

**SECTION 3 UTILIZATION PLAN
FOR SUBRECIPIENTS, OWNERS, DEVELOPERS, CONTRACTORS, AND SUBCONTRACTORS ON ALL
APPLICABLE CITY OF PUEBLO PROGRAMS, PROJECTS, AND ACTIVITIES USING HUD SOURCED FUNDS
(EXHIBIT A)**

I. PURPOSE: The intent Section 3, a section contained within the Housing and Urban Development Act of 1968 is to provide job training and employment opportunities from programs that receive U. S. Department of Housing & Urban Development (HUD) funding to local low income residents and the businesses they own or that employ them. The purpose of this Plan is to set forth procedures to be implemented by sub-recipients, developers, contractors and subcontractors to ensure compliance with the City of Pueblo’s (City) Section 3 Program as administered by the Department of Housing and Citizen Services (DHCS) and the following Federal implementing Act and Regulations:

- Housing and Urban Development Act of 1968 as ammended12 U.S.C. 1701u;
- 24 CFR 135 - Section 3 Regulations

The City’s Section 3 Program is available for review from the Department of Housing & Citizen Services (DHCS), 2631 E. 4th Street, Pueblo, CO 81001.

II. DEFINITIONS: For the purpose of Section 3, the following definitions apply:

A. Low-income resident provides evidence that he/she meets one of the following:

- Is a public housing resident
- Is a resident of the City of Pueblo whose gross income does not exceed 80% of the Area Median Income (AMI) as defined by HUD annually. The most current income maximums by household size are noted in the table below:

Pueblo, CO MSA – FY 2017 Income Limits – Median Income \$50,500								
No. of Household Occupants	1	2	3	4	5	6	7	8
Gross Household Income	\$35,750	\$40,850	\$45,950	\$51,050	\$55,150	\$59,250	\$63,350	\$67,400

- Preference is to be given to those residing in the service area or neighborhood in which this project/activity is located, but preference must be solely income based and race and gender-neutral.

B. Section 3 business concerns are those who can provide evidence of meeting one of the following:

- That the business concern is 51 percent or more owned by section 3 residents;
- The business concern’s permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or,
- Provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualification of a Section 3 business concern, set forth on pages 17-19 in the City’s policy guide “Section 3 of the Housing and Urban Development Act of 1968, An Orientation Guide for Contractors, Developers, and Sub-Recipients doing business with the City of Pueblo”.

C. Service area

For the purposes of this bid, the service area is considered to be: _____

D. Numerical goals:

<p><u>New Hiring of Section 3 Residents</u> (See Section 3 resident definition at 24 CFR 135.5)</p>	<p><u>Contracting Section 3 Businesses</u> (See Section 3 Businesses definition at 24 CFR135.5)</p>
<ul style="list-style-type: none"> ▪ 30% of new hires <ul style="list-style-type: none"> ○ Public housing residents ○ Neighborhood residents below 80% AMI ○ City residents below 80% AMI 	<ul style="list-style-type: none"> • 10% of construction contracts (by dollar value) • 3% of non-construction contracts (by dollar value)

III. RESPONSIBILITIES OF SUBRECIPIENTS MEETING THE \$200,000 THRESHOLD

(All forms referenced are available on the DHCS website www.pueblo.us or from our office upon request.)

- A. Review the City’s Section 3 Program and contract DHCS with questions. This is the basis of Section 3 for the City of Pueblo, and expectations are that all parties will work toward implementing and accomplishing the requirements of the Act and Regulations.
- B. Follow procurement procedures that provide preference for Section 3 Business Concerns (See the Part 135 Appendix).
- C. Include in all invitations to bid, notification that the project is a “Section 3 covered project subject to Section 3 of the Housing & Urban and Development Act, as amended 12 U.S.C. 1701u”.

