

NORTH CAROLINA  
GUILFORD COUNTY

AMENDMENT TO HOME PROGRAM SUBRECIPIENT AGREEMENT  
BETWEEN GUILFORD COUNTY, NC and PIEDMONT TRIAD REGIONAL COUNCIL and  
AMENDMENT TO SCOPE OF SERVICES (Attachment A)

THIS AMENDMENT TO THE HOME PROGRAM SUBRECIPIENT AGREEMENT and SCOPE OF SERVICES (Attachment A) , made and entered into this \_\_\_\_ day of August, 2015, by and between the PIEDMONT TRIAD REGIONAL COUNCIL, (hereinafter called “the Council”), GUILFORD COUNTY, NORTH CAROLINA (hereinafter called “the County”), and the CITY OF GREENSBORO, NORTH CAROLINA (hereinafter called “City”).

WITNESSETH:

WHEREAS, the City, as Lead Agency for the Greensboro HOME Consortium, is the recipient of HOME Investment Partnership Program funds; and

WHEREAS, the Council has actively and successfully participated in housing and community development programs for the improvement of conditions in North Carolina; and

WHEREAS, the County and the Council previously entered into a Subrecipient Agreement dated June 19, 2014, (hereinafter “Original Agreement”); and

WHEREAS, the County and the Council intend to amend the Agreement to make the City of Greensboro a party to the Agreement; and

WHEREAS, the City will reimburse the Council, on behalf of the County, for the rehabilitation of a minimum of 7 single family structures in Guilford County (outside the entitlement cities of Greensboro and High Point) with a total maximum funding amount of \$380,000.00.

WHEREAS, the duration of the agreement is in effect through June 30, 2017 unless otherwise terminated by agreement in writing of all parties hereto or by termination of the HOME program by the department of Housing and Urban Development (HUD), or unless the maximum funding amount of \$380,000.00 is exhausted;

NOW, THEREFORE, to establish the mutual agreements and obligations of the parties, the Council, the County, and the City agree that the City is joined as a party to this Agreement, that all other terms and conditions of the Original Agreement shall remain in force and effect except that Attachment A Scope of Services is rescinded and replaced in its entirety by the new Attachment A Amended Scope of Services and the addition of the Federal Construction Contract Requirements as Attachment B and the Internal Audit Monitoring Policy as Attachment C to the HOME Program Subrecipient Agreement.

IN WITNESS WHEREOF, the County and the Council have executed this amended Agreement as of the year and date written above. City of Greensboro signatures to follow on separate page.

GUILFORD COUNTY

ATTEST:

\_\_\_\_\_  
Robin Keller Date  
Clerk the Board

By: \_\_\_\_\_  
Marty K. Lawing Date  
County Manager

(County Seal)

PIEDMONT TRIAD REGIONAL COUNCIL

ATTEST:

\_\_\_\_\_  
J. Michael Blair Date  
Housing Director

By: \_\_\_\_\_  
Matthew L. Dolge Date  
Executive Director

STATE OF NORTH CAROLINA  
GREENSBORO HOME PROGRAM CONSORTIUM

[Notary Statement]

WITNESS my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

My commission expires \_\_\_\_\_

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

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, Notary Public for said Consortium and State certify that Matthew L. Dolge personally appeared before me this day and acknowledged that he is the Executive Director of the Piedmont Triad Regional Council, and that by authority duly given, acknowledged due execution of the foregoing instrument.

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

My commission Expires \_\_\_\_\_.

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

## ATTACHMENT A

### AMENDED SCOPE OF SERVICES

1. Council staff will not require a designated office space from the Consortium. Staff will make arrangements with the City Grant Administrator for any events requiring designated space.

Council will provide the City with information and records pertaining to the project and will establish and maintain the filing system for the project during the term of this Agreement. Once the project is completed, the City will maintain files and records pertaining to the project for seven (7) years.

2. Records and Reports: The Council agrees to maintain for a minimum of seven years, the following:
  - (1) Accurate and complete records of all PTRC financial transactions which occur during the term of this Agreement. These PTRC financial records must specifically identify financial transactions which involve funds provided by the City under this Agreement; said financial records must be susceptible to easy retrieval for monitoring purposes by the City or HUD.
  - (2) A list of all tangible assets and their location if purchased, in whole or in part, with funds provided under terms of this Agreement.
  - (3) Other records (including, but not limited to, financial, personnel, and property) as are required by Federal, State and Local laws, regulations or ordinances, and which may be deemed necessary or advisable, by the City or HUD, to insure proper record keeping for services performed and in the accounting for all funds.
  - (4) An annual Minority Business Enterprise Report and Section 3 report on all contract and subcontract activities. The reports shall be received by the City no later than September 15<sup>th</sup> of each fiscal year during which this Agreement applies.
3. The Council will provide the City with quarterly reports on the progress of the Grant Program and will assist the City and/or the County in the event a complaint is filed against the City and/or the County in the course of this program.
4. Requests for Disbursement of Funds: The Council may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs and the amount of each request must be limited to the amount needed.

