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# TERMS AND CONDITIONS;

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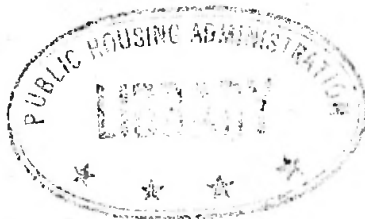
## ANNUAL CONTRIBUTIONS CONTRACT

between

LOCAL AUTHORITY

and

PUBLIC HOUSING ADMINISTRATION



HOUSING AND HOME FINANCE AGENCY  
PUBLIC HOUSING ADMINISTRATION  
WASHINGTON, D. C.

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## ARTICLE I

### DEVELOPMENT

#### Sec. 101. Efficiency and Economy in Development

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.

#### 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 with the objective of meeting the time schedule specified therefor in the applicable Development Program.

#### Sec. 103. Acquisition of Project Sites

(A) The Local Authority, unless the PHA otherwise approves, shall provide by contract for necessary services of experts in their respective fields for land surveys, title information and legal services for land acquisition, appraisals, and option negotiations. Approval of such contracts by the PHA will be required if the fees provided therein exceed the maximum amounts then prescribed by the PHA.

(B) The Local Authority, unless the PHA otherwise approves, shall obtain a formal appraisal on each parcel before taking an option therefor or acquiring title thereto. In no case shall persons who have made such appraisals be employed to negotiate options.

(C) The Local Authority shall not accept any option for, institute any condemnation proceedings for, or otherwise acquire any portion of the site for any Project until it has obtained the approval of the PHA of such action.

(D) 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 PHA, adversely affect the value or usefulness of such site for the Project.

(E) 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 PHA a final report on completed land acquisition, together with two copies of (1) title insurance policies, or (2) title certificates, or (3) attorney's opinions, showing that the

Local Authority has good and valid title, as described in subsection (D) hereof, to the entire site of such Project, and that such deeds or other documents have been duly recorded or filed for record wherever necessary to protect such title.

#### **Sec. 104. Relocation of Site Occupants**

(A) The Local Authority (1) shall undertake all steps necessary to carry out any relocation plan described in the applicable Development Program, and (2) may pay as part of Development Cost the expense thereof, except that no costs of direct financial assistance to site occupants shall be included in Development Cost other than those approved by the PHA.

(B) The Local Authority shall make and preserve a record of the families displaced by the development of the Projects.

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

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

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

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

(B) The Local Authority shall submit to the PHA 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 PHA 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 PHA, at such time or times as the PHA may require, evidence satisfactory to the PHA, 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 PHA a certificate listing such approvals before any Main Construction Contract is let.

#### **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, lawns 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, lawns 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 PHA, 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, lawns 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, lawns and planting, and the furnishing of movable equipment shall be performed under lump-sum contracts, and no part of such work shall, unless approved by the PHA, 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 an amount prescribed by the PHA, 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 PHA for its approval complete plans, drawings, specifications, and related documents, including invitations for bids, bid forms, forms for bonds (including bid, performance, and payment bonds), contract forms, general conditions, special conditions, and schedules of prevailing salary and wage rates: *Provided*, That forms of payment bonds, and schedules of prevailing salary and wage rates shall not be required in connection with contracts covering only the furnishing of material or equipment and not involving work normally done at the site of any Project other than in the delivery of such material or equipment. 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 PHA, 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 PHA.

#### 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 unless (1) the PHA 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 PHA 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.

(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 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 PHA.

(D) Each bidder for any of the Construction or Equipment Contracts (except demolition contracts) shall, unless the PHA 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 PHA otherwise approves, be required to furnish a bid bond or equivalent guarantee in an amount not less than ten 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 Main Construction Contract, or any contract for demolition or for lawns and planting to other than the lowest responsible bidder, nor award any Construction or Equipment Contract covering only the purchase of movable equipment to other than the lowest and best 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 PHA, (2) the PHA, 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 PHA, taking into account all applicable provisions of the Act and of this Contract, shall have authorized the award of such Main Construction Contract.

(C) Construction or Equipment Contracts other than the Main Construction Contract may not be awarded by the Local Authority without approval by the PHA if the amount of such Construction or Equipment Contract exceeds the amount therefor included in the latest Development Cost Budget approved by the PHA.

(D) The Local Authority shall not award any Construction or Equipment Contract to any contractor who is at that time ineligible, under the provisions of any regulations issued by the Secretary of Labor of the United States, to receive an award of such Construction or Equipment Contract.



**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 shall, unless the PHA otherwise approves, require the contractor to furnish a bond or bonds, executed by a financially responsible bonding or surety company or companies, as security for the faithful performance by the contractor of his contract and for the payment of all persons performing work and furnishing materials in connection therewith: *Provided*, That payment bonds shall not be required in connection with contracts covering only the furnishing of material or equipment and not involving work normally done at the site of any Project other than in the delivery of such material or equipment. Such bond or bonds may be either (1) a combined performance and payment bond (except in regard to contracts for furnishing equipment to be installed by others, in which case the bond may be only a performance bond) in an amount not less than the contract price, or (2) a performance bond and a separate payment bond, each in an amount not less than one-half of the contract price: *Provided*, That for any demolition contract, the bond or bonds shall be in a stated amount to be set forth in the demolition specifications, which amount shall be not less than one-half of the cost of the 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.

(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.

**Sec. 113. Liquidated Damages.**

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

**Sec. 114. Contracts Not to be Assigned**

Each Construction or Equipment Contract entered into by the Local Authority 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 shall require that there shall be paid, and the Local Authority shall itself pay, to all architects, technical engineers, draftsmen, and technicians employed in the development of such Project, 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 PHA.

(B) Each contract entered into by the Local Authority in connection with the development of any Project shall require that there shall be paid, and the Local Authority shall itself pay, to all laborers and mechanics employed in the development of such Project not less than the wages prevailing in the locality of such Project, as predetermined by the Secretary of Labor of the United States pursuant to the Davis-Bacon Act (Title 40, U. S. C., Secs. 276a-276a-5).

(C) Each Construction or Equipment Contract 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 Anti-Kickback Regulations (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 of the United States 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."

(D) Each contract entered into by the Local Authority in connection with the development of any Project shall provide that the Local Authority will not make any payment under such contract unless and until the Local Authority has received an affidavit 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 affidavit.

(E) Each contract entered into by the Local Authority in connection with the development of any Project 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. Anti-Kickback Act

All work in connection with the construction, prosecution, completion, or repair of the Projects is subject to the so-called Anti-Kickback Act (Title 18, U. S. C. Sec. 874 and 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 of the United States, 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:

"Anti-Kickback Act. The contractor agrees to comply with the regulations, rulings, and interpretations of the Secretary of Labor of the United States pursuant to the Anti-Kickback Act (Title 18, U. S. C. Sec. 874 and Title 40, U. S. C. Sec. 276c) which makes it unlawful to induce any person employed in the construction or repair of public buildings or public works to give up any part of the compensation to which he is entitled under his contract of employment; and the contractor agrees to insert a like provision in all subcontracts hereunder."

#### Sec. 117. Wage Claims and Adjustments

Each contract entered into by the Local Authority in connection with the development of any Project 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: *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 an affidavit of the contractor that the salaries and wages required under his contract have actually been paid.

#### Sec. 118. Submission of Payrolls and Related Reports

(A) The Local Authority shall require each contractor and subcontractor engaged on any Project to furnish to the United States Department of Labor the names and addresses of all subcontractors on the work at the earliest date practicable, and to report monthly to the Secretary of Labor of the United States (within five days after the close of each calendar month, on forms to be furnished by the United

States Department of Labor), as to the number of persons on their respective payrolls on the particular Project, the aggregate amount of such payrolls, the total man-hours worked, and itemized expenditures for materials.

