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November 1969

TERMS AND CONDITIONS

Constituting Part Two of a

CONSOLIDATED  
ANNUAL CONTRIBUTIONS CONTRACT

Between

Local Authority  
and the  
United States of America

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
Low-Rent Public Housing

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Article I

DEVELOPMENT

Sec. 101. Efficiency and Economy in Development and Administration

Each Project shall be undertaken in such a manner that it will not be of elaborate or extravagant design or materials, and will be developed and administered to promote serviceability, efficiency, economy, and stability and to achieve the economic and social well-being and advancement of the tenants thereof.

Sec. 102. Conformity with Development Program

(A) Each Project shall be developed in accordance with the applicable Development Program, and with plans, drawings, specifications, and other documents which subsequently supplement or modify such Development Program.

(B) The Local Authority shall diligently prosecute the development of each Project.

Sec. 103. Acquisition of Project Sites

(A) In connection with the acquisition of real property by eminent domain for use in connection with each Project, the Local Authority shall abide by the regulations and requirements of the Government, including but not limited to the following: (1) the Local Authority shall make every reasonable effort to acquire the real property by negotiated purchase; (2) the Local Authority shall not require the owner to surrender possession of real property before the Local Authority pays to the owner (a) the agreed purchase price arrived at by negotiation, or (b) in any case where only the amount of the payment to the owner is in dispute, not less than 75 per centum of the appraised fair value of such property as determined by the Local Authority and approved by the Government; and (3) the Local Authority shall schedule the construction or development of any Project so that no person lawfully occupying the real property shall be required to surrender possession on account of such construction or development without at least 90 days' written notice from the Local Authority of the date on which such construction or development is scheduled to begin or when possession of such real property will be required.

(B) The Local Authority, unless the Government otherwise approves, shall provide by contract for necessary services of experts in their

respective files for land surveys, title information, and legal services for land acquisition, appraisals and option negotiations. In accordance with regulations and requirements of the Government. Approval of such contracts by the Government will be required if the fees provided therein exceed the maximum amounts then prescribed by the Government. Such contracts shall not be entered into in respect to any Project site prior to tentative approval by the Government of such site. The Local Authority shall not undertake to acquire real property unless the Government has approved the acquisition thereof for a Project.

(C) The Local Authority, unless the Government otherwise approves, shall obtain a formal appraisal or appraisals, as required by the Government, on each parcel and obtain Government approval before taking an option, instituting condemnation proceedings, or acquiring title thereto, and shall conduct all negotiations for the acquisition of real property in accordance with regulations and requirements prescribed by the Government. In no case shall persons who have made such appraisals be employed to negotiate options.

(D) The Local Authority shall not accept any option for, institute, accept awards under (except as required by applicable law), or appeal any condemnation proceedings for, or otherwise acquire any portion of the site for any Project until it has submitted such data with respect thereto as the Government may require, and has obtained the approval of the Government of such action. The Local Authority shall appeal any condemnation award if requested to do so by the Government.

(E) The Local Authority shall acquire good and valid title to the site of each Project free and clear of any mortgage, lease, lien, or encumbrance of any nature whatsoever, other than such leases, use restrictions, zoning ordinances, building restrictions, easements, or rights-of-way as will not, in the determination of the Local Authority approved by the Government, adversely affect the value or usefulness of such site for the Project.

(F) Upon the vesting of title to the site of each Project in the Local Authority and the due recording of deeds or other documents required to be recorded in order to protect such title, the Local Authority shall furnish to the Government a final report on completed land acquisition, together with two copies of (1) title insurance policies, or (2) title certificates, or (3) attorneys' opinions, showing that the Local Authority has good and valid title, as described in subsection (E) hereof, to the entire site of such Project, and that such deeds or other documents have been duly recorded or filed for record whenever necessary to protect such title.

#### Sec. 104. Relocation of, and Payments to, Site Occupants

(A) The Local Authority shall undertake all steps necessary to carry out the relocation of the individuals and families displaced from the Project site and shall make as part of Development Cost relocation payments to individuals, families, business concerns, or nonprofit organizations displaced from a low-rent housing site as a result of the acquisition of real property by the Local Authority, in accordance with regulations as prescribed by the Government.

(B) The Local Authority shall make and preserve such records of the individuals, families, business concerns, or nonprofit organizations displaced from the Project site and relocation costs in connection with the Project as the Government may require.

#### Sec. 105. Elimination of Substandard Structures on Project Sites

All substandard dwelling structures on the site of each Project shall be eliminated.

#### Sec. 106. Architectural and Engineering Services

(A) Unless otherwise approved by the Government, the Local Authority shall provide by contract in form and substance approved by the Government for the services of qualified architects and engineers for the preparation of plans, drawings, specifications, and related documents, and for the general supervision and for the inspection of the construction of each Project.

(B) The Local Authority shall submit to the Government for its approval plans, drawings, specifications, and itemized estimates of Development Cost for each Project, in such form, at such stages, and at such times as the Government may require.

(C) Plans, drawings, and specifications for materials, products, or equipment to be supplied shall permit and encourage full and free competition.

(D) The Local Authority shall furnish the Government, at such time or times as the Government may require, and in any event prior to the release of any document for the taking of bids, evidence satisfactory to the Government, showing that the plans, drawings, specifications, and related documents are in accordance with the provisions of this Contract and with all applicable laws, ordinances, and regulations, except to the extent that valid waivers have been obtained from the appropriate authorities. The Local Authority shall obtain all necessary permits or approvals of State and local housing, planning, zoning, building, and other boards, bodies, or officers having jurisdiction, and shall furnish to the Government a certificate listing such approvals before any Main Construction Contract is let.

Sec. 109. Taking of Bids

(A) The Local Authority shall not release any documents for the taking of bids for any Construction or Equipment Contract, except addenda merely clarifying documents previously approved by the Government, unless (1) the Government has approved the plans, drawings, specifications, and related documents therefor, and (2) the Local Authority has acquired title to and possession of the site of the Project, or has shown to the satisfaction of the Government that it can and will acquire title, possession, or right of entry in sufficient time so as not to interfere unduly with the progress of the work required by such Construction or Equipment Contract. All clarifying addenda shall be submitted to the Government for approval simultaneously with their release.

(B) In connection with each Construction or Equipment Contract, the Local Authority shall give full opportunity for open and competitive bidding. The Local Authority shall give such publicity to advertisements for bids as will assure adequate competition. The bids shall be opened publicly at the time and place stated in the advertisement for bids, or at such other time or place as may be publicly announced by the Local Authority. The Local Authority shall not be required to comply with the provisions of this subsection (B) with respect to (1) contracts between it and other public bodies, or (2) contracts between it and public utility companies for the installation, relocation, replacement, or removal of their facilities.

(C) No alternate bids of any kind shall be taken in connection with any Construction or Equipment Contract, except as approved by the Government.

(D) Each bidder for any of the Construction or Equipment Contracts (except demolition contracts) shall, unless the Government otherwise approves, be required to furnish a bid bond or equivalent guarantee in an amount not less than five percent of his bid. Bidders for demolition contracts shall, unless the Government otherwise approves, be required to furnish a bid bond or equivalent guarantee in an amount not less than two percent of the cost of labor, materials, hauling, and all other incidental expenses, as estimated by the Local Authority, necessary to perform the work under the demolition contract, without regard to the value of salvage.

Sec. 110. Award of Contracts

(A) The Local Authority shall not award any Construction or Equipment Contract to other than the lowest responsible bidder.

(B) The Local Authority shall not award any Main Construction Contract unless (1) the Development Cost Budget referred to in subsection (B) of Sec. 404 has been submitted to the Government, (2)

Sec. 107. Main Construction Contract and Other Contracts

(A) "Main Construction Work" for any Project shall mean all physical construction work, materials, and equipment in connection with such Project except demolition, lands and planting, and the furnishing of movable equipment. "Main Construction Contract" shall mean any contract covering all or any part of the Main Construction Work. "Construction or Equipment Contract" shall mean any contract covering all or any part of the Main Construction Work, or covering demolition, lands and planting, or the furnishing of movable equipment.

(B) Unless otherwise required by applicable State laws, the Main Construction Work for each Project shall be performed under one contract, except that the Government upon submission of evidence satisfactory to it that such action is in the best interest of the development of the Project, may approve (1) separate contracts for foundations or for any or all elements of site improvements, to be entered into prior to the execution of contracts for the remainder of the Main Construction Work; (2) separate contracts for any or all of the mechanical trades, to be entered into at the same time as the contracts for the remainder of the Main Construction Work; or (3) separate contracts for specific buildings or groups of buildings to be developed concurrently or consecutively.

(C) Demolition, lands and planting, and the furnishing of movable equipment may be performed under separate contracts or may be included in the same contract or contracts as the Main Construction Work.

(D) All Main Construction Work and demolition, lands and planting, and the furnishing of movable equipment shall be performed under lump-sum contracts, and no part of such work shall, unless approved in advance by the Government, be performed by force account. Provided, That the furnishing of any type of movable equipment, the aggregate cost of which for a Project will amount to less than \$2,500 may be made by purchase orders, and such purchase orders shall not be considered as being Construction or Equipment Contracts.

Sec. 108. Contract Documents

(A) For each Construction or Equipment Contract, the Local Authority shall submit to the Government for its approval complete plans, drawings, specifications, and related documents, including invitations for bids, bid forms, forms for bonds, contract forms, general conditions, special conditions, and schedules of prevailing salary and wage rates, all as required under this Contract. Each such Construction or Equipment Contract entered into by the Local Authority shall be in the form so approved.

(B) The Local Authority shall file with the Government, promptly after their execution, such copies of such contracts entered into in connection with the development of any Project as may be required by the Government.

the Government, taking into account the level of construction costs prevailing in the locality where the Project is to be located, shall have specifically approved the amount of such Main Construction Contract, and (3) the Government, taking into account all applicable provisions of the Act, and of this Contract, shall have authorized the award of such Main Construction Contract.

(C) The Local Authority shall not award any Construction or Equipment Contract other than the Main Construction Contract without approval by the Government, if the amount of such Construction or Equipment Contract exceeds \$5,000 or exceeds the amount therefor included in the latest Development Cost Budget approved by the Government.

#### Sec. 111. Execution of Contracts and Notices to Proceed

After the award of each Construction or Equipment Contract and after the contractor has furnished to the Local Authority any required performance and payment bond or bonds, the Local Authority shall execute such Construction or Equipment Contract. Promptly after the execution of such Construction or Equipment Contract the Local Authority shall issue a notice to proceed with the performance thereof.

#### Sec. 112. Performance and Payment Bonds

(A) Each Construction or Equipment Contract for \$2,000 or more (except contracts for the furnishing of material or equipment which do not involve work normally done at the site of any Project other than in the delivery of such material or equipment) shall require the contractor to furnish either a combined performance and payment bond in an amount not less than the contract price or separate performance and payment bonds each in an amount not less than one-half of the contract price: Provided, That for demolition contracts a performance and payment bond or bonds shall be required regardless of the amount of the contract and the amount of such bond or bonds shall be in a stated amount to be set forth in the demolition specifications which amount, in the case of a combined bond, shall be not less than the total cost of labor, materials, hauling and all other incidental expenses, as estimated by the Local Authority, necessary to perform the work under the demolition contract, without regard to the value of salvage, or, in the case of separate bonds, the amount of each shall be not less than one-half of such cost. Each such bond shall be required to be furnished by a financially responsible bonding or surety company or companies, licensed to do business in the State.

(B) The documents in connection with each Construction or Equipment Contract shall provide that failure by the contractor to furnish such bond or bonds within a prescribed period shall constitute a default by the contractor and leave the Local Authority free to make the award to the next lowest responsible bidder or to readvertise for new bids and to collect from the contractor any damages thereby sustained by the Local Authority.

#### 113. Liquidated Damages

Each Construction or Equipment Contract shall include provisions, in form and substance satisfactory to the Government, for liquidated damages in the event of delay in the performance of such Construction or Equipment Contract, unless the Government approves the omission of such provisions.

#### Sec. 114. Subcontracts and Assignments

(A) Each Construction or Equipment Contract shall provide that no part of the work shall be subcontracted, nor shall any subcontracted work be assigned to another subcontractor, unless the Local Authority shall have first approved the subcontractor.

(B) Each Construction or Equipment Contract shall provide (1) that the contractor shall make no assignment thereof (other than an assignment of the monies due or to become due thereunder to a bank or financial institution) without the prior approval of the Local Authority, which approval may be given only with respect to a responsible assignee who shall furnish performance and payment bonds in accordance with Sec. 112 hereof, and (2) that such Construction or Equipment Contract may be assigned by the Local Authority to any corporation, agency, or instrumentality authorized to accept such assignment.

#### Sec. 115. Prevailing Salaries or Wages During Development

(A) Each contract entered into by the Local Authority in connection with the development of any Project under which any architects, technical engineers, draftsmen, or technicians are employed in such development shall require that there shall be paid, and the Local Authority shall itself pay, to all such employees not less than the salaries or wages prevailing in the

ality of such project, as determined or adopted (subsequent to a determination under applicable State or local law) by the Government.

(B) Each contract entered into by the Local Authority in connection with the development of any Project under which any laborers or mechanics are employed in such development (other than contracts for less than \$2,000 or for the furnishing of material or equipment and not involving work normally done at the site of Project other than the delivery of such material or equipment) shall require that there shall be paid, and the Local Authority shall itself pay, to all such laborers and mechanics not less than wages prevailing in the locality of such Project, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (Title 40, U.S.C., Secs. 276a to 276a-5).

(C) Each contract identified in subsection (B) of this Sec. 5 shall contain the following provision:

"All laborers and mechanics employed in the development of the Project will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Act (29 CFR Part 3)), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics; and the wage determination decision shall be posted by the contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv). Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period."

Such contracts shall also include such additional provisions as may be, at the time of the making of the contract, required by regulations of the Secretary of Labor.

(D) Each contract identified in subsections (A) and (B) of this Sec. 115 shall provide that the Local Authority will not make any payment under such contract unless and until the Local Authority has received a signed statement from the contractor that such contractor and each of his subcontractors has made payment to each class of employees in compliance with the applicable provisions of subsections (A), (B), and (C) of this Sec. 115. The Local Authority shall not make any such payment unless and until it has received such signed statement.

(E) Each contract identified in subsections (A) and (B) of this Sec. 115 shall require that if the contractor or any of his subcontractors finds it necessary or desirable to exceed the prevailing salary or wage rates specified in his contract, any expense incurred by the contractor or subcontractors because of the payment of salaries or wages in excess of such amounts shall not be cause for any increase in the amount payable under his contract. The Local Authority shall not consider or allow any claim for additional compensation made by the contractor or subcontractors because of such payments.

#### Sec. 116. Copeland Act; Contract Work Hours Standards Act

(A) All work in connection with the construction, prosecution, completion, or repair of the Projects is subject to the Copeland Act (Title 40, U.S.C., Sec. 276c), and to all regulations, rulings, and interpretations (including any amendments or modifications thereof) issued pursuant thereto by the Secretary of Labor, and the Local Authority shall observe and abide by said statute, and said regulations, rulings, and interpretations. The Local Authority shall incorporate in each contract entered into by it in connection with such construction, prosecution, completion or repair of the Projects the following:

"Compliance with Copeland Regulations (29 CFR Part 3). The contractor shall comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference."

(B) To the extent that work in connection with this Contract which may require or involve the employment of laborers or mechanics is subject to the Contract Work Hours Standards Act (Title 40 U.S.C., Secs. 327-332) the Local Authority shall comply with said Act and all regulations, rulings, and interpretations (including any amendments



modifications (see) issued pursuant thereto by the Secretary of Labor. The Local Authority shall incorporate in each contract entered into by it which may require the employment of such laborers or mechanics, the following:

CONTRACT WORK HOURS STANDARDS ACT - OVERTIME COMPENSATION

As used in these paragraphs, the terms "laborers" and "mechanics" include watchmen and guards.

- (a) Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, as the case may be.

- (b) Violations; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (a), the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the clause set forth in subparagraph (a), in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (a).

- (c) Withholding for liquidated damages. The Local Authority may withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for liquidated damages as provided in the clause set forth in subparagraph (b).

- (d) Subcontracts. The contractor shall insert in any subcontracts the clauses set forth in subparagraphs (a), (b), and (c) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

Sec. 117. Wage Claims and Adjustments

Each contract identified in subsections (A) and (B) of Sec. 115 shall provide that in cases of underpayment of salaries or wages to any architects, technical engineers, draftsmen, technicians, laborers, or mechanics by the contractor or any of his subcontractors, the Local Authority may withhold from such contractor out of payments due, an amount sufficient to pay persons employed on the work covered by the contract the difference between the salaries or wages required to be paid under the contract and the salaries or wages actually paid such employees for the total number of hours worked, and shall further provide that the amounts withheld may be disbursed by the Local Authority for and on account of the contractor or the subcontractor to the respective employees to whom they are due. The Local Authority shall in cases of such underpayment withhold such monies and any amounts of liquidated damages due the United States in connection with violations of overtime compensation requirements of Section 116(B); Provided, That the Local Authority shall not be considered in default under this sentence if it has in good faith made payments to the contractor in reliance upon a signed statement of the contractor that the salaries and wages required under his contract have actually been paid.

