOR"

APPROVED AS TO FORM:
Office of County Counsel


Deputy

ADDITIONS TO EXHIBIT "A"

1. Purpose of Federal Funding (either Case Management, Community, Homemaker, Information and Referral, In-Home, Legal, Nutrition, or Ombudsman Services)

NUTRITION SERVICES

2. Identify of Funding

Federal Older Americans Act Title III-C(1) Congregate Nutrition	\$ 52,464
Federal Older Americans Act Title III-C(1) One-Time-Only Funds	\$ _____
State of California Congregate Nutrition General Funds	\$ 15,750
Federal Older Americans Act Title III-C(2) Home-Delivered Nutrition	\$ 24,090
Federal Older Americans Act Title III-C(2) One-Time-Only Funds	\$ _____
State of California Home-Delivered Nutrition General Funds	\$ 22,942
Federal Older Americans Act Title III-B Supportive Services	\$ _____
State of California Supportive Services General Funds	\$ _____
Federal Older Americans Act Title III-B One-Time-Only Funds	\$ _____
Federal Older Americans Act Title III-B Ombudsman	\$ _____
Federal Older Americans Act Title III-B Ombudsman One-Time-Only Funds	\$ _____
State of California Ombudsman General Funds	\$ _____
Federal Older Americans Act Title III-B Ombudsman Supplemental	\$ _____
Federal Older Americans Act Title III-B Ombudsman Supplemental One-Time-Only Funds	\$ _____
State of California Ombudsman Supplemental One-Time-Only Funds	\$ _____
Federal Older Americans Act Title III-D In-Home Services	\$ _____
Federal Older Americans Act Title III-D One-Time-Only Funds	\$ _____
State of California In-Home Services General Funds	\$ _____
Federal Older Americans Act Title III-G Elder Abuse Prevention Program	\$ _____
Federal Older Americans Act Title III-G Elder Abuse Prevention Program One-Time-Only Funds	\$ _____
State of California Elder Abuse Prevention Funds	\$ _____
USDA Reimbursement (Title III-C(1))	\$ 16,467
USDA Reimbursement (Title III-C(2))	\$ 9,819
Audit Costs (Auditor-Controller Only)	\$ _____
TOTAL	\$ 141,532