(B) Each Construction or Equipment Contract shall also require that payroll records be maintained during the course of the work and preserved 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, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. The contractor shall be required to submit weekly to the Local Authority such copies and summaries (on forms prescribed by the PHA and furnished by the Local Authority) of all his payrolls and those of each of his subcontractors, as the Local Authority or the PHA may require. Each such payroll and summary shall be accompanied by an affidavit to the effect 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 of the United States, 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 PHA, and the United States Department of Labor, and to permit such representatives to interview employees during working hours on the job.

#### Sec. 119. Other Labor Provisions

(A) Each Construction or Equipment Contract shall provide that apprentices shall be employed in the development of the Project only under a bona fide apprenticeship program registered with a State Apprenticeship Council which is recognized by the Federal Committee on Apprenticeship, United States Department of Labor, or if no such recognized Council exists in a State under a program registered with the Bureau of Apprenticeship, United States Department of Labor.

(B) Each Construction or Equipment Contract shall provide that no laborer or mechanic employed in the development of the Project shall be discharged or in any other manner discriminated against because such laborer or mechanic has filed any complaint or instituted or caused to be instituted any proceedings or has testified or is about to testify in any proceeding under or relating to the labor standards incorporated in such Construction or Equipment Contract.

(C) All disputes concerning prevailing wage rates or classifications arising under this Contract or under any contract in connection with the development or operation of any Project involving (1) significant sums of money, (2) large groups of employees, or (3) novel or unusual situations shall be promptly reported to the PHA for decision or, at the option of the PHA, referral to the Secretary of Labor of the United States. The decision of the PHA or the Secretary of Labor as the case may be, shall be final. Each Construction or Equipment Contract shall embody the provisions of this subsection (C).

(D) All questions arising under this Contract or under any contract in connection with the development or operation of any Project

relating to the application or interpretation of the Anti-Kickback Act or Sec. 16 (2) of the Act shall be referred to the Secretary of Labor of the United States for ruling or interpretation, and such ruling or interpretation shall be final. Each Construction or Equipment Contract shall embody the provisions of this subsection (D).

(E) Each Construction or Equipment Contract shall provide that 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), (C), or (D) of this Sec. 119.

(F) Each Construction or Equipment Contract shall require the contractor to insert in each of his subcontracts the provisions (appropriately modified) of Secs. 115, 116, 117, and 118, and subsections (A), (B), (C), (D), and (E) of this Sec. 119.

(G) Each Construction or Equipment Contract shall provide that no part of the work shall be subcontracted unless the Local Authority shall have first approved the subcontractor. The Local Authority shall not approve any subcontractor who is at that time ineligible, under the provisions of any regulations issued by the Secretary of Labor of the United States, to receive an award of such subcontract.

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

With respect to all contracts entered into by the Local Authority in connection with the development of any Project the Local Authority (1) shall not, without PHA approval, amend, modify, or consent to any change in any such contract or contractual provision which is required by this Contract to be approved by the PHA, except that the Local Authority may issue change orders under any Construction or Equipment Contract upon such conditions as may be prescribed by the PHA from time to time; (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 PHA, waive, release, or compromise any right or claim which it may have under any such contract.

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

(A) In addition to any general supervision of construction required to be performed by its architects and engineers, the Local Authority shall provide (either through contract with its architects and engineers, or through its own staff or both) competent and adequate architectural and engineering inspection of each Project at all times during the construction thereof.

(B) The PHA reserves the right to inspect, to the extent it deems necessary, all construction work and equipment of each Project in order to check compliance with the contracts (including approved plans and specifications) and with this Contract. The PHA will inform the Local Authority concerning any noncompliance which it may observe, but will not itself issue orders or instructions to the Local Authority's contractors.

(C) Each Construction or Equipment Contract shall require the contractor and his subcontractors to permit, and the Local Authority shall itself permit, the PHA 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 PHA's representatives who may be assigned to the review of such Project.

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

The Local Authority shall pay to the PHA a reasonable fixed fee for providing representatives of the PHA 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 PHA so that such fixed fees in connection with all low-rent housing projects assisted by the PHA 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 PHA, 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 ten 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, 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 shall not be made until (1) the contractor has furnished a release, in a form approved by the PHA, 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) The Local Authority shall not make final payment to any contractor until the PHA has approved the certificate of completion described in subsection (C) of Sec. 124.

#### Sec. 124. 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 PHA.

(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 specified minor items. No work shall be so accepted by the Local Authority unless such acceptance is approved by the PHA or the PHA has waived such approval. The Local Authority may accept work required in the correction of specified minor items without the approval of the PHA.

(C) After acceptance of all work (including the correction of any specified minor items) under each Construction or Equipment Contract, the Local Authority shall submit for approval by the PHA 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 adjustment in price for noncompliances, and shall include in such items) within twelve months after the approval of the final Development Cost Budget submitted pursuant to subsection (D) of Sec. 404.

## 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, and (2) in such manner as to promote serviceability, efficiency, economy, and stability.

**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 lease dwellings in the Projects solely to Families of Low Income as provided in this Contract, and may lease at fair rental value any non-dwelling space or facility in the Projects. The Local Authority shall not, without the approval of the PHA, grant any concessions, licenses, or permits to use any non-dwelling space or facility in any Project without adequate compensation, 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.

**Sec. 204. Maximum Income Limits**

The Local Authority shall establish for the Projects a schedule of maximum income limits for admission and for continued occupancy of families including as a part thereof a statement of standards for determining the net annual income of families (herein called "Net Family Income"). Such schedule of maximum income limits (including the statement of standards for determining Net Family Income) and all revisions thereof shall be subject to the approval of the PHA. The Local Authority may at any time review and revise such maximum income limits, and shall review and revise such maximum income limits if the PHA determines that changed condi-

tions in the locality make such revisions necessary in achieving the purposes of the Act.

**Sec. 205. Rents**

The Local Authority shall establish for the Projects schedules of rents. The rent, including the value or cost to the tenant of water, electricity, gas, other heating and cooking fuels, and other utilities, (herein called "Gross Rent") in such schedules shall be related to Net Family Income, and may also be related to the number of Minors in the family, or the number of persons in the family, or both. The Gross Rent for each family shall be so established as to be within the financial reach of such family, but shall not be less than one-fifth of the Net Family Income at the time of admission or of any redetermination of Net Family Income less an exemption to be established by the Local Authority not in excess of \$100 for each Minor member of the family other than the head of the family and his spouse: *Provided*, That for continued occupancy the Gross Rent may be limited to the Gross Rent of comparable privately owned housing in the locality. Such rent schedules and all revisions thereof shall be subject to the approval of the PHA. The PHA shall approve any schedules of rents which meet the requirements of the Act and of this Contract and which reasonably assure the financial solvency of the Projects.

**Sec. 206. Eligibility for Admission**

(A) The Local Authority shall admit as tenants of the Projects only Families of Low Income who, at the time of admission, meet all of the following requirements:

(1) Who qualify as a family by virtue of being a group of persons regularly living together which consists of two or more persons related by blood, marriage, or adoption. There may be also considered as part of a family other persons who will live regularly as a part of the family group (including members of the family temporarily absent) and whose income and resources are available for use in meeting the living expenses of the group. A group of unrelated persons living together, or a person living alone, does not constitute a family, nor may lodgers be included in a family;

(2) Whose Net Family Income less (a) an exemption to be established by the Local Authority not in excess of \$100 for each Minor member of the family other than the head of the family and his spouse, and (b) an exemption of all amounts paid by the United States Government for disability or death occurring in connection with military service, does not exceed the applicable income limit for admission established by the Local Authority and approved by the PHA;

(3) Who are (a) living in unsafe, insanitary, or overcrowded dwellings, or (b) to be displaced by another low-rent housing project or by a public slum clearance or redevelopment project, or (c) actually without housing, due to causes other than the fault of the tenant, or (d) about to be without housing as the result of a court order of eviction, due to causes other than the fault of the tenant: *Provided*, That the requirements in this subsection (A) (3) shall not be appli-



cable in the case of a family of any Veteran or Serviceman (or of any deceased Veteran or Serviceman) where application for admission to such housing is made not later than five years after March 1, 1949; and

(4) Who are the family of a citizen of the United States: *Provided*, That this requirement shall not be applicable in the case of the family of any Serviceman or the family of any Veteran who has been discharged (other than dishonorably) from, or the family of any Serviceman who died in, the armed forces of the United States within four years prior to the date of application for admission: *Provided further*, That this requirement shall be waived by the PHA to the extent and when subsequent changes in applicable Federal statutes modify or relax such requirement. A family shall be considered to be the family of a citizen of the United States if the family member who signs the lease agreement is a citizen of the United States.

