



**Housing Authority of the  
County of Stanislaus**

1701 Robertson Road • P.O. Box 581918  
Modesto, CA 95358-0033

Tel: (209) 557-2009 • Fax: (209) 557-2011

**City of Newman NSP  
(Painting Contract)**

**2248 Orchard Creek  
Newman, CA 95360**

**Bid #NSP-New-105P**

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# **SECTION A**

## **Bid Information**

**NOTICE  
INVITATION FOR BIDS  
Bid # NSP-New-105P  
For  
City of Newman NSP (Painting Contract)**

**The Housing Authority of the County of Stanislaus will receive sealed bids for City of Newman NSP (Painting Contract) located at 2248 Orchard Creek, Newman, CA 95360. Bids will be received at the Housing Authority of the County of Stanislaus, located at 1701 Robertson Road, Modesto, CA 95351, until 10:00 a.m., on May 25, 2010. All bid documents shall be sealed in an envelope which shall be clearly marked with the words "Bid Documents", the bid number, the bidder's name, and the date and time for receipt of the bids.**

Any Bidder who wishes his bid to be considered is responsible for making certain that his bid is received in the Authority's office by the proper time. No oral, telegraphic, electronic, facsimile, or telephonic bids or modifications will be considered unless specified. Bids received after the scheduled Bid Submittal Deadline will be returned unopened. The receiving time in the Authority office will be the governing time for acceptability of bids.

**A mandatory walk-through for this project is scheduled at 10:00 a.m. on Tuesday, May 18, 2010, at 2248 Orchard Creek, CA 95360.** If the contractor's bid is over \$10,000, a certified check, or bank draft (payable to the Housing Authority of the County of Stanislaus), U.S. Government bonds at par value or a bid bond secured by a surety company (authorized to do business in California) equal to five percent (5%) of the bid will be submitted with the bid. Additionally a non-collusive affidavit will be submitted with the contractor's bid. If the contractor's bid is over \$10,000, the successful bidder will be required to furnish and pay for a satisfactory performance and payment bond for one hundred percent of the contract price or, as may be required by law, separate performance and payment bonds, each for fifty percent or more of the contract price, or a twenty percent cash escrow, or a twenty five percent irrevocable letter of credit.

The contractor must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

The Housing Authority reserves the right to reject any or all bids or to waive any informality in the bidding. Bids may be held by the Housing Authority for a period not to exceed 15 days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of the bidders prior to awarding the contract. No bid shall be withdrawn for a period of 60 days subsequent to the opening of bids without the consent of the Housing Authority of the County of Stanislaus.

The Housing Authority of the County of Stanislaus does not discriminate on the basis of disability in the admission of, access to, or treatment of employment in its programs or activities. Michele Gonzales has been designated to coordinate compliance with the non-discrimination requirements contained in section 504 of HUD Federal Regulations.

The Housing Authority of the County of Stanislaus

William A. Fagan  
EXECUTIVE DIRECTOR

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# Instructions to Bidders for Contracts

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### 1. Bid Preparation and Submission

(a) Bidders are expected to examine the specifications, drawings, all instructions, and, if applicable, the construction site (see also the contract clause entitled **Site Investigation and Conditions Affecting the Work** of the General Conditions of the Contract for Construction). Failure to do so will be at the bidders' risk.

(b) All bids must be submitted on the forms provided by the Housing Authority. Bidders shall furnish all the information required by the solicitation. Bids must be signed and the bidder's name typed or printed on the bid sheet and each continuation sheet which requires the entry of information by the bidder. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority. (Bidders should retain a copy of their bid for their records.)

(c) Bidders must submit as part of their bid a completed "Representations, Certifications, and Other Statements of Bidders" form.

(d) All bid documents shall be sealed in an envelope which shall be clearly marked with the words "Bid Documents," the Invitation for Bids (IFB) number, any project or other identifying number, the bidder's name, and the date and time for receipt of bids.

(e) If this solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "No Bid" in the space provided for any item on which no price is submitted.

(f) Unless expressly authorized elsewhere in this solicitation, alternate bids will not be considered.

(g) Unless expressly authorized elsewhere in this solicitation, bids submitted by telegraph or facsimile (fax) machines will not be considered.

### 2. Explanations and Interpretations to Prospective Bidders

(a) Any prospective bidder desiring an explanation or interpretation of the solicitation, specifications, drawings, etc., must request it at least 7 days before the scheduled time for bid opening. Requests may be oral or written. Oral requests must be confirmed in writing. The only oral clarifications that will be provided will be those clearly related to solicitation procedures, i.e., not substantive technical information. No other oral explanation or interpretation will be provided. Any information given a prospective bidder concerning this solicitation will be furnished promptly to all other prospective bidders as a written amendment to the solicitation, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to other prospective bidders.

(b) Any information obtained by, or provided to, a bidder other than by formal amendment to the solicitation shall not constitute a change to the solicitation.

### 3. Amendments to Invitations for Bids

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date on the bid form, or (3) by letter, telegram, or facsimile, if those methods are authorized in the solicitation. The Housing Authority must receive acknowledgement by the time and at the place specified for receipt of bids. Bids which fail to acknowledge the bidder's receipt of any amendment will result in the rejection of the bid if the amendment(s) contained information which substantively changed the Housing Authority's requirements.

(c) Amendments will be on file in the offices of the Housing Authority and the Architect at least 7 days before bid opening.

### 4. Responsibility of Prospective Contractor

(a) The Housing Authority will award contracts only to responsible prospective contractors who have the ability to perform successfully under the terms and conditions of the proposed contract. In determining the responsibility of a bidder, the Housing Authority will consider such matters as the bidder's:

- (1) Integrity;
- (2) Compliance with public policy;
- (3) Record of past performance; and
- (4) Financial and technical resources (including construction and technical equipment).

(b) Before a bid is considered for award, the bidder may be requested by the Housing Authority to submit a statement or other documentation regarding any of the items in paragraph (a) above. Failure by the bidder to provide such additional information shall render the bidder non-responsible and ineligible for award.

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## 5. Late Submissions, Modifications, and Withdrawal of Bids

(a) Any bid received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it:

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the Housing Authority that the late receipt was due solely to mishandling by the Housing Authority after receipt at the Housing Authority; or

(3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and observed holidays.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) of this provision.

(c) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the bid, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, bidders should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(d) The only acceptable evidence to establish the time of receipt at the Housing Authority is the time/date stamp of Housing Authority on the proposal wrapper or other documentary evidence of receipt maintained by the Housing Authority.

(e) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, bidders should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and Failure by a bidder to acknowledge receipt of the envelope or wrapper.

(f) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful bid that makes its terms more favorable to the Housing Authority will be considered at any time it is received and may be accepted.

(g) Bids may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before the exact time set for opening of bids; provided that written confirmation of telegraphic or facsimile withdrawals over the signature of the bidder is mailed and postmarked prior to the specified bid opening time. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

## 6. Bid Opening

All bids received by the date and time of receipt specified in the solicitation will be publicly opened and read. The time and place of opening will be as specified in the solicitation. Bidders and other interested persons may be present.

## 7. Service of Protest

(a) Definitions. As used in this provision:

"Interested party" means an actual or prospective bidder whose direct economic interest would be affected by the award of the contract.

"Protest" means a written objection by an interested party to this solicitation or to a proposed or actual award of a contract pursuant to this solicitation.

(b) Protests shall be served on the Contracting Officer by obtaining written and dated acknowledgement from —

**Executive Director  
Housing Authority of the County of Stanislaus  
1701 Robertson Road  
Modesto, Ca 95351**

(c) All protests shall be resolved in accordance with the Housing Authority's protest policy and procedures, copies of which are maintained at the Housing Authority.

## 8. Contract Award

(a) The Housing Authority will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Housing Authority considering only price and any price-related factors specified in the solicitation.

(b) If the apparent low bid received in response to this solicitation exceeds the Housing Authority's available funding for the proposed contract work, the Housing Authority may either accept separately priced items (see 8(e) below) or use the following procedure to determine contract award. The Housing Authority shall apply in turn to each bid (proceeding in order from the apparent low bid to the high bid) each of the separately priced bid deductible items, if any, in their priority order set forth in this solicitation. If upon the application of the first deductible item to all initial bids, a new low bid is within the Housing Authority's available funding, then award shall be made to that bidder. If no bid is within the available funding amount, then the Housing Authority shall apply the second deductible item. The Housing Authority shall continue this process until an evaluated low bid, if any, is within the Housing Authority's available funding. If upon the application of all deductibles, no bid is within the Housing Authority's available funding, or if the solicitation does not request separately priced deductibles, the Housing Authority shall follow its written policy and procedures in making any award under this solicitation.

(c) In the case of tie low bids, award shall be made in accordance with the Housing Authority's written policy and procedures.

(d) The Housing Authority may reject any and all bids, except other than the lowest bid (e.g., the apparent low bid is unreasonably low), and waive informalities or minor irregularities in bids received, in accordance with the Housing Authority's written policy and procedures.

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(e) Unless precluded elsewhere in the solicitation, the Housing Authority may accept any item or combination of items bid.

(f) The Housing Authority may reject any bid as nonresponsive if it is materially unbalanced as to the prices for the various items of work to be performed. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

(g) A written award shall be furnished to the successful bidder within the period for acceptance specified in the bid and shall result in a binding contract without further action by either party.

**9. Bid Guarantee** (applicable to construction and equipment contracts exceeding \$10,000)

All bids must be accompanied by a negotiable bid guarantee which shall not be less than five percent (5%) of the amount of the bid. The bid guarantee may be a certified check, bank draft, U.S. Government Bonds at par value, or a bid bond secured by a surety company acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. In the case where the work under the contract will be performed on an Indian reservation area, the bid guarantee may also be an irrevocable Letter of Credit (see provision 10, Assurance of Completion, below). Certified checks and bank drafts must be made payable to the order of the Housing Authority. The bid guarantee shall insure the execution of the contract and the furnishing of a method of assurance of completion by the successful bidder as required by the solicitation. Failure to submit a bid guarantee with the bid shall result in the rejection of the bid. Bid guarantees submitted by unsuccessful bidders will be returned as soon as practicable after bid opening.

**10. Assurance of Completion**

(a) Unless otherwise provided in State law, the successful bidder shall furnish an assurance of completion prior to the execution of any contract under this solicitation. This assurance may be [Contracting Officer check applicable items] —

(1) a performance and payment bond in a penal sum of 100 percent of the contract price; or, as may be required or permitted by State law;

(2) separate performance and payment bonds, each for 50 percent or more of the contract price;

(3) a 20 percent cash escrow;

(4) a 25 percent irrevocable letter of credit; or,

(5) an irrevocable letter of credit for 10 percent of the total contract price with a monitoring and disbursements agreement with the IHA (applicable only to contracts awarded by an IHA under the Indian Housing Program).