Sec. 118. Payrolls and Related Reports

- (A) Each contract identified in subsection (B) of Sec. 115 shall also require that payrolls and basic records relating thereto will be maintained during the course of the work and preserved by the contractor and his subcontractors for a period of three years thereafter for all laborers and mechanics employed in the development of the Project. Such records shall contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing

benefits under plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(B) The contractor shall be required to submit weekly to the Local Authority such copies and summaries (on forms prescribed by the Government and furnished by the Local Authority) of all his payrolls and those of each of his subcontractors, as the Local Authority or the Government may require. Each such payroll and summary shall be accompanied by a statement signed by the employer or his agent indicating that (1) such payroll is correct and complete, (2) the wage rates contained therein are not less than those determined by the Secretary of Labor, and (3) the classifications set forth for each laborer or mechanic conform with the work performed. The contractor shall be required to make his employment records available for inspection by authorized representatives of the Local Authority, the Government, and the Department of Labor, and to permit such representatives to interview employees during working hours on the job.

#### Sec. 119. Other Labor Provisions

(A) Each contract identified in subsection (B) of Sec. 115 shall provide that:

(1) Apprentices will be permitted to work as such only when they are registered individually under a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, United States Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish to the contracting officer written evidence of the registration of his program and apprentices as well as of the appropriate ratios and wage rates for the area of construction prior to using any apprentices on the contract work;

(2) It may be terminated by the Local Authority upon default by the contractor of any of the provisions of Secs. 115, 116, 117, or 118, or of subsections (A), (B), or (C) of this Sec. 119; and

(3) The contractor shall insert in each of his subcontracts the provisions (appropriately modified) of Secs. 115, 116, 117, and 118, and subsections (A), (B), and (C) of this Sec. 119, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(B) All disputes concerning the payment of prevailing wage rates or classifications arising under this Contract or under any contract identified in subsection (B) of Sec. 115 involving (1) significant sums of money, (2) large groups of employees, or (3) novel or unusual situations shall be promptly reported to the Government for decision or, at the option of the Government, referral to the Secretary of Labor. The decision of the Government or the Secretary of Labor, as the case may be, shall be final. Each contract identified in subsection (B) of Sec. 115 shall embody the provisions of this subsection.

(C) All questions arising under this Contract or under any contract identified in subsections (A) and (B) of Sec. 115 relating to the application or interpretation of the Copeland Act, the Contract Work Hours Standards Act, or Sec. 16(2) of the Act shall be referred to the Secretary of Labor for ruling or interpretation, and such ruling or interpretation shall be final. Each contract identified in subsections (A) and (B) of Sec. 115 shall embody the provisions of this subsection (C).

#### Sec. 120. Retention of Contract Rights and Change Orders

(A) With respect to all contracts entered into by the Local Authority in connection with the development of any Project, the Local Authority (1) except in an emergency endangering life or property, shall not, without Government approval, amend, modify, or consent to any change in any such contract or contractual provision which is

required by the Contract to be approved by the Government; (2) shall at all times retain, preserve, and enforce all its rights under all such contracts; and (3) shall not, without the prior approval of the Government, waive, release, or compromise any right or claim which it may have under any such contract.

(B) Each Construction or Equipment Contract shall contain the following provision:

"Except in any emergency endangering life or property, no change shall be made by the contractor unless he has received a prior written order from the Local Authority approved on its face by the Government authorizing the change, and no claim for an adjustment of the contract price or time shall be valid unless so ordered."

#### Sec. 121. Construction Inspection and Review

(A) The Local Authority shall provide competent and adequate architectural and engineering inspection of each Project at all times during the construction thereof. Unless otherwise approved by the Government, the Local Authority shall provide such inspection through contract with its architects and engineers.

(B) The Government reserves the right to review the adequacy of the inspection provided by the Local Authority, and the Local Authority shall promptly correct any inadequacy disclosed by such review. The Government also reserves the right to inspect any construction work, materials, and equipment, and the Local Authority shall promptly require the contractor to correct any noncompliance upon demand by the Government.

(C) Each Construction or Equipment Contract shall require the contractor and his subcontractors to permit, and the Local Authority shall itself permit, the Government to review all construction work, materials and equipment, payrolls, and employment conditions, including data and records relevant thereto. The Local Authority shall provide and maintain, or require that there shall be provided and maintained, during the construction of each Project, adequate facilities at the site for the use of the Government's representatives who may be assigned to the review of such Project.

#### Sec. 122. Fees for Government Representatives at Project Sites

The Local Authority shall pay to the Government a reasonable fixed fee for providing representatives of the Government at the site

of each Project in connection with the construction thereof. Such fixed fee shall be in accordance with a schedule prescribed by the Government so that such fixed fees in connection with all low-rent housing projects assisted by the Government shall in the aggregate in relation to the development cost of all such projects suffice to cover the costs of rendering such services.

#### Sec. 123. Payment to Contractors

(A) Each Construction or Equipment Contract may provide for partial payments by the Local Authority to the contractor. In such event, the Construction or Equipment Contract shall provide that the contractor shall supply to the Local Authority, in a form satisfactory to the Government, a detailed estimate showing a complete breakdown of the contract price. Partial payment shall be made in accordance with periodic estimates based upon said detailed breakdown and with appropriate supporting data. The periodic estimates shall cover work performed (including materials delivered to and properly stored on the site with the approval of the Local Authority) during the preceding period, and shall be duly certified and approved by persons designated by the Local Authority. In making periodic partial payments, the Local Authority shall retain at least 10 percent of the amount of each periodic estimate until final completion and acceptance of all work covered by the particular contract. Provided, That after one-half of the work has been completed, and if the work is progressing satisfactorily and continues to so progress, the Local Authority may make the remaining partial payments in full for the work subsequently completed.

(B) Each Construction or Equipment Contract shall provide that final payment to the contractor by the Local Authority of amounts retained under subsection (A) of this Sec. 123 shall not be made until (1) the contractor has furnished a release, in a form approved by the Government, of all claims against the Local Authority arising under and by virtue of such Construction or Equipment Contract, other than such claims, if any, (the basis, scope, and amount of each of which are clearly defined and stated) as may be specifically excepted by the contractor from the operation of such release, and (2) the contractor has furnished evidence satisfactory to the Local Authority that the contractor has paid, and that his subcontractors have paid, all sums due to laborers, mechanics, and materialmen.

(C) With the prior approval of the Government the Local Authority may release to the contractor a portion of the amounts retained under subsection (A) of this Sec. 123 in advance of making final payment, but shall not make final payment to any contractor until the Government has approved the certificate of completion described in subsection (C) of Sec. 124.

Sec. 121. Acceptance of Contract Work and Completion of Contracts

(A) Each Construction or Equipment Contract shall require that the work covered thereby shall be completed within the time specified therein and such extensions as may be granted by the Local Authority. The Local Authority shall grant no such extension without approval thereof by the Government.

(B) With respect to each Construction or Equipment Contract, the Local Authority may accept the work thereunder in parts or in its entirety. Such acceptance may be acceptance of the work involved either as (1) fully completed and satisfactory, or (2) completed but with an adjustment in price for noncompliances, or (3) completed subject to the correction of specific minor items. No work shall be so accepted by the Local Authority unless such acceptance is approved by the Government or the Government has waived such approval: Provided, That the Local Authority may accept work required in the correction of specific minor items without the approval of the Government.

(C) After acceptance of all work (including the correction of any specific minor items) under each Construction or Equipment Contract, the Local Authority shall submit for approval by the Government a certificate of (1) full completion, or (2) full completion but with an adjustment in price for noncompliances, and shall include in such certificate a statement of the final amount due and payable to the contractor.

Sec. 125. Completion of Development Work and Payment Therefor

The Local Authority shall complete all development work in respect to each Project and shall make full payment for the Development Cost of such Project (except for the payment of items of development work which may be disputed, contingent, or unliquidated, and for legal and other costs and expenses in connection with the settlement of such items) within twelve months after the approval of the final Development Cost Budget submitted pursuant to subsection (D) of Sec. 404.

Sec. 126. Modular Design

The plans, drawings, and specifications for each Project shall follow the principle of modular measure in every case deemed feasible by the Local Authority in order that such Project may be built by conventional construction, on-site fabrication, factory pre-cutting, factory fabrication, or any combination of such construction methods.

Article II

OPERATION

Sec. 201. Use of Projects

The Local Authority shall at all times operate each Project (1) solely for the purpose of providing decent, safe, and sanitary dwellings (including necessary appurtenances thereto) within the financial reach of Families of Low Income, (2) in such manner as to promote service ability, efficiency, economy, and stability, and (3) in such manner as to achieve the economic and social well-being of the tenants thereof.

Sec. 202. Low-Rent Character of Projects

The Local Authority shall at all times maintain the low-rent character of each of the Projects. The low-rent character of each Project shall be deemed to be maintained so long as (1) such Project is used as provided in Sec. 201, and (2) to the knowledge or information of the Local Authority, no persons have been admitted to occupancy in such Project or allowed to continue occupancy therein except as provided in this Contract.

Sec. 203. Leases

(A) The Local Authority shall, unless otherwise approved by the Government, use the dwellings in the Projects solely for the purpose of housing Families of Low Income as provided in this Contract. It shall not, without the approval of the Government, grant any concessions, licenses, or permits to use any nondwelling space or facility in any Project at less than fair rental value, except for programs conducted by or primarily for the occupants of the Project or for temporary public, charitable, or similar use.

(B) The Local Authority shall not permit any family to occupy a dwelling in any Project except pursuant to a written lease for such dwelling executed by a responsible member of such family, which lease shall contain all relevant provisions necessary to meet the requirements of the Act and of this Contract, and which lease shall provide that the Local Authority shall not terminate the tenancy other than for violation of the terms of the lease or other good cause. In terminating a tenancy, the Local Authority shall inform the tenant in a private conference or other appropriate manner the reasons for the eviction and give the tenant an opportunity to make such reply or explanation as he may wish.

Sec. 204. Max. Income Limits and Rents

(A) Subject to the approval of the Government, the Local Authority shall fix for the Projects income limits for occupancy and rents after making into consideration:

- (1) The family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the family, and
- (2) The economic factors which affect the financial stability and solvency of the Projects.

(B) Income limits for Projects shall restrict occupancy therein to Families of Low Income. Rents for the Projects shall meet the gap requirements of Sec. 15(7)(b)(ii) of the Act and shall assure the financial solvency of the Projects. Income limits and rents as fixed by the Local Authority shall meet the requirements of local applicable law.

(C) The Local Authority shall submit to the Government for its approval a schedule or schedules of income limits and rents for the Projects, together with such supporting data and documents as the Government may require.

(D) The Local Authority may at any time review and revise such schedules, and shall review and revise such schedules if the Government determines that changed conditions in the locality make such revisions necessary in achieving the purposes of the Act.

(E) The income limits and rents as fixed or revised by the Local Authority and approved by the Government shall govern the operation of the Projects.

Sec. 205. Definitions of Families; Elderly Families; and Displaced Families

(A) The term "families" means families consisting of a single person in the case of elderly families and displaced families, and includes the remaining member of a tenant family.

(B) The term "elderly families" means families whose heads (or their spouses), or whose sole members, have attained the age at which an individual may elect to receive an old-age benefit

under Title II of the Social Security Act (42 U.S.C. 301, et seq.); or are under a disability as defined in section 223 of that Act, or are handicapped within the meaning of section 202 (12 U.S.C. 1701q) of the Housing Act of 1959, as amended.

(C) The term "displaced families" means families displaced by urban renewal or other governmental action, or families whose present or former dwellings are situated in areas determined by the Small Business Administration, subsequent to April 1, 1965, to have been

affected by a natural disaster, and which have been extensively damaged or destroyed as the result of such disaster.

Sec. 206. Admission Policies

The Local Authority shall duly adopt and promulgate, by publication or posting in a conspicuous place for examination by prospective tenants regulations establishing its admission policies. Such regulations must be reasonable and give full consideration to its public responsibility for rehousing displaced families, to the applicant's status as a serviceman or veteran or relationship to a serviceman or veteran or to a disabled man or veteran and to the applicant's age or disability, housing conditions, urgency of housing need, and source of income, and shall accord to families consisting of two or more persons such priority over families consisting of single persons as the Local Authority determines to be necessary to avoid undue hardship.

Sec. 207. Continued Occupancy

(A) The Local Authority shall at least once a year reexamine the incomes of families living in the Projects except that families whose heads (or their spouses) or whose sole members are 62 years of age or over may be reexamined only once every two years: Provided, That the length of time between the admission of a family subject to yearly re-examination and the first reexamination of such family may be extended to not more than 18 months if necessary to fit a reexamination schedule established by the Local Authority.

(B) If, upon such reexamination, it is found that the income of the family increased beyond the approved income limits for continued occupancy, the Local Authority shall require such family to move from the Project, unless the Local Authority determines that, due to special circumstances, the family is unable to find decent, safe, and sanitary housing within its financial reach although making every reasonable effort to do so, in which event such family may be permitted to remain for the duration of such a situation if it pays an increased rent consistent with such family's increased income.

(C) If, upon such reexamination, it is found that the rent being charged the family no longer conforms to the approved rent schedule, the rent shall be adjusted in accordance with the approved rent schedule.

Sec. 208. Applications and Certifications

(A) Prior to the admission of each family as a tenant and in each year thereafter on the date established by the Local Authority

for the reexamination of the status of such family, the Local Authority shall obtain a written application, signed by a responsible member of such family, for admission or continued occupancy, as the case may be, which application shall set forth all data and information necessary to enable the Local Authority to determine whether the family meets the conditions for admission or continued occupancy, as the case may be.

(B) The Local Authority shall establish policies governing the nature and extent of investigations to be made of applicants' and tenants' statements relating to their eligibility.

(C) A duly authorized official of the Local Authority shall, at times prescribed by the Government, make written certifications to the Government that each family admitted to the Project during the period covered by the certification was admitted in accordance with its duly adopted regulations and approved income limits.

#### Sec. 209. Repair, Maintenance, and Replacement

The Local Authority shall at all times maintain each Project in good repair, order, and condition.

#### Sec. 210. Reconstruction and Restoration

(A) Whenever in any manner whatsoever a Project, or any part thereof, shall have been damaged or destroyed, the Local Authority shall proceed promptly (1) to establish (either by settlement approved by the Local Authority and the Government, or by litigation) and collect all valid claims which may have arisen against insurers or others based upon any such damage or destruction; and (2) except as hereinafter in this Sec. 210 provided, to reconstruct, restore, or repair such Project.

(B) All proceeds of any such claims and any other monies provided for the reconstruction, restoration, or repair of any such Project, shall be deposited in the General Fund, and be reserved for such purpose. The Local Authority shall not, unless the Government otherwise approves, use the monies so reserved except (1) to pay the cost of such reconstruction, restoration, or repair or (2) for application as provided in subsection (D) of this Sec. 210.

(C) Whenever any such reconstruction, restoration, or repair can be accomplished substantially as one operation, and is not to be performed by the normal staff of the Local Authority, and the estimated cost thereof is in excess of \$10,000, the Local Authority

shall accomplish such reconstruction, restoration, or repair in compliance with the provisions (appropriately modified) of the following sections and subsections: 106 (B) (C) (D), 107 (D), 108, 109, 110 (A) (B), 111, 112, 113, 114, 115 (D) (E), 116, 117, 118, 119, 120, 121, 123, 124, 211 (A), 303, and 304 (B).

(D) Any balance of the monies so reserved which remains upon the completion of such work and payment of all costs incurred therefor shall be applied: First, to the payment of indebtedness, if any, which the Local Authority may have incurred to provide such monies; Second, to the reimbursement of any other reserve or other account, to the extent that such monies were provided from such reserve or account; and Third, as unreserved Operating Receipts.

(E) The Local Authority, with the approval of the Government, may determine that all or any part of any such damage to or destruction of a Project shall not be reconstructed, restored, or repaired, and in such event, the proceeds of any claims against insurers or others arising out of such damage or destruction, to the extent not used for such reconstruction, restoration, or repair shall be deposited in the Advance Amortization Fund.

#### Sec. 211. Labor Provisions Applicable to Operation

(A) Each contract entered into by the Local Authority in connection with any Project under which any laborers or mechanics are employed in such operation (other than contracts for the furnishing of materials or equipment and not involving work normally done at the site of any Project other than the delivery of any such material or equipment) shall require that there shall be paid, and the Local Authority shall itself pay, to all such maintenance laborers and mechanics, not less than the salaries or wages prevailing in the locality of such Project, as determined or adopted (subsequent to a determination under applicable State or local law) by the Government.

(B) The provisions of Sec. 116 (A) and of subsections (B) and (C) of Sec. 119 (appropriately modified) shall apply to the Local Authority in connection with the repair of the Projects and to all contracts in connection with the repair of the Projects.

(C) Each contract entered into by the Local Authority for any repair, alteration, remodeling, painting or decorating of any Project under which any laborers or mechanics are employed in such operation (other than contracts for the furnishing of materials or equipment and not involving work normally done at the site of any Project other than the delivery of such material or equipment), the amount of which contract is in excess of \$10,000, shall be subject to the provisions (appropriately modified) of the following sections and subsections: 114 (A), 115 (D) (E), 116, 117, 118, 119, 211 (A), and 304 (B).

#### Sec. 212. Retention of Contract Rights

The Local Authority shall at all times retain, preserve, and enforce all its rights under all contracts entered into in connection with the operation of any Project.