Any supplies purchased for the execution of the program will be charged to the portion reserved for project delivery. The invoices submitted for reimbursement will itemize all purchases.

The Council will assist the City in establishing and maintaining a financial management system for this project. The City will approve and sign all requisitions and disburse and post checks if the request contains the following:

## ATTACHMENT A

- i. Documentation for and signed request for funds
  - ii. Completed project set-up form, if not previously submitted
  - iii. Contract, for approval, if not previously approved
5. The Council will assist the City in preparing general policy documents as they apply to the administration of this project.
6. Professional Services: The Council will perform all tasks necessary to procure professional services, as needed to carry out the Grant Program. This includes, but is not limited to, developing RFPs and contract documents to meet federal requirements and overseeing the performance of all third-party professional contracts.
7. Program Functions: The Council will be responsible for all program functions, including but not limited to, preparation of program forms, letters and contract documents, preparation of criteria to establish applicant eligibility, working with the Greensboro Guilford Site Selection Committee to process applications, inspections, preparation of the Environmental Review Record, work write-ups, contractor advertisements, bid notices, bid analysis, coordination of contract award by the Consortium, contract execution, conduct of pre-construction conferences, work inspections, approving requisitions for partial payments based on work performed, change orders, final inspections, owner release, handling citizen complaints, grievance hearings, set-up and completion forms for the Integrated Disbursement Information System (IDIS) reporting, the filing of all reports and the completion of all activities to ensure compliance with Equal Opportunity, Section 504, Section 3, and Fair Housing requirements, and any other action necessary to ensure program compliance and the completion of all activities. The Council will also prepare and submit all Performance Reports or other reports required.
8. Monitoring: The Council will be present and will represent the City at all monitoring visits and prepare all responses to monitoring letters if requested. The Council will also provide necessary assistance during formal audits of the HOME Program.
9. Citizen Participation: The Council will implement and carry out all Citizen Participation requirements of the program.
10. Representation: The Council will provide representation to attend County Commissioner meetings and City Council meetings, if necessary and requested.
11. Rehabilitation Criteria: The residences rehabilitated by the Council shall meet or exceed the rehabilitation standards outlined in the City of Greensboro's Contractor's Specification Manual dated May 31, 2000, as amended. Rehabilitation shall without exception meet Minimum Housing Quality Standards (HQS) and any applicable minimum Federal Standards on material safety, and shall contribute to the safety and livability of the property. No unit can retain imminent threats to health or safety.

All homes constructed prior to 1978 must be tested for the existence of lead based paint or a presumption approach may be used for situations and conditions allowed

## ATTACHMENT A

under the lead based paint regulations. All lead based paint remediation work must meet HUD's lead based paint regulation on September 15, 2000 as amended.

The after-rehab value of the property shall not exceed 95% of median purchase price of single family housing in MSA (the 2015 purchase price limit for single family housing as of 11/13/14 is \$271,050) as from time-to-time adjusted by HUD.

The maximum per-unit HOME subsidy limit is 100% of the dollar limits for a Section 221(d)(3) nonprofit sponsor, elevator type development, indexed for base city high cost areas up to 240% of the base cost and adjusted for the number of bedrooms as adjusted annually by HUD. The 2009 limits still in effect as of 9/1/15 range from \$145,433 to \$251,131 for a one to four bedroom property.

12. Program Income: Program income is to be remitted to the City.
13. Uniform Administrative Requirements: The Council must comply with applicable uniform administrative requirements, as described in Part 92.505.
14. Other Program Requirements: The Council must carry out each activity in compliance with all Federal laws and regulations described in 24 CFR 92, Subpart H, except that the Council does not assume the City's responsibilities for release of funds under Part 92.352 and the intergovernmental review process in Part 92.357 does not apply to the Council.
15. Default Under Agreement: Subject to any express grace period provided in this agreement, the Council shall have the right to cure any default or event which with the passage of time would become a default, the Council's breach of any covenant, warranty, or default under or failure to perform under the terms of this agreement.
16. Liquidated Damages: If the Council rehabilitates a property in a manner which violates the terms of this Agreement, liquidated damages in the amount of \$25,000 per default shall be paid to City up to a maximum of \$380,000. For example, if the Council rehabilitates a property where the individuals or families are not income eligible then a default has occurred and \$25,000 is owed to City; If the Council rehabilitates a home that is not in compliance with the requirements, a default occurs and \$25,000 must be paid to the City.
17. Enforcement of the Agreement: In accordance with 24 CFR 85.43, suspension or termination may occur if the Council materially fails to comply with any term of the agreement.

Upon expiration of this agreement, the Council must transfer to the City any HOME funds on hand at the time of expiration for any accounts receivable which are attributable to the use of HOME funds.