(b) Bonds must be obtained from guarantee or surety companies acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. Individual sureties will not be considered. U.S. Treasury Circular Number 570, published annually in the Federal Register, lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of companies listed in this circular is mandatory. Copies of the circular may be downloaded on the U.S. Department of Treasury website <http://www.fms.treas.gov/c570/index.html>, or ordered for a minimum fee by contacting the Government Printing Office at (202) 512-2168.

(c) Each bond shall clearly state the rate of premium and the total amount of premium charged. The current power of attorney for the person who signs for the surety company must be attached to the bond. The effective date of the power of attorney shall not precede the date of the bond. The effective date of the bond shall be on or after the execution date of the contract.

(d) Failure by the successful bidder to obtain the required assurance of completion within the time specified, or within such extended period as the Housing Authority may grant based upon reasons determined adequate by the Housing Authority, shall render the bidder ineligible for award. The Housing Authority may then either award the contract to the next lowest responsible bidder or solicit new bids. The Housing Authority may retain the ineligible bidder's bid guarantee.

**11. Preconstruction Conference** (applicable to construction contracts)

After award of a contract under this solicitation and prior to the start of work, the successful bidder will be required to attend a preconstruction conference with representatives of the Housing Authority and its architect/engineer, and other interested parties convened by the Housing Authority. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract (e.g., Equal Employment Opportunity, Labor Standards). The Housing Authority will provide the successful bidder with the date, time, and place of the conference.

## **DIRECTIONS FOR PREPARATION & EXECUTION BID BOND, PERFORMANCE BOND, LABOR & MATERIAL BOND**

1. The surety on the bond for any bid or for the performance of the contract shall be any corporation authorized and qualified to act as surety.
2. The name, including full Christian name, and residence of each, individual party to the bond shall be inserted in the body thereto and each such party shall sign the bond with his usual signature on the line opposite the scroll seal, and if signed in Maine, Massachusetts, or New Hampshire, an adhesive seal shall be affixed opposite the signature.
3. If the principals are partners, their individual names shall appear in the body of the bond, with the recital that they are partners composing a firm, naming it, and all the members of the firm shall execute the bond as individuals.
4. The signature of a witness shall appear in the appropriate place, attesting the signature of each individual party to the bond.
5. If the principal or surety is a corporation, the name of the Department of Labor in which incorporated shall be inserted in the appropriate place in the body of the bond, and said instrument shall be executed and attested under the corporate seal as indicated in the form. If the corporation has no corporate seal the fact shall be Stated, in which case a scroll or adhesive seal shall appear following the corporate name.
6. The official character and authority of the person or persons executing the bond for the principal, if a corporation, shall be certified by the secretary or assistant secretary, according to the form attached thereto. In lieu of such certificate there may be attached to the bond copies of so much of the records of the corporation as will show the official character and authority of the officer signing, duly certified by the secretary or assistant secretary, under the corporate seal, to be true copies.
7. If the officer of the corporate surety has an official seal, it shall be affixed, otherwise the proper certificate as to his official character shall be furnished.
8. The certificate of sufficiency shall be signed by an officer of a bank or trust company, a judge or clerk of a court of record, or any other, officer of the United States acceptable to the Local Authority. Further certificates as to the financial qualifications of the sureties may be required from time to time, which certificates must be based on the personal investigation of the certifying officers at the time of the making thereof, and not upon prior certificates.
9. The date of the bond must not be prior to the date of the Instrument for which it is given.
10. A copy of the power-of-attorney to local representatives of the bonding company must be attached to each copy of any bid bond or labor and material bond submitted to the Local Authority

## INSURANCE REQUIREMENTS

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of or failure to perform the work hereunder by the Contractor, its agents, representatives, employees, or sub-contractors.

### MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (*occurrence form CG 0 0110 01*).
2. Insurance Services Office Additional Insured form (*CG 20 37 or CG 20 26*).
3. Insurance Services Office form number CA 00 01 06 92 covering Automobile Liability Code 1 (*any auto*), [*require if scope of work includes driving on Authority property*].
4. Workers' Compensation insurance as required by state law and Employer's Liability Insurance.
5. Builder's Risk insurance coverage for all risks of loss (*in compliance with HUD guidelines*).

### MINIMUM LIMITS OF INSURANCE

Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for Bodily Injury, Personal Injury, and Property Damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location or the general aggregate limit shall be twice the required occurrence limit.

**NOTE: If this contract deals with hazardous materials or pollutants (i.e. lead based paint, asbestos, etc.) the Contractor shall carry Contractor's Pollution Liability insurance to cover the pollution exposures. The Authority shall be named as Additional Insured on the policy.**

2. Automobile Liability: \$1,000,000 per accident for Bodily Injury and Property Damage.
3. Workers' Compensation (*statutory*) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
4. Builder's Risk: Completed value of the project.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

### DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority, its officers, officials, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the Authority guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

1. The Authority, its officers, officials, employees, and volunteers are to be covered as additional insured with respect to liability on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and with respect to liability arising out of work or operations performed by the Contractor; or arising out of automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General Liability coverage can be provided in the form of an appropriate endorsement to the Contractor's insurance or as a separate Owner's policy.
2. For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the Authority, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Authority, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance.
3. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Authority.

ADDRESS CANCELLATION NOTICE AND ISSUE ENDORSEMENT TO:

Housing Authority of the County of Stanislaus  
William A. Fagan  
P.O. Box 581918  
Modesto, CA 95358-0033

4. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the Contractor.

Builder's Risk policies shall contain the following provisions:

1. The Authority shall be named as loss payee.
2. The insurer shall waive all rights of subrogation against the Authority, its officers, officials, employees and volunteers.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A. M. Best's rating of no less than B+:VI. Bidders must provide written verification of their insurer's rating.

## **VERIFICATION OF COVERAGE**

Contractor shall furnish the Authority with original certificates and amendatory endorsements effecting coverage required by these specifications. The endorsements should conform fully to the requirements. All certificates and endorsements are to be received and approved by the Authority in sufficient time before work commences to permit Contractor to remedy any deficiencies. The Authority reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

## **SUB-CONTRACTORS**

Use of sub-contractors must be pre-approved by the Authority. Contractor shall include all sub-contractors as insureds under its policies or shall furnish separate insurance certificates and endorsements for each sub-contractor in a manner and in such time as to permit the Authority to approve them before sub-contractors' work begins. All coverages for sub-contractors shall be subject to all of the requirements stated above.

**NOTE:** If a subcontractor will be hired to perform hazardous material remediation, that subcontractor will name the Authority, its officers, officials, employees and volunteers as additional insureds on its Pollution Liability insurance policy by endorsement. Such policy will provide coverage for the hazardous material work and other hazardous material operations.

**NOTE:** The General Contractor's Commercial General Liability insurance should not include CG 2294 or CG 2295 as these endorsements will eliminate the General Contractor's insurance coverage for its work where the damaged work or the work out of which the damage arises was performed by a sub-contractor.

# **SECTION B**

2248 Orchard Creek  
Paint Contract

## **Bid Documents**

*All forms in this section must  
be submitted with the bid.*

## SUMMARY OF WORK

Project Address: 2248 Orchard Creek Dr., Newman

This is a home: built in 1990; with Three bedrooms and two baths; with approximately 1,692 sq. ft. of living space and is a single-family dwelling.

### Scope of Work

#### A. Interior

1. Prime (as needed) and paint interior (ceiling, baseboard, trim, walls, doors, closet doors and closets interior)

2. Paint kitchen cabinets \$ \_\_\_\_\_

#### B. Exterior

1. Prime (as needed) and paint exterior \$ \_\_\_\_\_

### PAINTING INSTRUCTIONS

#### A. Interior Painting

##### 2. Materials

A. All paints, primers, sealers, stains and varnishes will be provided by the Housing Authority.

##### 2. Protection

A. Before painting, remove hardware, accessories, plates, lighting fixtures and similar items or provide ample protection of such items. Upon completion of each space, replace these items.

B. Wherever painting and finish work is being performed, floors, surfaces, appliances and other items shall be carefully protected from damage by the painting work. Clean drop cloths must be used by the contractor wherever necessary.

##### 3. Preparation

A. Clean all grease and dirt from surfaces to ensure proper adhesion of new paint. Heavily soiled surfaces shall be washed with Trisodium Phosphate (T.S.P.) or other approved cleaning product. Completely rinse all cleaned areas to remove chemicals from surfaces prior to applying paint products.

B. Remove all loose paint or other imperfections by sanding and or scraping prior to application of new paint. Sand and prime any previously finished glossy surfaces on doors and cabinets. Remove all nails, screws and hooks from walls and ceilings and fill all holes. Repair cracks and holes in walls and ceilings. Apply texture to all repaired areas to blend with adjacent wall/ceiling area. Caulk any open joints or gaps between surfaces to provide a clean, finished appearance.

C. Surfaces shall be clean and dry prior to painting and finishing.

4. Application

- A. Prime and seal all repair and patchwork, watermarks, smoke stains, pen marks or other blemishes that could “bleed through” the finish coat prior to application of the finish coat. Prime and seal all new and unfinished surfaces such as doors, trim and other woodwork.
- B. Paint all designated surfaces with a single finish coat. A second coat will be provided where a single coat is insufficient to cover the existing paint.
- C. Paint materials shall be used as they come from the can. If thinning is required, it will be done according to the manufacturer’s instructions printed on the label.
- D. All paint products will be applied according to paint manufacturer’s specifications and in accordance with the highest trade standards. Paint will be applied by brush, roller or sprayer to provide a uniform finish and will be free of voids, brush marks, runs, drips, sags or other defects.
- E. Voids, brush marks, runs, drips, sags and other defects shall be satisfactorily touched-up or re-painted as necessary to produce a high quality finished product.

5. Cabinet Refinishing

- A. Clean all grease and dirt from surfaces prior to application of stain and varnish. Sand all glossy surfaces to ensure proper adhesion of new varnish.
- B. All stains and finish products will be applied according to the manufacturer’s specifications and in accordance with the highest trade standards.
- C. Finish products will be applied by brush, roller or sprayer to provide a uniform finish and will be free of voids, brush marks, runs, drips, sags or other defects.
- D. Voids, brush marks, runs, drips, sags and other defects shall be satisfactorily touched-up or re-painted as necessary to produce a high quality finished product.

6. Cleanup

- A. Accidental spatter, over-spray or spills shall be immediately cleaned and the damaged surfaces restored to original condition.
- B. Materials left at the work site will be stored in designated areas only.
- C. Upon completion of painting work, all rubbish, paint cans, supplies, and accumulated materials will be removed from the work site and the work site left in clean and orderly condition.

**B. Exterior Painting**

1. Materials

- A. All paints and primers will be provided by the Housing Authority.
- B. Home will be painted in accordance with the attached Paint Schedule.