### Article III

#### PROVISIONS COMMON TO DEVELOPMENT AND OPERATION

Sec. 301. Compliance with Cooperation Agreement and Payments in Lieu of Taxes

(A) During the development and operation of the Projects the Local Authority shall perform and comply with all applicable provisions of the Cooperation Agreement, including the making of payments in lieu of taxes as provided therein, shall at all times retain, preserve, and enforce its rights thereunder, and shall not terminate, amend, or modify the same in any manner, except with the approval of the Government.

(B) The Local Authority shall not, without the approval of the Government, make or agree to make any payments in lieu of taxes in excess of those provided in the Cooperation Agreement.

(C) The Local Authority shall include in its annual reports a statement of the amounts of payments in lieu of taxes made with respect to each Project for the Fiscal Year or other twelve-month period for which such payments were made next preceding the date of each such annual report, together with a statement of the amount of taxes which would have been levied against such Project for such period if it were privately owned.

Sec. 302. Equivalent Elimination Requirement

If, under the provisions of the Cooperation Agreement, elimination of unsafe or insanitary dwellings is required with respect to any Project, the Local Authority shall obtain from the local governing body of the locality in which the Project is situated a certificate, in a form as prescribed by the Government, as to compliance with such requirement.

Sec. 303. Domestic and Foreign Materials and Ineligible Contractors

(A) Each contract entered into by the Local Authority in connection with the construction, alteration, or repair of any Project shall require that there shall be used, and the Local Authority shall itself use, in the construction, alteration, and repair of any Project only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States. The Government reserves the right, upon request of the Local Authority, to waive the foregoing restrictions if the Government determines that the use of domestic articles, materials, or supplies is impracticable, or that the cost thereof as determined by the Government is unreasonable.

(B) In connection with the development or operation of any Project, the Local Authority shall not award any contract to any contractor, or approve or permit the assignment of any such contract to any contractor, or approve any subcontractor or assignee of any subcontractor, who is ineligible to receive awards of contracts from the United States as evidenced by the list or lists of such contractors furnished by the Government.

Sec. 304. Equal Employment Opportunity

(A) In connection with the development or operation of any Project, the Local Authority shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Local Authority shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Local Authority shall insert the foregoing provision (modified only to show the particular contractual relationship) in all its contracts in connection with the development or operation of any Project, except contracts for standard commercial supplies or raw materials and contracts referred to in subsection (B) of this Sec. 304, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. The Local Authority shall post at the Projects, in conspicuous places available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this non-discriminatory clause.

(B) The Local Authority shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is paid for in whole or in part with funds obtained under this contract, the following equal opportunity clause:

#### "EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex,



or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Local Authority setting forth the provisions of this Equal Opportunity clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Local Authority advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Government and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the Equal Opportunity clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding Paragraph (1) and the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

(c) The Local Authority agrees that it will be bound by the above Equal Opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. Provided, That if the Local Authority so participating is a State or local government, the above Equal Opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under this contract.

(d) The Local Authority further agrees that it will assist and cooperate actively with the Government and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the Government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Government in the discharge of the Government's primary responsibility for securing compliance.

(e) The Local Authority further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by the Government or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

#### Sec. 305. Insurance and Fidelity Bond Coverage

(A) All of the insurable property and equipment from time to time constituting each Project shall be insured by fire and extended coverage insurance, and be insured against such additional risks with respect to which insurance is commonly carried on similar property and equipment in



the locality of such Project. Such insurance shall be in amounts sufficient to prevent the Local Authority from becoming a co-insurer and, in any event, in amounts not less than eighty percent of the current insurable value of such property or equipment: Provided, That the amount of insurance, if any, on buildings to be demolished shall be determined by the Local Authority.

(B) The Local Authority also shall carry adequate (1) owners', landlords', and tenants' public liability insurance (excluding property damage), (2) manufacturers' and contractors' public liability insurance (excluding property damage), (3) workmen's compensation coverage (statutory or voluntary), (4) automobile liability insurance against property damage and bodily injury (owned and non-owned), (5) burglary and inside robbery insurance, (6) outside robbery insurance unless armored car service is used for the transportation of cash, (7) boiler insurance (if steam boilers have been installed), and (8), if prescribed by the Government, war damage insurance.

(C) The Local Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

(D) Each insurance policy or bond shall be written to become effective at the time the Local Authority becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such period as the Local Authority is subject to such risk or hazard. Such insurance and bonds shall (1) be payable in such manner, (2) be in such form, and (3) be for such amounts, all as may be determined by the Local Authority and approved by the Government, and shall be obtained from financially sound and responsible insurance companies.

(E) In connection with each policy, including renewals, for fire and extended coverage insurance and for owners', landlords' and tenants' public liability insurance the Local Authority shall give full opportunity for open and competitive bidding. The Local Authority shall give such publicity to advertisements for bids as will assure adequate competition and shall afford an opportunity to bid to all insurers who have indicated in writing to the Local Authority their desire to submit a bid and who are licensed to do business in the State. Such insurance shall be awarded to the lowest responsible bidder. The lowest bid shall be determined upon the basis of net cost to the Local Authority. Net cost, for the purposes of this subsection (E), shall mean the gross deposit premium, plus the cost of insurance against the hazards, if any, of assessments, less any anticipated dividend based on the dividend payment and assessment record of the insurer for the previous ten years. Nothing in this subsection (E) shall have the effect of requiring the Local Authority to purchase insurance from any insurer not licensed to do business in the State or to purchase insurance which involves any hazard of assessment unless insurance against such hazard is available.

(F) The Local Authority shall require that each liability insurance policy prohibit the insurer from defending any tort claim on the ground of immunity of the Local Authority from suit.

(G) The Local Authority shall submit certified duplicate copies of all insurance policies and bonds to the Government not less than forty-five days before the effective date thereof for review to determine compliance with this Contract. Unless disapproved by the Government within thirty days of the date submitted, the policies and bonds submitted shall be considered as approved by the Government.

(H) If the Local Authority shall fail at any time to obtain and maintain insurance as required by subsections (A), (B), (C), and (D) of this Sec. 305, the Government may obtain such insurance on behalf of the Local Authority and the Local Authority shall promptly reimburse the Government for the cost thereof together with interest at the Loan Interest Rate.

#### Sec. 306. Procurement

In the purchasing of equipment, materials, and supplies, and in the award of contracts for services or for repairs, maintenance, and replacements, the Local Authority shall comply with all applicable State and local laws, and in any event shall make such purchases and award such contracts only to the lowest responsible bidder after advertising a sufficient time previously for proposals, except:

- (1) When the amount involved in any one case does not exceed \$2,500; or
- (2) When the public exigencies require the immediate delivery of the articles or performance of the service; or
- (3) When only one source of supply is available and the purchasing or contracting officer of the Local Authority shall so certify; or
- (4) When the services required are (a) of a technical and professional nature, or (b) to be performed under Local Authority supervision and paid for on a time basis.

#### Sec. 307. Personnel

(A) The Local Authority shall adopt and comply with a statement of personnel policies comparable with pertinent local public practice. Such statement shall cover job titles and classifications, salary and wage rates for employees other than those whose salaries or wages are determined pursuant to Sec. 115 and Sec. 211, weekly hours of work, qualification standards, leave regulations, and payment of expenses of employees in travel status.

(B) The Local Authority may charge contributions for participation in a retirement plan for its employees to Development Costs or Operating Expenditures where such plan has been approved by the Government or is required by law.

(C) The Local Authority shall maintain complete records with respect to employees' leave, authorizations of overtime and official travel, and vouchers supporting reimbursement of travel expense.

(D) No funds of any Project may be used to pay any compensation for the services of members of the Local Authority.

Sec. 308. Disposition of Excess Property

(A) At the time of the award of the first Main Construction Contract for each Project any real property theretofore acquired in connection with such Project which is not necessary to the development or operation of such Project shall be determined to be excess to the needs of such Project. The Local Authority at any time may determine any personal property, and, with the approval of the Government, any real property, constituting a part of any Project, which is no longer useful or necessary to the development or operation of such Project, to be excess to the needs of such Project.

(B) Excess real property shall be sold as soon as practicable at public sale for not less than the fair value thereof, unless other disposition or method of disposition is approved by the Government. The proceeds of any such sale or other disposition of any real property constituting a part of or acquired in connection with any Project, shall be applied as follows: (1) if the property is disposed of before the determination of Minimum Development Cost for such Project, such proceeds shall be deposited in the General Fund as a credit to Development Cost, or (2) if the property is disposed of after the determination of such Minimum Development Cost such proceeds shall be deposited in the Advance Amortization Fund.

(C) Personal property shall not be sold or exchanged for less than its fair value. Personal property of the estimated fair value of \$1,000 or more which is to be sold to other than a public body for a public use shall be sold at public sale. The proceeds of any sale of personal property shall be used as follows: (1) if the property is sold before the determination of the Minimum Development Cost of the Project with respect to which such property was acquired, such proceeds shall be deposited in the General Fund as a credit to Development Cost, or (2) if the property is sold after the determination of such Minimum Development Cost such proceeds shall be deposited in the General Fund as an Operating Receipt. If it is determined to replace any such personal property, the Local Authority may reserve such proceeds for the purpose of paying the cost of such replacement: Provided, That any balance of any funds so reserved remaining after the replacement of such personal property and the payment of all costs incurred therefor shall be treated as an unreserved Operating Receipt.

(D) For the purposes of subsections (B) and (C) of this Sec. 308, a determination pursuant to Sec. 415(C) (3) of the amount below which the Development Cost of any Project will in no event fall, shall constitute a determination of Minimum Development Cost.

Sec. 309. Books of Account and Records

The Local Authority shall maintain complete and accurate books of account and records, as may be prescribed from time to time by the

Government, in connection with the development and operation of the Projects, including records which permit a speedy and effective audit, and will fully disclose the amount and the disposition by the Local Authority of the loan and annual contributions, or any supplement thereto, the Development Cost of each Project, and the amount of any private or other non-federal funds used or grants-in-aid made for or in connection with each Project. Such records shall include, among others as may be required, (1) books of account and other fiscal records in accordance with a classification of accounts prescribed by the Government, (2) operation records which shall include application for admission to, and continued occupancy in, the Projects and the evidence (or notations thereof) used by the Local Authority to verify such applications, and (3) personal property records which shall include an annual inventory of all equipment.

Sec. 310. Financial and Operating Statements

The Local Authority shall furnish the Government such financial, operating, and statistical reports, records, statements, and documents at such times, in such form, and accompanied by such supporting data, all as may reasonably be required from time to time by the Government.

Sec. 311. Access to Records and Projects; Audits

(A) The Government and the Comptroller General of the United States, or his duly authorized representatives, shall have full and free access to the Projects and to all the books, documents, papers, and records of the Local Authority that are pertinent to its operations with respect to financial assistance under the Act, including the right to audit, and to make excerpts and transcripts from such books and records.

(B) The Local Authority shall not charge as an item of Development Cost or as an Operating Expenditure the cost or expense of any audit with respect to any Project for any Fiscal Year unless (1) the Government has approved such audit, or (2) such audit is required by law, or (3) the Government has failed to furnish the Local Authority with a report of its fiscal audit of the Local Authority's books of account for such Fiscal Year within six months after the end thereof and, subsequent to a notice by the Local Authority of such failure, the Government has failed to submit its report of such audit within three months after receipt of such notice.

Sec. 312. Property Included in a Project

Each Project shall include (1) all real property or interest therein which is acquired and held in connection with such Project, together with all easements, rights-of-way, and all incorporeal hereditaments thereunto belonging or in anywise appertaining, and (2) all personal property, tangible and intangible, or interest therein which is acquired and held in connection with such Project, including (but not limited to) equipment and supplies, monies on hand and on deposit, reserves, securities, accounts receivable, choses in action, leases, contracts, books of account, papers, and records. All such property immediately upon acquisition (whether before or after issuance of the Actual Development Cost Certificate) by the Local Authority shall become a part of such Project and shall be subject to the terms, covenants, and conditions of this Contract; Provided, That if this Contract is terminated with respect to any Project and at such time any other Project or Projects are being administered pursuant to the provisions of this Contract, all reserves and Residual Receipts of such terminated Project accrued to the date of such termination and not theretofore applied to the purposes of this Contract shall, except as provided in Part One of this Contract, become a part of such other Project or Projects and shall continue to be subject to the terms, covenants, and conditions of this Contract.

Sec. 313. Covenant Against Conveyance or Encumbrance

Unless and until all Temporary Notes, Advance Notes, Permanent Notes, and all other indebtedness of the Local Authority to the Government arising under this Contract in connection with any Project have been fully paid, and all Bonds issued in connection with such Project have been fully paid and retired, or monies sufficient for the payment and retirement thereof have, in accordance with the terms of such Bonds, been deposited in trust for such purpose with the Fiscal Agent, the Local Authority shall not transfer, convey, assign, lease, mortgage, pledge, or otherwise encumber, or permit or suffer any transfer, conveyance, assignment, leasing, mortgage, pledge, or other encumbrance of such Project, any appurtenances thereto, any rent, revenues, income, or receipts therefrom or in connection therewith, or any of the benefits or contributions granted to it by or pursuant to this Contract, or any interest in any of the same: Provided, That the Local Authority may (1) lease dwellings and other spaces and facilities in such Project in accordance with the provisions of Sec. 203, or (2) as provided in Sec. 308, convey or otherwise dispose of any real or personal property which is determined to be excess to the needs of such Project, or (3) to the

extent approved by the Government, convey or dedicate and for use as streets, alleys, or other public rights-of-way, and grant easements for the establishment, operation, and maintenance of public utilities, or (4) with the approval of the Government, convey dwelling units to occupants in form prescribed by the Government. Nothing in this Sec. 313 shall be construed as prohibiting (1) the adoption of the Bond Resolutions, or the execution and delivery of any instrument pursuant to Sec. 420, or the creation of any lien or encumbrance in any such instrument, (2) the conveyance of title to or delivery of possession of such Project pursuant to Sec. 501 or Sec. 502, or (3) the operation of any Project by any person or persons selected by the Local Authority and approved by the Government.

#### ARTICLE IV

#### FISCAL PROVISIONS GOVERNING DEVELOPMENT AND OPERATION

##### Sec. 401. General Depositary Agreement and General Fund

(A) Promptly after the execution of this Contract, the Local Authority shall enter into, and thereafter maintain, one or more agreements, which are herein collectively called the "General Depositary Agreement," in form prescribed by the Government, with one or more banks each of which shall be, and continue to be, a member of the Federal Deposit Insurance Corporation selected as depositary by the Local Authority. Immediately upon the execution of any General Depositary Agreement, the Local Authority shall furnish to the Government such executed or confirmed copies thereof as the Government may require. No such General Depositary Agreement shall be terminated except after thirty days notice to the Government.

(B) All monies and investment securities received by or held for account of the Local Authority in connection with the Projects, except such monies as are deposited with the Fiscal Agent, or with paying agents for the payment of Temporary Notes pursuant to this Contract, shall constitute the "General Fund."

(C) The Local Authority shall, except as otherwise provided in this Contract, deposit promptly with such bank or banks, under the terms of the General Depositary Agreement, all monies and investment securities constituting the General Fund.

(D) The Local Authority may withdraw monies from the General Fund only for (1) the payment of Development Costs, (2) the payment of Operating Expenditures, (3) the purchase of investment securities as approved by the Government, (4) other purposes specified in this Contract, and (5) other purposes specifically approved by the Government. Monies borrowed or otherwise provided to pay the Development Costs of any Project shall be used only for (1) payment of Development Costs of such Project, (2) the purchase in connection with such Project of investment securities as approved by the Government, or (3) other purposes specifically approved by the Government. No withdrawals shall be made except in accordance with a voucher or vouchers then on file in the office of the Local Authority stating in proper detail the purpose for which such withdrawal is made.

(E) If at any time the Local Authority has monies deposited in the General Fund in excess of its prudently estimated needs for the next ninety days, such excess monies shall be invested in investment securities selected by the Local Authority and approved by the Government. Such securities shall be purchased, held, and disposed of from time to time by the depositary of the General Fund under the terms of the General Depositary Agreement.

(F) If the Local Authority (1) in the determination of the Government, is in Substantial Default or Substantial Breach, or (2) makes or has made any fraudulent or willful misrepresentation of any material fact in any of the documents or data submitted to the Government pursuant to this Contract or the Bond Resolutions or in any document or data submitted to the Government as a basis for this Contract or as an inducement to the Government to enter into this Contract, then the Government shall have the right to require any bank or other depositary which holds any monies or securities of the General Fund, to refuse to permit any withdrawals of such monies or securities: Provided, That upon the curing of such default or breach the Government shall promptly rescind such requirement.

##### Sec. 402. Pooling of Funds under Special Conditions and Revolving Fund

(A) The Local Authority may deposit under the terms of the General Depositary Agreement monies and securities received or held by the Local Authority in connection with any other housing project developed or operated by the Local Authority pursuant to the provisions of any contract for annual contributions, administration, or lease between the Local Authority and the Government.

(B) The Local Authority may also deposit under the terms of the General Depositary Agreement amounts necessary for current expenditures of any other project or enterprise of the Local Authority, including any project or enterprise in which the Government has no financial interest: Provided, That such deposits shall be lump-sum transfers from the depositaries of such other projects or enterprises, and shall in no event be deposits of the direct revenues or receipts of such other projects or enterprises. The amounts so deposited each month shall not exceed a reasonable and prudent estimate of expenditures for such month with respect to such other projects or enterprises less any balance remaining under the terms of the General Depositary Agreement in connection with such other projects or enterprises.