(B) A "Minor" as used in this Contract shall mean a person less than twenty-one years of age.

(C) "Serviceman" as used in this Contract shall mean a person in the active military or naval service of the United States who has served therein on or after September 16, 1940, and prior to July 26, 1947, or at any time on or after April 6, 1917, and prior to November 11, 1918. "Veteran" as used in this Contract shall mean a person who has served in the active military or naval service of the United States at any time on or after September 16, 1940, and prior to July 26, 1947, or at any time on or after April 6, 1917, and prior to November 11, 1918, and who shall have been discharged or released therefrom under conditions other than dishonorable.

#### Sec. 207. Eligibility for Continued Occupancy

The Local Authority shall allow to continue in occupancy in the Projects only Families of Low Income who, at the time of re-examination, meet all of the following requirements:

(1) Who qualify as a family (as described in Sec. 206): *Provided*, That a person or persons remaining as the residuum of a family may be permitted to remain in occupancy;

(2) Whose Net Family Income less (a) an exemption to be established by the Local Authority of either (i) an amount not in excess of \$100 for each Minor member of the family other than the head of the family and his spouse, or (ii) an amount equal to all or any part of the income of such Minor less any deductions in connection with such Minor's income which were taken into account in determining the Net Family Income, and (b) an exemption of all amounts paid by the United States Government for disability or death occurring in connection with military service, does not exceed the applicable income limit for continued occupancy established by the Local Authority and approved by the PHA; and

(3) Who are the family of a citizen of the United States: *Provided*, That this requirement shall not be applicable in the case of the family of any Serviceman or the family of any Veteran who has been discharged (other than dishonorably) from, or the family of any Serviceman who died in, the armed forces of the United States within four years prior to the date of application for admission: *Provided further*, That this requirement shall be waived by the PHA to the extent

and when subsequent changes in applicable Federal statutes modify or relax such requirement. A family shall be considered to be the family of a citizen of the United States if the family member who signs the lease agreement is a citizen of the United States.

#### Sec. 208. Tenant Selection

The Local Authority shall select tenants and assign to them dwellings in accordance with its established procedure which shall in all respects conform to the requirements of the Act and of this Contract. In the selection of tenants the Local Authority shall not discriminate against families, otherwise eligible for admission to the Projects, because their incomes are derived in whole or in part from public assistance; and in initially selecting families for admission to dwellings of given sizes and at specified rents the Local Authority shall (subject to the preferences prescribed in Sec. 209) give preference to families having the most urgent housing needs, and thereafter, in selecting families for admission to such dwellings, shall give due consideration to the urgency of the families' housing needs. The Local Authority shall assign to tenants dwelling accommodations consisting of the number of rooms necessary (but no greater than necessary) to provide decent, safe, and sanitary accommodations for the proposed occupants thereof without overcrowding.

#### Sec. 209. Preferences in Selection of Tenants

(A) The Local Authority, as among Families of Low Income which are eligible applicants for occupancy in dwellings of given sizes and at specified rents, shall extend the following preferences in the selection of tenants:

(1) First, to families which are to be displaced by any low-rent housing project or by any public slum-clearance or redevelopment project initiated after January 1, 1947, or which were so displaced within three years prior to making application to the Local Authority for admission to any low-rent housing; and as among such families first preference shall be given to families of disabled Veterans whose disability has been determined by the Veterans' Administration to be service-connected, and second preference shall be given to families of deceased Veterans and Servicemen whose death has been determined by the Veterans' Administration to be service-connected, and third preference shall be given to families of other Veterans and Servicemen;

(2) Second, to families of other Veterans and Servicemen and as among such families first preference shall be given to families of disabled Veterans whose disability has been determined by the Veterans' Administration to be service-connected, and second preference shall be given to families of deceased Veterans and Servicemen whose death has been determined by the Veterans' Administration to be service-connected.

(B) The requirements in Sec. 208 and in subsection (A) of this Sec. 209, that preferences shall be given "at specified rents" shall be taken to mean that the Local Authority may initially establish two or more ranges of specified rents within which such preferences are to be applied, and the total number of units in the Projects shall be

allocated among such ranges so as to serve as nearly as possible a representative cross section of eligible Families of Low Income in the locality with due regard to the financial solvency of the Projects: *Provided*, That if the Local Authority does not initially establish two or more such specified ranges of rents, it must establish two or more appropriate ranges in the event that, due to the exercise of the preferences, (1) the Projects are not being occupied by a representative cross section of eligible Families of Low Income in the locality, or (2) the financial solvency of the Projects is jeopardized.

#### Sec. 210. Re-examination of Tenant Status

(A) The Local Authority shall at least once a year re-examine the status of each tenant family in order to redetermine the Net Family Income, the citizenship status of the family, and the size and composition of the family: *Provided*, That the length of time between the admission of a family and the first re-examination of such family may be extended to not more than eighteen months if necessary to fit a re-examination schedule established by the Local Authority.

(B) If, upon such re-examination, it is found that the family is not eligible for continued occupancy, the Local Authority shall require such family to move from the Project.

(C) If, upon such re-examination, it is found that the rent being charged the family no longer conforms to the approved rent schedule, the rent shall be adjusted appropriately.

(D) If, upon such re-examination, it is found that the size or composition of the family has changed so that the dwelling occupied by the family contains a number of rooms less or greater than necessary to provide decent, safe, and sanitary accommodations for the occupants thereof without overcrowding, the family shall be required to move into a dwelling of appropriate size as soon as such a dwelling becomes available.

#### Sec. 211. Interim Redeterminations of Net Family Income

If the Local Authority adopts a policy of adjusting, between re-examinations, the rents of families in relation to changes in their income, it shall require all tenant families to report all substantial changes in income as they occur. Upon receipt of any such report the Local Authority shall redetermine the Net Family Income and adjust the rent as necessary to conform to the approved rent schedule. Such redetermination of Net Family Income and adjustment of rent shall not be in lieu of the re-examination required by Sec. 210 unless at the same time the Local Authority makes all of the redeterminations and takes action pursuant thereto as specified in Sec. 210. If the Local Authority requires tenant families to report substantial changes of income as they occur, it shall, upon discovery that a tenant family failed to so report a substantial increase, back charge such tenant family for the additional rent or, in justifiable cases, take such other action as the Local Authority deems advisable.

#### Sec. 212. Applications, Verifications, and Reports as to Admissions and Continued Occupancy

(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 re-examination 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 for continued occupancy, as the case may be, which application shall set forth in adequate detail all data and information necessary to enable the Local Authority to determine (1) whether the family meets the conditions of eligibility for admission or for continued occupancy, as the case may be, (2) the rent to be charged, (3) the size of the dwelling required, and (4) the preference for admission, if any, to which such family is entitled.

(B) The Local Authority shall verify each such application by such methods as may be needed to reasonably assure the Local Authority that such statement is full, true, and complete as of the time of admission or re-examination, as the case may be.