2. Protection

- A. Before painting, remove hardware, accessories, plates, lighting fixtures and similar items or provide ample protection of such items. Upon completion of each space, replace these items.
- B. Wherever painting and finish work is being performed, fixtures, plants, concrete flatwork, roofing,

- brick and stone veneer and all other adjacent surfaces shall be carefully protected from damage by the painting work. Drop cloths shall be provided and used wherever necessary.
- C. Areas affected by work shall be blocked off and properly posted with appropriate informational signs.

3. Preparation

- A. Thoroughly pressure wash the entire building, including surfaces which will not be painted to remove all dirt, grease, mildew, soap or oil film to ensure proper adhesion of new paint.
- B. Remove all loose paint or other imperfections by sanding and or scraping prior to application of new paint. Completely remove any existing deteriorated caulk and re-caulk any open joints or gaps between surfaces to provide a clean, finished appearance.
- C. Surfaces shall be clean and dry prior to painting and finishing.

5. Application

- A. Prime and seal all new or bare wood surfaces with the paint provide prior to the application of the finish coat.
- B. Paint all designated surfaces with two coats of the paint products. Additional coats will be provided where two coats are insufficient to cover the existing paint.
- C. Paint materials shall be used as they come from the can. If thinning is required, it will be done according to the manufacturer's instructions printed on the label.
- D. All paint products will be applied according to paint manufacturer's specifications and in accordance with the highest trade standards. Paint will be applied by brush, roller or sprayer, to provide a uniform finish and will be free of voids, holidays, brush marks, runs, drips, sags or other defects.
- E. Voids, holidays, brush marks, runs, drips, sags and other defects shall be satisfactorily touched-up or re-painted as necessary to produce a high quality finished product.

5. Cleanup

- A. Accidental spatter, over-spray or spills shall be immediately cleaned and the damaged surfaces restored to perfect condition.
- B. Upon completion of work in each area, materials, supplies, debris and other rubbish shall be removed and the areas left in clean and orderly condition.
- C. The work site will be cleaned at the end of each work day and left in clean and orderly condition. Materials left at the work site will be stored in designated areas only.
- D. Upon completion of painting work, all rubbish, paint cans, supplies, and accumulated materials will be removed from the work site and the work site left in clean and orderly condition.

6. Guarantee

- A. The contractor will provide a guarantee of the painting work, in writing, against peeling, cracking, or blistering for a period of two (2) years from the time the Notice of Completion is filed.

**NOTE: PAINTING**

The work includes the furnishing of all labor, materials, tools and equipment necessary to professionally prepare and paint all interior & exterior doors, cabinets, trim work, fascia, siding, eaves and gutters located at the address listed above. All work shall be done in a neat and accurate manner in accordance with the highest trade standards. Surfaces not being painted including fixtures, flooring, windows, vinyl wall base, appliances, plants, concrete flatwork, roofing, brick and stone veneer and all other adjacent surfaces will be protected from damage or soiling

The contractor will provide all of the labor, tools, materials and equipment necessary to accomplish the work in accordance with the specifications.

Length of the contract will be 30 days.

The contractor will be responsible for obtaining all required permits for the work and provide the owner with the closed out permits at the conclusion of the work.

The contractor will need to possess the appropriate license(s) for the type of work being performed.

**FORM OF BID**

TO: Housing Authority of the County of Stanislaus

1. The undersigned, having familiarized himself with the local conditions affecting the cost of the work and with the specifications, including Invitation for Bids, Instructions to Bidders, the Form of Bid, the Form of Bid Performance and Payment Bond or Bonds, the General Conditions, the Special Conditions, the General Scope of Work, the Specifications and the Drawings, and addenda, if any thereto, as prepared by, and on file in the offices of the Housing Authority of the County of Stanislaus, Modesto, California, hereby proposes to furnish all labor, materials, equipment and services required to complete the work as follows, all in accordance with the Plans and Specifications, for the amounts indicated.

**Bid #NSP-New-105P**

**Total Bid**    \$ \_\_\_\_\_

In submitting this bid, it is understood that the right is reserved by the Housing Authority to reject any and all bids. If written notices of the acceptance of this bid is mailed, telegraphed or delivered to the undersigned within sixty (60) days after the opening thereof, or at any time thereafter before this bid is withdrawn, the undersigned agrees to execute and deliver a contract in the prescribed form and furnish the required bond within ten (10) days after the contract is presented to him for signature.

3. Security in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in the form of \_\_\_\_\_ is submitted herewith in accordance with the Instructions to Bidders.
4. Attached hereto is an affidavit in proof that the undersigned has not entered into any collusion with any person in respect to this proposal or any other proposal.
5. The bidder represents that he ( ) has, ( ) has not, participated in a previous contract or subcontract subject to the Equal Opportunity clause prescribed by Executive Orders 10925, 11114 or 11246 or the Secretary of Labor; that he ( ) has, ( ) has not, filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractor will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause.)

6. Certifications of Non-segregated Facilities. By signing this bid, the bidder certifies that he does not and will not maintain or provide for his employees any segregated facilities at any of his establishments and that he does not and will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and any eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregate on the basis of race, color, religion or national origin because of habit, local custom or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward a notice to his proposed subcontractors as provided in the instruction to Bidders.
  
7. Each General Contractor bidder will be required to furnish a breakdown of construction costs, including street improvements, etc., for each site, in a manner to be designated by the Housing Authority, before entering into the contract agreement. The information is required for analytical purposes and shall have no bearing upon the determination of the lowest responsible bidder.
  
8. Addendum Acknowledgment: Undersigned acknowledges receipt of the following addenda: #'s \_\_\_\_\_
  
9. A list of subcontractors is attached in accordance with the laws.

**NOTE: The penalty for making false Statements in offers is prescribed in 18 U.S.C. 100**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Bidder

Official Address:  
\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_

\_\_\_\_\_  
Title

\_\_\_\_\_

\_\_\_\_\_  
License Number

\_\_\_\_\_

\_\_\_\_\_  
Phone Number

**STATEMENT OF BIDDER'S CONSTRUCTION EXPERIENCE**

All questions must be answered and the date given must be clear and comprehensive. This Statement must be notarized. If necessary, add separate sheets for items marked with an \*.

1. Name of Bidder: \_\_\_\_\_
2. Permanent main office address: \_\_\_\_\_
3. When organized: \_\_\_\_\_
4. Where incorporated: \_\_\_\_\_
5. How many years have you been engaged in the contracting business under your present firm name? \_\_\_\_\_
6. \*Contracts on hand: (Schedule these, showing gross amount of each contract and the approximate anticipated dates of completion.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. \*General character of work performed by our company: \_\_\_\_\_
8. \*Have you ever failed to complete any work awarded to you? \_\_\_\_\_
9. \*Have you ever defaulted on a contract? \_\_\_\_\_
10. \*List the more relevant type of projects recently completed by your company, stating approximate cost for each, and the month and year completed.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. \*List your major equipment available for this contract: \_\_\_\_\_  
\_\_\_\_\_
12. \*Experience in construction work similar in importance to this project: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
13. Will you, upon request, fill out a detailed financial Statement and furnish any other information that may be required by the Local Authority? \_\_\_\_\_
14. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Local Authority in verification of the recitals comprising this Statement of Bidder's Experience.
15. Furnish current Department of Labor of California License Number and contractor's classification: \_\_\_\_\_  
\_\_\_\_\_

**STATEMENT OF BIDDER'S CONSTRUCTION EXPERIENCE (Continued)**

I, \_\_\_\_\_, swear under penalty of perjury under the laws of the State of California  
(Printed Name of Bidder)

that the answers to the foregoing questions and all Statements therein contained are true and correct.

Sworn this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_.  
(Date) (Month) (Year) (City & State)

\_\_\_\_\_  
(Signature of Bidder)

\_\_\_\_\_  
(Title of Bidder)

State of California  
County of Stanislaus

On \_\_\_\_\_, before me, \_\_\_\_\_,

personally appeared \_\_\_\_\_  
proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within  
instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by  
his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the  
instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Signature

**\*\*\* THIS FORM MUST BE SUBMITTED WITH THE BID \*\*\***

**FORM OF NON-COLLUSIVE AFFIDAVIT**

(To be modified if law requires other form)

**AFFIDAVIT**  
(Prime Bidder)

Department of Labor of \_\_\_\_\_)

County of \_\_\_\_\_)

\_\_\_\_\_, being first duly sworn, deposes and says:

That he/she is \_\_\_\_\_ the party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against the Housing Authority of the County of Stanislaus or any person interested in the proposed contract; and that all Statements in said proposal or bid are true.

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature of:

\_\_\_\_\_  
Bidder, If the bidder is an Individual

\_\_\_\_\_  
Partner, If the bidder is a partnership:

\_\_\_\_\_  
Officer, If the bidder is a corporation.

\_\_\_\_\_  
Notary Public

Place Notary Seal and/or Stamp Above

My commission expires \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Other Required Information (Printed Name of Notary, Residence, Etc.)

**\*\*\* THIS FORM MUST BE SUBMITTED WITH THE BID \*\*\***

**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned

---

as principal, and \_\_\_\_\_ as  
Surety, are hereby held and firmly bound unto THE HOUSING AUTHORITY OF THE  
COUNTY OF STANISLAUS, hereinafter called the "Owner", in the sum of: \_\_\_\_\_  
Dollars

(\$ \_\_\_\_\_) for payment of which sum, well and truly to be made, we hereby jointly  
and severally find ourselves, our heirs, executors, administrators, successors and assigns.

The condition of the above obligation is such that whereas the Principal has submitted to the  
Owner a certain bid, attached hereto and hereby made a part hereof, to enter into a contract in  
writing for the:

City of Newman NSP (Painting Contract) for the  
Housing Authority of the County of Stanislaus  
BID #NSP-New-105P

in strict accordance with Contract Documents.

NOW, THEREFORE,

- a. If said bid shall be rejected, or, in the alternate;
- b. If said bid shall be accepted and the Principal shall execute and deliver a contract in the  
form of agreement attached hereto and shall execute and deliver Performance and  
Contractor's Bonds in the forms attached hereto (all property completed in accordance with  
said bid), and shall in all other respects perform the agreement created by the acceptance  
of said bid;

Then this obligation shall void, otherwise the same shall remain in force and effect, it being  
expressly understood and agreed that the liability of the Surety for any and all default of the  
Principal hereunder shall be the amount of this obligation as herein stated. Surety, for value  
received, thereby stipulates and agrees that no change, extension of time, alteration or  
addition to the terms of the contract on calls for bids, or to the work to be performed there  
under, or the specifications accompanying the same, shall in anyway affect its obligation under  
this bond, and it does hereby waive notice of any such change, extension of time, alteration or  
addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

In the event suit is brought upon this bond by the Owner and judgment is recovered the Surety shall pay all costs incurred by the Owner in such suit, including reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF, the above-bounden parties have executed this Instrument under their several seals this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_ the same and corporate party being hereto affixed and these presents duly signed by its undersigned representatives, pursuant to authority of its governing body.