(C) If the Local Authority operates other projects or enterprises in which the Government has no financial interest it may, from time to time, withdraw such amounts as the Government may approve from monies on deposit under the General Depositary Agreement for deposit in and disbursement from a revolving fund provided for the payment of items chargeable in part to the Projects and in part to other projects or

enterprises or the Local Authority: Provided, That all deposits in such revolving fund shall be lump sum transfers from the depositories of the related projects or enterprises and shall in no event be deposits of the direct revenues or receipts.

(D) The Local Authority may establish petty cash or change funds in reasonable amounts, from monies on deposit under the General Depositary Agreement.

(E) In no event shall the Local Authority withdraw from any of the funds or accounts authorized under this Sec. 402 amounts for the Projects or for any other project or enterprise in excess of the amount then on deposit in respect thereto.

#### Sec. 403. Development Cost

(A) The "Development Cost" of each Project shall comprise all costs incurred by the Local Authority in any or all undertakings necessary for planning, site acquisition, demolition, construction, or equipment, and their necessary financing (including the payment of carrying charges, but not beyond the point of physical completion), and in otherwise carrying out the development or acquisition of such Project. Development Cost shall include, among other items, (1) approved costs of preliminary surveys and planning with interest on approved loans therefor, (2) amounts approved as relocation payments, (3) the Initial Operating Deficit, if any, and (4) net interest on that portion of the borrowed monies allocable to such Project only for the period ending with the Date of Full Availability of such Project, or such later date as may be approved by the Government. There shall be applied to the reduction of the Development Cost of each Project (1) the net income, if any, received from the temporary use of the site or structures existing thereon at time of acquisition up to the end of the Initial Operating Period, (2) net earnings, if any, up to the Date of Full Availability from the investment of monies available for the payment of Development Costs, (3) proceeds of the disposition of real or personal property (including any proceeds of demolition) to the extent provided in Sec. 308, and (4) cash donations, if any. No amount representing property or services donated to any Project shall be included in the Development Cost thereof.

(B) "Date of Full Availability" with respect to each Project shall mean the last day of the month in which substantially all dwelling units in such Project become available for occupancy.

(C) "Initial Operating Period" with respect to each Project shall mean the period commencing with the date of initiation of such Project and ending with either (1) the end of the calendar quarter in which ninety-five percent of the dwelling units in such Project are occupied, or (2) the end of the calendar quarter which is six, seven, or eight months after the Date of Full Availability of such Project, or (3) the end of the calendar quarter next preceding the date of physical completion of such Project, whichever is the earliest.

(D) "Initial Operating Deficit" of any Project as of the end of the Initial Operating Period thereof shall mean the amount, if any, by which the Operating Expenditures thereof to such date exceeded the Operating Receipts.

#### Sec. 404. Development Cost Budgets

(A) Until such time as a budget of Development Cost (herein called "Development Cost Budget") pursuant to this Sec. 404 is approved by the Government for any Project, the breakdown of the Maximum Development Cost set forth in the applicable Development Program shall constitute the approved Development Cost Budget for such Project.

(B) At the time the Local Authority requests Government approval of the award of contracts for the Main Construction Work of any Project, it shall submit for approval of the Government a Development Cost Budget for such Project which shall be based upon (1) the amount of the proposed award or awards, (2) costs and obligations incurred to such date, (3) the estimated amount of costs and obligations not yet incurred, and (4) an allowance for contingencies in such amount as the Government may approve.

(C) In the event that in the judgment of the Local Authority it appears necessary with respect to any Project to incur Development Cost in excess of the total amount shown in the last previously approved Development Cost Budget for such Project, or that it appears necessary with respect to any of the main classifications of Development Cost to incur costs in excess of the amount shown therefor in the last previously approved Development Cost Budget for such Project plus the share of the allowance for contingencies allocated to such main classification, or if for any other reason the Local Authority deems it advisable, it may prepare and submit to the Government for its approval a revised Development Cost Budget for such Project.

(D) Not earlier than six months nor later than twenty-four months after the Date of Full Availability of each Project the Local Authority shall submit for approval of the Government a final Development Cost Budget for such Project which shall be based upon (1) costs and obligations incurred to such date including a reasonable allowance for disputed, contingent, or unliquidated liabilities, and for legal and other costs and expenses in connection with the settlement of such liabilities, and (2) the estimated amount of costs and obligations not yet incurred for work, equipment, and services deemed necessary for the completion of such Project. No other allowance for contingencies shall be included in such final Development Cost Budget.

(E) The Government shall promptly review each proposed Development Cost Budget and notify the Local Authority of its approval or disapproval thereof. If the Government disapproves any proposed Development Cost Budget, the Local Authority shall be so notified in writing and be furnished with a detailed explanation of the reasons for such disapproval. Upon approval by the Government of any Development Cost Budget for any Project such Budget shall supersede all previously approved Budgets for such Project, and the total of such Budget shall thereafter and for all purposes of this Contract be the Maximum Development Cost of such Project in lieu of the specific amount stated in Part One of this Contract, and

shall for all purposes of this Contract correspondingly revise the aggregate Maximum Development Cost of all the Projects as stated in Part One of this Contract: Provided, That at no time shall the total of all Development Cost Budgets for all the Projects having the same Minimum Interest Rate, Maximum Contribution Percentage, and Maximum Number of Contributions exceed the aggregate Maximum Development Cost of such Projects as specified in Part One of this Contract.

(f) The Local Authority shall not with respect to any Project incur costs in excess of the amounts shown in the last previously approved Development Cost Budget for such controlled accounts as may be specified by the Government.

#### Sec. 405. Actual Development Cost

(A) The Local Authority shall, as promptly as possible consistent with the maintenance of its rights against its contractors, settle and pay all disputed, contingent, or unliquidated items of Development Cost on all Projects.

(B) Whenever the Local Authority shall be satisfied that all the development work on each Project has been properly completed, and that the entire Development Cost on such Project (including all items which may have theretofore been disputed, contingent, or unliquidated) has been fully paid, the Local Authority shall submit to the Government for its approval a certificate setting forth the total amount of the Development Cost of such Project (herein called the "Actual Development Cost"), stating: (1) that all such development work has been completed, (2) that the entire Development Cost or liabilities therefor incurred by the Local Authority have been fully paid, (3) that there are no undischarged mechanics', laborers', contractors', or material-men's liens on such Project on file in any public office where the same should be filed in order to be valid liens against such Project, and (4) that the time in which such liens could be filed has expired. Upon approval by the Government such certificate shall be known as the "Actual Development Cost Certificate." The determination of the amount of the Actual Development Cost contained in such Actual Development Cost Certificate so approved by the Government shall be final and conclusive for all purposes of this Contract.

(C) If the Local Authority shall unduly delay in the submission of the Actual Development Cost Certificate for any Project, the Government may give notice to the Local Authority that the amount of the Development Cost of such Project incurred to the date of such notice shall be considered to be the Actual Development Cost of such Project, and such notice shall constitute the Actual Development Cost Certificate for such Project for all the purposes of this Contract.

(D) Promptly after the issuance of the Actual Development Cost Certificate for any Project the Local Authority shall, (1) if such Project is then Permanently Financed, deposit any remaining balance of the monies theretofore received for the purpose of the development of such Project in the Advance Amortization Fund, or (2) if such Project is not then Permanently Financed, apply any such remaining balance to the payment of outstanding Advance Notes or Temporary Notes issued in connection with such Project.

(E) Subsequent to the issuance of the Actual Development Cost Certificate for any Project, no cost for additional development work shall be incurred by the Local Authority without the approval of the Government. In the event that the Local Authority and the Government agree that additional development work is necessary, the Actual Development Cost Certificate shall be amended to include the cost of such additional development work.

#### Sec. 406. Operating Receipts and Expenditures, Reserves, and Residual Receipts

(A) "Operating Receipts" with respect to each Project shall mean all rents, revenues, income, and receipts accruing from, out of, or in connection with the ownership or operation of such Project, from whatever source derived. That Operating Receipts shall not include (1) any monies received for the development of such Project, (2) annual contributions pledged for payment of Bonds and Notes, (3) premiums and accrued interest received in connection with the sale of Bonds or Temporary Notes, (4) proceeds from the disposition of real property, (5) proceeds from the disposition of persons or property to the extent provided in clause (1) of subsection (c) of Sec. 3 or (6) the proceeds of claims against insurers or others arising out of damage to or destruction of such Project to the extent provided in Sec. 23.

(B) "Operating Expenditures" with respect to each Project shall mean all costs incurred by the Local Authority for administration, maintenance, establishment of reserves (as provided in subsection (c) of this Sec. 406, and other costs and charges (including, but not limited to, payments in the form of taxes and operating improvements) which are necessary for the operation of such Project in such a manner as to provide decent, safe, and sanitary dwellings within the financial reach of Families of Low Income, and to promote serviceability, efficiency, economy, and stability: Provided, That Operating Expenditures shall not include any costs incurred as a part of Development Cost, nor the payment of principal of the Bonds or Notes, nor unless approved by the Government, interest on the Bonds or Notes.



(C) The Local Authority may establish out of the Operating Receipts of the Projects, and maintain in the General Fund, reserves for such purposes and in such reasonable amounts as may be required in the prudent operation of the Projects and as may be approved by the Government: Provided, That no part of the Operating Receipts of any Project accruing during the Initial Operating Period thereof shall be used for establishing any reserve: Provided further, That if this Contract is terminated with respect to any Project and at such time any other Project or Projects are being administered pursuant to the provisions of this Contract, the reserves authorized herein, including any funds therein which were derived from the terminated Project, shall, except as provided in Part One of this Contract, be maintained for the use and benefit of such other Project or Projects. All amounts for the establishment of reserves, including all increases or decreases therein, shall be taken into account in the determination of Residual Receipts; and all such amounts, including all increases or decreases therein (except in respect to the reserves authorized by Sec. 210 and Sec. 308) shall be included in the Operating Budgets.

(D) "Residual Receipts" of any Project as of the end of the Initial Operating Period thereof shall mean the amount, if any, by which the Operating Receipts thereof to such date exceeded the Operating Expenditures. "Residual Receipts" for all Projects as of the end of any Fiscal Year shall mean the amount by which the aggregate Operating Receipts of all such Projects for such Year exceeded the aggregate Operating Expenditures for all such Projects for such Year: Provided, That if the end of the Initial Operating Period of any such Project occurred in such Fiscal Year, the Operating Receipts and Operating Expenditures of such Project during such Initial Operating Period shall be excluded from the computation, except that any Residual Receipts of any such Project as of the end of such Initial Operating Period shall be included in the computation.

#### Sec. 407. Operating Budgets and Control of Operating Expenditures

(A) The term "Operating Budget" shall mean a realistic estimate of the Operating Expenditures to be incurred in connection with the prudent operation of any Project during a specified period, broken down according to a classification of accounts prescribed by the Government.

(B) Not later than one hundred twenty days before the estimated date of initial occupancy of any Project, the Local Authority shall submit to the Government for approval a proposed first Operating Budget for such Project. Such first Budget shall be prepared on the basis of the first twelve months of operation after the end of the Initial Operating Period for such Project. Upon approval by the Government such first Budget, upon a prorated basis and with appropriate seasonal adjustments, shall govern the operation of such Project from the end of such Initial Operating Period to the beginning of the next Fiscal Year.

(C) Not earlier than one hundred fifty days nor later than ninety days before the expiration of the Fiscal Year covered by any approved Operating Budget for any Project, the Local Authority shall submit to the Government for approval a proposed Operating Budget for the next Fiscal Year for such Project, which upon approval by the Government shall govern the operation of such Project for such Fiscal Year.

(D) With each submission of Operating Budgets the Local Authority shall submit an estimate of the Accruing Annual Contribution next payable after the end of the period covered by such Budgets.

(E) The Government will promptly approve each proposed Operating Budget, if the plan of operation and the amounts included therein are reasonable. Reasonableness of a proposed Operating Budget shall be determined in the light of the necessity for (1) incurring the proposed Operating Expenditures in the efficient and economical operation of the Project for the purpose of serving Families of Low Income in the locality thereof, and (2) limiting annual contributions to the amounts necessary to assure the low-rent character of the Project. If the Government disapproves any proposed Operating Budget, or approves such Budget with modified amounts, the Local Authority shall be so notified in writing and be furnished with an explanation of the reasons for such disapproval or modified approval. In the event of modified approval, the Operating Budget, subject to such modifications, shall constitute the approved Operating Budget unless the Local Authority shall elect to consider such modified approval as a disapproval and within fourteen days after receipt thereof so notifies the Government in writing, in which event the modified approval shall constitute disapproval of the Budget.

(F) Failure of the Government to notify the Local Authority of its approval, modified approval, or disapproval of any proposed first Operating Budget submitted pursuant to subsection (B) of this Sec. 407 within (1) forty-five days after the receipt thereof, or (2) forty-five days after the last day specified for its submission, whichever is the later, shall constitute an approval thereof. Failure of the Government to notify the Local Authority of its approval, modified approval, or disapproval of any proposed Operating Budget for any Fiscal Year submitted pursuant to subsection (C) of this Sec. 407 within (1) forty-five days after the receipt of all the Budgets and the estimate of the Accruing Annual Contribution required for such Fiscal Year pursuant to subsections (C) and (D) of this Sec. 407, or (2) forty-five days prior to the beginning of such Fiscal Year, whichever is the later, shall constitute approval thereof. The provisions of this subsection (F) shall not be applicable to the resubmission of a disapproved Budget, the resubmission of a modified budget which the Local Authority has elected to consider disapproved, or to the submission of a proposed revision of an approved Budget.

(G) The Local Authority may at any time submit to the Government a proposed revision of any approved Operating Budget. In such case the proposed revision shall be subject to all of the provisions of subsection (E) of this Sec. 407.

(H) The Local Authority shall not (1) at any time after the end of the Initial Operating Period for any Project incur any Operating Expenditures with respect to such Project except pursuant to and in accordance with an approved Operating Budget for such Project, nor (2) during any Fiscal Year or other budget period, incur with respect to any Project expenditures in excess of the amounts included in approved Operating Budgets for Controlled Accounts as may be specified by the Government, nor (3) incur Operating Expenditures for any purpose or in any amount contrary to any condition or modification imposed by the Government upon any Operating Budget; Provided, That nothing in this subsection (H) shall preclude the incurring of expenditures in emergencies where necessary to eliminate an immediate serious hazard to life, health, or safety of the occupants of a Project, and that the amount of any such emergency expenditures shall be reported promptly to the Government and the Operating Budget shall be amended accordingly.

(I) The Local Authority, at the request of the Government, shall submit consolidated Operating Budgets for two or more Projects, and in such event the provisions of this Contract relating to Operating Budgets shall be applicable to such consolidated Budgets.

#### Sec. 408. Advances by the Government

(A) The Government will from time to time advance monies to the Local Authority on account of the loan provided for in this Contract upon a showing satisfactory to the Government that there is then need for such monies for the development of the Projects.

(B) Each advance shall be evidenced by an obligation duly issued and delivered by the Local Authority in a form satisfactory to the Government, which obligation shall bear interest at the applicable Loan Interest Rate from the date the advance is made, and shall otherwise conform to the following:

(1) Each obligation (herein called "Advance Note") evidencing an advance made for the Development Cost of any Project not Permanently Financed, together with interest on such Note, shall be due and payable on demand.

(2) Each obligation (herein called "Permanent Note") evidencing an advance made for the Development Cost of any Permanently Financed Project, together with interest on such Note, shall (subject to the right of the Local Authority to pay same in whole or in part at earlier dates) be payable on the first day of the month following each Annual Contribution Date in annual installments (applicable first to interest and then to principal) equal to the portion of the Fixed Annual Contribution allocable to such Note as determined pursuant to Sec. 415(C). Each Permanent Note issued to refund or renew other Permanent Notes in

whole or in part shall be payable in installments equal to the installments payable upon the Notes so refunded or renewed. Each Permanent Note shall further provide that the holder thereof may declare such Note to be due and payable in full at any time (a) when there is any default in the payment of any installment of principal or interest, or (b) when the Local Authority is in Substantial Default or Substantial Breach, or (c) upon the termination of this Contract. (c) The Government shall not be obligated to make any advance again delivery of Advance Notes or Permanent Notes:

(1) Unless a requisition therefor is filed by the Local Authority accompanied by (a) a signed detailed statement demonstrating the purpose and need at such time for the monies requested and the progress it has made in the development of each Project, and stating the amounts to be used for each Project, (b) a certificate as to compliance with the provisions of Sec. 16(2) of the Act relating to the payment of prevailing salaries and wages, and (c) such other data and documents as the Government may require; or

(2) If the total of the advance requested plus the sum of the principal amount of all Advance Notes and Permanent Notes then outstanding and the amount of advances which the Government has agreed to make as security for Temporary Notes would exceed the Maximum Loan Commitment; or

(3) If the Local Authority is then in default under any of the provisions of this Contract; or

(4) If any litigation is pending or threatened which would materially affect the development, operation, or financing of any Project; or

(5) With respect to any amount or amounts for any Project for which the Local Authority has not demonstrated to the satisfaction of the Government (a) the purpose for which any such amount will be used, or (b) the need therefor at such time, or (c) that such amount is in accordance with the approved Development Cost Budget for such Project, or (d) that such amount is consistent with the rate of progress which the Local Authority has made in the development of such Project; or

(6) With respect to any Project, if such Project cannot be completed for an amount not to exceed the Maximum Development Cost for such Project.