## ATTACHMENT A

18. Written Agreement: If the Council provides funds to for-profit owners or developers, nonprofit owners or developers, subrecipients, homeowners, homebuyers, tenants receiving Tenant-Based Rental Assistance, or contractors who are providing services to the Council, the Council must have a written agreement with such entities that meets the requirements of 24 CFR 92.504(c).
19. Indemnification: To the extent permitted by law, the Council agrees to indemnify and hold the City harmless for any claim or cause of action, and for reasonable attorney's fees incurred by the City in connection therewith, in which the liability of the City is arising out of, associated with, or in any way connected to its ownership of the Property. The Council shall have the right to compromise and defend any such claim or cause of action and the City shall cooperate in the defense thereof to the extent reasonably requested by the Council.
20. The Council and the County will adhere to the formal policies, standards, and guidelines attached to this amendment.

# ATTACHMENT B

## PART II –TERMS AND CONDITIONS

### Federal Construction Contract Requirements

1. The attached “Federal Requirements” must be a part of all construction contracts. The City shall review all construction contract requirements.
  - A. The Borrower will submit all construction contract documents to the City for review to insure compliance with all applicable Federal requirements. The Borrower shall not enter into any construction contract covered under the terms of this agreement without receiving approval of all contract documents from the City.
  - B. The City shall conduct and prepare the minutes for all preconstruction conferences.
  - C. The Borrower shall insure that the City receives for approval the following information from each primary construction contractor. The City shall maintain the documents as permanent records.
    - 1) A letter stating the date that construction starts on each contract.
    - 2) A section 3 Plan.
    - 3) A letter appointing a payroll supervisor if other than an officer of the company.
    - 4) Contractor’s I.R.S. Number.
    - 5) Weekly payrolls containing the name, address, Social Security Number, and payroll data for each employee working under the primary construction contract along with a weekly statement of compliance on forms provided by the City.
    - 6) Any other information and documents required by applicable federal statutes.
    - 7) A schedule containing prices for each work item.
  - D. The Borrower shall insure that each primary construction contractor notifies the City of the days his employees will be on the job site so that the required job interviews can be conducted.
2. Request for payments
  - A. Each request for payment covered under this Agreement shall be accompanied by a description of the completed work covered by the request for payment on forms provided by the City.
  - B. After reviewing and determining the completeness of the request for payment and all submittals required by the terms of this Agreement and all applicable federal regulations, the City shall: 1) Prior to the request for payments exceeding the amount of the City’s loan, issue a check to the contractor for the amount of the requested payment; 2) After the request for payments has exceeded the amount of the City’s loan, provide Borrower’s construction lender with a letter stating that all Federal documents are in order and the payment to the contractor

may be made. Ten (10) percent of the gross amount requested and approved for payment will be retained until the job is satisfactorily completed.

3. All Federal requirements are applicable until the terms of this agreement are completed. Any payments made by Borrower without written authorization from the City shall constitute a violation of this agreement and Borrower shall be responsible for all penalties, fines or other monetary losses suffered by the City due to such violations.

FEDERAL REQUIREMENTS \*

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\* This contract is funded in whole or in part by the U.S. Department of Housing and Urban Development and is subject to the requirements herein.

## CONTENTS

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General Information

Incorporation of Documents

Labor Standards

HUD-4010

Wage Determination

Training, Employment and Business Opportunities

Section 3

Section 3 Affirmative Action Plan

Equal Employment Opportunity

Equal Opportunity Clause

Minority and Female Participation Goals

Disabled and Vietnam Veterans

Handicapped Workers

Aged Workers

General Terms and Conditions

Conflict of Interest

Audit

## GENERAL INFORMATION

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1. A preconstruction conference shall be held with the prime contractor and all available subcontractors prior to the start of construction.
2. A Section 3 Affirmative Action Plan must be submitted to the City. Payments under the contract will not be made until an acceptable plan has been received.
3. A written "start of construction" notice shall be sent to the City, providing the date initial site clearance and preparation began, within a week of construction start.
4. The Contractor shall provide written notification to the City of Greensboro within ten (10) working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and identify the City of Greensboro as the location.

## INCORPORATION OF DOCUMENTS

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The following Federal statutes, regulations, circulars, and documents are hereby incorporated by reference as if herein fully set forth:

1. Davis-Bacon Act (40 U.S.C. 3141-3148). The Davis-Bacon Act provides that contracts in excess of \$2,000 to which the United States is party for the construction, alteration, and/or repair, including painting and decorating, of public buildings or public works, which involve the employment of laborers and/or mechanics shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions, and termination of the contract or debarment for failure to adhere to the required provisions.
2. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). CWHSSA provides that work excess of forty (40) hours per week shall be compensated for at rates not less than one and one-half times the basic rate of pay. The Act mandates that all contracts requiring the employment of laborers and mechanics (and watchmen and guards) in the performance of work in connection with such projects contain implementing provisions which will render the contractor and any subcontractor responsible for violation liable to the affected employees for their unpaid wages and to the United States for liquidated damages. The Act establishes an appeals procedure and makes intentional violations of the Act a Federal criminal misdemeanor.
3. Copeland Act (Anti-Kickback Act) (19 U.S.C. 874). The Copeland Act makes it a criminal offense for any person to induce, by any manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment. The Act also provides for the submission of weekly statements of compliance and weekly payrolls by all contractors in a format that meets the requirements of 29 CFR Section 5.5.
4. The Fair Labor Standards Act (FLSA) (29 U.S.C. 201-219) is applicable to HUD-assisted construction and provides for minimum wages for construction workers, overtime pay (forty-hour work week), record keeping and child labor standards.
5. Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) provides that, to the greatest extent feasible, opportunities for training and employment shall be given to lower-income residents of the city in which the project is located; contracts for work in connection with such projects shall be awarded to business concerns which are located in, or which are owned in substantial part by persons residing in the same area as the project.
6. Executive Order 11246, as amended, and the regulations issued pursuant thereto (41 CFR Chapter 60), provides that no person shall be discriminated against on the basis of race, color, religion, sex, national origin, sexual orientation or gender identity in all phases of employment during the performance of federally assisted construction contracts.
7. Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended (P.L. 93-508) (38 U.S.C. 4212) prohibits discrimination and provides that affirmative steps be taken to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.
8. Section 503 and 504 of the Rehabilitation Act of 1973, as amended (P.L. 93-112) (29 U.S.C. 793 and 29 U.S.C. 794) prohibits discrimination and provides that affirmative steps be taken to employ and advance in employment qualified handicapped individuals.

9. Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) provides that no persons in the United States shall, on the basis of age, be subjected to discrimination under any program or activity receiving Federal financial assistance.
10. Executive Orders 11625, 12432, and 12138, provide that affirmative steps be taken to utilize small, minority, and women's business enterprises when possible as a source of supplies, equipment, construction, and services.
11. The provisions concerning Conflict of Interest, Audit, the Clean Air and Water Acts, and the Flood Disaster Protection Act contained in General Terms and Conditions herein.

## Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

TRAINING, EMPLOYMENT, AND BUSINESS OPPORTUNITIES

AFFIRMATIVE ACTION UNDER SECTION 3 – PROVISION OF TRAINING, EMPLOYMENT,  
AND BUSINESS OPPORTUNITIES

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Section 3 of the Housing and Urban Development Act of 1968 provides that to the greatest extent feasible, opportunities for training and employment shall be given to lower-income residents of HUD-assisted projects, and that contracts for work in connection with such projects be awarded to business concerns located in, or owned in substantial part (51% or more) by project area residents.

This Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, the HUD regulations issued pursuant thereto at 24 CFR Part 135, and any applicable rules and orders of HUD issued thereunder prior to the execution of this Agreement. The Section 3 clause, set forth in 24 CFR 135.38 provides as follows:

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.

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).

The Contractor agrees to abide by the Section 3 clause set forth above and will also cause this Section 3 clause to be inserted in all subcontracts entered into for work covered by this agreement.

In complying with these requirements, the following definitions apply:

1. A “lower income resident of the area” refers to any individual residing within the area of a Section 3 covered project whose family income does not exceed eighty (80) percent of the median family income of the Standard Metropolitan Statistical Area, as determined by HUD, with adjustments for smaller and larger families. The latest “lower income” figures by family size are available from the City of Greensboro Department of Planning and Community Development or the HUD website at [www.hud.gov](http://www.hud.gov).
2. The “area of a Section 3 covered project” refers to the area within the corporate limits of the City of Greensboro.
3. “Business concerns” refers to firms located within a Section 3 covered project area, which are fifty-one (51) percent or more owned by persons residing in the covered project area, which are owned by persons socially or economically disadvantaged, and which qualify as small businesses.

In addition to incorporating the Section 3 clause in all contracts and subcontracts, each recipient, contractor, or subcontractor shall develop a Section 3 Affirmative Action Plan (AAP). The enclosed sample AAP may be used to meet the requirements of 24 CFR Parts 135, but the contents shall include the following:

#### Utilization of Lower Income Area Residents as Employees

Each recipient, contractor, or subcontractor undertaking work in connection with a Section 3 covered project shall fulfill his obligation to utilize lower income project area residents as employees to the greatest extent feasible by:

- (a) Identifying the number of positions in the various occupational categories including skilled, semiskilled, and unskilled labor, needed to perform each phase of the Section 3 covered project;
- (b) Identifying, of the positions identified in paragraph (a) of this section, the number of positions in the various occupational categories which are currently occupied by regular, permanent employees;
- (c) Identifying, of the positions identified in paragraph (a) of this section, the number of positions in the various occupational categories which are not currently occupied by regular, permanent employees;

- (d) Establishing, of the positions identified in paragraph (c) of this section, a goal which is consistent with the purpose of this subpart within each occupational category of the number of positions to be filled by lower income residents of the Section 3 covered project area; and
- (e) Making a good faith effort to fill all of the positions identified in paragraph (d) of this section with lower income project area residents.

Utilization of Business Located in or Owned in Substantial Part by Persons Residing in the Area

Each recipient, contractor, or subcontractor undertaking work in connection with a Section 3 covered project shall fulfill his obligation to utilize business concerns located within or owned in substantial part by persons residing in the Section 3 covered project area by developing and implementing an affirmative action plan.