In presence of:

\_\_\_\_\_ (Seal)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_

\_\_\_\_\_  
(Individual Principal)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Business Address)

Attest:

\_\_\_\_\_  
(Corporate Principal)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(Affix Corporate Seal)

The rate or premium on this bond is \_\_\_\_\_ per thousand. Total amount of premium charged, \$\_\_\_\_\_.

(This bond must be signed and acknowledged by both Principal and Surety before a Notary Public, and acknowledgments with Notary Seals attached hereto.)

By: \_\_\_\_\_  
Attorney-in-fact

(The above must be filled in by Corporate Surety. Surety must be California Admitted insured.)

## LIST OF SUBCONTRACTORS

Name & Address	License #	Trade/Scope of Work
1) _____ _____	_____	_____
2) _____ _____	_____	_____
3) _____ _____	_____	_____
4) _____ _____	_____	_____
5) _____ _____	_____	_____
6) _____ _____	_____	_____
7) _____ _____	_____	_____
8) _____ _____	_____	_____
9) _____ _____	_____	_____
10) _____ _____	_____	_____

Please use additional pages if needed.

\*\*\*\* THIS FORM MUST BE SUBMITTED WITH BID \*\*\*\*

# **SECTION C**

## **Contract Forms**

## General Conditions of the Contract for Construction

### Conduct of Work

#### 1. Definitions

- (a) "**Contract**" means the contract entered into between the AUTHORITY and the Contractor. It includes the forms of Bid, the Bid Bond, the Performance and Payment Bond or Bonds or other assurance of completion, the Certifications, Representations, and Other Statements of Bidders, these General Conditions of the Contract for Construction, the applicable wage rate determinations from either the U.S. Department of Labor or State, any special conditions included elsewhere in the contract, the specifications, and drawings. It includes all formal changes to any of those documents by addendum, change order, or other modification.
- (b) "**Contracting Officer**" means the person delegated the authority by the AUTHORITY to enter into, administer, and/or terminate this contract and designated as such in writing to the Contractor. The term includes any successor Contracting Officer and any duly authorized representative of the Contracting Officer also designated in writing. The Contracting Officer shall be deemed the authorized agent of the AUTHORITY in all dealings with the Contractor.
- (c) "**Contractor**" means the person or other entity entering into the contract with the AUTHORITY to perform all of the work required under the contract.
- (d) "**Drawings**" means the drawings enumerated in the schedule of drawings contained in the Specifications and as described in the contract clause entitled **Specifications and Drawings for Construction** herein.
- (e) "**State**" means the United States of America acting through the Department of Housing and Urban Development including the Secretary, or any other person designated to act on its behalf. State has agreed, subject to the provisions of an Annual Contributions Contract (ACC), to provide financial assistance to the AUTHORITY, which includes assistance in financing the work to be performed under this contract. As defined elsewhere in these General Conditions or the contract documents, the determination of State may be required to authorize changes in the work or for release of funds to the AUTHORITY for payment to the Contractor. Notwithstanding State's role, nothing in this contract shall be construed to create any contractual relationship between the Contractor and State.
- (f) "**Project**" means the entire project, whether construction or rehabilitation, the work for which is provided for in whole or in part under this contract.
- (g) "AUTHORITY" means the Public Housing Agency or Indian Housing Authority organized under applicable State or tribal law which is a party to this contract.
- (h) "**Specifications**" means the written description of the technical requirements for construction and includes the criteria and tests for determining whether the requirements are met.
- (i) "**Work**" means materials, workmanship, and manufacture and fabrication of components.

## 2. Contractor's Responsibility for Work

- (a) The Contractor shall furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the work. The Contractor shall also furnish all necessary water, heat, light, and power not made available to the Contractor by the AUTHORITY pursuant to the clause entitled **Availability and Use of Utility Services** herein.
- (b) The Contractor shall perform on the site, and with its own organization, work equivalent to at least 12 percent unless otherwise indicated of the total amount of work to be performed under the order. This percentage may be reduced by a supplemental agreement to this order if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Authority.
- (c) At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Contracting Officer and has Authority to act for the Contractor.
- (d) The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall hold and save the AUTHORITY, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.
- (e) The Contractor shall lay out the work from base lines and bench marks indicated on the drawings and be responsible for all lines, levels, and measurements of all work executed under the contract. The Contractor shall verify the figures before laying out the work and will be held responsible for any error resulting from its failure to do so.
- (f) The Contractor shall confine all operations (including storage of materials) on AUTHORITY premises to areas authorized or approved by the Contracting Officer.
- (g) The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. After completing the work and before final inspection, the Contractor shall (1) remove from the premises all scaffolding, equipment, tools, and materials (including rejected materials) that are not the property of the AUTHORITY and all rubbish caused by its work; (2) leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer; (3) perform all specified tests; and, (4) deliver the installation in complete and operating condition.
- (h) The Contractor's responsibility will terminate when all work has been completed, the final inspection made, and the work accepted by the Contracting Officer. The Contractor will then be released from further obligation except as required by the warranties specified elsewhere in the contract.

### 3. Other Contracts

The AUTHORITY may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with AUTHORITY employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by AUTHORITY employees.

### Construction Requirements

#### 4. Preconstruction Conference and Notice to Proceed

- (a) Within ten calendar days of contract execution, and prior to the commencement of work, the Contractor shall attend a preconstruction conference with representatives of the AUTHORITY, its Architect, and other interested parties convened by the AUTHORITY. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract. The AUTHORITY will provide the Contractor with the date, time, and place of the conference.
- (b) The contractor shall begin work upon receipt of a written Notice to Proceed from the Contracting Officer or designee. The Contractor shall not begin work prior to receiving such notice.

#### 5. Construction Progress Schedule

- (a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring labor, materials, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments or take other remedies under the contract until the Contractor submits the required schedule.
- (b) The Contractor shall enter the actual progress on the chart as required by the Contracting Officer, and immediately deliver three copies of the annotated schedule to the Contracting Officer. If the Contracting Officer determines, upon the basis of inspection conducted pursuant to the clause entitled **Inspection and Acceptance of Construction**, herein that the Contractor is not meeting the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the AUTHORITY. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

- (c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified In the Contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the **Default** clause of this contract.

## 6. **Site Investigation and Conditions Affecting the Work**

- (a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to, (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the AUTHORITY, as well as from the drawings and specification made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the AUTHORITY.
- (b) The AUTHORITY assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the AUTHORITY. Nor does the AUTHORITY assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly Stated in this contract.

## 7. **Differing Site Conditions**

- (a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site(s), of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.
- (b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. Work shall not proceed at the affected site, except at the Contractor's risk, until the Contracting Officer has provided written instructions to the Contractor. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, the Contractor shall file a claim in writing to the AUTHORITY within ten days after receipt of such instructions and, in any event, before proceeding with the work. An equitable adjustment in the contract price, the delivery schedule, or both shall be made under this clause and the contract modified in writing accordingly.

- (c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.
- (d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

## 8. **Specifications and Drawings for Construction**

- (a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.
- (b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designation", "prescription", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by", or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly Stated.
- (c) Where "as shown, as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless Stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place" that is "furnished and installed".
- (d) "Shop drawings" means drawings, submitted to the AUTHORITY by the Contractor, subcontractor, or any lower tier subcontractor, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (1.e., form, fit, and attachment details) of materials of equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract. The AUTHORITY may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.
- (e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with order requirements and shall indicate his approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for re-submission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the AUTHORITY's reasons therefore. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility

for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

- (f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Architect approves any such variation and the Contracting Officer concurs, the Contracting Officer shall issue an appropriate modification to the contract, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.
- (g) It shall be the responsibility of the Contractor to make timely requests of the AUTHORITY for such large scale and full size drawings, color schemes, and other additional information, not already in his possession, which shall be required in the planning and production of the work. Such requests may be submitted as the need arises, but each such request shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay.
- (h) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the AUTHORITY and one set will be returned to the Contractor. As required by the Contracting Officer, the Contractor, upon completing the work under this contract, shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the work is completed and accepted.
- (i) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all shop drawings prepared by subcontractors are submitted to the Contracting Officer.

## **9. As-Built Drawings**

- (a) "As-Built Drawings," as used in this clause, means drawings submitted by the Contractor or subcontractor at any tier to show the construction of a particular structure or work as actually completed under the contract. "As-Built Drawings" shall be synonymous with "Record drawings."
- (b) As required by the Contracting Officer, the Contractor shall provide the Contracting Officer accurate information to be used in the preparation of permanent As-Built Drawings. For this purpose, the Contractor shall record on one set of contract drawings all changes from the installations originally indicated, and record final locations of underground lines by depth from finish grade and by accurate horizontal offset distances to permanent surface improvements such as buildings, curbs, or edges of walks.
- (c) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all As-Built Drawings prepared by subcontractors are submitted to the Contracting Officer.

## **10. Material and Workmanship**

- (a) All equipment, material, and articles furnished under this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the contract to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment

of, and as approved by the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) Approval of equipment and materials.

- (1) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.
- (2) When required by the specifications or the Contracting Officer, the Contractor shall submit appropriately marked samples (and certificates related to them) for approval at the Contractor's expense, with all shipping charges prepaid. The Contractor shall label, or otherwise properly mark on the container, the material or product represented, its place of origin, the name of the producer, the Contractor's name, and the identification of the construction project for which the material or product is intended to be used.
- (3) Certificates shall be submitted in triplicate, describing each sample submitted for approval and certifying that the material, equipment or accessory complies with contract requirements. The certificates shall include the name and brand of the product, name of manufacturer, and the location where produced.
- (4) Approval of a sample shall not constitute a waiver of the AUTHORITY right to demand full compliance with contract requirements. Materials, equipment and accessories may be rejected for cause even though samples have been approved.
- (5) Wherever materials are required to comply with recognized standards or specifications, such specifications shall be accepted as establishing the technical qualities and testing methods, but shall not govern the number of tests required to be made nor modify other contract requirements. The Contracting Officer may require laboratory test reports on items submitted for approval or may approve materials on the basis of data submitted in certificates with samples. Check tests will be made on materials delivered for use only as frequently as the Contracting Officer determines necessary to insure compliance of materials with the specifications. The Contractor will assume all costs of re-testing materials which fail to meet contract requirements and/or testing materials offered in substitution for those found deficient.
- (6) After approval, samples will be kept in the Project office until completion of work. They may be built into the work after a substantial quantity of the materials they represent has been built in and accepted.

