

CONTRACT
A & E SERVICES
AWARD DOCUMENT

Public reporting burden for this collection of information is estimated to average 0.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Project: xxxx Contract Start Date: xxxxx

Contractor's Proposal is Accepted for Amount: **See Attachment A**

Name and Address of Contractor:

xxxxxx
xxxxxx
xxx

Contract # xxxxxx
Submit Invoices to:
P.O. Box 581918
Modesto, CA 95358-0033

Contractor's Official Authorized to sign Contract:

Name _____
Title _____
Signature _____

Contracting Officer:

Name _____
Signature _____
Award Date _____



Architect/Engineer Services

Section A – Prices

- 1.0** This is a contract for professional architect and engineering services for the work specified in Section B, Statement of Work, for the Project identified on the face page of the contract.
- 2.0 Contract Type and Payment** - The Housing Authority (HA) shall compensate the Architect/Engineer contractor (A/E), in accordance with the terms and conditions of this contract, based on the paragraphs below:
- 2.1** The A/E shall be paid as full compensation for the work required, performed, and accepted under this contract, inclusive of all costs and expenses, see attachment A for pricing. Such price shall not vary with actual costs incurred by the A/E. The A/E shall provide outside consultants as required to conduct work.
- 2.2** Payments shall be made monthly based on the amount of work completed. Regardless of the amount billed by the A/E the cumulative compensation for basic services shall not exceed the maximum firm price stated in attachment A. Invoices shall identify the contract number, name and address to which payment shall be made, the contract work product for which payment is requested, and the date the contract work product was completed, detailed of the hours and fees to verify the invoice amount. The invoice or an accompanying letter shall be signed by an authorized representative of the A/E.
- 3.0** Notwithstanding any other term or condition of this contract, any settlement or equitable adjustment due to termination, stop work order, or delays by the HA shall be negotiated based on the cost principles stated at 48 CFR subpart 31.2 and conform to the contract pricing provisions of:

Section B - Statement of Work

The A/E consultant is to research and develop specifications and plans for RFQ xxx

Section C - A & E Contract Clauses

A/E's Basic Services

1.0 General:

- 1.1 Professional Services.** The Architect/Engineer (A/E) shall supply services necessary for planning and designing the Project, including architectural, site planning, structural engineering, mechanical and electrical engineering, civil engineering, landscape architecture, cost estimating, and other services required for the complete performance of this contract. The A/E shall prepare construction documents as required below and provide inspection services throughout the construction or rehabilitation of the project.
- 1.2 Design Criteria.** The A/E shall design the Project to meet issuances to be furnished by the HA.

1.3 Design With in Funding Limitations.

1.3.1 The A/E shall accomplish the design services required under this contract so as to permit the award of a contract, using standard competitive sealed bid procedures for the improvement of the project(s) designated at a price that does not exceed the estimated construction contract price as set for the below. When bids for the construction contract are received that exceed the estimated price, the A/E shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this contract.

1.3.2 The A/E shall check all existing plans, specifications, survey maps, etc., furnished by the HA and shall report to the HA in writing any apparent discrepancies or deficiencies which may affect the work. The A/E shall make any investigations necessary to coordinate properly the planned work with existing on-site conditions to alert the HA to any condition that may adversely affect the order, progress, or cost of the planned work. This may require limited demolition or earth removal, for example, and shall include a review of any as-built plans and specifications, along with any test reports or similar information that may be available to the HA. The A/E shall promptly advise the Contracting Officer if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, the HA will review the A/E's revised estimate of construction cost.

1.3.3 The HA may, if it determines that the estimated construction contract price set forth in this contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth below, or the HA may adjust such estimated construction contract price.

1.4 Ordinances. The A/E shall design the Project to conform to the applicable Federal, State and local laws, codes, ordinances, regulations, and standards as modified by any waivers which may be obtained from the appropriate jurisdictions.

1.5 Restrictive Drawings and Specifications. The A/E shall avoid the use of proprietary or other construction systems, materials, or products that would limit competition, except where authorized by the HA.