(D) The Government shall not be obligated to make any advance again delivery of Permanent Notes except in accordance with subsection (C) of Sec. 412.

(E) No Permanent Note may be issued by the Local Authority unless the Note can be fully amortized (both as to principal and interest) by the apportionment of the amounts and on the dates specified in subsection (B) (2) of this Sec. 408.



and the amount of advances which the Government has agreed to make as security for Temporary Notes, nor (b) exceed 90 percent of the sum of the Maximum Development Cost or Actual Development Cost of the Projects.

#### Sec. 411. Description of Bonds

(A) Before offering the first issue of Bonds for sale the Local Authority shall, with the approval of the Government, select a 12-month period beginning either on a January 1, April 1, July 1, or October 1, which period (as established upon the delivery of the first issue of Bonds) and each succeeding 12-month period shall be known as a "Fiscal Year," which Fiscal Year shall be applicable to all the Projects. The date to be borne by the first issue of Bonds shall be the date of the beginning of a Fiscal Year or the first day of the first or second month preceding the beginning of a Fiscal Year: all subsequent issues of Bonds shall be dated as of such date or an anniversary thereof. The date as of which any issue of Bonds is dated shall be known as the "Bond Date" of such issue.

(B) The Bonds of each issue shall be in such denomination, be payable at such place or places, and be subject to such terms of redemption as may be prescribed by the Bond Resolution, and shall otherwise in all respects conform to the provisions of such Bond Resolution.

(C) Interest on the Bonds of each issue shall be payable semi-annually.

(D) The first maturity of any Bonds of each issue shall be two years after the Bond Date of such issue, and thereafter Bonds shall mature annually over such period as shall be established pursuant to the Bond Resolutions, but ending, in any event, on the first day of the seventh month after the last Annual Contribution Date for the related Project or Project as fixed pursuant to Sec. 415 and Sec. 418. The first maturity of each issue of Bonds shall be in an amount to be agreed upon between the Local Authority and the Government: Provided, That such amount together with interest payable twelve, eighteen, and twenty-four months after the Bond Date of such issue shall not exceed the Level Debt Service of such issue.

The second and subsequent maturities of each issue of Bonds shall be so arranged that the aggregate payments of principal and interest due in each twelve months period following an Annual Contribution Date will be substantially equal in amount. "Level Debt Service" with respect to each issue of Bonds shall mean the smallest uniform amount (rounded upwards to the next multiple of ten dollars) which when made available on each Annual Contribution Date (except the Annual Contribution Date which occurs seven months and fourteen days after the Bond Date of such issue) will provide for the payment of the principal and interest scheduled to become due with

(F) The Government shall not demand payment of, nor pledge, sell, or otherwise dispose of any Advance Note unless (1) the Local Authority is in Substantial Default or Substantial Breach or (2) the Government has given notice of the termination of this Contract pursuant to Sec. 509.

#### Sec. 409. Temporary Notes

(A) At any time and from time to time as the Government may require the Local Authority shall obtain loans from others than the Government in anticipation of the delivery of Advance Notes or Permanent Notes (as the case may be), which loans shall be evidenced by notes of the Local Authority (each of which is herein called a "Temporary Note"). In obtaining such loans, the Local Authority shall comply with all the applicable conditions precedent to the obtaining of advances from the Government.

(B) At the time of delivery of any Temporary Note, the proceeds of such Note (excepting only (1) the amounts referred to in subsection (C) of this Sec. 409, and (2) such amounts as shall be used to pay Advance Notes, Permanent Notes, or other Temporary Notes) shall be deposited under the General Depositary Agreement.

(C) At the time of delivery of any Temporary Note issued in connection with any Project which has been Permanently Financed, all amounts paid by the purchasers of such Temporary Notes on account of (1) accrued interest shall be paid to the Fiscal Agent for deposit in the Debt Service Fund, and (2) premiums shall be paid to the Fiscal Agent for deposit in the Advance Amortization Fund: Provided, That all or any part of such amounts may, with the approval of the Government, be used to pay Permanent Notes or Temporary Notes issued in connection with such Projects.

#### Sec. 410. Maximum Loan Commitment

The Maximum Loan Commitment under this Contract shall at all times be equal to the sum of the amounts determined as follows for the respective Projects. For each Project not Permanently Financed, such amount shall be either the Initial Loan Commitment for such Project specified in Part One or such greater amount which the Government, in its sole discretion, shall agree to advance to assist the development or financing of such Project, less the amount of any retirement of Advance Notes or Temporary Notes (issued for such Project) from funds other than the proceeds of any loan obtained by the Local Authority. For each Permanently Financed Project, such amount shall be equal to the Maximum Development Cost or Actual Development Cost of such Project, less the amount of Bonds issued, and less the amount of any retirement of Permanent Notes or Temporary Notes (issued for such Project) from funds other than (a) the proceeds of any loan obtained by the Local Authority and (b) amounts applied to the reduction of Development Cost pursuant to subsection (A) of Sec. 403. The Maximum Loan Commitment under this Contract for all the Projects shall in no event (a) be less than the sum of the principal amount of Advance Notes and Permanent Notes outstanding

the twelve months period following each such Annual Contribution Date on the basis that any portion (herein called the "Bond Service Carry-Over") of such Level Debt Service not needed for the payment of principal and interest in any such twelve months period will be carried over and used to supplement the Level Debt Service in the next and succeeding twelve months periods.

#### Sec. 412. Offering of Bonds and Establishment of Minimum Development Cost

(A) The Local Authority shall offer and sell an issue of its Bonds to finance the Development Cost of any Project or Projects either separately or through the agency of another public housing agency and at such time, as the Government may require. The Local Authority shall in no event offer or sell any issue of Bonds without the prior approval of the Government.

(B) The Local Authority shall sell Bonds in such principal amount, not to exceed the Maximum Development Cost of each Project, as the Government may require.

(C) Prior to the offering of the first issue of Bonds to finance any part of the Development Cost of any Project the Local Authority shall determine and submit to the Government for its approval the amount below which the Development Cost of such Project will in no event fall. Upon approval thereof by the Government the Local Authority shall offer Bonds for sale in such amount as the Local Authority with the approval of the Government may determine. The amount below which the Development Cost of such Project will in no event fall, as established upon the delivery of an issue of Bonds, shall constitute and be known as the "Minimum Development Cost" of such Project. If the first established Minimum Development Cost of such Project exceeds the amount of such issue of Bonds the Local Authority shall issue a Permanent or Temporary Note or Notes, as funds are required to meet the Development Cost of such Project, in amounts which in the aggregate do not exceed the difference between such Minimum Development Cost and the amount of such issue of Bonds. If at any time it appears that the Development Cost of any Project will exceed the Minimum Development Cost therefore established for such Project the Local Authority shall determine and submit to the Government for its approval a revised amount below which the Development Cost of such Project will in no event fall. Upon approval of such revised amount the Local Authority shall issue an additional issue of Bonds, or

a Permanent Note, or a Temporary Note for the difference between such revised amount and the Minimum Development Cost theretofore established, and upon delivery of such Bonds, Permanent Note, or Temporary Note such revised amount shall thereafter constitute the Minimum Development Cost of such Project.

(D) At such time as the Government may require the Local Authority, in order to refund, in whole or in part, outstanding Advance Notes, Permanent Notes, or Temporary Notes, shall offer and sell an issue of Bonds for such purpose.

(E) Each issue of Bonds shall be sold at public sale unless otherwise determined by the Local Authority and approved by the Government.

(F) Prior to the offering of each issue of Bonds the Local Authority shall submit to the Government for its approval the forms of proposed Bond Resolutions, advertisements, explanatory literature, and other documents to be made available to prospective purchasers of such Bonds. Promptly after the award of such Bonds the Local Authority shall furnish the Government a complete transcript of the proceedings and documents necessary to evidence the validity thereof.

(G) At such time as the Government may require, the Local Authority shall issue its Permanent Note to establish and finance the Minimum Development Cost of any Project in lieu of the issuance of Bonds for such purpose. Upon the delivery of such Note to the Government in respect to such Project the Project shall, for the purposes of Secs. 415(B) and 416(C)(3), be considered to be permanently financed by an issue of Bonds bearing a Bond Date not later than seventeen months and fourteen days prior to the Annual Contribution Date next following the Fiscal Year in which such Note is delivered to the Government.

Sec. 413. Bond Resolutions and Fiscal Agent

(A) In connection with each issue of Bonds, the Local Authority shall adopt appropriate resolutions or ordinances approved by the Government (herein called the "Bond Resolutions"). By such Bond Resolutions the Local Authority, among other provisions, shall:

- (1) Ratify the offering of such issue of Bonds;
- (2) Authorize such issue of Bonds in the aggregate principal amount to be sold pursuant to the offering;
- (3) Establish (a) the interest to be borne by such issue of Bonds, and (b) a schedule showing (i) the maturities of the Bonds and (ii) the amount of the Bond Service Carry-Over for each year;
- (4) Designate a bank (herein called the "Fiscal Agent") which shall have trust powers, and shall be and continue to be a member of the Federal Deposit Insurance Corporation;
- (5) Provide for the establishment of a trust fund (herein called the "Debt Service Fund") with the Fiscal Agent for the receipt, deposit, and disbursement of the annual contributions and other monies in connection with the Permanently Financed Projects as provided in this Contract; and
- (6) Provide for the establishment and maintenance of a fund (herein called the "Advance Amortization Fund") with the Fiscal Agent for the receipt, deposit, and disbursement of monies in connection with Permanently Financed Projects, as provided in this Contract.

(B) Prior to the delivery of the first issue of Bonds the Local Authority shall enter into, and thereafter maintain, a fiscal agency agreement, in substantially the form prescribed by the Government. Immediately upon the execution of such agreement the Local Authority shall furnish the Government such executed or conformed copies thereof as the Government may require.

(C) The Fiscal Agent named in the Bond Resolutions in connection with the first issue of Bonds shall also be named as Fiscal Agent in all subsequent Bond Resolutions, and shall administer the Debt Service Fund and the Advance Amortization Fund. The Local Authority shall require the Fiscal Agent to furnish the Government such reports and other data relating to accounts under this Contract as may reasonably be required by the Government.

Sec. 414. Delivery of Bonds

(A) Delivery of (which shall include payment for) each issue of Bonds shall be made at the time and place fixed pursuant to the terms of the offering.

(B) At such time all amounts paid by the purchasers of the Bonds on account of accrued interest shall be paid to the Fiscal Agent for deposit in the Debt Service Fund, and all amounts paid on account of premiums shall be paid to the Fiscal Agent for deposit in the Advance Amortization Fund or with the approval of the Government used for the repurchase of Bonds.

(C) At such time, and as a condition precedent to the delivery of such Bonds, the Local Authority shall deposit, or cause to be deposited, from the proceeds of the Bonds (or from any other monies of the Local Authority, including monies available for such purpose pursuant to subsection (1) of Sec. 415) with the Fiscal Agent in the Debt Service Fund an amount equal to (1) the interest on such issue of Bonds becoming due and payable six months after the Bond Date of such issue, less (2) any portion thereof deposited in the Debt Service Fund on account of accrued interest, and less (3) any amount which may then be on deposit in the Debt Service Fund for such purpose.

(D) At such time, and as a condition precedent to the delivery of such Bonds, the Local Authority shall advance, or cause to be advanced, from the proceeds of the Bonds (or from any other monies of the Local Authority) to the Fiscal Agent for deposit in the Debt Service Fund an amount equal to (1) the interest on such issue of Bonds becoming due and payable twelve months after the Bond Date of such issue, less (2) any portion thereof deposited in the Debt Service Fund on account of accrued interest. The Local Authority shall at a later date be reimbursed by the Fiscal Agent for such advance in accordance with subsection (F) of Sec. 416.

(E) At such time the Local Authority shall pay, or cause to be paid, from the proceeds of the Bonds (or from other monies of the Local Authority) the principal of and interest on all outstanding Advance Notes, Permanent Notes, and Temporary Notes to the extent that the principal of such Notes includes an amount for any part of the Development Cost financed by such issue of Bonds.

(F) Upon the delivery of the first issue of Bonds to finance any part of the Development Cost of a Project, such Project shall be considered to be "Permanently Financed."

(G) If, at the time of the delivery of an issue of Bonds, the Local Authority does not have monies available to advance to the Fiscal Agent for deposit in the Debt Service Fund in an amount equal to (1) the interest on such issue of Bonds becoming due and payable twelve months after the Bond Date of such issue, less (2) any portion thereof deposited in the Debt Service Fund on account of accrued interest as required by Sec. 414(D) the Government shall advance on account of the loan herein provided for an amount equal to such deficiency. Such advance shall be made and deposited in the manner prescribed in Sec. 414(D) but shall not be included in the amount of the Minimum Development Cost of any Project. The Fiscal Agent shall, on behalf of the Local Authority, reimburse the Government for such advance at the time and in the manner as is provided for reimbursement of similar advances to the Local Authority pursuant to Sec. 416(F). Such advance shall bear interest at the Loan Interest Rate and such interest shall be paid from Operating Receipts as an Operating Expenditure.

(A) The Government (1) shall make annual contributions to the Local Authority for each Permanently Financed Project and (2) may, in its determination, make annual contributions to the Local Authority for each Project which is not Permanently Financed, as provided in this Sec. 415. The date upon which each annual contribution is payable (except the first annual contribution with respect to a Project not Permanently Financed which may be made available as of the Date of Full Availability of such Project) shall be known as the "Annual Contribution Date." If the Annual Contribution Date is not specifically set forth in Part One of this Contract such Date shall be the fifteenth day of the fourth, fifth or sixth month of the Fiscal Year as determined by the Government.

(B) The first annual contribution with respect to each Permanently Financed Project shall be due and payable on the Annual Contribution Date which is seventeen months and fourteen days after the Bond Date of the first issue of Bonds issued to finance any part of the Development Cost of such Project. The first annual contribution with respect to each Project which is not Permanently Financed may be made available as of the Date of Full Availability of such Project and shall be determined in accordance with subsection (C)(4) of this Sec. 415. If the first annual contribution with respect to a Project is made available as of the Date of Full Availability of such Project, the second annual contribution with respect to such Project may be made on the Annual Contribution Date which occurs not less than twelve months subsequent to the Date of Full Availability of such Project. Subject to the provisions of subsection (K) of this Sec. 415, subsequent annual contributions shall be due and payable on each Annual Contribution Date thereafter.

(C) On each Annual Contribution Date the Government shall pay (subject to reduction as hereinafter in this Sec. 415 provided) an annual contribution for each Project with respect to which an annual contribution is then payable. The sum of the amounts of each such annual contribution shall be known as the "Fixed Annual Contribution." The amount of the Fixed Annual Contribution shall be equal to the sum of the Level Debt Services of all unmatured issues of Bonds, bearing a Bond Date not later than seventeen months and fourteen days prior to such Annual Contribution Date, as specified in the applicable Bond Resolution, plus an amount or amounts allocable to Permanent, Advance, or Temporary Notes, as follows:

(1) With respect to each Project Permanently Financed by an issue of Bonds equal to the Minimum Development Cost first established for such Project, an amount, as determined by the Government, which if applied annually at the interest rate (adjusted to the nearest one-eighth of one percent) charged the Local Authority during the next preceding Fiscal Year in respect to the unamortized portion of the Minimum Development Cost of such Project which exceeded as of the last day of such Fiscal Year the principal amount of such issue of Bonds would fully amortize such portion not later than the first day of the month following the last Annual Contribution Date for such Project; and

(2) With respect to each Project Permanently Financed by an issue of Bonds in an amount less than the amount of the Minimum Development Cost first established for such Project, an amount equal to (1) the applicable Minimum Loan Interest Rate times the amount by which the Minimum Development Cost as first established for such Project exceeds the principal amount of such issue of Bonds, plus (ii) an amount, as determined by the Government, which if applied annually at the interest rate (adjusted to the nearest one-eighth of one percent) charged the Local Authority during the next preceding Fiscal Year in respect to the portion of the Minimum Development Cost of such Project which exceeds as of the last day of such Fiscal Year the Minimum Development Cost as first established for such Project would fully amortize such portion not later than the first day of the month following the last Annual Contribution Date for such Project; and (iii) commencing on the Annual Contribution Date next following the last maturity date of such issue of Bonds, the amount of the Level Debt Service of such issue of Bonds; and

(3) With respect to each Project financed by a Permanent Note in lieu of Bonds, an amount, as determined by the Government, which if applied annually at the interest rate (adjusted to the nearest one-eighth of one percent) charged the Local Authority during the next preceding Fiscal Year in respect to the unamortized portion of the Minimum Development Cost of such Project which exceeded as of the last day of such Fiscal Year the Minimum Development Cost as first established for such Project would fully amortize such portion not later than the first day of the month following the last Annual Contribution Date for such Project; and

(4) With respect to each Project which is not Permanently Financed, an amount, as determined by the Government, which if applied annually at the interest rate (adjusted to the nearest one-eighth of one percent) charged the Local Authority during the next preceding Fiscal Year in respect to the unamortized portion of that figure determined by the Government to be that below which the Development Cost of such Project will in no event fall would fully amortize such portion not later than the first day of the month following the last Annual Contribution Date for such Project.