- (c) Prohibition against use of lead-based paint. The Contractor shall comply with the prohibition against the use of lead-based paint contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

## 11. Permits and Codes

- (a) The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules and regulations. Notwithstanding the requirement of the Contractor to comply with the drawings and specifications in the contract, all work installed shall comply with all applicable codes and regulations as amended by any waivers. Before installing the work, the Contractor shall examine the drawings and the specifications for compliance with applicable codes and regulations bearing on the work and shall immediately report any discrepancy it may discover to the Contracting Officer. Where the requirements of the drawings and specifications fail to comply with the applicable code or regulation, the Contracting Officer shall modify the contract by change order pursuant to the clause entitled **Changes** herein to conform to the code or regulation.
- (b) The Contractor shall secure and pay for all permits, fees, and licenses necessary for the proper execution and completion of the work. Where the AUTHORITY can arrange for the issuance of all or part of these permits, fees and licenses, without cost to the Contractor, the contract amount shall be reduced accordingly.

## 12. Health, Safety and Accident Prevention

- (a) In performing this contract, the Contractor shall:
  - (1) Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;
  - (2) Protect the lives, health, and safety of other persons;
  - (3) Prevent damage to property, materials, supplies, and equipment; and,
  - (4) Avoid work interruptions.
- (b) For these purposes, the Contractor shall:
  - (1) Comply with regulations and standards issued by the Secretary of Labor at 29CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91 -54,83 Stat. 96),40 U.S.C.327 et seq.; and,
  - (2) Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.
- (c) The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 24 CFR Part 1904.

- (d) The Contracting Officer shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Contractor or the Contractor's representative at the start of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.
- (e) The Contractor shall be responsible for its subcontractors' compliance with the provisions of this clause. The Contractor shall take such action with respect to any subcontract as the AUTHORITY, the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

### **13. Temporary Heating**

The Contractor shall provide and pay for temporary heating, covering, and enclosures necessary to properly protect all work and materials against damage by dampness and cold, to dry out the work, and to facilitate the completion of the work. Any permanent heating equipment used shall be turned over to the AUTHORITY in the condition and at the time required by the specifications.

### **14. Availability and Use of Utility Services**

- (a) The AUTHORITY shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the AUTHORITY or, where the utility is produced by the AUTHORITY, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.
- (b) The Contractor, at its expense and in a manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the AUTHORITY, the Contractor shall remove all the temporary connections, distribution lines; meters, and associated paraphernalia.

### **15. Protection of Existing Vegetation, Structures, Equipment, Utilities, and improvements**

- (a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site which are not to be removed under this contract, and which do not unreasonably interfere with the work required under this contract.

- (b) The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during performance of this contract, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.
- (c) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work she and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. Prior to disturbing the ground at the construction site, the Contractor shall ensure that all underground utility lines are clearly marked.
- (d) The Contractor shall shore up, brace, underpin, secure, and protect as necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be affected by the excavations or other operations connected with the construction of the project.
- (e) Any equipment temporarily removed as a result of work under this contract shall be protected, cleaned, and replaced in the same condition as at the time of award of this contract.
- (f) New work which connects to existing work shall correspond in all respects with that to which it connects and/or be similar to existing work unless otherwise required by the specifications.
- (g) No structural members shall be altered or in any way weakened without the written authorization of the Contracting Officer, unless such work is clearly specified in the plans or specifications.
- (h) If the removal of the existing work exposes discolored or unfinished surfaces, or work out of alignment, such surfaces shall be refinished, or the material replaced as necessary to make the continuous work uniform and harmonious. This, however, shall not be construed to require the refinishing or reconstruction of dissimilar finishes previously exposed, or finished surfaces in good condition, but in different planes or on different levels when brought together by the removal of intervening work, unless such refinishing or reconstruction is specified in the plans or specifications.
- (i) The Contractor shall give all required notices to any adjoining or adjacent property owner or other party before the commencement of any work.
- (j) The Contractor shall indemnify and save harmless the AUTHORITY from any damages on account of settlement or the loss of lateral support of adjoining property, any damages from changes in topography affecting drainage, and from all loss or expense and all damages for which the AUTHORITY may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.
- (k) The Contractor shall repair any damage to vegetation, structures, equipment, utilities, or improvements, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

## 16. Temporary Buildings and Transportation of Materials

- (a) Temporary buildings (e.g., storage sheds, shops, offices, sanitary facilities) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the AUTHORITY. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.
  
- (b) The Contractor shall, as directed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

## 17. Inspection and Acceptance of Construction

- (a) Definitions. As used in this clause -
  - (1) "Acceptance" means the act of an authorized representative of the AUTHORITY by which the AUTHORITY approves and assumes ownership of the work performed under this contract. Acceptance may be partial or complete.
  - (2) "Inspection" means examining and testing the work performed under the contract (including, when appropriate, raw materials, equipment, components, and intermediate assemblies) to determine whether it conforms to contract requirements.
  - (3) "Testing" means that element of inspection that determines the properties or elements, including functional operation of materials, equipment, or their components, by the application of established scientific principles and procedures.
  
- (b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. All work is subject to AUTHORITY inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance With the terms of the contract.
  
- (c) AUTHORITY inspections and tests are for the sole benefit of the AUTHORITY and do not: (1) relieve the Contractor of responsibility for providing adequate quality control measures; (2) relieve the Contractor of responsibility for loss or damage of the material before acceptance; (3) constitute or imply acceptance; or, (4) attest the continuing rights of the AUTHORITY after acceptance of the completed work under paragraph j) below.
  
- (d) The presence or absence of the AUTHORITY inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the Contracting Officer's written authorization. All instructions and approvals with respect to the work shall be given to the Contractor by the Contracting Officer.
  
- (e) The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by

the Contracting Officer. The AUTHORITY may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. The AUTHORITY shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size and performance tests shall be performed as described in the contract.

- (f) The AUTHORITY may conduct routine inspections of the construction site on a daily basis.
- (g) The Contractor shall, without charge, replace or correct work found by the AUTHORITY not to conform to contract requirements, unless the AUTHORITY decides that it is in its interest to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (h) If the Contractor does not promptly replace or correct rejected work, the AUTHORITY may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor, or (2) terminate for default the Contractor's right to proceed.
- (i) If any work requiring inspection is covered up without approval of the AUTHORITY, it must, if requested by the Contracting Officer, be uncovered at the expense of the Contractor. If at any time before final acceptance of the entire work, the AUTHORITY considers it necessary or advisable, to examine work already completed by removing or tearing it out, the Contractor, shall on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray all the expenses of the examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the Contracting Officer shall make an equitable adjustment to cover the cost of the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
- (j) The Contractor shall notify the Contracting Officer, in writing, as to the date when in its opinion all or a designated portion of the work will be substantially completed and ready for inspection. If the Architect determines that the State of preparedness is as represented, the AUTHORITY will promptly arrange for the inspection. Unless otherwise specified in the contract, the AUTHORITY shall accept, as soon as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines and designates can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the AUTHORITY'S right under any warranty or guarantee.

#### **18. Use and Possession Prior to Completion**

- (a) The AUTHORITY shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the AUTHORITY intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The AUTHORITY's possession or use shall not be deemed an acceptance of any work under the contract.

- (b) While the AUTHORITY has such possession or use, the Contractor shall be relieved of the responsibility for (1) the loss of or damage to the work resulting from the AUTHORITY's possession or use, notwithstanding the terms of the clause entitled Permits and Codes herein; (2) all maintenance costs on the areas occupied; and, (3) furnishing heat, light, power, and water used in the areas occupied without proper remuneration there for. If parlor possession or use by the AUTHORITY delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

## 19. Warranty of Title

The Contractor warrants good title to all materials, supplies, and equipment incorporated in the work and agrees to deliver the premises together with all improvements thereon free from any claims, liens or charges, and agrees further that neither it nor any other person, firm or corporation shall have any right to a lien upon the premises or anything appurtenant thereto.

## 20. Warranty of Construction

- (a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (l) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This warranty shall continue for a period of (one year unless otherwise indicated) from the date of final acceptance of the work. If the AUTHORITY takes possession of any part of the work before final acceptance, this warranty shall continue for a period of (one year unless otherwise indicated) from the date that the AUTHORITY takes possession.
- (b) The Contractor shall remedy, at the Contractor's expense, any failure to conform, or any defect. In addition, the Contractor shall remedy, at the Contractor's expense, any damage to AUTHORITY owned or controlled real or personal property when the damage is the result of--
- (1) The Contractor's failure to conform to contract requirements; or
- (2) Any defects of equipment, material, workmanship or design furnished by the Contractor.
- (c) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for **one year** from the date of repair or replacement.
- (d) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect or damage.
- (e) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the AUTHORITY shall have the right to replace, repair or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- (f) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall:
- (1) Obtain all warranties that would be given in normal commercial practice;

- (2) Require all warranties to be executed in writing, for the benefit of the AUTHORITY; and,
- (3) Enforce all warranties for the benefit of the AUTHORITY.
- (g) In the event the Contractor's warranty under paragraph (a) of this clause has expired, the AUTHORITY may bring suit at its own expense to enforce a subcontractor's, manufacturer's or supplier's warranty.
- (h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defect of material or design furnished by the AUTHORITY nor for the repair of any damage that results from any defect in AUTHORITY furnished material or design.
- (i) Notwithstanding any provisions herein to the contrary, the establishment of the time periods in paragraphs (a) and © above relate only to the specific obligation of the Contractor to correct the work, and have no relationship to the time within which its obligation to comply with the contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligation other than specifically to correct the work.
- (j) This warranty shall not limit the AUTHORITY'S rights under the **Inspection and Acceptance of Construction** clause of this contract with respect to latent defects, gross mistakes or fraud.

## 21. Prohibition Against Liens

The Contractor is prohibited from placing a lien on the AUTHORITY'S property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers.

## Administrative Requirements

### 22. Contract Period

The Contractor shall complete all work required under this contract within thirty (30) calendar days of the effective date of the contract, or within the time schedule established in the notice to proceed issued by the Contracting Officer.

### 23. Order of Precedence

In the event of a conflict between these General Conditions and the Specifications, the General Conditions shall prevail. In the event of a conflict between the contract and any applicable State or local law or regulation, the State or local law or regulation shall prevail; provided that such State or local law or regulation does not conflict with, or is less restrictive than applicable federal law, regulation, or Executive Order. In the event of such a conflict, applicable federal law, regulation, and Executive Order shall prevail.

### 24. Payments

- (a) The AUTHORITY shall pay the Contractor the price as provided in this contract.

- (b) The AUTHORITY shall make progress payments approximately every 30 days as the work proceeds, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer. The AUTHORITY may, subject to written determination and approval of the Contracting Officer, make more frequent payments to contractors which are qualified small businesses.
  