1.6 Memorandum of Understanding. After execution of this contract, the A/E shall conduct an on-site inspection to ascertain the requirements of the Project(s). The A/E shall prepare for approval by the HA a Memorandum of Understanding within NA calendar days of execution of this contract for guidance in preparing the construction documents. The A/E and HA shall then participate in a conference for review of the Statement of Work. Approval of this Memorandum by the HA will accompany the Notice to Proceed with the preparation of the construction documents. The Memorandum shall reflect any changes in the cost or schedule of time and scope of work due to causes beyond the control and without the fault of the A/E.

1.7 Time and Order of Work.

1.7.1 The A/E and the HA shall agree upon a schedule of time and order for modernization of the Project(s) and the performance of the A/E's services, based upon reasonable times for review, approval and return of documents, to ensure the prompt and continuing prosecution of work. The A/E shall participate along with the HA in pre-design and

progress meetings for the purposes of clarifying original design intent and improvement methods.

1.7.2 Pre-Design meetings shall occur after the A/E has conducted field investigations and before any drawings have been generated by the A/E. Progress meetings shall be held to exchange technical information in case modifications are necessitated by cost limitations, field investigations, new technology, or other factors which impact upon implementation, cost, or execution of the work.

1.7.3 The A/E shall provide preliminary design documents to the HA in sufficient detail to enable the HA to determine the methodology in resolving each budgeted item, the quality of all materials intended for use, and the cost as anticipated by budgeted line item. The HA requires the preparation and delivery by the A/E to the HA of construction documents within TBD calendar days from the date of signature of this contract.

1.7.4 Liquidated Damages. If the Contractor fails to complete the work within the time specified in the time specified in the contract clause 1.7.3, both the contractor and the PHA agree that the PHA will suffer damages for delay in completion of any phase of the work and that the actual amount of PHA's damages would be extremely difficult and impracticable to calculate or otherwise ascertain. By placing their initials here, Contractor _____ and PHA _____, agree that such damages shall be liquidated and that the Contractor shall pay the PHA the sum of \$100.00 per day for each unit for each and every day that the Contractor's delay is not excused under another clause in this contract. Contractor and PHA further agree that the amount of liquidated damages is reasonable considering all the circumstances existing on the date of execution of this Contract and that these liquidated damages are a reasonable approximation by the Contractor and the PHA in view of their inability to calculate actual damages. If the PHA terminates the Contractor's right to proceed, the assessment of liquidated damage shall continue until such reasonable time as may be required for final completion of the work together with any increased costs incurred by the PHA in completing the work.

1.8 Attendance at Conferences. The A/E or his/her representative shall attend conferences involving matters related to the design and construction of the Project(s) when and as deemed necessary by the HA.

1.9 Construction Documents Phase. Upon receipt of the HA's written Notice to Proceed, the A/E shall prepare and deliver the ;construction specifications and drawings to the HA. The construction documents shall constitute a presentation of the complete concept of the work including all major elements of the buildings and site design planned to promote economy in construction, maintenance and operation, and to comply with current Criteria and cost limitations.

1.9.1 The A/E shall assist the HA in preparing a solicitation (invitation for bids) for construction consisting of the elements approved by the HA. The A/E shall recommend any necessary changes to keep Project improvements within the approved HA Budget.

1.9.2 Drawings and specifications shall be consistent with HA budget. These documents shall set forth in detail and prescribe the work to be done by the construction specifications; the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical and site work; and the necessary solicitation information.

The drawings shall also include the following, sufficient to serve as the basis for a cost estimate:

- a. A title sheet with an Index of Drawings.
- b. Site plan(s) showing the location of all applicable buildings.
- c. Scale plans of all buildings and typical dwelling units, including handicapped dwelling units and facilities, if any.
- d. Wall sections, details, and elevations sufficient to serve the intended work.
- e. All other required architectural, civil, structural, mechanical and electrical documents necessary to complete the work at the Project(s). There shall be close attention paid to detailed coordination between plans, specifications, and the existing site conditions to negate unforeseen problems during the work.