In developing an affirmative action plan, each recipient, contractor, and subcontractor preparing to undertake work pursuant to a Section 3 covered contract shall:

- (a) Set forth the approximate number and dollar value of all contracts proposed to be awarded to all businesses within each category (type or profession) over the duration of the Section 3 covered project in question;
- (b) Analyze the information set forth in paragraph (a) of this section and the availability of eligible business concerns within the project area doing business in professions or occupations identified as needed in paragraph (a) of this section, and set forth a goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the Section 3 covered project;
- (c) Outline the anticipated program to be used to achieve the goals for each business and/or professional category identified. This program should include but not be limited to the following actions – (1) Insertion in bid documents, if any, of the affirmative action plan of the recipient, contractor, or subcontractor letting the contract; and (2) Identification within the bid document, if any, of the applicable Section 3 project area;
- (d) Indicate the anticipated process and steps which have been taken and/or will be taken to secure the cooperation of contractors, subcontractors, and unions in meeting the goals and carrying out the affirmative action plan developed pursuant to this subpart;
- (e) Take steps to insure that the appropriate business concerns included in the Department's registry for the Section 3 covered project area are notified of pending contractual opportunities either personally or through locally utilized media. All recipients, contractors, and subcontractors which so notify concerns included in the Department's registry of available contractors and of opportunities to submit bids shall satisfy all requirements of this Part for notification of business concerns owned in substantial part by persons residing in the Section 3 covered project area;
- (f) Take steps to insure that contracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area;
- (g) Where competitive bids are solicited, require the bidders to submit their utilization goals and their affirmative action plans for accomplishing their goals, and in evaluating each bid to determine its responsiveness, carefully evaluate the bidder's submission to determine whether the affirmative action plan proposed will accomplish the stated goals;

- (h) Where advantageous, seek the assistance of local officials of the Department in preparing and implementing the affirmative action plan;
- (i) In implementing its affirmative action plan, each recipient, contractor, or subcontractor shall make a good faith effort to achieve its goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the Section 3 covered project. Each recipient, contractor, or subcontractor seeking to establish that a good faith effort has been made to implement its affirmative action plan, as required by this paragraph, shall as a minimum, set forth evidence acceptable to the Secretary that it has implemented the steps required by paragraphs (c), (d), (e), (f), (g), and (h) of this section and has ascertained from the City of Greensboro the boundaries of the Section 3 covered project area, and attempted to recruit from the appropriate areas the necessary eligible business concerns through: Local advertising media, signs placed at the proposed site for the project; and community organizations and public or private institutions operating within or serving the project area.

(Insert sample section 3 affirmative action plan)

**ATTACHMENT A**  
**Housing and Urban Development Act of 1968**  
**Section 3 Affirmative Action Plan**

A. Project:  
Contract #:  
Location:  
CD Program:

B. Company Name:  
Address:  
City:  
State:  
Zip:

C. Utilization Plan for Lower Income Area Residents as Employees

1. Trainees:

Trainee Categories on this Project (List each type)	Number of Trainees Needed for Project	Number of Trainees to be Hired	Goal for Sec. 3 New Hires

2. Non-Trainee Employees:

*Job Categories	# of Employees Required	# Already Employed (Permanent)	Vacancies to be filled	Goal Sec.3

\*List all major job categories, e.g., administrative, technical, semi-technical, maintenance, skilled, semi-skilled, unskilled, or as appropriate, and by specific occupation and trade.

3. Affirmative Action:

- a. A notice will be sent to each labor organization or representative of workers with which \_\_\_\_\_ (Company Name) has a collective bargaining agreement or other contract or understanding, if any, informing them of our commitment to hire lower-income project area residents as trainees and employees during the term of this contract.
- b. A copy of the notice to each labor organization or representative of workers will be posted in conspicuous places available to employees and applicants for employment or training.
- c. \_\_\_\_\_ (Company Name) will attempt to recruit lower-income residents from the project area(s) by using the following means:

person or group responsible for sec.3 \_\_\_\_\_  
 contact info. \_\_\_\_\_  
 contact info. \_\_\_\_\_

- d. A list will be kept of all lower-income area residents applying for jobs, records will be maintained indicating their qualifications and actions taken, and qualified persons will remain on the active applicant list for the first available opening during the term of this project.
- e. The Section 3 clause shall be incorporated in every subcontract, and no subcontract shall be executed until the subcontractor has first provided \_\_\_\_\_ (Company Name) with a statement of ability to comply with the Section 3 regulations.
- f. \_\_\_\_\_ (Company Name) will take the following additional actions to recruit and employ lower-income project residents:

list, if any \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

D. Utilization Plan for Businesses Located in Project Area

1. Goals:

*Subcontracts to be Let and supplies to be purchased locally	Dollar Amount	Eligible Business in Project Area?		Dollar Goal for Eligible Business
		Yes	No	

\*List by type, service, or profession.