- (c) Before the first progress payment under this contract, the Contractor shall furnish, in such detail as requested by the Contracting Officer, a breakdown of the total contract price showing the amount included therein for each principal category of the work, which shall substantiate the payment amount requested in order to provide a basis for determining progress payments. The breakdown shall be approved by the Contracting Officer and must be acceptable to State. If the contract covers more than one project, the Contractor shall furnish a separate breakdown for each. The values and quantities employed in making up this breakdown are for determining the amount of progress payments and shall not be construed as a basis for additions to or deductions from the contract price. The Contractor shall prorate its overhead and profit over the construction period of the contract.
  
- (d) The Contractor shall submit, on forms provided by the AUTHORITY, periodic estimates showing the value of the work performed during each period based upon the approved breakdown of the contract price. Such estimates shall be submitted not later than 7 days in advance of the date set for payment and are subject to correction and revision as required. The estimates must be approved by the Contracting Officer with the concurrence of the Architect prior to payment. If the contract covers more than one project, the Contractor shall furnish a separate progress payment estimate for each.
  
- (e) Along with each request for progress payments and the required estimates, the Contractor shall furnish the following certification, or payment shall not be made:

I hereby certify, to the best of my knowledge and belief, that -

- (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
  
- (2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements; and,
  
- (3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract.

Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

- (f) Except as otherwise provided in State law, the AUTHORITY shall retain ten (10) percent of the amount of progress payments until completion and acceptance of all work under the contract; except, that if upon

completion of 50 percent of the work, the Contracting Officer, after consulting with the Architect determines that the Contractor's performance and progress are satisfactory, the AUTHORITY may make the remaining payments in full for the work subsequently completed. If the Contracting Officer subsequently determines that the Contractor's performance and progress are unsatisfactory, the AUTHORITY shall reinstate the ten (10) percent (or other percentage as provided in State law) retainage until such time as the Contracting Officer determines that performance and progress are satisfactory.

- (g) The Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration when computing progress payments. Material delivered to the Contractor at locations other than the site may also be taken into consideration if the Contractor furnishes satisfactory evidence that (1) it has acquired title to such material; (2) the material is properly stored in a bonded warehouse, storage yard, or similar suitable place as may be approved by the Contracting Officer; (3) the material is insured to cover its full value; and (4) the material will be used to perform this contract. Before any progress payment which includes delivered material is made, the Contractor shall furnish such documentation as the Contracting Officer may require assuring the protection of the AUTHORITY'S interest in such materials. The Contractor shall remain responsible for such stored material notwithstanding the transfer of title to the AUTHORITY.
- (h) All material and work covered by progress payments made shall at the time of payment become the sole property of the AUTHORITY, but this shall not be construed as (1) relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work, or, (2) waiving the right of the AUTHORITY to require the fulfillment of all of the terms of the contract. In the event the work of the Contractor has been damaged by other contractors or persons other than employees of the AUTHORITY in the course of their employment, the Contractor shall restore such damaged work without cost to the AUTHORITY and to seek redress for its damage only from those who directly caused it.
- (i) The AUTHORITY shall make the final payment due the Contractor under this contract after (1) completion and final acceptance of all work; and (2) presentation of release of all claims against the AUTHORITY arising by virtue of this contract, other than claims, in Stated amounts, that the Contractor has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned.
- (j) Prior to making any payment, the Contracting Officer may require the Contractor to furnish receipts or other evidence of payment from all persons performing work and supplying material to the Contractor, if the Contracting Officer determines such evidence is necessary to substantiate claimed costs.
- (k) The AUTHORITY shall not (1) determine or adjust any claims for payment or disputes arising there under between the Contractor and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers. The failure or refusal of the AUTHORITY to withhold moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bonds furnished under this contract.

## 25. Contract Modifications

- (a) Only the Contracting Officer has Authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.
- (b) The Contracting Officer may modify the contract unilaterally - (1) pursuant to a specific authorization Stated in a contract clause (e.g., Changes); or (2) for administrative matters which do not change the rights or responsibilities of the parties (e.g., change in the AUTHORITY address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor and the Contracting Officer.
- (c) When a proposed modification requires the approval of State prior to its issuance (e.g., a change order that exceeds the AUTHORITY'S approved threshold), such modification shall not be effective until the required approval is received by the AUTHORITY.

## 26. Changes

- (a) A Change Order is a written order to the Contractor signed by the Owner and the Architect and issued after the execution of the Contract, authorizing a Change in the work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by the Contractor indicates his agreement therewith, including the adjustment in the Contract Sum or the Contract Time.
- (b) The Owner, without invalidating the Contract, may order changes in the work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the work shall be authorized by Change Order, and shall execute under the applicable conditions of the Contract Document. Change Orders shall be signed by the Contractor, in addition to the Owner and Architect.
- (c) The cost or credit to the Owner resulting from a change in the work shall be determined in one or more of the following ways:
  - (1) By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
  - (2) By unit prices stated in the Contract Documents, Form of Proposal or subsequently agreed upon;
  - (3) By costs to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or,
  - (5) By the method provided in Subparagraph (d).
  - (6) For all changes in the work, the allowance for overhead, profit and bond combined, included in the total cost to the Owner, shall be based upon the following schedule:

For the Contractor, for any work performed by his own force, twelve percent (12%) of the cost;

For each subcontractor involved, work performed by his own forces, twelve percent (12%) of the cost;

For the Contractor for work performed by his subcontractor, six percent (6%) of the amount due the subcontractor.

Cost shall be limited to the following: cost of materials, including sales tax and cost of delivery, cost of labor, including Social Security, Old Age and Unemployment Insurance (labor cost may include a prorated share of foreman charge); worker's Compensation Insurance; Rental cost of power tools and equipment.

- (d) If none of the methods set forth in Clauses 29. (a), (b), (c), is agreed upon, the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the work involved. The cost of such work shall then be determined by the Architect on the basis of the reasonable expenditures and savings of those performing the work attributable to the change, including, in the case of an increase in the Contract Sum, an allowance for overhead and profit in accordance with the schedule set forth above.

In such case, and also under Clauses (a) and (b) above, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following:

- (1) Cost of materials, including sales tax and cost of delivery.
  - (2) Cost of labor, including social security, old age and unemployment insurance and fringe benefits required by collective bargaining agreement or custom.
  - (3) Worker's compensation insurance.
  - (4) Bond premiums.
  - (5) Rental cost of equipment and machinery
  - (6) Additional cost of supervision and field office personnel directly attributable to the change.
- (e) Pending final determination of cost to the Owner, payments on account shall be made on the Architect's Certificates for Payment. The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect. When both additions and credits covering related work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any with respect to that change.
- (f) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes:
- (1) In the specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) PHA/IHA - furnished facilities, equipment, materials, services, or site; or,
  - (4) Directing the acceleration in the performance of the work.
- (g) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.

Except as provided in this clause, no order, Statement or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

- (h) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustments and modify the contract in writing. However, except for a adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for

which the PHA/IHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

- (i) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause, or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting a written Statement describing the general nature and the amount of the proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under paragraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.
- (j) The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.
- (k) The Contracting Officer shall act on proposals within 30 days after the receipt, or notify the Contractor of the date when such action will be taken.
- (l) Failure to reach an agreement on any proposal shall be a dispute under the clause entitled **Disputes** herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.
- (m) Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Contracting Officer.

## 27. Suspension of Work

- (a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the AUTHORITY.
- (b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified (or within a reasonable time if not specified) in this contract an adjustment shall be made for any increase in the cost of performance of the contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or for which any equitable adjustment is provided for or excluded under any other provision of this contract.
- (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and, (2) unless the claim, in an amount Stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

## 28. Disputes

- (a) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

- (b) All disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (c) All claims by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the AUTHORITY against the Contractor shall be subject to a written decision by the Contracting Officer.
- (d) The Contracting Officer shall, within 60 days (unless otherwise indicated) after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (e) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the AUTHORITY in accordance with the AUTHORITY's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within 30 days (unless otherwise indicated) after receipt of the Contracting Officer's decision.
- (f) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

## 29. Default

- (a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to proceed with the work (or separable part of the work) that has been delayed. In this event, the AUTHORITY may take over the work and complete it, by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the AUTHORITY resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the AUTHORITY in completing the work.
- (b) The Contractor's right to proceed shall not be terminated or the Contractor charged with damages under this clause if--
  - (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the AUTHORITY or other governmental entity in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the AUTHORITY, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and
  - (2) The Contractor, within 10 days (10 days unless otherwise indicated) from the beginning of such delay (unless extended by the Contracting Officer) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the Disputes clause of this contract.

- (c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for convenience of the AUTHORITY.

### 33. Liquidated Damages

- (a) If the contractor fails to complete the work within the time specified in the clause entitled Default of this Contract, both the Contractor and the AUTHORITY agree that the AUTHORITY will suffer damages for the delay in completion of any phase of the work and that the actual amount of AUTHORITY damages would be extremely difficult and impracticable to calculate or otherwise ascertain. **By placing their initials here, Contractor\_\_\_ and the AUTHORITY\_\_\_** agree that such damages shall be liquidated and that the Contractor shall pay the AUTHORITY the sum of \$100.00 for each and every day that the completion of any phase of the work is delayed beyond the time set forth for the completion of that phase of the work unless the Contractor's delay is excused under another clause in this Contract. Contractor and AUTHORITY further agree that the amount of liquidated damages is reasonable considering all the circumstances existing on the date of the execution of this Contract and that these liquidated damages are a reasonable approximation by the Contractor and the AUTHORITY in view of their inability to calculate actual damages.
- (b) If the AUTHORITY terminates the Contractor's right to proceed, the assessment of the liquidated damages shall continue until such reasonable time as may be required for final completion of the work together with any increased cost incurred by the AUTHORITY in completing the work.
- (c) If the AUTHORITY does not terminate the Contractor's right to proceed, liquidated damages will be assessed until the Contractor's work is completed and accepted by the AUTHORITY.
- (d) The imposition of liquidated damages by the AUTHORITY shall not preclude other AUTHORITY claims for damages against the Contractor caused other than by Contractor's delay in completion of the work.

### 30. Termination for Convenience

- (a) The Contracting Officer may terminate this contract in whole, or in part whenever the Contracting Officer determines that such termination is in the best interest of the AUTHORITY. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.
- (b) If the performance of the work is terminated, either in whole or in part, the AUTHORITY shall be liable to the Contractor for reasonable and proper costs resulting from such termination upon the receipt by the AUTHORITY of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor; (2) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the PHA to the Contractor or by the Contractor to the subcontractor or supplier; (3) the cost of preserving and protecting the work already performed until the AUTHORITY or assignee takes possession thereof or assumes responsibility therefore; (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the AUTHORITY; and (5) an amount constituting a reasonable profit on the value of the work performed by the Contractor.
- (c) The Contracting Officer will act on the Contractor's claim within 60 days (unless otherwise indicated) of receipt of the Contractor's claim.
- (d) Any disputes with regard to this clause are expressly made subject to the provisions of the **Disputes** clause of this contract.