1.9.3 The A/E shall rely on the certified land survey furnished by the HA as provided below to establish property lines.

The following subparagraph is applicable if checked:

1.9.4 In addition to hard copy, the A/E shall supply drawings on compact disks to the HA, in a medium suitable for use by the HA in the following software format used by the HA (indicated by a check in the box below):

() Auto Desk Inc.'s Auto CAD computer software, Release () () Other (describe):
Data Cad - D.F. Files

1.10 Subsurface Soil Investigation. If required by the HA based on the needs of the specific project involved, the A/E shall advise the HA of the scope and nature of subsurface investigation which it recommends for proper planning and design of the project, including test boring, test pits, soil bearing values, and any other necessary investigations for determining subsoil, air, and water conditions. The A/E shall keep informed as to the progress of the subsurface investigation and if it finds or is advised of any condition which would make it advisable to alter the scope of investigation or nature of the Project, it shall make timely reports and recommendations to the HA.

1.11 Separate Contracts. Where required by local laws, ordinances, or the HA, the A/E shall assist in preparing the construction solicitation documents in such form and manner as to enable the HA to solicit separate bids and award separate contracts for different parts of the Project(s). Any addendum to the drawings and specifications shall be submitted to the HA for approval if requested.

1.12 Cost Breakdown. Prior to issuance of the construction solicitation, the A/E shall furnish the HA with a summary breakdown of the estimated construction cost of the Project(s) consistent with the drawings and specifications and in the form prescribed by the HA. Changes from the approved HA budget established as described above shall be explained.

1.13 Approvals by HA . The A/E shall submit the completed construction solicitation documents to the HA and shall make all changes necessary to obtain approval by the HA. Such approval shall not relieve the A/E of his/her other obligations under this contract except as to features thereof upon which the HA has specifically instructed the A/E in writing and to which the A/E has specifically objected in writing. No changes shall be made to the construction solicitation documents (including those prepared for contract modifications) after review and approval by HA.

1.14 Approvals by Other Agencies. Upon approval by the HA of the construction solicitation documents, the A/E shall submit to those agencies of the local, State or Federal Government having jurisdiction over the Project(s) all documents which shall submit a copy of the solicitation and construction documents to all other agencies: (1) who will furnish services to the completed Project(s); and (2) whose approval is required to ensure such service. If obtaining such approvals would require noncompliance with the Criteria, the A/E shall promptly notify the HA in writing.

1.15 Changes Required. The A/E shall promptly make all changes in the construction solicitation documents necessary to obtain approval of the agencies described above for construction, services, and occupancy without additional compensation or reimbursement; provided that if, subsequent to the date of receiving the HA's Notice to Proceed with preparation of the documents, revisions in applicable building codes or other regulations required changes and added expense to the A/E, this shall be paid for as an Additional Service as outlined in paragraph 3.

1.16 Certifications. The A/E shall furnish certification to the HA that the construction solicitation documents, to the best of its knowledge, are in compliance with the above paragraphs, that the A/E has accurately met the intent of the latest HA-approved budget, and has conducted adequate investigations to coordinate properly the planned work with the existing conditions on the site. If any agency referred to above is unwilling or without authority to give written approval prior to formal application for construction permits, then the A/E shall so report in the certification to the HA and shall state therein that, to the best of the A/E's knowledge, all drawings and specifications accurately reflect Government approved work and meet the mandatory standards.

1.17 Unauthorized Changes. The A/E shall not add or delete from the approved HA budget any items without prior written HA and Government approval.

1.18 Reproduction of Final Documents. The A/E shall include all sets necessary for approvals, construction, and for record for construction solicitation purposes in such form as may be necessary. The cost of reproducing these documents shall be billed as reimbursable expenses at a cost of 1.20 times the actual cost not to exceed \$500.00.

1.19 Revisions. The A/E, whenever directed by the HA, shall make revisions in the construction solicitation documents due to deficiencies for which the A/E is responsible under the requirements of this contract at no additional compensation.