Upon delivery of any issue of Bonds to refund Permanent, Advance or Temporary Notes, the amount of the Level Debt Service of such issue of Bonds shall be in lieu of the portion of the Fixed Annual Contribution allocable to such Notes whether pursuant to clause (1), (2), (3), or (4) above. Anything in this Contract to the contrary notwithstanding the Fixed Annual Contribution for all Projects shall not exceed the aggregate of (a) the applicable Maximum Contribution Percentage of the latest established Minimum Development Cost for each Permanently Financed Project plus (b) the applicable Maximum Contribution Percentage of (1) the amount determined by the Government to be that below which the Development Cost will in no event fall, or (ii) the Actual Development Cost, as the case may be, of each Project which is not Permanently Financed.

to the principal and interest becoming due and payable on each twelve months period following such Annual Contribution Date on each issue of Bonds bearing a Bond Date not later than seventeen months and fourteen days prior to such Annual Contribution Date, plus (2) an amount equal to the aggregate Bond Service Carry-Over required to be on deposit in the Debt Service Fund on the next succeeding Annual Contribution Date, may be withheld by the Government, and applied to the full extent thereof; First, to reimbursement of the Local Authority for any advance (not theretofore reimbursed) made pursuant to Sec. 414(D); and Second, to the payment of interest and principal of such Notes and the repayment of such expenditures in proportion, with respect to each such Project, to the applicable portion of the Fixed Annual Contribution determined pursuant to clauses (1), (2), (3), or (4) as the case may be, of Sec. 415(C): Provided, That any amounts which would otherwise be applied to the payment of principal under the aforesaid Second order of preference may be withheld (for not more than twelve months) and be used for the payment of interest on any Bonds which may be subsequently issued to refund such Notes and expenditures.

(J) When monies sufficient for the payment and discharge of all Bonds have been deposited with the Fiscal Agent in trust for such purpose, Accruing Annual Contributions, Residual Receipts, and monies otherwise payable to the Debt Service Fund shall be applied, as approved by the Government, to the payment of the Notes and expenditures and in the proportion as prescribed in subsection (I) of this Sec. 415. Monies so applied by the Local Authority during the twelve months period preceding each Annual Contribution Date which, except for the provisions of this subsection (J), would have been on deposit on such Annual Contribution Date in the Debt Service Fund for the reduction of annual contributions, shall be deemed to have been on deposit in the Debt Service Fund on such Annual Contribution Date for the purpose of subsection (D) of this Sec. 415.

(K) No Accruing Annual Contribution shall be paid or made available by the Government pursuant to this Contract in an amount in excess of an amount which together with all monies then on deposit in the Debt Service Fund will be sufficient to fully pay and retire the outstanding Bonds, Permanent Notes, Advance Notes and Temporary Notes issued in connection with all Projects with respect to which annual contributions become payable and to repay, with interest at the applicable Loan Interest Rate, all expenditures made by the Government in connection with the development of such Projects pursuant to Sec. 505 hereof. The obligation of the Government to pay or make available annual contributions pursuant to this Contract with respect to any such Project shall terminate when (1) all such Bonds and Notes issued in connection with such Project have been fully paid and retired, or when monies sufficient for the payment and retirement thereof have been deposited in trust for such purpose in accordance with the terms of such Bonds and Notes, and (2) all such expenditures, with interest thereon, by the Government in connection with such Project have been fully repaid.

(D) On each Annual Contribution Date the actual amount of the annual contribution to be paid (herein called the "Accruing Annual Contribution") shall be an amount equal to the Fixed Annual Contribution less (1) the amount then on deposit in the Debt Service Fund for the reduction of annual contributions pursuant to subsection (C) of Sec. 416, and (2) any amount then on deposit in the Debt Service Fund, pursuant to subsection (B) of Sec. 414, on account of interest accrued on any issue of Bonds after a date which is six months after the Bond Date of such issue.

(E) The Government, notwithstanding any other provision of this Contract, may make payment of any Accruing Annual Contribution in semi-annual installments as follows: (1) the first installment shall be paid on the Annual Contribution Date in the amount, if any, by which (a) the Accruing Annual Contribution exceeds (b) the amount of principal and interest which will become due and payable on the next following anniversary of the Bond Date on all Bonds outstanding at the end of the preceding Fiscal Year and which bear a Bond Date not later than seventeen months and fourteen days prior to such Annual Contribution Date; (2) the balance of such Accruing Annual Contribution shall be paid on the date six months after such Annual Contribution Date.

(F) At least thirty days prior to each Annual Contribution Date, the Fiscal Agent shall file with the Government a report showing the amount of each deposit made into the Debt Service Fund since the next preceding Annual Contribution Date and the balance in the Debt Service Fund as of the date of such report.

(G) At least fifteen days prior to each Annual Contribution Date, the Local Authority shall file with the Government a requisition and voucher for the payment of the current Accruing Annual Contribution.

(H) Except as otherwise provided in subsection (I) and (J) of this Sec. 415, the Government shall pay each Accruing Annual Contribution, or installment thereof, to the Fiscal Agent for deposit in the Debt Service Fund. The Government, at the time of such payment, shall furnish to the Local Authority and to the Fiscal Agent a statement showing (in detail and with appropriate explanations) the amount of the Accruing Annual Contribution, and the method by which the Accruing Annual Contribution will be paid. Each such statement shall include a schedule showing on the basis of information available to the Government, the distribution to be made of the funds in the Debt Service Fund pursuant to Sec. 416.

(I) On each Annual Contribution Date on which any Permanent, Advance, or Temporary Notes issued in connection with any Project with respect to which an annual contribution is then payable remain outstanding and until full repayment, with interest at the applicable Loan Interest Rate, of all expenditures, if any, made by the Government in connection with any such Project pursuant to Sec. 505 hereof, such portion of the Accruing Annual Contribution, which if deposited in the Debt Service Fund would (together with the monies then on deposit in said Fund for the reduction of annual contributions pursuant to this Contract plus the amount of the second installment, if any, of such Accruing Annual Contribution) exceed the sum of (1) an amount equal

Sec. 416. Debt Service Fund

- (A) Upon the delivery of any issue of Bonds, there shall be deposited in the Debt Service Fund the amounts required pursuant to subsections (B), (C), and (D) of Sec. 414.
- (B) Upon the delivery of any Temporary Note issued in connection with any Project which has been Permanently Financed, there shall, except as otherwise approved by the Government, be deposited in the Debt Service Fund any accrued interest pursuant to subsection (C) of Sec. 409.
- (C) Within sixty days after the end of each Fiscal Year, the Local Authority shall deposit in the Debt Service Fund for the reduction of annual contributions:
- (1) All Residual Receipts (not theretofore deposited in the Debt Service Fund or applied as provided in subsections (I) and (J) of Sec. 415) of all Projects;
  - (2) The amount of the interest on each issue of Bonds bearing a Bond Date not later than seventeen months and fourteen days prior to the Annual Contribution Date next following the end of such Fiscal Year, which accrued during such Fiscal Year after (a) the date which is six months after the Bond Date of each such issue of Bonds or (b) the date of delivery of such issue, whichever is the later, up to (a) the Date of Full Availability of the Project financed by such issue or (b) the end of such Fiscal Year, whichever is the earlier; and
  - (3) The amount of any unpaid interest, on Permanent Notes and Temporary Notes issued in connection with any Project which was Permanently Financed on or before the last day of such Fiscal Year by an issue of Bonds bearing a Bond Date not later than seventeen months and fourteen days prior to the Annual Contribution Date next following the end of such Fiscal Year, up to (a) the Date of Full Availability of such Project or (b) the end of such Fiscal Year, whichever is the earlier.
- Upon the occurrence of the event specified in subsection (C) of Sec. 417, deposits shall be made into the Debt Service Fund for the reduction of annual contributions as provided in such subsection.
- (D) Upon receipt from the Government of each Accruing Annual Contribution or installment thereof, such amount shall be deposited in the Debt Service Fund.
- (E) On each interest payment date of the Bonds the Fiscal Agent shall, out of the Debt Service Fund, pay the principal and interest maturing on the Bonds.
- (F) On the first day of the month next after each Annual Contribution Date the Fiscal Agent shall, out of the Debt Service Fund, reimburse the Local Authority for any advance (not theretofore reimbursed) made pursuant to subsection (D) of Sec. 414 on account of interest on issues of Bonds bearing a Bond Date not later than seventeen months and fourteen days prior to such Annual Contribution Date.

(G) On the first day of the month next after each Annual Contribution Date the Fiscal Agent, after (1) paying (or making provision for the payment of) all Bonds and Bond interest which have then become payable or will become due and payable on the next succeeding anniversary of the Bond Date, (2) reimbursing the Local Authority for advances as provided in subsection (F) of this Sec. 416, and (3) making provision for the Bond Service Carry-Over, shall, unless otherwise approved by the Government, apply the balance in the Debt Service Fund in the following order: First, to the payment of interest and principal of the Notes and repayment of the expenditures in the same manner and to the same extent as prescribed in subsection (I) of Sec. 415; and, Second, to transfer to the Advance Amortization Fund. In making provision for the payment of the Bonds and Bond interest which will become due on the next succeeding anniversary of the Bond Date and for the Bond Service Carry-Over, the Fiscal Agent shall consider the second installment, if any, of the Accruing Annual Contribution as if it had actually been paid on the Annual Contribution Date.

Sec. 417. Advance Amortization Fund

- (A) There shall be deposited in the Advance Amortization Fund the following: (1) Bond premiums as provided in subsection (B) of Sec. 414; (2) Temporary Note premiums as provided in subsection (C) of Sec. 409; (3) proceeds of the disposition of real property to the extent provided in subsection (B) of Sec. 308, (4) amounts transferred from the Debt Service Fund as provided in subsection (G) of Sec. 416, (5) proceeds of claims against insurers and others arising out of damage to or destruction of any Project to the extent provided in subsection (E) of Sec. 210, and (6) amounts transferred from the General Fund pursuant to subsection (D) of Sec. 405.
- (B) The Fiscal Agent shall as rapidly as possible apply all monies deposited in the Advance Amortization Fund, as directed by the Local Authority with the approval of the Government, (1) to the payment of interest of the Notes and the repayment of expenditures in the same manner and to the same extent as prescribed in subsection (I) of Sec. 415, (2) to the purchase, at not more than the cost of redemption, of any outstanding Bonds, and (3) to the redemption of any outstanding Bonds on the terms provided in the Bond Resolutions. All Bonds purchased or redeemed by or on behalf of the Local Authority shall be immediately cancelled and shall not be reissued.
- (C) In the event that, sixty-one days after the end of any Fiscal Year, it appears that the balance then on deposit in the Advance Amortization Fund, together with all monies then on deposit in the Debt Service Fund and together with a Fixed Annual Contribution, would be sufficient to fully pay and retire the outstanding Bonds, Permanent Notes, Advance Notes, and Temporary Notes issued in connection with Projects with respect to which annual contributions have then become payable and to repay, with interest at the applicable Loan Interest Rate, all expenditures made by the Government in connection with the development of such Projects pursuant to Sec. 505 hereof, the Fiscal Agent shall on such



date deposited in the Debt Service Fund for the reduction of annual contributions the balance then remaining in the Advance Amortization Fund. Thereafter no further deposits shall be made in the Advance Amortization Fund, and any deposits which would, except for this subsection (C), be made to the Advance Amortization Fund shall be made to the Debt Service Fund for the reduction of annual contributions.

#### Sec. 418. General Limitations on Annual Contributions

(A) Notwithstanding any other provision of this Contract, not more than one annual contribution for each year of the Maximum Contribution Period of any Project shall be paid or made available by the Government for such Project; nor shall any such annual contributions be paid or made available for any such Project subsequent to the end of the Maximum Contribution Period of such Project.

(B) The maximum sum which may be paid or made available as annual contributions pursuant to this Contract in any one year shall not exceed the Fixed Annual Contribution determined pursuant to subsection (c) of Sec. 415.

(C) The Local Authority shall certify as to compliance with the provisions of Sec. 16 (2) of the Act relating to the payment of prevailing salaries and wages prior to the payment of each annual contribution

(D) No annual contribution shall be paid or made available by the Government for any Project (except as provided in subsection (B) of Sec. 504) unless such Project is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision.

(E) No annual contributions shall be paid or made available by the Government for any Project (except as provided in subsection (B) of Sec. 504) in the event of the acquisition of such Project by a third party in any manner including a bona fide foreclosure under a mortgage or other lien.

#### Sec. 419. Pledge of Annual Contributions and Residual Receipts

(A) The amounts required by subsections (B), (C), and (D) of Sec. 414 to be deposited in the Debt Service Fund upon delivery of each issue of Bonds on account of the interest on such issue of Bonds which becomes due and payable six months and twelve months, respectively, from the Bond Date of such issue shall be pledged to the payment of such interest.

(B) The Accruing Annual Contribution which is due and payable on each Annual Contribution Date (including the second installment thereof if any) together with (1) the Residual Receipts as of the end of the next preceding Fiscal Year for all Projects, (2) the aggregate Bond Service Carry-Over, if any, required to be on deposit in the Debt Service Fund on such Annual Contribution Date, and (3) all other amounts required to be deposited in the Debt Service Fund for the reduction of annual contributions during the twelve months period ending with such Annual Contribution Date, shall be pledged as follows:

(1) An amount equal to the principal and interest becoming due and payable during the twelve months period following such Annual Contribution Date on each issue of Bonds bearing a Bond Date not later than seventeen months and fourteen days prior to such Annual Contribution Date shall be pledged for the payment of such principal and interest;

(2) An amount equal to the aggregate Bond Service Carry-Over required to be on deposit in the Debt Service Fund on the next succeeding Annual Contribution Date shall be pledged for the purpose of providing such Carry-Over; and

(3) An amount equal to the sum of the portions of the Fixed Annual Contribution as determined pursuant to clauses (1), (2), (3), and (4) of Sec. 415 (C) shall be pledged for the payment of the interest and principal of the Permanent Notes, Advance Notes, Temporary Notes and repayment of expenditures made by the Government pursuant to Sec. 505 in connection with Projects with respect to which annual contributions have then become payable.

(C) Neither the annual contributions to be made available by the Government hereunder nor the Residual Receipts of the Projects shall, without the approval of the Government, be pledged for any purpose other than as specifically provided in this Contract.

#### Sec. 420. Mortgage and Declaration of Trust

(A) Each Advance Note and each Permanent Note issued in connection with any Project shall be secured, to the extent authorized or permitted by law, by a mortgage, deed or trust, or other equivalent lien upon such Project.

(B) Promptly upon the acquisition of the site of any Project the Local Authority shall execute and deliver an instrument (which may be in the form of a declaration of trust, a trust indenture, or such other document as may be approved by the Government), confirming and further evidencing, among other things, the covenant of the Local Authority not to convey or encumber the Projects except as in this Contract expressly authorized, and shall cause such instrument and all amendments thereof to be duly recorded or filed for record wherever necessary to give public notice of the provisions thereof and to protect the rights and interests of the Government and of the holders from time to time of any of the Bonds. The Local Authority shall furnish the Government appropriate evidence that such recording or filing has been duly effected in accordance with the provisions hereof. From time to time as additional real property is acquired by the Local Authority in connection with the Projects the Local Authority shall promptly amend such instrument to incorporate all such real property under the terms thereof and shall cause such instrument as amended to be recorded or filed for record as aforesaid.

Sec. 421. Funding of Bonds

The Local Authority may, with the approval of the Government, refund any outstanding issue of Bonds upon such terms and conditions as may be mutually agreed upon between the Local Authority and the Government.

Sec. 422. Prohibition of Other Loans

The Local Authority shall not, without the approval of the Government, obtain, from any source whatsoever, any loan in connection with the Projects other than those specifically provided for under this Contract.

Sec. 423. Faith of the United States Pledged to Payment of Annual Contributions

As set forth in the Act, the faith of the United States is solemnly pledged to the payment of all annual contributions contracted for in this Contract, and by the provisions of the Act there is authorized to be appropriated in each Federal fiscal year, out of any money in the Treasury of the United States not otherwise appropriated, the amounts necessary to provide for such payment.

Article V

DEFAULTS, BREACHES, REMEDIES, AND GENERAL PROVISIONS

Sec. 501. Conveyance of Title or Delivery of Possession in Event of Substantial Default

Upon the occurrence of a Substantial Default (as hereinafter in Sec. 506 defined) in respect to the covenants or conditions to which the Local Authority is subject hereunder, the Local Authority shall, at the option of the Government either (a) convey to the Government title to the Projects as then constituted if, in the determination of the Government (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of the Act, or (b) deliver possession to the Government of the Projects as then constituted.

Sec. 502. Delivery of Possession in Event of Substantial Breach

Upon the occurrence of a Substantial Breach (as hereinafter in Sec. 507 defined) in respect to the covenants or conditions to which the Local Authority is subject hereunder, the Local Authority shall, upon demand by the Government, deliver possession to the Government of the Projects as then constituted.

Sec. 503. Reconveyance or Redelivery

(A) If the Government shall acquire title to or possession of the Projects pursuant to Sec. 501 or Sec. 502, the Government shall reconvey or redeliver possession of the Projects, as constituted at the time of such reconveyance or redelivery, to the Local Authority (if it then exists) or to its successor (if a successor exists at the time of such reconveyance or such redelivery) as soon as practicable: (1) after the Government shall be satisfied that all defaults and breaches with respect to the Projects have been cured and that the Projects will, in order to fulfill the purposes of the Act, thereafter be operated in accordance with the terms of this Contract; or (2) after the termination of the obligation of the Government to make annual contributions available unless there are any obligations or covenants of the Local Authority to the Government which are then in default.