### 31. Assignment of Contract

The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the AUTHORITY under the contract may be assigned to a bank, trust company, or other financial institution. Such assignments of claims shall only be made with the written concurrence of the Contracting Officer. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership as approved by the Contracting Officer.

### 32. Insurance

- (a) Before commencing work, the Contractor and each subcontractor shall furnish the AUTHORITY with endorsements of insurance showing the following insurance is in force and will insure all operations under the Contract:
  - (1) Workers' Compensation, in accordance with State or Territorial Workers' Compensation laws.
  - (2) Commercial General Liability with a combined single limit for bodily injury and property damage of not less than one million dollars per occurrence to protect the Contractor and each subcontractor against claims for bodily injury or death and damage to the property of others. This shall cover the use of all equipment, hoists, and vehicles on the site(s) not covered by Automobile Liability under Section 3 below. If the Contractor has a "claims-made" policy, then the following additional requirements apply: the policy must provide a "retroactive date" which must be on or before the execution date of the Contract; and the extended reporting period may not be less than five years following the completion date of the Contract.
  - (3) Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than one million dollars per occurrence.
- (b) Before commencing work, the Contractor shall furnish the AUTHORITY with an endorsement of insurance evidencing that Builder's Risk (fire and extended coverage) insurance on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force. The Builder's Risk Insurance shall be for the benefit of the Contractor and the AUTHORITY as their interests may appear and each shall be named in the policy or policies as an insured. The Contractor in installing equipment supplied by the AUTHORITY shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by the AUTHORITY. The Builder's Risk Insurance need not be carried on excavations, piers, footings, or foundations until such time as work on the super-structure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the AUTHORITY. The Contractor may terminate this insurance on buildings as of the date taken over for occupancy by the AUTHORITY. The Contractor is not required to carry Builder's Risk Insurance for modernization work which does not involve structural alterations or additions and where the AUTHORITY'S existing fire and extended coverage policy can be endorsed to include such work.
- (c) All insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the project is located. If any such insurance is due to expire during the construction period, the Contractor (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer. All endorsements of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the Contracting Officer.

### 33. Subcontracts

(a) Definitions. As used in this contract -

(1) "**Subcontract**" means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and serves for the performance of the prime contract or a subcontract.

(2) "**Subcontractor**" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Contractor or another subcontractor.

(b) The Contractor shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a State program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the State in which the work under this contract is to be performed.

(c) The Contractor shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Contractor.

(d) The Contractor shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.

(e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the AUTHORITY or between the subcontractor and State.

## **INDEMNIFICATION**

- a. Contractor hereby releases and shall indemnify, defend, and hold harmless The Housing Authority of the County of Stanislaus, its subsidiaries, affiliates, officers, agents, employees, successors, assigns, and authorized representatives of all of the foregoing from and against all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney fees, costs, and expenses of any kind or nature, whether arising before or after completion of the work hereunder, and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence of the Housing Authority of the County of Stanislaus, Contractor, Contractor's subcontractor, or of anyone acting under Contractor's direction or control or on Contractor's behalf in connection with or incidental to the performance of this contract. Contractor's aforesaid release, indemnity, and hold harmless obligations, or portions of applications thereof, shall apply even in the event of the Housing Authority of the County of Stanislaus' sole negligence or strict liability. The Housing Authority of the County of Stanislaus shall be indemnified and held harmless to the fullest extent permitted by law. If any portion of this indemnity clause is invalid or unenforceable, it shall be deemed excised and the remaining portions of the clause shall be given full force and effect.
  
- b. Contractor hereby agrees to require all its subcontractors or anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract to execute an indemnity clause identical to the preceding clause, specifically naming the Housing Authority of the County of Stanislaus as indemnitee.

## FORM OF GUARANTEE

When required by the specifications, written guarantee shall be in the form of the following Guarantee on the Contractor's own letterhead:

Date:

GUARANTEE FOR \_\_\_\_\_

We hereby guarantee that the \_\_\_\_\_ which we have installed in \_\_\_\_\_ has been done in accordance with the drawings and specifications and that the work as installed will fulfill the requirements of the guarantee included in the specifications. We agree to repair or replace any or all of our work together with any other adjacent work which may be displaced by so doing that may prove to be defective in its workmanship or material within a period of One (1) Year, (Two (2) Years). etc., from date of acceptance of the above mentioned structure by the ordinary wear and tear and unusual abuse or neglect excepted.

In the event of our failure to comply with the above mentioned conditions within sixty (60) days after being notified in writing. We, collectively or separately, do hereby authorize the Housing Authority to proceed to have said defects repaired and made good at our expense, and we will honor and pay the costs and charges therefore upon demand.

(Signed) \_\_\_\_\_  
Subcontractor

(Signed) \_\_\_\_\_  
General Contractor

State \_\_\_\_\_

## **POLICY OF NON-DISCRIMINATION ON THE BASIS OF DISABILITY**

The Housing Authority of the County of Stanislaus does not discriminate on the basis of disability in the admission or access to, or treatment or employment in its programs or activities. Michele Gonzales has been designated to coordinate compliance with the non-discrimination requirements contained in section 504 of HUD Federal regulations.

# EQUAL EMPLOYMENT OPPORTUNITY

## AFFIRMATIVE ACTION REQUIREMENTS UNDER EXECUTIVE ORDER 11246

Executive Order Number 11246, issued by the President, prohibits job discrimination because of RACE, COLOR, RELIGION, SEX, or NATIONAL ORIGIN, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

### INSTRUCTIONS TO RECIPIENT AGENCIES AND SPONSORS REGARDING AFFIRMATIVE ACTION REQUIREMENTS UNDER E.O. 11246, AS AMENDED, MAY 8, 1978

#### 1. Department of Labor Processing Requirement

As a condition of the Conditional Commitment (Department of Labor Multifamily Insurance Program), the Sponsor/Developer and Prime Contractor are required to submit a written Statement acknowledging that the affirmative Action Requirements are in effect for the multifamily project and assuming responsibility for the submission of required reports (Exhibit #1 can be used for this purpose). Cities and Public Housing Authorities may choose to impose a similar requirement when awarding Federally assisted contracts.

#### 2. Solicitations for Bid

All solicitations for Bid on Federally assisted construction contracts and sub-contracts in excess of \$10,000 must include the following three documents:

- a. The "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" (Exhibit #2), reflecting the Goals and Timetables for Female and Minority Employment appropriate for the project area.

It is necessary to "fill in the blanks" in the Notice to reflect the appropriate female and minority utilization goals for the project area. To determine these goals, utilize Exhibits #3-A and #3-B. They list both the goals for female utilization, which apply to each trade nationwide, and the goals and timetables for minority utilization by trade in all "covered areas". A covered area is the geographic area covered by a specific percentage goal for minority employment.

The goals are applicable to the contractor's entire on-site workforce, by trade, on all project sites in each covered area, whether or not, part of that work force is performing work on a Federal or Federally-assisted project. However, current regulations require workforce reports only for those covered areas in which there is a Federal or Federally-assisted project.

- b. The Equal Opportunity Clause (Exhibit #4)
- c. The Standard Federal Equal Employment Opportunity Construction Contract Specifications (Exhibit #5)

### 3. Contracts and Subcontracts

All Federally-assisted contracts and sub-contracts in excess of \$10,000 must include:

- a. The Female and Minority Participation Goals applying to the particular "covered area". (Exhibit #3-A)
- b. The Equal Opportunity Clause (Exhibit #4)
- c. The Standard Federal Equal Employment Opportunity Construction Contract Specifications (Exhibit #5)

### 4. Reporting Requirements

- a. Within 10 days of contract signing/execution, submit to the applicable Area Office of the Department of Labor, Office of Federal Contract Compliance Programs, a list of all your construction contractors and sub-contractors over \$10,000. This includes open-end contracts expected to exceed \$10,000 (Exhibit #6 can be used for this purpose).
- b. Form CC-257 (Exhibit #7) must be prepared monthly for each contractor and subcontractor (over \$10,000). The prime contractor is responsible for submitting a report on its own aggregate workforce (in the covered area of the Federally-assisted project) and for either collecting and submitting reports for each sub-contractor's aggregate workforce or for assuring that each subcontractor reports directly. Reports are to be submitted to the appropriate Area Office of the Department of Labor.

Each report must reflect the contractor's entire workforce in the project's covered area. Failure to report is automatic cause to find the contractor in non-compliance. A "covered area" is the geographic area "covered" by the specific percentage goal for minority employment.

- c. Each contractor and sub-contractor must submit with his first Form CC-257 a list of all his Federal and non-Federal projects within each covered area (Exhibit #8 can be used for this purpose).
- d. A listing of DOL offices is attached (Exhibit #9). Any questions with regard to which OFCCP Area Office reports are submitted can be referred to the DOL Regional Office.

**Exhibit #1**

**SPONSOR/DEVELOPER/CONTRACTOR AFFIRMATIVE ACTION  
ACKNOWLEDGMENT LETTER FOR EXECUTIVE ORDER 11246**

The undersigned acknowledges that the Affirmative Action requirements are in effect for the project indicated below.

The requirements will be incorporated into our plans and specifications, and in all our contracts over \$10,000 or open-end contracts expected to exceed \$10,000.

We will submit a list of all our contractors over \$10,000 to the Department of Labor within 10 working days from the data of award of the contract.

We will also submit copies of the contractor's and subcontractors' monthly reports to the Department of Labor, to arrive no later than the 5th day of each month.

\_\_\_\_\_  
Signature & Title of SPONSOR/DEVELOPER

\_\_\_\_\_  
Signature & Title of PRIME CONTRACTOR

For \_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Number & Street

\_\_\_\_\_  
Number & Street

\_\_\_\_\_  
City, State, & Zip

\_\_\_\_\_  
City, State, & Zip

Project Number: NSP-New-105P

Project Name: City of Newman NSP (Painting Contract)

Project Location: 2248 Orchard Creek, Newman, 95360

This format meets the Department of Labor requirements for Executive Order 11246. Sign and submit this letter directly to the Department of Labor office processing your multifamily project application or to the office of the Department of Labor Grantee administering your contract.

## **Exhibit #2**

The following Notice shall be included in and shall be a part of all solicitations for offers and bids on all Federal and Federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the Director.

### **NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered areas are as follows:

#### **GOALS AND TIMETABLES FOR FEMALE PARTICIPATION IN EACH TRADE:**

See Exhibit #3-A

#### **GOALS AND TIMETABLES FOR MINORITY PARTICIPATION IN EACH TRADE:**

See Exhibit #3-B

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederal involved construction.

The Contractor's compliance with the Executive Order and the regulations I 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities, and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs, U.S. Department of Labor, within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the State, county, and city, if any).