(C) A duly authorized official of the Local Authority shall, with respect to each Project, make periodic written statements to the PHA that an investigation has been made by the Local Authority of each family admitted to such Project during the period covered by such statement, and that, on the basis of the report of said investigation, such official has found that each such family at the time of its admission, (1) had a Net Family Income (less exemptions pursuant to subsection (A) (2) of Sec. 206) not exceeding the maximum income limits theretofore fixed by the Local Authority and approved by the PHA for admission of Families of Low Income to such housing; and (2) either (a) lived in an unsafe, insanitary, or overcrowded dwelling, or (b) was to be displaced by another low-rent housing project or by a public slum-clearance or redevelopment project, or (c) actually was without housing due to causes other than the fault of the tenant, or (d) was about to be without housing as the result of a court order of eviction, due to causes other than the fault of the tenant, or (e) was the family of a Veteran or Serviceman (or of a deceased Veteran or Serviceman) and its application for admission to such housing was made not later than five years after March 1, 1949. The first of such statements with respect to each Project shall cover the Initial Operating Period for such Project and be submitted within thirty days after the end of such Period. Thereafter such statements shall cover successive periods following the Initial Operating Period. No such statement shall cover a period longer than one year, and each such statement shall be submitted within thirty days after the end of the period covered thereby.

(D) The statement made next following the one covering the Initial Operating Period for each Project and each such statement thereafter shall also set forth that, in accordance with the requirement in Sec. 210 hereof, there was made during the period covered by such statement a re-examination of the status of each tenant family occupying a dwelling in the Project, other than families admitted during such period, and that all tenant families found to be ineligible for continued occupancy at the time of such re-examination have moved from the Project or that the Local Authority has taken action to secure their removal. If any such ineligible families have not moved from the Project, the statement shall contain a detailed description of the action taken and proposed to be taken by the Local Authority to secure their removal.

## ARTICLE III

PROVISIONS COMMON TO DEVELOPMENT AND  
OPERATION

## Sec. 301. Compliance With Cooperation Agreement

(A) During the development and operation of the Projects the Local Authority shall perform and comply with all applicable provisions of the Cooperation Agreement, 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 PHA.

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

## Sec. 302. Equivalent Elimination Reports and Notices

(A) If, under the provisions of the Cooperation Agreement, elimination of unsafe or insanitary dwellings is required with respect to any Project, the Local Authority, on the Date of Full Availability of such Project and at least annually thereafter, shall furnish to the PHA a report, in such form as may be prescribed by the PHA, with respect to the unsafe or insanitary dwellings situated in the locality or metropolitan area in which such Project is located that have been eliminated in accordance with the Cooperation Agreement. Not later than the expiration of the period prescribed for such elimination in the Cooperation Agreement, the Local Authority shall furnish to the PHA a report signed by a duly authorized officer of the Local Authority stating whether unsafe or insanitary dwellings have been eliminated to the extent that elimination, under the terms of the Act, must be provided for in the Cooperation Agreement. If such report and accompanying data do not evidence that such elimination of unsafe or insanitary dwellings has been accomplished, the Local Authority shall furnish quarterly thereafter a similar report showing the progress made in respect to such elimination until such elimination has been accomplished.

(B) When unsafe or insanitary dwellings have been eliminated to the extent that elimination, under the terms of the Act, must be provided for in the Cooperation Agreement, the PHA shall promptly give notice of its finding of that fact to the Local Authority; and the giving of such notice shall conclusively evidence the finding by the PHA that such equivalent elimination has been fully performed and accomplished.

## Sec. 303. Domestic and Foreign Materials

Each contract entered into by the Local Authority in connection with the construction, alteration, or repair of any Project shall re-

quire 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 PHA reserves the right, upon request of the Local Authority, to waive the foregoing restrictions if the PHA determines that the use of domestic articles, materials, or supplies is impracticable, or that the cost thereof as determined by the PHA is unreasonable.

## Sec. 304. Non-discrimination in Employment

(A) Each contract (other than contracts or purchase orders for the furnishing of standard commercial articles or raw materials) entered into by the Local Authority in connection with the development or operation of any Project shall require that the contractor and his subcontractors will not discriminate, and the Local Authority in connection with the development or operation of any Project shall not itself discriminate, against any employee or applicant for employment because of race, creed, color, or national origin.

(B) In order to give effect to subsection (A) of this Sec. 304, insofar as it may affect Negro employees on construction work, the Local Authority shall insert in all Construction or Equipment Contracts for the performance of work on the site of a Project a provision that if the contractor pays to Negro skilled labor not less than a stipulated percentage of the total amount paid in any period of four weeks under such Construction or Equipment Contract for all skilled labor (irrespective of individual trades), and if the contractor pays to Negro unskilled labor not less than a stipulated percentage of the total amount paid in any period of four weeks under such Construction or Equipment Contract for all unskilled labor, it shall be considered as prima facie evidence that the contractor has not discriminated against Negro labor during said period. The stipulated percentages shall be based upon the number of Negro skilled and unskilled workers, respectively, employed in construction work in the locality of the Projects in relation to the total number of skilled and unskilled workers so employed, as reflected by the latest Federal Census and other relevant data.

## 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 per cent 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 PHA, 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 PHA, 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 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 PHA not less than forty-five days before the effective date thereof for review to determine compliance with this Contract. Unless disapproved by the PHA within thirty days of the date submitted, the policies and bonds submitted shall be considered as approved by the PHA.

(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 PHA may obtain such insurance on behalf of the Local Authority and the Local Authority shall promptly reimburse the PHA for the cost thereof together with interest at the PHA 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 after advertising a sufficient time previously for proposals, except:

(1) When the amount involved in any one case does not exceed \$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 and private 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. 215, 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 PHA 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 PHA, 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 PHA. 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 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. 418 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 by the PHA, in connection with the development and operation of the Projects, including (1) books of account and other fiscal records in accordance with a classification of accounts prescribed by the PHA, and (2) operation records which shall include applications for admission to, and continued occupancy in, the Projects and the evidence (or notations thereof) used by the Local Authority to verify such applications.

#### **Sec. 310. Financial and Operating Statements**

The Local Authority shall furnish the PHA 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 by the PHA.

#### **Sec. 311. Access to Records and Projects; Audits**

(A) The PHA shall have full and free access, at any time during normal business hours, to the Projects and to all the books and records of the Local Authority, 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

PHA has approved such audit, or (2) such audit is required by law, or (3) the PHA 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 PHA 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 apparatus, 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.

#### **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 PHA arising under this Contract have been fully paid, and money sufficient for the payment of the principal of all outstanding Bonds and of interest thereon to maturity has been deposited in trust for such payment 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 any 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 the Projects in accordance with the provisions of Sec. 203, or (2) convey or otherwise dispose of any real or personal property which is determined to be excess to the needs of the Projects as provided in Sec. 308, or (3) to the extent provided in the applicable Development Program or as otherwise approved by the PHA, convey or dedicate land for use as streets, alleys, or other public rights-of-way, and grant easements for the establishment, operation, and maintenance of public utilities. Nothing in this Sec. 313 shall be construed as prohibiting (1), when specifically authorized or required by this Contract, the adoption of any resolutions, or the execution and delivery of any instrument, or the creation of any lien or encumbrance, or (2) the conveyance of title to or delivery of possession of the Projects pursuant to Sec. 501 or Sec. 502.