2. Affirmative Actions:

\_\_\_\_\_ (Company Name) hereby assures that to the greatest extent feasible subcontracts for work to be performed in connection with this project will be awarded to small business concerns located within the Section 3 – covered project area or small business concerns owned in substantial part (51% or more)

by persons residing in the Section 3 – covered project area. To that effect,  
\_\_\_\_\_ (Company Name) will:

- a. Insert our Section 3 Affirmative Action Plan in our bid documents.
- b. Identify in our bid documents the applicable Section 3 project area.
- c. Notify the appropriate section 3 project area small business concerns of pending contractual opportunities.
- d. Notify community organizations, associations representing “socially and/or economically disadvantaged” small business concerns, and public or private institutions operating within or serving the project area when contractual opportunities are available.
- e. Fully disseminate information concerning contractual opportunities by informing and discussing such opportunities with local, community, or project area resources, and by advertising in news media, specifically including minority and community news media.
- f. Maintain a listing or file of section 3 eligible business concerns referred to us by any individual or organization, or with whom we have previously contracted.
- g. Take steps to insure that subcontracts which are typically let on a negotiable rather than a bid basis in areas other than Section 3 covered project areas are also let on a negotiated basis, whenever feasible, when let in this Section 3 project area.
- h. Where competitive bids are solicited, require the bidders to submit their utilization goals and their Section 3 Affirmative Action Plans for accomplishing their goals. Evaluate each bid to determine its responsiveness and whether the Section 3 Affirmative Action Plan proposed will accomplish the stated goals.
- i. Insert the following statement in negotiation documents of subcontractors:  
  
“Under Section 3 of the Housing and Urban Development Act of 1968, as amended, \_\_\_\_\_ (Company Name) and its subcontractors are committed to filling trainee positions, as well as vacant employment positions with qualified lower-income residents of the Section 3 project area, and to utilize eligible small business and entrepreneurs located within the Section 3 covered area.”
- j. Keep records of all actions taken regarding the utilization of eligible small businesses and entrepreneurs in the Section 3 covered project area.

k. \_\_\_\_\_ (Company Name) will take the following additional actions to utilize eligible small business and entrepreneurs within the project area:

list, if any \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

E. All reports, records, and documents, relating to the implementation of this Section 3 Plan will be open and available for inspection to authorized representatives of the City of Greensboro or Federal Agency during the hours of \_\_\_\_\_ Monday through Friday at \_\_\_\_\_ (Location)

F. \_\_\_\_\_ (Company Name) will provide whatever information required to document its compliance with Section 3 regulations.

\_\_\_\_\_ (Agency or Department) has identified  
\_\_\_\_\_ (Company Representative), \_\_\_\_\_ (Title) as the officer responsible for Section 3 compliance.

\_\_\_\_\_  
name

\_\_\_\_\_  
title

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

EQUAL EMPLOYMENT OPPORTUNITY

## AFFIRMATIVE ACTION TO USE SMALL, MINORITY, AND WOMENS BUSINESS FIRMS

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This Agreement is subject to the requirements of Executive Orders 11625, 12432, and 12138. These Executive Orders are applicable to contractors and subcontractors and provide:

It is national policy to award a fair share of contracts to small, minority, and women's business firms. Accordingly, affirmative steps must be taken to assure that small, minority, and women's businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- (1) Including qualified small, minority, and women's businesses on solicitation lists.
- (2) Assuring that small, minority, and women's businesses are solicited whenever they are potential sources.
- (3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small, minority, and women's business participation.
- (4) Where the requirement permits, establishing delivery schedules which will encourage participation by small, minority, and women's business.
- (5) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce, and the Community Services Administration as required.

## EQUAL EMPLOYMENT OPPORTUNITY

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This Agreement is subject to the requirements of Executive Order 11246, as amended by Executive Orders 11375, 12086 and 13672, and implementing regulations issued at 41 CFR Chapter 60.

- I. Contracts and subcontracts of \$10,000 or less are exempted from Executive Order 11246, as amended, but shall be subject to the following:

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

- A. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, sexual orientation or gender identity. The Contractor shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, sexual orientation or gender identity. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
  - B. 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, national origin, sexual orientation or gender identity.
  - C. The Contractor shall incorporate or cause the foregoing provisions to be incorporated in all subcontracts for any project work covered by this contract so that such provisions will be binding upon each subcontractor.
- II. Contracts and subcontracts exceeding \$10,000 are subject to Executive Order 11246, as amended, including, but not limited to, the following:

A. Equal Opportunity Clause

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

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, sexual orientation or gender identity. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, sexual orientation or gender identity. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive

consideration for employment without regard to race, color, religion, sex, national origin, sexual orientation or gender identity.

- (3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department of Housing and Urban Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and provisions of paragraph (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the Department of Housing and Urban Development may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department of Housing and Urban Development, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- (8) The Equal Opportunity Clause may be incorporated by reference in all contracts and subcontracts, but shall be considered to be a part of every contract and subcontract whether or not it is physically incorporated or whether or not there is a written contract.

B. Minority and Female Participation

1. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity

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

Female Utilization:	
<u>Timetable</u>	<u>Goals (Percent)</u>

April 1, 1980 and after	6.9
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Minority Utilization;	
<u>Timetable</u>	<u>Goals (Percent)</u>

January 1, 1982 and after	16.4 and above
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The goals and timetables shall be included in all Federally assisted construction contracts and subcontracts in excess of \$10,000. The goals are applicable to the Contractor's construction work performed in the covered area, whether or not part of that work force is performing work on a Federally assisted construction contract or subcontract.