- D. Include this form and Exhibits B-J of City's policy guide with all bid specifications on all projects funded with HUD assistance.
- E. Ensure that the Section 3 Clause is a part of all bid documents and contracts.
- F. To the greatest extent feasible, award contracts to certified Section 3 business concerns.
- G. Submit to DHCS all bids received and copies of contracts awarded.
- H. Perform outreach to Section 3 residents and business concerns and document efforts, results, and impediments to reaching the numerical goals stated above.
 - 1. Assist Section 3 residents seeking employment preference. The Section 3 Resident Application is attached as Exhibit B.
 - 2. Submit with bid documents the following:
 - a. Contracting Plan (Exhibit D).
 - b. Outreach to solicit bids from Section 3 businesses (Exhibit E)
- I. Comply with monthly reporting requirements as outlined in the Section 3 Compliance Section of the City's Section 3 policies.
- J. At project completion: Submit form HUD 60002 Final Report following project completion (Exhibit K).
- K. If the recipient does not feel it is feasible to meet the minimum goals set forth above, it must be prepared to demonstrate and/or provide documentation as to why it was not possible.

IV. RESPONSIBILITIES OF OWNERS, DEVELOPERS, CONTRACTORS FOR CONTRACTS MORE THAN \$100,000

- A. Review the City's Section 3 Program and contract DHCS with questions. This is the basis of Section 3 compliance for the City of Pueblo, and expectations are that all parties will work toward implementing and accomplishing the requirements of the Act and Regulations.
- B. Follow procurement procedures that provide preference for Section 3 Business Concerns (See the Part 135 Appendix).
- C. Include in all invitations to bid, notification that the project is a "Section 3 Covered Project" subject to Section 3 of the Housing & Urban Development Act of 1968, as amended 12 U.S.C. 1701u.
- D. Include this form and all exhibits with all project specifications for subcontractors on projects with funded with HUD assistance.
- E. Ensure that the Section 3 Clause is a part of all bid documents and contracts.
- F. To the greatest extent feasible, train and hire Section 3 residents for this project.
 - 1. Assist Section 3 residents seeking employment preference. The Section 3 Resident Application is attached as Exhibit B.
- G. To the greatest extent feasible, award contracts to Section 3 business concerns for this project.
 - 1. Section 3 business concerns certification form attached as Exhibit C.
- H. Perform outreach to Section 3 residents and business concerns and document efforts, results, and impediments to reaching the numerical goals stated above.

1. Maintain & forward to DHCS a list of all applicants who applied for project employment, the Section 3 Resident Application (Exhibit B) for all applicants seeking employment preference, and employ certified Section 3 eligible persons if appropriate vacancies exist.
 2. Maintain & provide monthly employment, training, and contracting reports for the project.
- I. Submit with bid documents the following:
 1. Contracting Plan (Exhibit D);
 2. Outreach to solicit bids from Section 3 businesses (Exhibit E);
 3. Permanent Employee List (Exhibit F) with all employees at project start; and
 4. Workforce Needed for Section 3 Covered Project (Exhibit G).
 - J. During construction, provide DHCS with list of new hire(s) as soon as they occur (Exhibit H)
 - K. At project completion:
 1. Complete and return to DHCS form HUD 60002 Final Report. (Exhibit K)
 2. Resubmit Attachment F (Permanent Employee List) with all employees at project completion
 - L. If the recipient does not feel it is feasible to meet the minimum goals set forth above, it must be prepared to demonstrate and/or provide documentation as to why it is not possible.

V. RESPONSIBILITIES OF SUBCONTRACTORS FOR CONTRACTS IN EXCESS OF \$100,000

- A. Review the City's Section 3 Program and contract DHCS with questions. This is the basis of Section 3 compliance for the City of Pueblo, and expectations are that all parties will work toward implementing and accomplishing the requirements of the Act and Regulations.
- B. Follow procurement procedures that provide preference for Section 3 Business Concerns (See the Part 135 Appendix).
- C. To the greatest extent feasible, train and hire Section 3 residents for this project.
 1. Section 3 resident certification form attached as Exhibit B.
- D. Perform outreach to Section 3 residents, and document efforts, results, and impediments to reaching the numerical goals stated above.
 1. Maintain and forward to the General Contractor, a list of all applicants who applied for project employment, the Section 3 Resident Application for all applicants seeking employment preference, and employ certified Section 3 eligible persons if appropriate vacancies exist.
 2. Maintain & provide all requested monthly employment, training, and employment reports.
- E. Submit with bid documents the following:
 1. Outreach to solicit bids from Section 3 businesses (Exhibit E);
 2. Permanent Employee List (Exhibit F) with all employees at time of bid/project start; and
 3. Workforce Needed for Section 3 Covered Project (Exhibit G).
- F. During construction, provide DHCS with list of new hire(s) as soon as they occur (Exhibit H)
- G. At project completion:
 1. Complete & return to the General Contractor form HUD 60002 Final Report. (Exhibit K)
 2. Resubmit Exhibit F (Permanent Employee List) with all employees at project completion.