ARTICLE IV

**FISCAL PROVISIONS GOVERNING DEVELOPMENT AND OPERATION**

**Sec. 401. Segregation of Funds**

All monies from whatever source received by or held for account of the Local Authority for the purposes of or in connection with the development or operation of the Projects shall at all times be segregated and held in funds and bank accounts separate and distinct from all other funds and bank accounts of the Local Authority relative to any other project or enterprise developed, administered, or operated by the Local Authority: *Provided*, That the Local Authority may deposit such amount as the PHA may approve from the General Fund in a revolving fund provided for the convenient and efficient payment of items chargeable in part to the Projects and in part to any other project or enterprise of the Local Authority, and may thereafter, from time to time, reimburse such revolving fund for such portion of the disbursements made therefrom as is chargeable to the Projects.

**Sec. 402. 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 substantially the form of Form PHA-1999, Rev. June 1, 1951, 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 PHA such executed or conformed copies thereof as the PHA may require. No such General Depositary Agreement shall be terminated except after thirty days notice to the PHA.

(B) All monies received by or held for account of the Local Authority for the purposes of or in connection with the development or operation of the Projects, except such monies as are deposited with the Fiscal Agent 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 constituting the General Fund except (1) the amount held in any revolving fund pursuant to Sec. 401 and (2) reasonable amounts for use by the Local Authority as petty cash or change accounts.

(D) The Local Authority may withdraw monies from the General Fund only for (1) the payment of Development Costs subject to the

provisions of subsection (F) of Sec. 404, (2) the payment of Operating Expenditures incurred during the Initial Operating Period of each Project, (3) the payment of Operating Expenditures incurred after the end of the Initial Operating Period of each Project subject to the provisions of subsection (H) of Sec. 407, (4) the purchase of investment securities as approved by the PHA, (5) other purposes specified in this Contract, and (6) other purposes specifically approved by the PHA. 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 on deposit 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 PHA. 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 PHA, 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 PHA pursuant to this Contract or the Bond Resolutions or in any document or data submitted to the PHA as a basis for this Contract or as an inducement to the PHA to enter into this Contract, then the PHA shall have the right to require any bank or other depositary which holds any monies relating to the development or operation of the Projects (other than monies held by the Fiscal Agent pursuant to this Contract or the Bond Resolutions), to refuse to permit any withdrawals of such monies: *Provided*, That upon the curing of such default or breach the PHA shall promptly rescind such requirement.

**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, land 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 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) the Initial Operating Deficit, if any, and (3) 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. 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 earlier.

(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 PHA 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 PHA approval of the award of contracts for the Main Construction Work of any Project, it shall submit for approval of the PHA 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 equal to five percent (or such lesser percent as may be approved by PHA) of all items (other than contingencies) of the Development Cost Budget. In the event the Main Construction Work for any Project is let in parts or in stages, the PHA may require at each such part or stage a Development Cost Budget subject to similar conditions.

(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 allocable to such classification, or if for any other reason the Local Authority deems it advisable, it may prepare and submit to the PHA 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 PHA 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 PHA shall promptly review each proposed Development Cost Budget and notify the Local Authority of its approval or disapproval thereof. If the PHA 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 PHA 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 of the Projects exceed the aggregate Maximum Development Cost specified in Part One of this Contract.

(F) The Local Authority shall not with respect to any Project incur costs in excess of: (1) the total amount shown in the last previously approved Development Cost Budget, or (2) the amount shown in the last previously approved Development Cost Budget for any of the following main classifications of Development Cost, namely, (a) overhead, (b) planning, (c) site acquisition, (d) site improvement, (e) dwelling construction, (f) dwelling equipment, (g) non-dwelling construction, and (h) non-dwelling equipment, plus the share of the allowance for contingencies allocable to such classification, or (3) the amount shown in the last previously approved Development Cost Budget for miscellaneous authority expense.

#### 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 PHA 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 PHA 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 PHA 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 PHA may give notice to the Local Authority that the amount of the Minimum Development Cost of such Project as of the date of such notice (or, if no Minimum Development Cost has been established, then such amount as the PHA may reasonably determine) shall be considered to be the Actual Development Cost, and such notice shall constitute the Actual Development Cost Certificate 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 PHA. In the event that the Local Authority and the PHA 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: *Provided*, That Operating Receipts shall not include (1) any monies received for the development of such Project, (2) annual contributions, (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 personal property to the extent provided in clause (1) of subsection (C) of Sec. 308, 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. 214.

(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 lieu 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 the payment of the Bonds and Notes, nor any costs incurred as a part of the Development Cost.

(C) The Local Authority may establish out of the Operating Receipts of the Permanently Financed 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 such Projects and as may be approved by the PHA; and similarly, may establish and maintain reserves, as may be approved by the PHA, for each Project which has not been Permanently Financed: *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. 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. 214 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" as of the end of any subsequent period for any Project not then Permanently Financed shall mean the amount by which the Operating Receipts thereof for such period exceeded the Operating Expenditures. "Residual Receipts" for all Permanently Financed 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 PHA.

(B) Within ninety days after the date on which the PHA authorizes the award of the first Main Construction Contract for any superstructures of any Project, the Local Authority shall submit to the PHA for approval a proposed first Operating Budget for such Project: *Provided*, That if the period for completion specified in such Main Construction Contract is one year or longer the submission of the

first Operating Budget may be deferred as long as one hundred fifty days after the date on which the PHA authorizes the award of such Main Construction Contract. 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 PHA 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; and, if less than twelve months have elapsed between the end of the Initial Operating Period and the beginning of such next Fiscal Year, such first Budget shall also govern the operation of such Project during such next Fiscal Year: *Provided*, That if a Fiscal Year has not been established on or before the end of the Initial Operating Period of such Project, such first Budget shall govern for twelve months, and thereafter the Local Authority shall submit and, upon PHA approval thereof, be governed by Operating Budgets for annual periods beginning on the anniversaries of the end of such Initial Operating Period in the same manner as is provided for Fiscal Year Budgets in this Sec. 407, until a Fiscal Year is established.

(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 PHA for approval a proposed Operating Budget for the next Fiscal Year for such Project, which upon approval by the PHA shall govern the operation of such Project for such Fiscal Year.

(D) Not later than sixty days after delivery of the first issue of Bonds, the Local Authority shall submit to the PHA an estimate of the first Accruing Annual Contribution. Thereafter the Local Authority, not less than ninety days before the beginning of each Fiscal Year, shall submit to the PHA an estimate of the Accruing Annual Contribution payable next after the end of such Fiscal Year. Each such estimate shall be known as a "Contribution Estimate", and shall comprise a summary consolidation of the Operating Budgets for all Permanently Financed Projects, together with an estimate of the Operating Receipts and the Fixed Annual Contribution with respect to such Projects.

(E) The PHA 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 PHA disapproves any proposed Operating Budget, the Local Authority shall be so notified in writing and be furnished with a detailed explanation of the reasons for such disapproval.

(F) Failure of the PHA to notify the Local Authority of its 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 PHA to notify the Local Authority of its 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 Contribution Estimate 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.

(G) The Local Authority may at any time submit to the PHA 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 total Operating Expenditures, nor expenditures for management expense, miscellaneous authority expense, establishment of reserves, or operating improvements in excess of the respective amounts therefor shown in an approved Operating Budget (including revisions thereof) governing such Fiscal Year or other budget period: *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 PHA and the Operating Budget shall be amended accordingly.

#### Sec. 408. Advances by PHA

(A) The PHA 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 PHA 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 PHA, which obligation shall bear interest at the PHA 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 as follows: (a) beginning with the first day of the month next following the first Annual Contribution Date on which an annual contribution is due and payable with respect to the increase in Minimum Development Cost represented by the amount of such Note, and annually thereafter, there shall be due and payable an amount (applicable first to interest and then to principal) equal to the

Maximum Contribution Percentage of the original principal amount of such Note, and (b) the final balance, if any, of principal and interest shall be due and payable forty years from the Bond Date of the first issue of Bonds. 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 there is a Substantial Default or a Substantial Breach under this Contract, or (c) after the termination of this Contract.