- c. The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60.4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.
- d. As used in this Notice and in the contract resulting from this solicitation, the "covered area" is the City of Greensboro.

2. Standard Federal Equal Employment Opportunity Construction Contract Specifications

(1) As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

- (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic Origin);
- (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
- (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
- (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

- (2) Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
- (3) If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
- (4) The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
- (5) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, nor the regulations promulgated pursuant thereto.
- (6) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, the Contractor must employ such apprentices and trainees during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by U.S. Department of Labor.

- (7) The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisor personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
  - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the area, which expressly include minorities and women, including upgrading programs, and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
  - f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
  - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for firing, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and

maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.

- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
  - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
  - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations are being carried out.
  - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- (8) Contractors are encouraged to participate in voluntary associations that assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions

taken on behalf on the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

- (9) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- (10) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- (11) The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- (12) The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- (13) The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- (14) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- (15) Nothing herein provided shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

C. Disabled Veterans and Vietnam Era Veterans

This Agreement is subject to the requirements of Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (P.L. 93-508), (38 U.S.C. 4212), and the implementing regulations at 41 CFR Chapter 60.

- (a) The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (b) The contractor agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.
- (c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.
- (d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 4212. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.
- (e) Whenever the contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.
- (f) This clause does not apply to the listing of employment openings that occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

- (g) The provisions of paragraph (b), (c), (d), and (e) of this clause do not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.
- (h) As used in this clause:
- (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: Production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative and professional openings as are compensated on a salary basis of less than \$25,000 per year. This term includes full-time employment, temporary employment of more than three (3) days duration, and part-time employment. It does not include openings that the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution that are restricted to students of that institution. Under the most compelling circumstances, an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.
  - (2) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.
  - (3) "Openings which the contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.
  - (4) "Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.
- (i) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (j) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (k) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notice shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.
- (l) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by

the terms of the Vietnam Era Veterans Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

- (m) The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.
- (n) The affirmative action clause and the implementing regulations may be incorporated by reference in all contracts and subcontracts, but shall be considered to be a part of every contract and subcontract whether or not it is physically incorporated, or whether or not there is a written contract.

#### D. Handicapped Workers

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination against handicapped workers in employment and employment practices.

This Agreement is subject to the requirements of Section 503 of the Rehabilitation Act of 1976, and the implementing regulations at 41 CFR Chapter 60.

Contractors and subcontractors shall take affirmative actions to employ and advance in employment qualified handicapped individuals. "Handicapped individual" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such impairment, or (3) is regarded as having such an impairment. For purposes of this Part, a handicapped individual is "substantially limited" if he or she is likely to experience difficulty in securing, retaining or advancing in employment because of a handicap. "Qualified handicapped individual" means a handicapped individual who is capable of performing a particular job, with reasonable accommodation to his or her handicap.

- (a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (b) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (c) In the event of the contractor's non-compliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

- (e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- (f) The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or order of the Secretary issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.
- (g) The affirmative action clause and the implementing regulations may be incorporated by reference in all contracts and subcontracts, but shall be considered to be a part of every contract and subcontract whether or not it is physically incorporated in such contracts or whether or not there is a written contract.

E. Aged Workers

This Agreement is subject to the requirements of the Age Discrimination Act of 1975, as amended. No person shall, on the basis of age, be subjected to discrimination in employment and employment practices.

GENERAL TERMS AND CONDITIONS

## GENERAL TERMS AND CONDITIONS

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### 1. Conflicts of Interest of Employees, Agents, Consultants; Officers, or Elected or Appointed Officials of the City of Greensboro or Any Designated Public Agency, or Subrecipients

In addition to conflict of interest requirements in OMB Circular A-110 and 24 CFR 85.36, no person

- (1) Who is an employee, agent, consultant, officer, or elected or appointed official of the City of Greensboro or any designated public agency, or subrecipients and;
- (2) Who exercises or has exercised any function or responsibilities with respect to assisted activities; or
- (3) Who is in a position to participate in a decision-making process or gain inside information with regard to such activities,

may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure, or for one year thereafter, An exception may be granted to this exclusion as provided in 24 CFR 570.611(d) and (e).

### 2. Audit

The City, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions for three years from the final payment under this Agreement.

### 3. Compliance with Air and Water Acts

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et. seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 51, as amended from time to time.

The Contractor and any of its subcontractors for work funded under this Agreement which is in excess of \$100,000, agree to the following requirements:

- (1) A stipulation by the contractor or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to the Clean Air Act, as amended.
- (2) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 7414) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- (3) A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

- (4) Agreement by the Contractor that he will include or cause to be included the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the contractor will take such action as the Government may direct as a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility that has given rise to a conviction under Section 113(c) (1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

4. Flood Disaster Protection

This Agreement is subject to the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4130). No portion of the assistance provided under this Agreement is approved for acquisition or construction purposes as defined under section 3(a) of said Act, for use in an area identified by the Secretary of the Department of Housing and Urban Development as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to section 201(d) of said Act; and the use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under section 102(a) of the Flood Disaster Protection Act of 1973. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Agreement.