1.20 Assistance in solicitation Process. The A/E shall assist the HA in connection with soliciting and awarding construction contracts. The A/E shall be present at the public opening of bids to assist in the review and tabulation of bids, and the A/E shall make recommendations to the HA in writing regarding acceptance of bids and award of the contract(s).

1.21 Revisions After Bid Opening. In the event that the lowest responsible, responsible bid which results in costs which exceed the budget, the A/E shall, without additional compensation and upon written order from the HA, make such revisions and alterations in the drawings and specifications as may be necessary to permit proper construction and completion of the Project(s) within the budget and to permit re-solicitation.

1.22 A/E's Service During the Construction and Guarantee Phase.

- a. Review the Construction Progress Schedule submitted by the Contractor and recommend approval/disapproval to the HA.

- b. Prepare large-scale, full-size, or other drawings (exclusive of shop drawings) as needed to supplement the contract drawings to permit proper construction of the Project(s).
- c. Advise the HA, in writing, on needed interpretations (other than legal interpretations) and clarifications of the drawings and specifications.
- d. Make modifications, drawings and specifications and assist the HA in preparing change orders in proper form and in accordance with procedures furnished by the HA. Change orders contain necessary references to existing documents, all drawing and specification change, cost breakdowns, and other exhibits necessary for the HA to be able to properly evaluate the work, costs, and materials.
- e. Initiate, review and countersign change orders after verification that all costs for changes are accurate; consistent with the requirements of the General Conditions of the Contract for Construction; and are reasonable in the market place. The A/E shall assist the HA in performing a cost or price analysis as required by 24 CFR Part 85.36(f) for construction contract modifications (including change orders).
- f. Review contractor's shop drawings and submittals.
- g. Determine the extent of laboratory testing required for the work (including lead-based paint, asbestos, and poly-chlorinated biphenyls/PCBs); recommend suitable arrangements for tests of materials, structural systems, or equipment; with approval of the HA make any necessary arrangements for the selection of samples, and the actual testing thereof; and recommend in writing to the HA for approval or disapproval of samples, certificates, and test reports. A copy of all test results shall be furnished to the HA.
- h. Prepare color schemes and schedules for the HA's approval and subsequently recommend approval of the color and texture of materials and finishes furnished by the construction contractor.
- i. Make periodic visits to the site to substantiate the progress and quality of the work and to determine if the work is proceeding in accordance with the contract documents. On the basis of on site observations, he/she shall endeavor to guard the HA against defects and deficiencies in the work. Such visits shall be made by the A/E or his/her representative not less than once during each week while actual construction is in progress and shall continue as a Basic Service for a period not to be exceeded by more than 10% of the construction period originally established by the contract documents.
- j. After completion of construction, make visits to the site prior to the expiration of the guarantee period specified in the main Construction Contract to inspect for evidence of faulty materials and faulty workmanship. The A/E shall make one visit nine months after completion. The A/E shall be required to make no more than two additional visits as the HA or Government may request, within twelve months after completion of construction. The A/E shall ensure that one inspection is of landscaping or similar seasonal items that may not be completed at the same time as other work.
- k. Pursuant to each visit required by "i" or "j" above, the A/E shall endeavor, on the basis of on-site observations, to guard the HA against defects and deficiencies in the work. After each visit made pursuant to "i" and "j", the A/E shall immediately notify the contractor and the HA while on site of any deficiencies and shall submit within seven (7) days of the visit a written report which are, in the A/E's opinion, covered by the guarantees provided for in the contract documents and shall in such a case indicate the pertinent guarantee. A copy of each report shall be filed with the HA.
- l. Advise the HA of special problems and on changes necessitated by unforeseen conditions encountered in the course of construction.
- m. Review and recommend to the HA payment of periodic estimates of the value of acceptable work in place, and material delivered to and properly stored on site.

- n. Prepare a set of reproducible record drawings (as-built drawings), showing significant changes in the work made during construction and approved by the HA, and other data furnished by the contractor to the A/E. (Also see paragraph 1.9.4 regarding any Auto CAD disk requirements.)
- o. Assist in the final inspection and properly prepare and sign and required Certificate of Completion.
- p. The A/E shall furnish to the HA all report required by the Statement of Work of this contract.
- q. The A/E shall either furnish a clerk-of-the-works or coordinate with the HA's clerk-of-the-works as provided in he Statement of Work for this contract.