(C) The PHA shall not be obligated to make any advance against delivery of Advance Notes or Permanent Notes:

(1) Unless a requisition therefor is filed by the Local Authority accompanied by (a) a signed statement demonstrating the need at such time for the monies requested and stating the amount to be used for each of the Projects, and (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; or

(2) If the total of the advance requested plus the principal amount of all Advance Notes and Permanent Notes then outstanding (or in escrow 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.

(D) The PHA shall not be obligated to make any advance against 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 such Note can be fully amortized (both as to principal and interest) within forty years from the Bond Date of the first issue of Bonds by the application annually of an amount not in excess of the Maximum Contribution Percentage of the increase in Minimum Development Cost represented by such Note.

(F) The PHA shall not demand payment of, nor pledge, sell, or otherwise dispose of any Advance Note unless (1) the PHA determines that a Substantial Default or a Substantial Breach exists, or (2) the PHA 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 the Local Authority may, as approved by the PHA, obtain loans from others than the PHA 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 PHA. All Temporary Notes issued in connection with any Proj-

ect which has been Permanently Financed shall mature on a date which is the first day of the month following an Annual Contribution Date.

(B) 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 Note on account of accrued interest shall be paid to the Fiscal Agent for deposit in the Debt Service Fund, or, with the approval of the PHA, to the Paying Agent of such Temporary Note; and all amounts paid by such purchasers on account of premiums shall be paid to the Fiscal Agent for deposit in the Advance Amortization Fund.

(C) At the time of delivery of any Temporary Note, the proceeds of such Note (excepting only (1) the amounts referred to in subsection (B) 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 in the General Fund.

#### Sec. 410. Maximum Loan Commitment

The Maximum Loan Commitment shall be revised from time to time so that at all times the Maximum Loan Commitment shall be equal to (1) the sum of the Maximum Development Cost or the Actual Development Cost of all Projects which have been Permanently Financed, plus (2) a stipulated percentage of the Maximum Development Cost of all other Projects, less (3) the amount of Bonds issued and less (4) any retirements of Advance Notes, Permanent Notes, or Temporary Notes from funds other than (a) the proceeds of any loan obtained by the Local Authority and (b) amounts applied to the reduction of Development Costs pursuant to subsection (A) of Sec. 403: *Provided*, That such Maximum Loan Commitment as so revised shall never exceed the Maximum Loan Commitment specified in Part One hereof. The stipulated percentage shall be the percentage which the Maximum Loan Commitment specified in Part One, bears to the aggregate Maximum Development Cost specified in Part One, rounded upward to the next whole percent.

#### Sec. 411. Establishment of Basic Financial Dates and Description of Bonds

(A) Before offering the first issue of Bonds for sale, the Local Authority shall, with the approval of the PHA, fix a date (which shall be either March 31, June 30, September 30, or December 31) as of which the amount of the first annual contribution with respect to Permanently Financed Projects shall be determined. The twelve months period ending with the date so fixed (as established upon the delivery of such first issue of Bonds) and every subsequent twelve months period shall constitute a "Fiscal Year", which Fiscal Years shall be applicable to all the Projects. The first such annual contribution shall be payable three months and fifteen days, four months and fifteen days, or five months and fifteen days (as the Local Authority may determine with the approval of PHA) after the date so established. The date upon which the first annual contribution is payable and every anniversary thereof shall be known as an "Annual Contribution Date", which Dates shall be applicable to all the Projects. The first issue of Bonds shall be dated as of the date seventeen months and fourteen days prior to the first Annual Contribution Date, and all sub-

sequent 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 Resolutions, and shall otherwise in all respects conform to the provisions of such Bond Resolutions.

(C) Interest on the Bonds of each issue shall be payable semi-annually beginning six months after the Bond Date thereof.

(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 a period ending on the first day of the seventh month after the last Annual Contribution Date as fixed pursuant to Sec. 415 and Sec. 419. The first maturity of each issue of Bonds shall be in an amount to be agreed upon between the Local Authority and the PHA: *Provided*, That such amount together with the 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 seventeen 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 within 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) At such time as the Local Authority and the PHA shall determine to be appropriate, and in any event at times early enough to assure that the monies which must be secured from others than the PHA will be available when needed, the Local Authority shall offer and sell issues of its Bonds. The Local Authority shall in no event offer or sell any issue of Bonds without the prior approval of the PHA. No issue of Bonds to finance any part of the Development Cost of any Project shall be offered for sale prior to the award of construction contracts for all of the superstructures of such Project. No issue of Bonds shall be delivered:

- (1) Prior to the Bond Date thereof; nor
- (2) Prior to the date which is six months after the Bond Date thereof if the Date of Full Availability of any Project financed in whole or in part by such issue of Bonds has occurred or will occur

prior to the date which is six months after such Bond Date, unless (pursuant to the proviso in subsection (G) of Sec. 416 or subsection (F) of Sec. 418) monies will be available to pay the interest upon such Bonds from the date of delivery thereof to the date six months after the Bond Date thereof; nor

(3) Later than the last day of the Fiscal Year immediately preceding the Annual Contribution Date which occurs seventeen months and fourteen days after the Bond Date thereof.

(B) The Local Authority shall sell Bonds in an aggregate principal amount at least equal to an amount which, together with the monies advanced and to be advanced by the PHA pursuant to this Contract, will be sufficient to pay the aggregate Development Cost of the Projects. The Local Authority shall in no event sell any issue of Bonds if the Level Debt Service of such issue exceeds the Maximum Contribution Percentage of the amount of such issue.

(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 PHA for its approval the amount below which the Development Cost of such Project will in no event fall. Upon approval thereof by the PHA the Local Authority shall offer Bonds for sale in such amount. The amount below which the Development Cost of such Project will in no event fall, as established upon delivery of the Bonds in such amount, or the latest revision thereof established upon delivery of a Permanent Note or Temporary Note as hereinafter provided, shall constitute and be known as the "Minimum Development Cost" of such Project. If at any time it appears that the Development Cost of any Project will exceed the Minimum Development Cost theretofore established for such Project the Local Authority shall determine and submit to the PHA 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 any time after the issuance of the Actual Development Cost Certificate for all Projects the Local Authority, in order to refund, in whole or in part, outstanding Advance Notes, Permanent Notes, or Temporary Notes, may 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 PHA.

(F) Prior to the offering of each issue of Bonds the Local Authority shall submit to the PHA 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 PHA a complete transcript of the proceedings and documents necessary to evidence the validity thereof.



**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 PHA (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; and
- (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.

(B) 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 PHA such reports and other data relating to accounts under this Contract as may reasonably be required by the PHA.

**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.

(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 (F) of Sec. 418) 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 pursuant to the proviso in subsection (G) of Sec. 416.

(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".

**Sec. 415. Annual Contributions for Permanently Financed Projects**

(A) The PHA shall make annual contributions to the Local Authority for Permanently Financed Projects as provided in this Sec. 415.

(B) The first such annual contribution 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. Subsequent annual contributions shall be due and payable on the same day of the same month of each year thereafter to and including the thirty-ninth anniversary of the first Annual Contribution Date, subject to the provisions of subsection (A) of Sec. 419.

(C) On each Annual Contribution Date the PHA shall pay (subject to reduction as hereinafter in this Sec. 415 provided) a fixed and uniform annual contribution (herein called the "Fixed Annual Contribution") for all Projects which have then been Permanently Financed by an issue of Bonds bearing a Bond Date not later than seventeen months and fourteen days prior to such Annual Contribution Date. The amount of the Fixed Annual Contribution shall be equal to (1) the sum of the Level Debt Services of all such issues of Bonds as specified in the applicable Bond Resolutions, plus (2) an amount equal to the Maximum Contribution Percentage of the amount by which the aggregate Minimum Development Cost of such Permanently Financed Projects exceeded, as of the last day of the Fiscal Year next preceding such Annual Contribution Date, the aggregate principal amount of such issues of Bonds.