(B) Upon any reconveyance or redelivery of the Projects to the Local Authority the Government shall account for all monies which it has received or expended in connection therewith. If



during the period in which the Government has held title to or possession of the Projects, the Government has expended any of its funds in connection with development or improvement of the Projects, the Local Authority at the time of the reconveyance or redelivery of the Projects shall pay to the Government the amount of any such expenditures with interest thereon at the applicable Loan Interest Rate to the extent that the Government has not theretofore been reimbursed for such amount or interest: Provided, That if the obligation of the Government to make annual contributions under this Contract has not terminated and if any portion of the amount which the Local Authority is obligated to pay to the Government upon such reconveyance or redelivery constitutes Development Cost, the Government shall accept, in lieu of payment in cash, an Advance Note or Permanent Note for such portion.

(C) No conveyance of title and reconveyance thereof, or delivery of possession and redelivery thereof, shall exhaust the right to require a conveyance of title or delivery of possession of the Projects to the Government pursuant to Sec. 501 or Sec. 502 upon the subsequent occurrence of a Substantial Default or a Substantial Breach, as the case may be.

#### Sec. 504. Continuance of Annual Contributions

(A) The Government hereby determines that Sec. 501 and Sec. 503 of this Contract include provisions that are in accordance with subsection (a) of Sec. 22 of the Act.

(B) Whenever the annual contributions, pursuant to this Contract, have been pledged by the Local Authority as security for the payment of the principal and interest on the Bonds or other obligations issued pursuant to this Contract, the Government (notwithstanding any other provisions of this Contract) shall continue to make the annual contributions provided in this Contract available for the Projects so long as any of such Bonds or obligations remain outstanding; and, in any event, such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the Projects for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the Bonds or other obligations for which the annual contributions provided for in this Contract have been pledged as security: Provided, That in no case shall such annual contributions be in excess of the maximum sum specified in this Contract, nor for longer than the remainder of the maximum period fixed by this Contract.

#### Sec. 505. Rights and Obligations of Government During Mature Under Sec. 501 or Sec. 502

(A) During any period in which the Government holds title to or possession of the Projects pursuant to Sec. 501 or Sec. 502, it shall (1) exercise diligence in the protection of the Projects, (2) complete the development of any Project or part thereof which is substantially completed at the time of acquisition by the Government of such title or possession, as nearly as practicable in accordance with the provisions of this Contract, and (3) operate all completed Projects or parts thereof (including Projects or parts thereof which may be completed by the Government) as nearly as practicable in accordance with the provisions of this Contract, including the carrying of insurance as described in subsections (A) and (B) of Sec. 305. The Government, at its option, may complete the development of any Project or any part thereof.

(B) During any period in which the Government holds title to or possession of the Projects pursuant to Sec. 501 or Sec. 502, it may, in the name of and on behalf of the Local Authority or in its own name and on its own behalf, exercise any or all of the rights and privileges of the Local Authority pursuant to this Contract and perform any or all of the obligations and responsibilities of the Local Authority pursuant to this Contract.

(C) Neither the conveyance of title to or the delivery of possession of the Projects by the Local Authority pursuant to Sec. 501 or Sec. 502, nor the acceptance of such title or possession by the Government, shall abrogate or affect in any way any indebtedness of the Local Authority to the Government arising under this Contract, and in no event shall any such conveyance or delivery or any such acceptance be deemed to constitute payment or cancellation of any such indebtedness.

#### Sec. 506. Definition of Substantial Default

For the purposes of this Contract a "Substantial Default" is defined to be the occurrence of any of the following events:

(1) If any Project shall cease to be exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivisions, or if the Local Authority without the approval of the Government shall make or agree to make any payments in lieu of taxes in excess of those provided in the Cooperation Agreement; or

(2) If the Local Authority shall default in the observance of any of the provisions of Sec. 313, or if any Project shall be acquired by any third party in any manner including a bona fide fore-

revisions thereof) governing such Fiscal Year or other period; or

(3) If the Local Authority has violated any of the provisions of subsection (C) or (D) of Sec. 401; or

(4) If there is a breach of any of the provisions relating to the payment of prevailing salaries and wages which are required by this Contract to be included in contracts of the Local Authority in connection with the Projects; and such breach is not remedied or appropriate action to remedy the same initiated by the Local Authority within thirty days after the Government has notified the Local Authority of such breach, or if such remedial action is not thereafter diligently prosecuted to conclusion; or

(5) If the Local Authority shall fail (a) to prosecute diligently the development of any Project as required by subsection (B) of Sec. 102 or (b) proceed with the timely development of any Project as required in Part One of this Contract; or if any Project cannot be completed (a) for an amount not to exceed the Maximum Development Cost for such Project or (b) for any other reason; or

(6) If, through any action, failure to act, or fault of the Local Authority, its officers, agents, or employees (including the Fiscal Agent), there shall be a default in the payment of any installment of the principal of or interest on any of the Bonds when the same shall become due (whether at the maturity thereof or by call for redemption or otherwise); and such default shall continue for a period of sixty days; or

(7) If there is a flagrant default or breach by the Local Authority in the performance or observance of any term, covenant, or condition of this Contract; or

(8) If there is any default or breach by the Local Authority in the performance or observance of any term, covenant, or condition of this Contract other than the defaults or breaches enumerated in Sec. 506 or in subsections (1) through (7) of this Sec. 507; and if such default or breach has not been remedied within thirty days (or such longer period as may be set by the Government) after the Government has notified the Local Authority thereof.

Sec. 508. Other Defaults or Breaches, and Other Remedies

(A) Neither the provision of the special remedies set forth in Sec. 501 and Sec. 502 in the event of a Substantial Default or a Substantial Breach, as the case may be, nor any exercise thereof, shall affect or abrogate any other remedy which may be available to the Government in the event of a Substantial Default, Substantial Breach, or any other default or breach; and the Government

closure under a mortgage or other lien held by a third party; or

(3) If the Local Authority shall fail to furnish certification as to compliance with the provisions of Sec. 16 (2) of the Act relating to the payment of prevailing salaries and wages as required by subsection (C) of Sec. 418; or

(4) If the Local Authority shall (a) fail to maintain the low-rent character of each Project as required by Sec. 202, or (b) fail to prosecute diligently the reconstruction, restoration, or repair of any Project as required by Sec. 210; and such failure is not remedied within three months after the Government has notified the Local Authority thereof; or

(5) If the Local Authority shall fail to comply with or to enforce the provisions of Sec. 304 and such failure is not remedied within 30 days after the Government has notified the Local Authority thereof; or

(6) If the Local Authority (a) is in default in the performance or observance of any of the provisions of this Contract or of the Act, which default (except for the provisions of Sec. 504) would have the effect of preventing the Government from paying or making available the annual contributions provided for in this Contract; or (b) shall refuse or neglect to issue and sell its Bonds in the amounts and at the time required by this Contract; or

(7) If the Local Authority shall abandon any Project, or if the powers of the Local Authority to operate the Projects in accordance with the provisions of this Contract are curtailed or limited to an extent which will prevent accomplishment of the objectives of this Contract.

#### Sec. 507. Definition of Substantial Breach

For the purposes of this Contract a "Substantial Breach" is defined to be the occurrence of any of the following events:

(1) If the Local Authority in the development of any Project has violated, or takes any action which threatens to violate, (a) any of the provisions of Part One of this Contract relating to the limitation on the cost for construction and equipment of such Project, or (b) any of the provisions of subsection (F) of Sec. 404; or

(2) If the Local Authority, in violation of subsection (H) of Sec. 407, has (a) at any time after the end of the Initial Operating Period for any Project incurred any Operating Expenditures with respect to such Project except pursuant to and in accordance with an approved Operating Budget for such Project, or (b) during any Fiscal Year or other budget period incurred with respect to any Project total Operating Expenditures in excess of the amount therefor shown in an approved Operating Budget (including

Sec. 510. Rights of Third Parties

(A) The Government covenants and agrees with and for the benefit of the holders from time to time of the Bonds and of interest claims thereunder, that it will pay the annual contributions pledged as security for such Bonds and interest pursuant to this Contract. To enforce the performance by the Government of this covenant such holders, as well as the Local Authority, shall have the right to proceed against the Government by action at law or suit in equity.

(B) Nothing in this Contract contained shall be construed as creating or justifying any claim against the Government by any third party other than as provided in subsection (A) of this Sec. 510.

Sec. 511. Approvals and Notices

(A) Whenever under this Contract approvals, authorizations, determinations, satisfactions, or waivers of the Government are required, such approvals, authorizations, determinations, satisfactions, or waivers shall be effective and valid only when given either (1) by general orders or regulations duly issued from time to time by the Government, or (2) in specific cases, in writing, signed by a duly authorized officer of the Government, and delivered to the Local Authority.

(B) Any notice or demand given under this Contract shall be in writing, and signed by a duly authorized officer of the party giving such notice or demand. Such notice or demand shall be deemed to have been given at the time it shall have been received at the principal office of the party to whom it is directed.

Sec. 512. Waiver or Amendment

Any right or remedy which the Government may have under this Contract may be waived in writing by the Government without the execution of a new or supplemental agreement; or by mutual agreement of the parties hereto this Contract may be amended in writing: Provided, That none of the provisions of this Contract may be modified or amended so as to impair in any way the obligation of the Government to pay any annual contributions which have been pledged as security for any obligations of the Local Authority.

Sec. 513. Titles and Table of Contents

The titles of the several Articles and Sections of this Contract and the table of contents are inserted for convenience of reference

any, during any period in which it holds title to or possession of the Projects pursuant to Sec. 501 or Sec. 502, exercise any other remedy available to it. Neither the definition of certain defaults or breaches as Substantial Defaults or Substantial Breaches, nor the provision of special remedies therefor, shall be deemed to constitute an agreement that any other type of default or breach shall be considered insignificant or without remedy.

(B) If the Local Authority shall at any time be in default or breach, or take any action which will result in a default or breach, in the performance or observance of any of the terms, covenants, and conditions of this Contract, then the Government shall have, to the fullest extent permitted by law (and the Local Authority hereby confers upon the Government the right to all remedies both at law and in equity which it is by law authorized to so confer) the right (in addition to any rights or remedies in this Contract specifically provided) to maintain any and all actions at law or in equity against the Local Authority to enforce the correction of any such default or breach or to enjoin any such default or breach.

(C) The remedies of the Government, whether provided by law or by this Contract, shall be cumulative, and the exercise of any one or more of such remedies shall not preclude the exercise, at the same or different times, of any other such remedies for the same default or breach or for any other default or breach by the Local Authority of any covenant or agreement on its part contained in this Contract.

(D) No act of the Government (except the issuance of a waiver in writing), nor any omission by the Government to act, shall constitute or be construed as a waiver of any provision of this contract or of any default or breach of the Local Authority. No waiver by the Government of a specific default or breach under this Contract shall constitute a waiver of, or an agreement to waive, or a precedent for waiving, any similar default or breach subsequently occurring hereunder.

Sec. 509. Right of Government to Terminate Contract

The Government may at any time by notice to the Local Authority declare this Contract terminated with respect to any Project which at such time has not been Permanently Financed if (1) the Local Authority has made any fraudulent or willful misrepresentation of any material fact in any document or data submitted to the Government as a basis for this Contract or as an inducement to the Government to enter into this Contract, or (2) a Substantial Default or Substantial Breach exists in connection with any of the Projects: provided, That no such termination shall affect any obligation of the Government to make annual contributions available pursuant to subsection (B) of Sec. 504.

only, and shall be disregarded in construing or interpreting any of the provisions of this Contract.

Sec. 514. Severability of Provisions

If any provision of this Contract is held invalid, the remainder of this Contract shall not be affected thereby if such remainder of this Contract would then continue to conform to the terms of the Act.

Sec. 515. Interest of Members, Officers, or Employees of Local Authority, Members of Local Governing Body, or Other Public Officials

(A) Neither the Local Authority nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the Local Authority, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Authority was activated, or any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Local Authority, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the Local Authority and such disclosure is entered upon the minutes of the Local Authority, the Local Authority, with the prior approval of the Government may waive the prohibition contained in this subsection: Provided, That any such present member, officer, or employee of the Local Authority shall not participate in any action by the Local Authority relating to such contract, subcontract, or arrangement.

(B) The Local Authority shall insert in all contracts entered into in connection with any Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of its subcontracts, the following provision:

"No member, officer, or employee of the Local Authority, no member of the governing body of the locality in which the

Project is situated, no member of the governing body of the locality in which the Local Authority was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof."

(C) The provisions of the foregoing subsections (A) and (B) of this Sec. 515 shall not be applicable to the purchase or sale of Temporary Notes or the Bonds, or to the General Depositary Agreement, fiscal agency agreements, the trusteeships authorized under this Contract, or utility services the rates for which are fixed or controlled by a governmental agency.

Sec. 516. Members of Local Authority Not Individually Liable

No member or officer of the Local Authority shall be individually liable on any obligation assumed by the Local Authority hereunder.

Sec. 517. Interest of Member or Delegate to Congress

No member or Delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

Sec. 518. Termination of Obligations

Upon payment in full of all indebtedness of the Local Authority in connection with any Project for which annual contributions are pledged, and upon payment of any other indebtedness of the Local Authority in connection with such Project to the Government, all obligations of the Government and the Local Authority under this Contract with respect to such Project shall cease and determine except as provided in Part One of this Contract and this Contract shall terminate as to such Project.

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
LOW-RENT PUBLIC HOUSING

CONSOLIDATED  
ANNUAL CONTRIBUTIONS CONTRACT

PART ONE

THIS AGREEMENT entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, (herein called the "Date of This Contract") by and between the United States of America (herein called the "Government"), pursuant to the United States Housing Act of 1937 (42 U.S.C. 1401, et seq., which Act as amended to the Date of This Contract is herein called the "Act") and the Department of Housing and Urban Development Act (5 U.S.C. 624), and

(herein called the "Local Authority"), which is a body corporate and politic organized and existing under the laws of the \_\_\_\_\_ of \_\_\_\_\_

(herein called the "State") and a "public housing agency" as defined in the Act.

WITNESSETH

WHEREAS, the parties have entered into various agreements pursuant to which the Local Authority has agreed to undertake the development and operation of certain low-rent housing and the Government has agreed to render financial assistance in connection therewith, which agreements are identified as follows:

; and,

WHEREAS, the Government as of \_\_\_\_\_ conveyed certain housing to the Local Authority for operation as low-rent housing in accordance with the terms and conditions of an agreement or agreements identified as follows:

; and,

WHEREAS, the parties desire to consolidate their undertakings with respect to all such housing under a single agreement;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties do agree as follows:

Sec. 1. Consolidation of Annual Contributions Contracts

The agreements described above are hereby consolidated into this Contract and this Contract is hereby substituted for such agreements, Provided, That, this novation shall in no way effect obligations outstanding, accountings due, or other actions taken pursuant to such agreements, all of which matters shall be administered pursuant to and under this Contract.

Sec. 2. The Projects

(A) The Local Authority, with the financial assistance of the Government, has developed and is undertaking the operation of certain low-rent housing as defined in the Act, identified as follows:

| <u>Project No.</u> | <u>Number of<br/>Dwelling Units</u> | <u>Name of Project</u> |
|--------------------|-------------------------------------|------------------------|
|--------------------|-------------------------------------|------------------------|

(B) The Local Authority is undertaking the operation of certain low-rent housing as defined in the Act, which housing was conveyed by the Government to the Local Authority on the Conveyance Date and is identified as follows:

| <u>Project No.</u> | <u>Conveyance<br/>Date</u> | <u>Number of<br/>Dwelling Units</u> | <u>Name of Project</u> |
|--------------------|----------------------------|-------------------------------------|------------------------|
|--------------------|----------------------------|-------------------------------------|------------------------|

(C) The Local Authority is undertaking the development or acquisition and operation of additional low-rent housing as defined in the Act, as follows:

| <u>Project No.</u> | <u>Estimated Number of Dwelling Units</u> |
|--------------------|-------------------------------------------|
|--------------------|-------------------------------------------|

(D) Each Project identified in subsection (C) is more fully described in a statement (herein called a "Development Program") which has been adopted by the Local Authority.

(E) Each Project identified in this Sec. 2 is herein called a "Project" and, if more than one Project is so identified, are herein collectively called the "Projects".

Sec. 3. Completion of Projects

(A) The Local Authority shall proceed with the timely development of the Projects identified in Sec. 2 in conformity with such dates for the completion of various stages of development as are established for the Projects by the Government and transmitted to the Local Authority by letter.

(B) If the Local Authority shall fail to prosecute diligently the development of any Project as required by subsection (B) of Sec. 102 or to proceed with the timely development, as described in subsection (A) of this Sec. 3, of any Project and the Government has notified the Local Authority of such failure, the Local Authority shall suspend the development of the Project and shall take whatever action is necessary to conserve monies and assets and to stop overhead expenses and losses with respect to such Project. Upon the award of the Main Construction Contract (as defined in Sec. 107) for any Project comprising a number of units less than the number of units specified for such Project in subsection (C) of Sec. 2, the Local Authority shall suspend the development of the remaining number of units and shall take whatever action is necessary to conserve monies and assets and to stop overhead expenses and losses with respect to the remaining number of units unless (1) a Development Program for the remaining number of the units has been submitted by the Local Authority and approved by the Government and (2) this Contract has been amended to (a) specify the reduced number of units and Development Cost of such Project, and (b) identify the remaining number of units by separate project number and specify the Development Cost therefor. Any monies in the General Fund for the development of a Project, suspended in whole or part, in excess of the monies needed therefor under the aforesaid limitations shall be promptly applied to the payment of any Advance or Temporary Notes outstanding in connection with such Project.

