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SECTION 3 CONTRACT CLAUSE AND DEFINITIONS

Section 3 Covered Contract Clause

Section 3 covered contracts shall include the following Clause:

- (A) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall to the greatest extent feasible, be directed to low- and very-low income persons, Particularly persons who are recipients of HUD assistance for housing.
- (B) The Parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the Parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (C) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (D) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

- (E) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (F) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.
- (G) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Definitions

The following definitions apply to Section 3 covered projects:

Employment Opportunities Generated by Section 3-covered Assistance:

Employment opportunities generated by the expenditure of Section 3 covered assistance. This includes **new hires** for management and administrative jobs, architectural, engineering or related professional services required to prepare plans, drawings, specifications or work write-ups, and jobs related to the administrative support of these activities, such as construction management, construction related jobs, office and clerical jobs, etc.

New Hires

Full-time employees for permanent, temporary, or seasonal work.

Recipient

Any entity which receives Section 3 assistance directly from HUD or from another recipient and includes but is not limited to: States, units of local governments, Public Housing Authorities, other public bodies, or public or private non-profit organizations, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include the ultimate beneficiary under the HUD program to which Section 3 applies and does include contractors.

Business Concern

A business that is

- (1) 51% or more owned by Section 3 eligible persons;
- (2) a business whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 eligible, or within three years of the date of first employment with the business were Section 3 eligible; or
- (3) a business that provides evidence of a commitment to subcontract in excess of 25% of the dollar awarded of all subcontracts to be awarded to business concerns that meet the qualifications of a Section 3 Business Concern.

Covered Activity

Any activity that uses HUD funds for the development that provides training, employment, contracting, and/or economic opportunities.

Covered Assistance

Public and Indian housing development assistance, modernization or operating assistance; any assistance provided

under any HUD housing or community development program that is expended for work in connection with housing rehabilitation, housing construction or other public construction.

Covered Contract

Any contract/ subcontract for \$100,000 or more (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. Section 3 covered contracts do not include contracts for the purchase of supplies and materials. However, when a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

NOTE: Contracts for Section 3 are not cumulative, i.e. a contractor receives 3 contracts for different projects totaling more than \$100,000, but each contract is under \$100,000. Contractor is not a Section 3 covered contractor.

Covered Project

The construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance in the aggregate amount of \$200,000 or more.

Eligible resident

An individual who resides in the metro area or non-metro county in which the Section 3 assistance is expended and meets the income eligibility requirements, i.e. (1) a low income person (income does not exceed 80% of the area median income adjusted for family size); (2) a very low income person (income does not exceed 50% of area median income adjusted for family size). Any person seeking the training and employment preference provided by Section 3 bears the responsibility of providing evidence they are eligible, have the ability and capacity to perform successfully under the terms and conditions of the proposed contract.

Subcontractor

Any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.