(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 deposited in the Debt Service Fund during the preceding Fiscal Year, 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 PHA, 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 PHA 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 PHA a requisition and voucher for the payment of the current Accruing Annual Contribution in such form as may be prescribed by the PHA.

(H) The PHA shall pay each Accruing Annual Contribution, or installment thereof, to the Fiscal Agent for deposit in the Debt Service Fund. The PHA, 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, whether the Accruing Annual Contribution will be paid in installments, the amount of each installment, and the date on which the second installment will be paid. Each such statement shall include a schedule showing, on the basis of the information available to the PHA, the distribution to be made of the funds in the Debt Service Fund pursuant to Sec. 416.

(I) No Accruing Annual Contribution shall be paid or made available by the PHA pursuant to this Sec. 415 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, and Temporary Notes issued in connection with the Permanently Financed Projects. The obligation of the PHA to pay or make available annual contributions pursuant to this Sec. 415 shall terminate when all of the Bonds, Permanent Notes, and Temporary Notes issued in connection with the Permanently Financed Projects have been fully paid and retired, or when monies sufficient for the payment and retirement thereof have, in accordance with the terms of such Bonds or Notes, been deposited in trust for such purpose.

#### 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 PHA, be deposited in the

Debt Service Fund any accrued interest pursuant to subsection (B) 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 (E) and (F) of Sec. 418) of all Projects which were Permanently Financed on or before the last day of such Fiscal Year;

(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 (D) 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 PHA 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 due and 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 apply the balance in the Debt Service Fund in the following order: First, to the payment of interest and principal then due and payable on Permanent Notes; Second, to the payment of interest then accrued on Temporary Notes issued in connection with Projects which

were Permanently Financed on or before the end of the preceding Fiscal Year; Third, to the payment (as directed by the Local Authority with the approval of the PHA) of installments of principal of Permanent Notes in the inverse order of maturity and of Temporary Notes, issued in connection with Projects which were Permanently Financed on or before the end of the preceding Fiscal Year; and Fourth, to transfer to the Advance Amortization Fund: *Provided*, That all or any portion of the monies which would otherwise be applied to the payment of the principal of Permanent Notes then held by the PHA shall, if so directed by the Local Authority with the approval of the PHA, be withheld by the Fiscal Agent (for not more than twelve months) and be used for (1) payment of interest on Permanent and Temporary Notes to the date of delivery of any Bonds which may be subsequently issued to refund such Notes and (2) payment of interest on such Bonds from the date of delivery thereof to the date which is six months after the Bond Date thereof. 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) Promptly after the delivery of the first issue of Bonds the Local Authority shall enter into, and thereafter maintain, an agreement in substantially the form of Form PHA-2173, June 1, 1951, with the Fiscal Agent, which agreement shall provide for the establishment and maintenance of a fund (herein called the "Advance Amortization Fund") for the deposit and disbursement of monies in connection with the Permanently Financed Projects, as provided in this Contract. Immediately upon the execution of such agreement, the Local Authority shall furnish to the PHA such executed or conformed copies thereof as the PHA may require.

(B) 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 (B) 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. 214, and (6) amounts transferred from the General Fund pursuant to subsection (D) of Sec. 405.

(C) The Fiscal Agent shall as rapidly as possible apply all monies deposited in the Advance Amortization Fund (1) to the payment (as directed by the Local Authority with the approval of the PHA) of installments of principal of Permanent Notes in the inverse order of maturity and of Temporary Notes, issued in connection with Permanently Financed Projects, (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: *Provided*, That, unless otherwise directed by the Local Authority with the approval of the PHA, no Bonds shall be purchased or redeemed prior to the issuance of the Actual Development Cost Certificates for all the Projects. All Bonds purchased or redeemed by or on behalf of the Local Authority shall be immediately cancelled and shall not be reissued.

(D) 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, and Temporary Notes issued in connection with the Permanently Financed Projects, the Fiscal Agent shall on such date deposit 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 (D), be made to the Advance Amortization Fund shall be made to the Debt Service Fund for the reduction of annual contributions.

#### Sec. 418. Annual Contributions for Projects Not Permanently Financed and Use Thereof

(A) The PHA shall make annual contributions available for each Project which is not Permanently Financed as provided in this Sec. 418.

(B) The first annual contribution pursuant to this Sec. 418 shall be determined and made available as of the Date of Full Availability of such Project. Subject to the provisions of Sec. 419, subsequent annual contributions shall be determined and made available as of each anniversary of such Date of Full Availability, or, if an Annual Contribution Date is established under this Contract, as of each Annual Contribution Date: *Provided*, That if such Project is later Permanently Financed the last annual contribution pursuant to this Sec. 418 shall be determined and made available as of the last such date which is not less than one year prior to the date on which the first annual contribution pursuant to Sec. 415 will become due and payable for such Project.

(C) The amount of each annual contribution made available for any Project pursuant to this Sec. 418 shall be the Maximum Contribution Percentage less one per cent of the amount determined by the PHA to be that below which the Development Cost of such Project will in no event fall, which determination shall be made as of the date upon which such annual contribution is made available: *Provided*, That after the issuance of the Actual Development Cost Certificate for such Project each such annual contribution shall be such percentage of the Actual Development Cost.

(D) Each annual contribution made available for any Project pursuant to this Sec. 418 shall be applied immediately to the repayment, with interest, of all monies borrowed by the Local Authority pursuant to this Contract for the development of such Project, and the repayment, with interest at the PHA Loan Interest Rate, of all expend-

itures, if any, made by the PHA in connection with the development of such Project pursuant to Sec. 505 hereof, in the following order: First, to the payment of interest on all such obligations and such expenditures by the PHA; Second, to the repayment of such expenditures by the PHA; Third, to the payment of the principal of Advance Notes issued in connection with such Project; and Fourth, to the payment of the principal of Temporary Notes issued in connection with such Project.

(E) As of the end of the Initial Operating Period of each Project which is not then Permanently Financed, and as of each anniversary thereof, or, if a Fiscal Year is established under this Contract, as of the end of each such Fiscal Year (and in any event within 60 days after each of such dates), all Residual Receipts of such Project not theretofore applied as in this subsection provided shall be applied to the same purposes and in the same manner as are provided for the application of annual contributions pursuant to subsection (D) of this Sec. 418: *Provided*, That if such Project is later Permanently Financed all Residual Receipts of such Project shall thereafter be deposited in the Debt Service Fund as provided in subsection (C) of Sec. 416.

(F) Notwithstanding the provisions of subsections (D) and (E) of this Sec. 418, all or any portion of any annual contribution made available pursuant to this Sec. 418 which would otherwise be applied to the repayment of principal under the Second, Third, and Fourth clauses of such subsection (D) or all or any portion of the Residual Receipts which would otherwise be so applied, may be withheld (for not more than twelve months) and be used for (1) the payment of interest on the obligations and expenditures referred to in such subsection (D) to the date of delivery of any Bonds which may be subsequently issued to refund such obligations and expenditures and (2) deposit with the Fiscal Agent for the payment of interest on such Bonds from the date of delivery thereof to the date six months after the Bond Date thereof.

(G) The PHA hereby determines that the application of Residual Receipts as provided in subsections (E) and (F) of this Sec. 418 will effect a reduction in the amount of subsequent annual contributions.

(H) No annual contribution shall be paid or made available by the PHA pursuant to this Sec. 418 with respect to any Project in an amount in excess of an amount which together with all Residual Receipts of such Project then available will be sufficient to fully pay and retire the outstanding obligations and expenditures referred to in subsection (D) of this Sec. 418. The obligation of the PHA to pay or make available annual contributions pursuant to this Sec. 418 with respect to any Project shall terminate when all such obligations and expenditures have been fully paid and retired, or when monies sufficient for the payment and retirement thereof have been deposited in trust for such purpose, or when such Project has been Permanently Financed.

