Section 3 Contractor Compliance Agreement

This Section 3 Contractor Compliance Agreement is entered into between the District of Columbia Housing Authority (DCHA), located at 1133 North Capitol Street NE, Washington DC

20002-7599; and (name of contractor) located at

(address of contractor) .

**Section 3 Program Overview**

* Section 3 of the Housing and Urban Development Act of 1968 (codified as amended at 12 U.S.C. 1701u) (Section 3) was enacted to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons; and
* Section 3 covered opportunities include training, employment, contracting, and other economic opportunities arising from development, operating and modernization funded by HUD notwithstanding the amount of the contract or subcontract, and regardless of whether the activity is fully or partially funded by HUD funds; and
* “Section 3 Resident” means:
1. A public housing resident;
2. Other DCHA Voucher Program participant; or
3. An individual who resides in the District of Columbia metropolitan area and who is a low- or very low-income person; and
* “Section 3 Business Concern” means a business concern that:
1. Is a business concern that is 51% or more owned by Section 3 residents; or
2. A business whose permanent, full-time employees include at least 30% current Section 3 residents (or are within three years of the date of first employment as a Section 3 resident); or
3. A business which provides evidence of a commitment to subcontract in excess of 25% or the dollar award of all subcontracts to businesses that meet the tests in (3)(a) or (3)(b) above; and
* DCHA’s implementation of the Section 3 program provides a mechanism that will enable DCHA to require and help its contractors and subcontractors to provide employment, training, and business opportunities for DC Section 3 residents; and
* 24 C.F.R. § 135.30 (a) creates a “safe harbor” whereby recipients and covered contractors may demonstrate compliance with the “greatest extent feasible” requirement of Section 3 by meeting the listed numerical requirements; and
* Contractors and subcontractors will incur all costs for compliance with Section 3, are subject to DCHA Section 3 monitoring, and will accept any applicable penalties for non-compliance.

The undersigned parties agree to comply with the following provisions in accordance with DCHA’s Section 3 policy:

1. **Section 3 Hiring Requirements.** Contractor agrees at least 30% of its new hires for the project shall be Section 3 residents. The 30% minimum represents a safe harbor for hiring that meets the “greatest extent feasible” statutory requirement.
2. For each new hire on a Section 3 covered project, the contractor will submit a new hire request form to DCHA five business days prior to recruiting through other means. If DCHA is not able to refer qualified candidates, the contractor agrees to make other efforts to hire Section 3 residents for the vacant position.
3. In the event that the contractor fails to reach the 30% requirement, the contractor must provide a written justification of the impediments encountered and what actions or other economic opportunities the contractor attempted in efforts to reach the requirement.
4. New hires are subject to contractor’s standard employment policies.
5. **Section 3 Contracting Requirements.** Contractor agrees to meet the minimum Section 3 contracting requirements as a safe harbor that meets the “greatest extent feasible” statutory requirement as follows:
6. For construction contracts, the contractor agrees to award contracts of at least 10% of the total dollar amount to Section 3 Business Concerns.

1. For all other Section 3-covered contracts, the contractor agrees to award contracts of at least 3% of the total dollar amount of contracts or subcontracts to Section 3 Business Concerns.
2. A database of eligible Section 3 Business Concerns is maintained by the DC Department of Housing and Community Development (DHCD) at <https://sites.google.com/site/dhcdsection3/section-3-business-concerns/certified-section-3-business-concerns>.
3. In the event that the contractor fails to meet these minimum numerical requirements, the contractor must demonstrate in writing why it was not feasible to meet the numerical requirements, including actions taken and any impediments encountered as well as other economic opportunities that were provided in the absence of meeting the requirement.
4. **Other Economic Opportunities.** When the contractor is unable to provide hiring and/or contracting opportunities to Section 3 residents and/or businesses, it is DCHA policy that the contractor offers another economic opportunity for career advancement. This option is only available after a contractor demonstrates in writing why it is not feasible to hire and/or subcontract to Section 3 residents and/or businesses as described above. Other economic opportunities could include:
	1. Using previous Section 3 hires’ labor on a project.
	2. Providing training opportunities including internships or certified apprenticeships for Section 3 residents or directly providing or sponsoring training opportunities through DCHA’s Southwest Family Enhancement and Career Center.
5. **Evaluation Criteria.** Contractors may earn up to 20 evaluation points for Section 3. Section 3 action plans will be evaluated on the following criteria.