The A/E's role in the construction work is explained in the construction contract.

1.23 A/E's Personnel and Subcontractors.

- a. The A/E's employees identified below are considered to be essential to the contract work effort. Prior to diverting or substituting any of the specified individuals, the A/E shall notify the Contracting Officer reasonably in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact on the contract. No diversion or substitution of key personnel shall be made by the A/E without the prior written consent of the Contracting Officer.
- b. Any subcontractors, outside associates, or consultants required by the A/E in connection with the services covered by the contract will be limited to individuals or firms that were specifically identified and agreed to during negotiations. The A/E shall obtain the Contracting Officer's written consent before making any substitution for these subcontractors, associates, or consultants.

1.24 Responsibility of the A/E.

1.24.1 The A/E shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the A/E under this contract. The A/E shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications and other services.

1.24.2 Neither the HA's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the A/E shall be and remain liable to the HA in accordance with applicable law for all damages to the HA caused by the A/E's negligent performance of any of the services furnished under this contract.

1.24.3 The rights and remedies of the HA provided for under this contract are in addition to any other rights and remedies provided by law.

1.24.4 If the A/E is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

1.24.5 The contractor shall maintain errors and omission insurance sufficient to cover the work performed under this contract.

2.0 The HA's Responsibilities

2.1 The HA shall provide all necessary information regarding its requirements as expeditiously as necessary for the orderly progress of the work.

2.2 The HA shall designate the representative authorized to act in its behalf with respect to the Project. The HA or its representative shall examine documents submitted by the A/E and shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the A/E's work.

2.3 The HA shall furnish, where required, a certified land survey of the site giving, as applicable, streets, alleys, topography, pavements, encroachments, zoning, deed restrictions, boundaries; locations, dimensions and data pertaining to existing buildings, trees, and improvements and information concerning location service and utility lines both public and private, above and below grade. The HA shall also provide any available "as built" drawings of buildings or properties on which rehabilitation or modernization is to be performed, along with any available architect surveys, test reports, and any other written information that may affect the work. The HA shall also work with the A/E to discover existing site conditions that may affect the order, progress, and cost of the work.

2.4 The HA shall provide information on any previously obtained waivers of local codes, ordinances, or regulations, or standards affecting the design of the Project(s).

2.5 The HA shall provide a statement on any work, to be performed by others and, therefore, not to be included in the construction contract for the Project(s).

2.6 The HA shall provide all current Government issuances pertinent to the A/E's services hereunder.

2.7 If HA observes or otherwise becomes aware of any fault or defect in the Project or non-conformance with the Contract Documents, the HA shall give prompt written notice thereof to the A/E. The HA shall not make deductions from the A/E's compensation on account of liquidated damages withheld from payments to construction contractors.

2.8 The HA shall furnish the schedule of minimum wage rates approved by the Secretary of Labor for inclusion in the solicitation.

2.9 The HA shall furnish structural, mechanical, chemical, or other laboratory test, inspections and reports as required by law or the contract documents.

2.10 The A/E shall be entitled to rely upon the accuracy and completeness of information furnished by the HA.

3.0 Additional Services

3.1 If any additional services other than those specified in paragraph 1 above are ordered in writing by the HA, a contract modification, signed by both parties, shall be issued which identifies the change in services and any resulting change in contract amount, period of performance, or any other term and condition of this contract. The A/E shall provide cost information based on the cost principles stated at 48 CFR Subpart 31.2 sufficient to enable the HA to perform a cost analysis conforming to the contract pricing provisions of 24 CFR 85.36(f) or 24 CFR 905, the terms of paragraph 4, Compensation for Additional Services, and paragraph 5, A/E's Expenses

Additional services include the services described in 3.2, 3.3, and 3.4 below.