#### Sec. 419. General Limitations on Annual Contributions

(A) Notwithstanding any other provision of this Contract, not more than forty annual contributions (whether pursuant to Sec. 415

or Sec. 418 of this Contract or pursuant to the provisions of any other contract under authority of the Act) shall be paid or made available by the PHA for any Project; nor shall any such annual contribution be paid or made available for any such Project subsequent to forty years from the date on which the first such annual contribution for such Project was paid or made available; nor shall any two such annual contributions be paid or made available for any such Project for or on account of any twelve-month period or any Fiscal Year.

(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 sum of (1) the Fixed Annual Contribution determined pursuant to subsection (C) of Sec. 415 for Permanently Financed Projects and (2) the annual contributions determined pursuant to subsection (C) of Sec. 418 for Projects which have not been Permanently Financed.

(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 PHA 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 PHA 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. 420. 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 the 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 which were Permanently Financed on or before the last day of such Fiscal Year, (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 Contributions 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 installments of principal and interest becoming due and payable during the twelve months period following such Annual Contribution Date on all Permanent Notes shall be pledged for the payment of such installments of principal and interest.

(C) The annual contributions made available pursuant to Sec. 418 with respect to any Project, together with the Residual Receipts of such Project, shall be pledged for the payment of the interest on and principal of all Advance Notes issued in connection with such Project.

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

#### **Sec. 421. 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 of trust, or other equivalent lien upon such Project.

(B) Promptly upon the acquisition of the site of any Project and in any event prior to the delivery of any issue of Bonds 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 PHA), 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 PHA and of the holders from time to time of any of the Bonds. The Local Authority shall furnish the PHA 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. 422. Refunding of Bonds**

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

#### **Sec. 423. Prohibition of Other Loans**

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

#### **Sec. 424. 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 PHA, either (a) convey to the PHA title to the Projects as then constituted if, in the determination of the PHA (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 PHA 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 PHA deliver possession to the PHA of the Projects as then constituted.

## Sec. 503. Reconveyance or Redelivery

(A) If the PHA shall acquire title to or possession of the Projects pursuant to Sec. 501 or Sec. 502, the PHA 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 PHA 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 PHA to make annual contributions available unless there are any obligations or covenants of the Local Authority to the PHA which are then in default.

(B) Upon any reconveyance or redelivery of the Projects to the Local Authority the PHA shall account for all monies which it has received or expended in connection therewith. If during the period in which the PHA has held title to or possession of the Projects, the PHA 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 PHA the amount of any such expenditures with interest thereon at the PHA Loan Interest Rate to the extent that the PHA has not theretofore been reimbursed for such amount or interest: *Provided*, That

if the obligation of the PHA 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 PHA upon such reconveyance or redelivery constitutes Development Cost, the PHA 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 PHA 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 PHA 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 PHA (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 PHA During Tenure Under Sec. 501 or Sec. 502

(A) During any period in which the PHA 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 PHA 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 PHA) 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 PHA, at its option, may complete the development of any Project or any part thereof.

(B) During any period in which the PHA 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 PHA, shall abrogate or affect in any way any indebtedness of the Local Authority to the PHA 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 PHA 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 foreclosure 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. 419; or

(4) If the Local Authority shall (a) refuse or neglect to issue and sell its Bonds in the amounts and at the times required by this Contract, or (b) fail to maintain the low-rent character of each Project as required by Sec. 202, or (c) fail to prosecute diligently the reconstruction, restoration, or repair of any Project as required by Sec. 214; and such refusal, neglect, or failure is not remedied within three months after the PHA has notified the Local Authority thereof; or

(5) If the Local Authority 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 PHA from paying or making available the annual contributions provided for in 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 revisions thereof) governing such Fiscal Year or other budget period; or

(3) If the Local Authority in the development and operation of any Project has violated any of the provisions of subsection (D) of Sec. 402; or

(4) If there is a breach by the Local Authority of any of the provisions of this Contract relating to the payment of prevailing salaries and wages; and such breach is not remedied within thirty days after the PHA has notified the Local Authority of such breach; or

(5) 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 development or operation of 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 PHA has notified the Local Authority of such breach, or if such remedial action is not thereafter diligently prosecuted to conclusion; or

(6) If the Local Authority shall fail to prosecute diligently the development of each Project as required by subsection (B) of Sec. 102; and such failure is not remedied within three months after the PHA has notified the Local Authority of such failure; or

(7) 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

(8) If there shall be a flagrant breach by the Local Authority in the performance or observance of any other term, covenant, or condition of this Contract, or frequent breaches by the Local Authority in the performance or observance of such other terms, covenants, and conditions over a period of six consecutive months after the PHA shall have notified the Local Authority of any such breach.

#### 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 PHA in the event of a Substantial Default, Substantial Breach, or any other default or breach; and the PHA may, 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 PHA shall have, to the fullest extent permitted by law (and the Local Authority hereby confers upon the PHA 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 PHA, 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 PHA (except the issuance of a waiver in writing), nor any omission by the PHA 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 PHA 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 PHA to Terminate Contract

The PHA may at any time by notice to the Local Authority declare this Contract terminated with respect to any Project which at such time either has not been Permanently Financed or has not reached the Date of Full Availability, if (1) the Local Authority has made any fraudulent or wilful misrepresentation of any material fact in any document or data submitted to the PHA as a basis for this Contract or as an inducement to the PHA to enter into this Contract, or (2) a Substantial Default exists in connection with any of the Projects, or (3) a Substantial Breach exists in connection with any of the Projects: *Provided*, That no such termination shall affect any obligation of the PHA to make annual contributions available pursuant to subsection (B) of Sec. 504.

#### Sec. 510. Rights of Third Parties

(A) The PHA 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 PHA of this covenant such holders, as well as the Local Authority, shall have the right to proceed against the PHA 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 PHA 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 PHA 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 PHA, or (2) in specific cases, in writing, signed by a duly authorized officer of the PHA, 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 PHA may have under this Contract may be waived in writing by the PHA 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 PHA to pay any annual contributions which have been pledged as security for any obligations of the Local Authority.

#### Sec. 513. Titles, Table of Contents, and Index

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

(A) No member, officer, or employee of the Local Authority shall voluntarily acquire any interest, direct or indirect, in the Projects, or in any property included or planned to be included in any Project, or in any contract or proposed contract relating to any Project. If any such member, officer, or employee involuntarily acquires any such interest, or had acquired any such interest prior to appointment or employment as such member, officer, or employee, then such member, officer, or employee shall immediately disclose any such interest in writing to the Local Authority, and such disclosure shall be entered upon the minutes of the Local Authority and a copy thereof promptly furnished to the PHA. Upon any such disclosure, such member, officer, or employee shall not participate in any action by the Local Authority relating to the property or contract in which he may have any such interest. The provisions of this Sec. 515 shall not be applicable to the Temporary Notes, the Bonds, the General Depositary Agreement, nor to trusteeships authorized under this Contract.



(B) The Local Authority shall not enter into any contract for property or materials with any former member of the Local Authority within one year after such person shall have ceased to be such a member.

#### 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 of or Delegate to Congress

No Member of 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. Releases Upon Termination of Contract

Upon termination of the obligation of the PHA to pay annual contributions pursuant to this Contract, whether by the Contract running its full term or by the earlier payment of all the Bonds, Notes, and other obligations of the Local Authority for which annual contributions have been pledged, and upon the full performance by the PHA and the Local Authority of their respective obligations, each to the other, under this Contract, the Local Authority and the PHA shall execute and deliver, each to the other, mutual releases of all further obligations under this Contract.

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