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| **Points** | **Hiring** **(6 Possible Points)** | **Subcontracting** **(6 Possible Points)** | **Other** **Economic Opportunities** **(4 Possible Points)** \*Points will only be awarded in this category after meeting hiring and contracting goals or demonstrating why they cannot feasibly be met. | **Past Performance****(4 Possible Points)** |
| 6 | Proposed prime is a Section 3 Business Concern that hires Section 3 residents for at least 30% of its workforce | Proposed prime is a Section 3 Business Concern |  |  |
| 4 | Commitment to exceeding goal and/or providing robust employment opportunities. | Specific Section 3 business concerns identified as subs to meet goals. | Specific means of providing other economic opportunities of commensurate value identified. | Demonstrates repeated successful compliance. |
| 2 | Commitment to following procedures and meeting goal. | Commitment to meeting subcontracting goals. | Commitment to providing other economic opportunities of commensurate value. | Demonstrates at least 1 instance of successful Section 3 compliance. |
| 0 | No response, no hires, or non-feasibility explanation provided. | No response, zero contracting, or non-feasibility explanation provided. | No response, no other economic opportunities, or non-feasibility explanation not provided. | No response or never encountered Section 3. |
| Bidder Not Qualified[ ] Bidder is not qualified because the proposal does not comply with Section 3. [ ] Bidder is not qualified due to previous non-compliance.  |

1. **Section 3 Reporting Procedures.** Contractor agrees to submit monthly Section 3 reports in the format specified by DCHA by the 5th of each month, reporting on Section 3 activities from the prior month. The final report must be submitted by the earlier of the following events: the 5th of the month following completion of the project or upon submission of the final pay request.
2. **Section 3 Compliance Procedures.** If a contractor fails to meet the Section 3 hiring and/or contracting requirements, DCHA may determine it to be non-compliant. If DCHA determines that a contractor is non-compliant, DCHA shall follow the procedures below:
	1. Issue a verbal warning and a date by which to correct. The contractor is responsible for notifying any subcontractor who is not in compliance. If non-compliance is not resolved by the date by which to correct, the Section 3 coordinator will proceed with the next step.
3. DCHA will issue a written corrective plan with a prescribed means of correcting non-compliance and a required meeting date and time. The contractor will be given at least three business days’ notice for the meeting, and is expected to attend the meeting with the Section 3 coordinator and any other appropriate representative from DCHA.
4. If the contractor does not correct the deficiencies in the manner and timeframe prescribed, the following sanctions may be prescribed.
	1. Withholding payments on contracts; and/or
	2. Canceling and suspending contracts; and/or
	3. Placing contractor on list of contractors who fail to comply with the DCHA’s Section 3 requirements.
	4. The contractor may also be subject to a fine up to 5% of the total contract value.
5. **Section 3 Clauses.** The contractor understands the obligations of a Section 3 covered contract and agrees to the following Section 3 Clauses:
	1. 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.
	2. 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.
	3. The contractor agrees to send to each labor organization or representative or 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 the 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.
	4. 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.
	5. 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.
	6. 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.
	7. 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 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
6. The parties further certify that the persons executing this Agreement have the authority to so bind the parties to this Agreement.

IN WITNESS THEREOF, the undersigned parties execute this Agreement, intending to

be bound, this day of , 20 in Washington, D.C.

**CONTRACTOR:**

 By:

 (name)

 (title)

**DISTRICT OF COLUMBIA HOUSING AUTHORTY**

 By:

 Cheryl Moore

  *Contracting Officer*