## ATTACHMENT C

### CITY OF GREENSBORO POLICY FOR AWARDING FUNDS AND FOR MONITORING AGENCIES RECEIVING CITY FUNDS

- ❑ **External Audits and Management Letters Required** – All public service agencies, organized as a separate legal entity, will provide an annual independent audit in accordance with generally accepted accounting principles, regardless of size of budgets and/or net assets and length of time providing services. Preparation and submission of the independent audit should be completed within three (3) months of the date of the agency's annual accounting year end. Those start up agencies that have provided the contemplated services for less than a year shall provide a board approved independent audit within 3 months of the close of the agency's first accounting year, which could be for a period of less than 12 months.
- ❑ **Swift Resolution of Contract or Audit Compliance Issues** - Upon a finding of non-compliance with contract terms or with audit requirements, appropriate City of Greensboro staff will issue a certified letter, return receipt requested, to the Chair of the Board and the Chief Executive Officer of the non-compliant fund recipient. The letter will clearly document the issues of non-compliance. The fund recipient will have thirty (30) days from receipt of the certified letter to present to the appropriate City official evidence of resolution of all documented compliance issues unless other official documents specify an alternate remedy. Within thirty (30) days of the receipt of the fund recipient's response, the City Official will notify the respondent as to whether the issues have been resolved to the City's satisfaction. All City of Greensboro funding will be suspended until compliance issues are resolved to the satisfaction of the City of Greensboro.
- ❑ **Timely response to written requests from City staff** - All written requests from City staff shall be responded to by the Contracted agency in writing within two (2) weeks of receipt. Responses shall be complete, or for items that have extenuating circumstances, such as requiring board meetings or approval, the agency will provide an outline of the process and timeline needed to provide the complete information requested within the two week period. Under extenuating circumstances, full responses shall be submitted within 45 days from date of request or a date agreed to by City staff.
- ❑ **Training Required as a Condition of City Funding** - The City of will require each year, as a condition of receiving City funding, a minimum of two of a non-profit's voting board members, and an executive officer (ie. CEO or CFO) of non-profit agencies to satisfactorily complete the pre-contract portion of the training component. The board members shall attend the training for the first time and chief officer shall attend annually; for-profit entities that develop multi-family or other housing projects must also attend the training as a requirement of receipt of city funds. Training will emphasize fiduciary responsibilities, contract compliance, establishing effective performance measures, Federal Program compliance, and non-profit management. Training is mandatory for all fund recipients.
- ❑ **Approval Required for Transactions of \$50,000 or Greater** - The City of Greensboro will require copies of resolutions adopted by boards of non-profits, approving transactions greater than or equal to \$50,000 for products or services funded by the City of Greensboro. Failure to comply will result in the suspension of City funding. If funding has already been disbursed, funds will be repaid, or legal remedies will be sought as appropriate. The only exceptions are draw transactions for Board approved construction contracts, which need

executive officer approval instead of Board approval. All change orders over the approved contract contingency require Board approval.

- ❑ **Conduct of Annual Review-** Annual reviews are scheduled a minimum of 30 days in advance through written communication. Confirmation or rescheduling of a review date is required within two weeks. A qualified staff member of the Agency shall be available to City Internal Audit and/or monitoring staff during the annual review appointment. Audit staff shall be provided standard office work space within the Agency's office during the annual review appointment and any other scheduled appointments.
  
- ❑ **Zero Tolerance Regarding the City's Right to Visit Fund Recipients and Monitor for Compliance** - The City will enforce Zero Tolerance regarding fund recipients who refuse to comply with monitoring and auditing visit requests. The following actions will be taken:
  1. Funding will be immediately suspended if the agency refuses the visit or access to financial/program records.
  2. Legal remedies will be sought as appropriate
  
- ❑ **Record-Keeping Guidelines** - Record-keeping as prescribed by contracts will be strictly followed, and records will be kept in retrievable, reviewable, safe, and auditable condition for seven (7) years after the end of the original contract date or as otherwise specified in the contract.
  
- ❑ **Commingling of Funds Prohibited** - Contracts with recipients of City funds require that City of Greensboro funds provided to the entity for services or activities to be performed be maintained in a bank account or general ledger account that is clearly separate and distinguishable from other fund accounts or a separate bank account at the discretion of the organization. The City reserves the right to inspect fund accounts at any time to ensure compliance. Funding will be suspended to any organization found to be in non-compliance. Appropriate legal action will be taken as necessary.
  
- ❑ **Construction Standards** - Contracts for building, construction, or rehabilitation funded with City funds shall be carried out in compliance with all applicable State, Federal, and local laws and regulations. (See attached contracts for Federal and Local Policies)

Signing below signifies acceptance of the terms and conditions of this policy

\_\_\_\_\_  
Organization (If Applicable)

\_\_\_\_\_  
Signature, Non-Profit Board Chair *or* For Profit Chief Executive Officer

Date \_\_\_\_\_