3.2 Major revisions of previously approved drawings, specifications, and other documents due to causes beyond the control of the A/E and not due to any error or omission by him/her or failure to carry out his/her obligations under this contract, including but not limited to revisions required:

- a. By Criteria or code changes (after the construction contract is awarded).
- b. To meet unknown existing hidden conditions in buildings or apartments.
- c. By errors or inaccuracies in the documents provided by the HA that affect this work.
- d. To enable the HA to continue work if the construction contract is terminated for default.

3.3 Observing and inspecting the replacement or repairs of any work damaged by causes not attributable to the A/E's responsibility under this agreement.

3.4 Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding, or legal proceeding.

4.0 Compensation for Additional Services

Additional services shall be at the rates specified in Exhibit A. Allowable costs shall include the actual cost of salaries, appropriate fringe benefit payments and overhead expenses, and reasonable profit. All allowable costs shall be included in the one price lump sum fixed compensation for the contract modification referred to in paragraph 3. In accordance with paragraph 1.18, extra final documents shall be paid for by the HA.

5.0 A/E's Expenses

5.1 The intent of this contract is for the HA and the A/E to enter into a firm fixed price contract with no provisions for reimbursable expenses except for those resulting from a Contract Modification defined by paragraph 3.

5.2 The costs of fees to be paid to regulatory agencies, and for traveling, postage, telephone, and living expenses incurred by the A/E, A/E's associates or technical personnel in the discharge of the A/E's Basic Services as described in paragraph 1, are considered as A/E's overhead, must be included in the firm, fixed price contract amount and payment, and shall not be claimed as reimbursable expenses.

6.0 A/E's Accounting Records

Records of the A/E's Direct Personnel and Reimbursable Expense pertaining to the Project shall be kept in accordance with generally accepted accounting principles. The HA or its authorized representatives, and the Comptroller General of the United States or their authorized representatives, shall have full and free access to such records, including the right to audit, and to make excerpts and transcripts from such records.

7.0 Miscellaneous Requirements

7.1 Interest in Industries or Materials. At the time the drawings and specifications are delivered to the HA, the A/E shall submit a certificate stating any interest, direct or indirect, which the A/E or A/E's associates may have in a proprietary system of construction or a patented building design or share a business or industry that manufactures materials that are shown as specified for the Project(s) (if no such interest exists, the A/E shall so certify).

7.2 Delays by HA

7.2.1 If the performance of all or any part of the work is, for an unreasonable period of time, delayed by an act of the HA in the administration of this contract other than a suspension of work, or by its failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this contract (excluding profit) necessarily caused by such unreasonable delay, and the contract modified in writing accordingly.

However, no adjustment shall be made under this Paragraph for any suspension or delay to the extent: (1) that performance would have been suspended or delayed by any other cause, including the fault or been suspended or delayed by any other cause, including the fault or negligence of the A/E; or (2) for which an equitable adjustment is provided for as an exclusion under any other provision of this contract.

7.2.2 No claims under this Paragraph shall be allowed: (1) for any costs incurred more than 20 days before the A/E shall have notified the HA in writing of the act or failure to of the act involved; and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension or delay, but no later than the date of final payment. No part of any claim based on this clause shall be allowed unless it is supported by adequate evidence showing that the cost would not otherwise have been incurred.

7.3 Certificate and Release. Prior to final payment under this contract or prior to settlement upon termination of the contract, and as a condition precedent thereto, the A/E shall execute and deliver to the HA a Certificate and Release in form acceptable to the HA, containing a release of all claims against the HA by the A/E under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the A/E in stated amounts set forth therein.

7.4 Ownership of Documents. All drawings and specifications prepared and furnished by the A/E shall become the property of the HA upon their approval in writing by the HA or upon the prior termination of the A/E's services hereunder, and the A/E shall have no claim for further employment or additional compensation as a result of exercise by the HA of its full rights of ownership of these document and materials. The A/E shall retain a record copy for its own files.

7.5 Organizational Conflicts of Interest.

7.5.1 The A/E warrants that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and A/E's organizational, financial, contractual or other interests are such that:

- a. Award of the contract may result in an unfair competitive advantage; or
- b. The A/e's objectivity in performing the contract work may be impaired.