(C) The Government shall not be obligated to make any further advances (except such advances which the Government determines to make to the Local Authority for its payment of approvable obligations incurred prior to the notice by the Government to the Local Authority or award of the Main Construction Contract referred to in subsection (B) above) or any annual contributions in respect to any suspended low-rent housing unless and until the Local Authority demonstrates to the satisfaction of the Government that it is willing and able to proceed expeditiously with the development of such suspended low-rent housing and the Government, in its sole discretion, determines at that time that it shall render financial assistance to the Local Authority with respect to such housing.

(D) The amount of the advances made by the Government on account of the loan for an suspended low-rent housing, together with interest thereon at the applicable Loan Interest Rate to the date of repayment, shall be paid from any funds of the Local Authority available therefor, including the annual payment of all receipts in excess of expenditures necessary for management, operation, maintenance, and reasonable reserves in connection with each low-rent housing project (under this Contract or any other contract between the Local Authority and the Government under authority of the Act) presently or hereafter developed or operated with the financial assistance of the Government or conveyed to the Local Authority by the Government, after (1) the payment of all obligations in connection with such project for which annual contributions are pledged or (2) the Administration Period for such project, as the case may be.

(E) The provisions of subsection (B) and (D) of this Sec. 3 shall not be in lieu of any rights or remedies which may accrue to the Government by law or under this Contract but shall be in addition to all such rights and remedies.

Sec. 4. Development Cost of Projects

(A) The Local Authority represents and the Government hereby finds that the Actual Development Cost of each Project identified in subsection (A) of Sec. 2, is as follows:

| <u>Project No.</u> | <u>Actual Development Cost</u> |
|--------------------|--------------------------------|
|--------------------|--------------------------------|



Actual Development Cost Certificates as defined in Sec. 405 have been issued or equivalent action taken with respect to all Projects identified in this subsection (A).

(B) The Local Authority represents and the Government hereby finds that the cost of Projects \_\_\_\_\_, all of which were completed on or before January 1, 1948, excluding the cost of land, demolition, and Nondwelling Facilities, did not exceed \$ \_\_\_\_\_ per family dwelling unit, nor \$ \_\_\_\_\_ per room included in such Projects.

(C) The Local Authority represents and the Government hereby finds that the cost per room for construction and equipment, excluding land, demolition, and Non-dwelling Facilities, for Projects \_\_\_\_\_, all of which were completed after January 1, 1948, did not exceed the cost limitations prescribed in or established pursuant to Sec. 15(5) of the Act.

(D) The Local Authority represents that the Development Cost of the Projects identified in subsection (C) of Sec. 2 shall not exceed the following:

| Project<br>No. | Estimated<br>Total<br>Development<br>Cost | Statutory Development<br>Cost of Construction<br>and Equipment<br>Per Room | Maximum Development<br>Cost of Construction<br>and Equipment<br>Per Room |
|----------------|-------------------------------------------|----------------------------------------------------------------------------|--------------------------------------------------------------------------|
|----------------|-------------------------------------------|----------------------------------------------------------------------------|--------------------------------------------------------------------------|

The respective amounts of such Estimated Total Development Cost, or the latest revisions thereof pursuant to the Provisions of Part Two hereof, are herein called the "Maximum Development Cost" of the respective Projects identified in this subsection (D) or of all such Projects in the aggregate as the context indicates. The Local Authority shall complete the development of such Projects at the lowest possible cost, and in no event at a cost in excess of the aggregate amount of the aforesaid Maximum Development Cost.

(E) The Development Cost per room for construction and equipment of each Project identified in subsection (D) (excluding land, demolition, and Nondwelling Facilities) shall not exceed the Maximum Development Cost of Construction and Equipment Per Room specified for such Project in said subsection. Where such amount exceeds the Statutory Development Cost of Construction and Equipment Per Room for any Project, it has been found pursuant to the Act that in the geographical area of such Project (1) it is not feasible under said Cost limitation to construct such Project without sacrifice of sound standards of construction, design, and livability, and (2) there is an acute need for the housing which will be provided by such Project; therefore, and in pursuance of the authorization in the Act, such higher Cost limitation for the construction and equipment (excluding land, demolition, and Nondwelling Facilities) per room for such Project has been prescribed.

(F) The term "Nondwelling Facilities" as used in this Contract includes non-dwelling structures, spaces, and equipment, and site development, improvements, and facilities located outside building walls (including streets, sidewalks, and sanitary, utility, and other facilities, but excluding separate heating plant structures, equipment, and distribution lines).

#### Sec. 5. Covenant to Develop and Operate

The Local Authority shall develop each Project being or to be developed and shall operate all Projects covered by this Contract in compliance with all provisions of this Contract and all applicable provisions of the Act.

Sec. 6. Cooperation Agreement

With respect to the Projects, in compliance with Sec. 10(a), Sec. 10(h), and Sec. 15(7)(b) of the Act, the Local Authority has entered into, and the Government has approved, an agreement or agreements with the governing body or bodies of the locality or localities in which such Projects are or will be situated, as follows:

| <u>Project No.</u> | <u>Governing Body of:</u> | <u>Date of Agreement</u> |
|--------------------|---------------------------|--------------------------|
|--------------------|---------------------------|--------------------------|

Such agreement or agreements collectively are herein called the "Cooperation Agreement".

Sec. 7. Justification for Projects and Financial Assistance by the Government

The Local Authority has demonstrated to the satisfaction of the Government that there is a need for such low-rent housing which is not being met by private enterprise. The development and operation of each Project in accordance with this Contract will provide decent, safe, and sanitary dwellings within the financial reach of families who are in the lowest income group and who cannot afford to pay enough to cause private enterprise in their locality or metropolitan area to build an adequate supply of decent, safe, and sanitary dwellings for their use (which families are herein called "Families of Low Income"), and the provisions of this Contract are adequate to assure that each such Project will be developed and operated in compliance with all the requirements of the Act. The loan herein provided is necessary to assist the development of each Project, and the annual contributions payable in the amounts, for the period, and in the manner herein provided are necessary to achieve, maintain, and assure the low-rent character of each such Project.

Sec. 8. Tax Exemption of Project

Under the Constitution and Statutes of the State each Project is exempt from all real and personal property taxes which may be levied or imposed by the State, city, county, or other political subdivisions.

Sec. 9. Loans and Annual Contributions

(A) Subject to and in accordance with all the provisions of Part Two hereof, and in order to assist the development of each Project, the Government shall lend to the Local Authority amounts (the total of which is herein called the "Maximum Loan Commitment") as determined pursuant to Sec. 410. Each advance on account of the loan for any Project shall bear interest on the unrepaid principal amount thereof from the date the advance is made to the date of repayment at the rate or rates (herein called "Loan Interest Rate") as the Government determines on the date such advance is made and redetermines on each anniversary of such date to be equal to the rate per annum borne by Government obligations on each such date pursuant to Sec. 20 of the Act: Provided, That the Loan Interest Rate for each advance, which shall be adjusted annually as provided herein, shall not be less than the "Minimum Loan Interest Rate" specified in the following subsection (B) for such Project nor exceed six percent (6%) per annum.

(B) The "Initial Loan Commitment" for each Project which has not been Permanently Financed on the Date of This Contract and the Minimum Loan Interest Rate for all the respective Projects shall be as follows:

| <u>Project No.</u> | <u>Initial Loan Commitment</u> | <u>Minimum<br/>Loan Interest Rate</u> |
|--------------------|--------------------------------|---------------------------------------|
|--------------------|--------------------------------|---------------------------------------|

(C) Subject to and in accordance with all the provisions of Part Two hereof, and in order to assist in achieving and maintaining the low-rent character of each Project, the Government shall make annual contributions to the Local Authority in amounts as determined pursuant to Part Two.

(D) The "Maximum Contribution Percentage" and "Maximum Number of Contributions" for each Project and the "Maximum Contribution Period" for Projects where such period has been determined as of the Date of This Contract shall be as follows:

| <u>Project No.</u> | <u>Maximum Contribution<br/>Percentage</u> | <u>Maximum Number<br/>of Contributions</u> | <u>Maximum Contribution<br/>Period</u> |
|--------------------|--------------------------------------------|--------------------------------------------|----------------------------------------|
|--------------------|--------------------------------------------|--------------------------------------------|----------------------------------------|

The Maximum Contribution Period for any Project where such period has not been determined as of the Date of This Contract shall begin on the date the first annual contribution with respect to such Project is paid pursuant to Sec. 415, and continue for consecutive years of a number equal to the Maximum Number of Contributions for such Project.

(E) The making of this Contract and the undertakings of the loans and annual contributions herein provided for were approved on List Nos. \_\_\_\_\_

Sec. 10. Bonds, Fiscal Year, Annual Contribution Date, and Related Matters

(A) With respect to the Projects, the Local Authority shall authorize, issue, and sell to others than the Government, obligations of the type prescribed in Sec. 411 (herein called the "Bonds"), all as prescribed in Part Two of this Contract, which Bonds shall be in addition to those heretofore issued by the Local Authority as described in the following subsection (B).

(B) As of the Date of This Contract the Local Authority has issued and delivered its Bonds to finance the Development Cost of the Projects, as follows:

| <u>Project No.</u> | <u>Bond Issue</u> | <u>Principal Amount</u> |
|--------------------|-------------------|-------------------------|
|--------------------|-------------------|-------------------------|

(C) Notwithstanding any of the provisions of this Contract:

1. The Fiscal Year under this Contract shall be each period of twelve consecutive months beginning with \_\_\_\_\_.

2. The Annual Contribution Date under this Contract shall be \_\_\_\_\_ of each year: Provided, That the semiannual installments of any Accruing Annual Contribution allocable to any issue of Bonds shall be paid on the fifteenth day of the month prior to each interest payment date of such Bonds.

3. The Fiscal Agent under this Contract shall be as designated in the Bond Resolution.

(D) To further evidence its covenant not to convey or encumber the Projects (except as expressly authorized herein) the Local Authority has executed and delivered certain \_\_\_\_\_ of Trust of record at \_\_\_\_\_ of \_\_\_\_\_ in the \_\_\_\_\_.

Sec. 11. Additional Special Provisions for Project Nos. \_\_\_\_\_

The following additional provisions and modifications of either this Part One of Part Two hereof shall apply to Projects \_\_\_\_\_.

(A) The maintenance and operation of each such Project in strict compliance with the provisions of this Contract, the application or payment of the Residual Receipts of such Projects and payment to the Government of the proceeds of sale of any such Project or part thereof as provided herein, and the performance of all other obligations of the Local Authority herein provided for, constitute the consideration for conveyance of the Projects. The Government hereby determines such consideration to be the fair value of Project \_\_\_\_\_ for housing purposes of a low-rent character. Projects \_\_\_\_\_ are consolidated hereunder pursuant to authority of the so-called Lanham Act (Public Law 849 - 76th Congress, as amended, particularly the Amendments contained in the Housing Act of 1959, Public Law 86-372.)

(B) For the Period (herein called the "Administration Period") from the Date of This Contract to a date which is 40 years after the Conveyance Date of each such Project as specified in Sec. 2(B) the Local Authority shall maintain and operate each such Project in accordance with the provisions of this Contract.

(C) For each Fiscal Year during the Administration Period with respect to which no annual contributions are payable pursuant to Sec. 415 of this Contract, the Local Authority shall pay to the Government all Residual Receipts derived from such Projects which payments shall be made within 60 days after the end of any such Fiscal Year.

(D) If, at any time during the Administration Period, the Government and the Local Authority agree that any such Project or part thereof should be sold, such sale shall be to the highest responsible bidder after advertising, or at fair market value as approved by the Government, and the proceeds of such sale (together with any reserves allocable to such Project in the event such Project is sold in its entirety) shall be paid to the Government.

(E) The Government shall not make any loans or annual contributions pursuant to this Contract with respect to any such Project.

(F) Such Projects shall not constitute Permanently Financed Projects within the meaning of this Contract or any Bond Resolution heretofore or hereafter adopted by the Local Authority.

(G) To the extent that this Section conflicts with any other provision of this Contract, the provisions of this Section shall be controlling with respect to such Projects.

(H) The term "Administration Contract" as used in the instrument of conveyance of each such Project shall, after the Date of This Contract, be construed to mean this Contract.

Sec. 12. National Emergency

(A) The Local Authority shall, (1) during any period of national emergency in connection with national defense as declared by the President of the United States or any period during which a state of war between the United States and any foreign power exists, and (2) upon either a determination by the President of the United States that there is an acute shortage of housing in the locality of any Project which impedes the national defense and that the necessary housing would not otherwise be provided when needed for persons engaged in national defense activities, or a determination by the President of the United States that there is an acute need for housing in the locality of any Project to assure the availability of dwellings for persons engaged in national defense activities, to the maximum extent authorized or permitted under applicable Federal and State laws then in effect, operate such Project to provide housing for persons engaged in national defense activities.

(B) If, by reason of any such emergency or state of war, the construction of any Project is either prohibited or stopped prior to the delivery of Bonds and it appears that such prohibition or stoppage of construction will continue for an extended period, the Local Authority shall refrain from the award of any further Construction or Equipment Contracts, shall take in respect to Construction or Equipment Contracts already let whatever action is reasonably necessary to conserve monies and assets (including termination or settlement of any outstanding Construction or Equipment Contracts), and shall take all other reasonable actions necessary to minimize overhead expenses and losses. Any monies in the General Fund for the development of such Project in excess of the amounts needed therefor under the aforesaid limitations shall, upon request of the Government, be applied to the payment of any Advance Notes or Temporary Notes issued in connection with such Project, and the Government shall not be obligated to make any further advances with respect to work under Construction or Equipment Contracts until such prohibition or stoppage is ended. Nothing in this subsection (B) shall be construed as prohibiting the Local Authority from proceeding with site acquisition and the completion of plans, drawings, specifications, and related documents.

Sec. 13. Incorporation of Part Two in This Contract

For convenience, various provisions of this annual contributions contract are embodied in a separate document designated "Terms and Conditions" being Form HUD-53011, November 1969, which (as modified by Sec. 14) constitutes Part Two of this Contract. The provisions, terms, covenants, and conditions embodied in Part Two are binding upon the parties hereto, with the same effect as if set forth in full in this Part One of this Contract. The term "Contract" as used herein shall mean this annual contributions contract, consisting of this Part One thereof and the Terms and Conditions constituting Part Two thereof.

Sec. 14. Additional Provisions and Modifications

The following additional provisions, and modifications of either Part One or Part Two, as hereafter set forth constitute the only modifications to this Contract:

(A) Nondiscrimination in Housing

(1) In connection with the development and operation of any program or activity of the Local Authority receiving Federal financial assistance under the United States Housing Act of 1937, regardless of when such program or activity, or any portion thereof, was initially covered by any contract for such assistance, and for as long as the real property or structures thereon in such program or activity, or any portion thereof, is used for a purpose for which the Federal financial assistance was extended or for another purpose involving the provision of similar benefits, the Local Authority will comply with all requirements imposed by title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, section 1.1 et seq.; and the requirements of said Department pursuant to said regulations; to the end that, in accordance with that Act and the regulations and requirements of said Department thereunder, no person in the United States shall, on the ground of race, color,

or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any such program or activity. The Local Authority will, by contractual requirement, covenant, or other binding commitment, assure the same compliance on the part of any subgrantee, contractor, subcontractor, transferee, successor in interest, or other participant in the program or activity, such commitment to include the following clause:

"This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, section 1.1, et seq., issued under title VI of the said Civil Rights Act of 1964, and the requirements of the said Department pursuant to said regulations; and the obligation of the /contractor or other/ to comply therewith inures to the benefit of the United States, the said Department, and the Local Authority, any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the /contractor or other./"

(2) The Local Authority shall not, on account of creed, discrimination in the sale, leasing, rental, or other disposition of housing or related facilities (including land) included in any Project or in the use or occupancy thereof, nor deny to any family the opportunity to apply for such housing, nor deny to any eligible applicant the opportunity to lease or rent any dwelling in any such housing suitable to its needs.

(3) Failure of the Local Authority to comply with the requirements of (1) or (2) above shall constitute a Substantial Default under any contract between the Government and the Local Authority covering Federal financial assistance under the United States Housing Act of 1937, and this Section shall be construed to apply so long as any such contract is in force or effect.

Sec. 15. Performance of Conditions Precedent to Validity of this Contract

The Local Authority certifies that all conditions precedent to the valid execution and delivery of this Contract on its part have been complied with, that all things necessary to constitute this Contract its valid, binding, and legal agreement on the terms and conditions and for the purposes herein set forth have been done and have occurred, and that the execution and delivery of this Contract on its part have been and are in all respects duly authorized in accordance with law. The Government similarly certifies with reference to its own execution and delivery of this Contract.

IN WITNESS WHEREOF, the Local Authority and the Government have caused this Contract to be executed and the Local Authority has caused its seal to be hereunto affixed and attested all as of the Date of This Contract first above written.

(SEAL)

ATTEST:

\_\_\_\_\_  
(Local Authority)

By \_\_\_\_\_

UNITED STATES OF AMERICA  
Secretary of Housing and Urban  
Development

By \_\_\_\_\_