### Exhibit #3-A

#### APPENDIX A

The following goals and timetables for female utilization shall be included in all Federal and Federally-assisted construction contracts and subcontracts in excess of \$10,000. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or Federally-assisted construction contract or subcontract.

#### AREA COVERED

Goals for female apply nationwide.

#### GOALS and TIMETABLES

<u>Timetable</u>	<u>Goal</u>
From April 1, 1981, until further notice -----	6.9%

### Exhibit #3-B

#### APPENDIX B

Until further notice, the following goals for minority utilization in each construction craft and trade shall be included in all Federal or federally-assisted construction contracts and subcontracts in excess of \$10,000 to be performed in the respective geographical areas. The goals are applicable to each nonexempt contractor's total on site construction workforce, regardless of whether or not part of that workforce is performing work on a Federal, federally-assisted, or non-federally related project, contract, or subcontract.

Construction contractors which are participating in an approved Hometown Plan (see 41 CFR 60-4.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan. With regard to all their other covered construction work, such contractors are required to comply with the applicable SMSA or EA goal contained in this appendix B.

#### ECONOMIC AREAS

<u>Area Covered</u>	<u>Goal Percent</u>
California:	
Redding Economic Area	
Lassen County, Modoc County, Plumas County, Shasta County, Siskiyou County, Tehama County -----	6.8
Eureka Economic Area	
Del Norte County, Humboldt County, Trinity County -----	6.8
San Francisco-Oakland-San Jose Economic Area	
Monterey County -----	28.9
Alameda County, Contra Costa County, Marin County, San Francisco County, San Mateo County -----	25.6
Santa Clara County -----	19.6
Santa Cruz County -----	14.9
Sonoma County -----	9.1
Napa County, Solano County -----	17.1
Lake County, Mendocino County, San Benito County -----	23.2
Sacramento Economic Area	
Placer County, Sacramento County, Yolo County -----	16.1
Butte County, Colusa County, Eldorado County, Glenn County, Nevada County, Sierra County, Sutter County, Yuba County -----	14.3

Stockton-Modesto Economic Area	
Stanislaus County -----	12.3
San Joaquin County-----	24.3

### Exhibit #4

#### THE EQUAL OPPORTUNITY CLAUSE

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, Department of Labor that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) the contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of labor issued pursuant to section 504 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor.

The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a Department of Labor or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The applicant agency that it will assist and cooperate actively with the administering agency and the Secretary of labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any of all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(33 F.R. 7804, May 28, 1968, as amended at 34 FR 744, Jan. 17, 1969; 40 FR 14083, Mar. 28, 1975)

## **Exhibit #5**

### **STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATION (EXECUTIVE ORDER 11246)**

1. As used in these specifications;
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor , or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  - d. "Minority" includes:
    - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race;

- (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands); and
  - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
  3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
  4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally-assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
  5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
  6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor .
  7. The contractor shall take specific affirmative action to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
    - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason thereof, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions, including specific review of these items with on site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and where reasonable, provide after school summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60.3.
  - l. Conduct at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
  
14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (eg. mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
  
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (eg., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**THE UNDER SIGNED HEREBY CERTIFIES THAT:**

- (a) The Equal Opportunity Clauses are indicated in each of the Listed Subcontracts.
  
- (b) Each subcontractor or lower tier subcontractor has been notified in writing prior to their beginning construction, of his respective obligations under the Affirmative Action Requirements, if applicable.

By: \_\_\_\_\_

Signature	Name and Title
Contractor	Contractor's Address

This format meets the requirements of Executive Order 11246, as amended.

# **SECTION D**

## **Sample Forms**

**NOTICE OF AWARD**

**Contract # NSP-New-105P**

TO: \_\_\_\_\_

FOR: \_\_\_\_\_

Your Bidder's Proposal dated \_\_\_\_\_ is accepted for the following item(s) at the following price(s):

Item(s)	Price
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You are required by the Notice and Instructions to Bidders (Item 1) to execute the documents specified in paragraph 10 thereof within ten days from the date of mailing this notice.

Received

Housing Authority of the County of Stanislaus  
Owner

By: \_\_\_\_\_  
William A. Fagan

Date: \_\_\_\_\_

Title: Executive Director

\_\_\_\_\_  
Contractor

Date: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**NOTICE TO PROCEED**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contract No: NSP-New-105P

Date: \_\_\_\_\_

Location: \_\_\_\_\_

Gentlemen:

Pursuant to the terms of your contract dated \_\_\_\_\_ for City of Newman NSP (Painting Contract), you are hereby notified to commence work there under at the start of business on \_\_\_\_\_. The time for completion set forth in the Contract is \_\_\_\_\_ calendar days including the starting date, which establishes \_\_\_\_\_ as the completion date.

You are informed that William A. Fagan has been designated Contracting Officer to administer your contract for, and in the name of, the Housing Authority of the County of Stanislaus.

You have previously been given one executed set of the Contract documents.

Please acknowledge receipt of the following required documents:

1. Workman's Compensation Coverage.
2. Manufacturer's and Contractor's Public Liability (with bodily injury and property damage limits of not less than one million dollars).

Please acknowledge receipt of this notice by signing and dating and return one copy promptly to this office.

ACCEPTED:

\_\_\_\_\_  
(Company Name/Contractor Name)

Housing Authority of the County of Stanislaus

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

William A. Fagan

Title: \_\_\_\_\_

Title: Executive Director

# CERTIFICATE OF COMPLETION

THIS IS TO CERTIFY that all work and materials have been carefully inspected by duly authorized representative or agents of the Housing Authority of the County of Stanislaus, hereinafter called the Local Authority(LA), and that \_\_\_\_\_, hereinafter called the Contractor, has furnished all labor, material, and services required for the \_\_\_\_\_ in accordance with the requirements of the Specifications and Drawings and Contract # \_\_\_\_\_ between the Local Authority and the Contractor.

**THIS IS TO CERTIFY:**

1. That all work covered by this contract, originally required to be completed on \_\_\_\_\_ was actually completed on \_\_\_\_\_.
2. That all changes permitted or required to be made, except minor modifications and field adjustments, have been authorized by written and duly approved Change Orders, and all stop order have been confirmed and listed in writing:
3. That all proceed orders have been supported by approved Change Orders equitable adjusting the contract price and/or time, where adjustment is indicated;
4. That Change Orders # \_\_\_\_\_, constitute the only amendments to the contract price and/or time, and that all Change Orders issued in connection with this contract are listed on the attached schedule;
5. That all certificates, bonds, guarantees, warranties, insurance and tests are required under the contract have been furnished or performed;
6. That the Local Authority has obtained from the Contractor the attached Certificate and Release releasing the Local Authority in full from all further claims under this contract;
7. That all laborers and mechanics have been paid not less than the minimum wage rates as established in said contract, and that there have been no claims made for infringement of any patent;
8. That no claims of any nature by any laborers, mechanic, subcontractor, material, and or vendor are outstanding against the Local Authority; and

9. That;

Date for completion fixed in contract	_____
Date for completion as extended	_____
Actual completion date of contract work	_____
Original contract price	_____
Authorized Addition	_____
SUBTOTAL	_____
Authorized deductions excluding liquidated damages	_____
Adjusted Contract Price	_____
Total payments to contractor	_____
Total amount of liquidated damages assessed.	_____
BALANCE	_____

10. That the final payment of \$ \_\_\_\_\_ is due and payable.

Housing Authority Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

Company: \_\_\_\_\_

Housing Authority of the County of Stanislaus

By: \_\_\_\_\_  
(Authorized Representative)

By: \_\_\_\_\_  
William A. Fagan

Title: \_\_\_\_\_

Title: Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**CERTIFICATE AND RELEASE**

From: \_\_\_\_\_

To: The Housing Authority of the County of Stanislaus

Reference: Contract # \_\_\_\_\_

Between: The Housing Authority Of The County of Stanislaus, Hereinafter Called The Local Authority (LA) And \_\_\_\_\_, Hereinafter Called The Contractor

For: City of Newman NSP (Painting Contract)

Located At: 2248 Orchard Creek

KNOWN ALL MEN BY THESE PRESENTS:

1. The undersigned hereby certifies that there is due and payable under the contract and duly approved change orders and modifications the undisputed balance of \$\_\_\_\_\_.

2. The undersigned further certifies that in addition to the amount set forth in paragraph one(1), hereof, there are outstanding and unsettled the following items which he claims are just and due and owing by the Local Authority to the Contractor.

(A) \_\_\_\_\_

(B) \_\_\_\_\_

(C) \_\_\_\_\_

(Itemized claims and amounts claimed. If none, so state.)

3. The undersigned further certifies that all work required under this contract including work required under Change Orders numbered \_\_\_\_\_ has been performed in accordance with the terms thereof, and that there are no claims of laborers or mechanics for unpaid wages arising out of the performance of this contract, and that the wage rates paid by the Contractor and all Subcontractors were in conformity with the contract provisions relating to said wage rates.

4. Except for the amounts Stated in paragraph 1 and 2 hereof the undersigned has received from the Local Authority all sums of money payable to the undersigned under or pursuant to the aforementioned contract or any change or modifications thereof.

5. That in consideration of the payment of the amount Stated in paragraph 1 hereof the undersigned does hereby release the Local Authority from any and all claims arising under or by virtue of this contract except the amounts listed in paragraph 2 hereof; provided, however, that if for any reason the Local Authority does not pay in full the amount Stated in paragraph 1 hereof, said deduction shall not affect the validity of this release, but the amount so deducted shall be automatically included under paragraph 2 as an amount which the Contractor has not released by will release upon payment thereof. The Contractor further certifies that upon payment of the amounts listed in paragraph 2 hereof, and of any amount which may be deducted from paragraph 1 hereof, he will release the Local Authority from any and all claims of any nature whatsoever arising out of said contract or modification thereof, and will execute such further releases or assurances as the Local Authority may request.

6. The Contractor assigns all guarantees and warranties to the Local Authority effective today.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ By: \_\_\_\_\_

Company  
Title: \_\_\_\_\_

I, \_\_\_\_\_ being first duly sworn on oath, deposes and says, first, that he/she is the \_\_\_\_\_ of the \_\_\_\_\_ (company) second that he has read the foregoing CERTIFICATE AND RELEASE by him/her subscribed as the \_\_\_\_\_ (Title) of the \_\_\_\_\_ (Company)

Affiant further states that the matters and things stated therein are, to the best of his knowledge and belief, true.

Signature \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signature \_\_\_\_\_

MY COMMISSION EXPIRES \_\_\_\_\_.

COMPLETED, assignment of all guarantees and warranties to the Local Authority, and final periodical estimate to be submitted.

Housing Authority Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

The Housing Authority  
of the County of Stanislaus

By: \_\_\_\_\_ Title: Executive Director Date: \_\_\_\_\_

William A. Fagan

# **SECTION E**

## **Specifications**