7.5.2 The A/E agrees that if after award it discovers an organizational conflict of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the A/E has taken or intends to take to eliminate or neutralize the conflict.

7.5.3 The HA may, however, terminate the contract for convenience if it would be in the best interest of the HA.

7.5.4 In the event the A/E was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.

7.5.5 The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime contractor. The A/E shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

Section D - Administrative Clauses

1.0 Definitions:

1.1 "HA" means the Housing Authority of the County of Stanislaus.

1.2 "Contract" means the contract entered into between the HA and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the statement of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.

1.3 "Contractor" means the person or other entity entering into the contract with the HA to perform all of the work required under the contract.

1.4 "Contracting Officer" means the authorized person who signed this contract for the HA.

2.0 Billing and Payment

2.1 The Contractor shall submit billings to the HA as provided in Section C. The billings must show the type of service performed and the amount charged to the contract during the billing period.

2.2 The HA shall pay the Contractor within 30 working days of receipt of the billings.

2.0 Changes

3.1 The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed.

3.2 If any such change causes an increase or decrease in the prices charged, the maximum amount of the contract, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the maximum amount, the price(s), the delivery schedule, or other affected terms, and shall modify the contract accordingly.

3.3 The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a proposal submitted before final payment of the contract.

3.4 Failure to agree to any adjustment shall be a dispute under clause 4.0 Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

3.5 No services for which an additional cost or fee will be charged by the contractor shall be furnished without the prior written consent of the HA.

4.0 Disputes

4.1 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 by this clause.

4.2 All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.

4.3 The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.

4.4 Provided the contractor has (1) given the notice within the time stated in paragraph 4.3, and (2) excepted its claim relating to such decision from the final release, and (3) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.

4.5 The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

5.0 Contract Modifications

5.1 Only the Contracting Officer has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.

5.2 The HA 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 HA address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor and the Contracting Officer.

6.0 Termination

6.1 The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor of a Notice of termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.

6.2 If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.

6.3 If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may: (1) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph 6.1(2), and compensation be determined in accordance with clause 3.0 Changes; (2) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owed the HA by the Contractor.

6.4 If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph 6.2.

6.5 Any disputes with regard to this clause are expressly made subject to the terms of clause 4.0 Disputes herein.

7.0 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 HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

8.0 Examination and Retention of Contractor's Records

8.1 The HA, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

8.2 The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph 8.1. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.

8.3 The periods of access and examination in paragraphs 8.1 and 92 for records relating to (1) appeals under clause 4.0 Disputes, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the HA, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

9.0 Organizational Conflicts of Interest

9.1 The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a Contractor's organizational, financial, contractual or other interests are such that:

9.1.1 Award of the contract may result in an unfair competitive advantage; or

9.1.2 The contractor's objectivity in performing the contract work may be impaired.

9.2 The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract for the convenience of the HA if it would be in the best interest of the HA.

9.3 In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.

9.4 The provisions of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

10.0 Inspection and Acceptance

10.1 The HA has the right to review, require correction, if necessary, and accept the work produced by the Contractor. Such review(s) shall be carried out within 15 days so as to not impede the work of the Contractor. Any work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 15 days from the date of receipt of such work from the Contractor.

10.2 The Contractor shall make any required corrections promptly and return a revised copy of the work to the HA within 30 days of notification or a later date if extended by the HA.

10.3 Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default.

11.0 Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

12.0 Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

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

13.0 Limitations on Payments to Influence Certain Federal Transactions

13.1 Definitions. As used in this clause:

13.1.1 "Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

13.1.2 "Covered Federal Action" means any of the following Federal actions:

- (1) The awarding of any Federal contract;
- (2) The making of any Federal grant;

- (3) The making of any Federal loan;
- (4) The entering into of any cooperative agreement; and,
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

13.1.3 "Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

13.1.4 "Influencing or attempting to influence" means making, with the intent to influence, and communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

13.1.5 "Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

13.1.6 "Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (2) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (3) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee ACT, title 5, Appendix 2.