- H. If the subcontractor does not feel it is feasible to meet the minimum goals set forth above, it must be prepared to demonstrate and/or provide documentation as to why it is not possible.

VI. GENERAL STATEMENT

Signature(s) at the end of this plan indicates the commitment of the Sub-recipient, Owner, Developer, Contractor, and Subcontractors (as applicable) to comply with the Section 3 Act, regulations, and the City of Pueblo’s Section 3 Program. To work together to ensure compliance, to the greatest extent feasible, through the awarding of contracts for work and services to Section 3 business concerns and to provide training and employment opportunities to Section 3 residents. Minimum numerical goals for the City of Pueblo and those entities required to meet Section 3 requirements were noted above.

VII. SECTION 3 IMPLEMENTATION

All competitive bidders for this Section 3 covered project/activity must complete this Section. Evaluation of each bid will include a determination whether the bidder has met the Section 3 goals and to what extent the bidder has proposed to exceed the numerical goals and other provisions of Section 3. Questions with regard to implementing Section3 should be directed to DHCS.

Project Name: _____ **Date:** _____

Company Name: _____

Contact Name: _____

Phone No.: _____ **Email:** _____

Fax No.: _____

- A. **The Section 3 Clause (§135.38)**, as follows, will be included in all bid documents for contractors and subcontractors.

SECTION 3 CONTRACT CLAUSE

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 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 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. (Note: DHCS understands that posting on a job site may not always be practicable. The expectation for the City of Pueblo is that job site posting be done whenever feasible, and if not feasible, the posting shall be at the contractor's or subcontractor's local office.)
- D. The contractor agrees to include this Section 3 clause in every sub-contract 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 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 sub-contract 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. Non-compliance 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. (This section pertains 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) and is not applicable in the City of Pueblo.)

REMAINDER OF PAGE

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VIII. Contractor Acceptance

As the signatory named below, I certify to the following:

- I have the authority to sign on behalf of the company contracting for this project
- I have read this Section 3 Compliance Plan and intend to comply with the Section 3 Act and Regulations, as well as the guidelines of this Plan
- I am aware of the employment, training, and contracting goals stated herein and agree to work with the City of Pueblo to reach those goals

OR (Check the appropriate box)

- The contract for this firm is less than \$100,000;
- The contract for this City Department is less than \$100,000;
- The contract for this Sub-recipient or Developer is less than \$ 200,000;

I understand that while a contract at this threshold of assistance does not hold responsibilities by this company to implement the City’s Policies and Procedures in equal measure to the City, we will work together with the City to ensure compliance, to the greatest extent feasible, through the awarding of contracts for work and services to Section 3 business concerns and to provide training and employment opportunities to Section 3 residents as noted below.

Further, I agree to immediately report any changes in this plan, including but not limited to, changes in the dollar amounts of contracts awarded and staffing needs.

- I acknowledge that project cost increases or cost overruns that bring the total contract above the federal threshold limits (\$200,000/\$100,000 for developers & contractors, respectively) will engage the Section 3 Act and Regulations on the project. In the event the project total exceeds the federal threshold, my entity or firm and applicable subcontractors will, to the greatest extent feasible, comply with the City’s Section 3 Policies.

Signature: _____ Title: _____

Company: _____ Date: _____

Acceptance for the City of Pueblo

Signature: _____ Date: _____

Ada Clark, Director

Department of Housing & Citizen Services, City of Pueblo