13.1.7 "Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

13.1.8 "Reasonable compensation" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

13.1.9 "Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

13.1.10 "Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

13.1.11 "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory of possession of the United States, an agency or instrumentality of a state, and a multi-State, regional, or interstate entity having governmental duties and powers.

13.2 Prohibition.

13.2.1 Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

13.2.2 The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(A) The prohibition on the use of appropriated funds, in paragraph 13.2, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(B) For purposes of paragraph 13.2.2(1)(A), providing any information specifically requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(i) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(i) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(ii) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(iii) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(E) Only those activities expressly authorized by paragraph 13.2.2(1)(A) are permitted under this clause.

(2) Professional and technical services.

(A) The prohibition on the use of appropriated funds, in paragraph 13.2.1, does not apply in the case of:

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. (ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal

action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

- (B) For purposes of paragraph 13.2.2(2), "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.
- (C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (D) Only those services expressly authorized by paragraph 13.2.2(2)(A)(i) and (ii) are permitted under this clause.

(3) Selling activities by independent sales representatives.

The prohibition on the use of appropriated funds, in paragraph 13.2.1, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

- (A) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and
- (B) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

13.3 Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

13.4 Penalties. Any person who makes an expenditure prohibited under paragraph 13.2 shall be subject to a civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

13.5 Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

13.6 Disclosure. The Contractor further agrees, if this contract exceeds \$100,000, to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

14.0 Equal Employment Opportunity

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

14.1 The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

14.2 The Contractor shall 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: (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or

recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.

14.3 The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

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

14.5 The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

14.6 The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

14.8 In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, 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 under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

14.9 The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

14.10 Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the clause titled Indian Preference herein.

15. Prohibitions Against Liens

The Contractor is prohibited from placing a lien on the PHA's/IHA's property. This prohibition shall apply to all subcontractors.

16.0 Clean Air and Water (Applicable to Contracts in Excess of \$100,000.)

16.1 Definition. "Facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by the Contractor or any subcontractor, used in the performance of the contract or any subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the

Administrator, or a designee, of the Environmental Protection Agency (EPA) determines that independent facilities are collocated in one geographical area.

16.2 The Contractor agrees:

16.2.1 To comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water ACT (33 U.S.C. 1368), Executive Order 11738, and EPA regulations (40 CFR Part 15);

16.2.2 That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

16.2.3 To use the best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed; and

16.2.4 To insert the substance of this clause in all nonexempt subcontracts, including this paragraph 17.2.4.

17.0 Energy Efficiency

The contractor shall comply with all standards and policies relating to energy efficiency which are contained in the energy conservation plan of the State in which the HA is located, issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-1630).

18.0 Wage Rates

In accordance with 42 U.S.C. 1437 j, the A/E shall pay not less than wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law), to all architects, technical engineers, craftsmen, and technicians.

19.0 Order of Precedence

In the event of a conflict between clauses in Sections C and D of this contract and the Statement of Work, the clauses 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.

20.0 Hold Harmless

Contractor shall defend, indemnify, and hold harmless **Authority**, its officers, officials, employees, and volunteers from and against all claims, damages, losses, and expenses, including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of **Contractor**, any sub-contractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the **Authority**.

21.0 Contract Period/Contract Amount

The initial term of this contract shall be for a period of one year from February 10, 2017 through January 9, 2018. The initial term may be extended, at the Authority's complete and absolute discretion, for four (4) additional one year option periods for a maximum total of 5 years. In the event the Authority desires not to exercise an option, it shall give Contractor thirty (30) days prior written notice of its intent not to exercise the option.

The HA shall pay Architect for the services rendered by Architect in an amount not to exceed ("NTE") \$ 500,000. This amount may be amended by HA upon written request of the Architect in advance of services to be performed which when completed would cause the NTE amount to be exceeded. The HA shall have the sole and absolute discretion to pay for the services which exceed the NTE amount. The NTE is based upon the HA's approved budget for the services to be rendered. Architect therefore agrees that there will be non-payment for services which exceed the NTE amount if Architect fails to submit a timely written request described herein or if the HA determines not to pay for such services."