

SECTION 3 COMPLIANCE PLAN for Applicable City of Bryan Programs and Projects

- I. **PURPOSE.** The purpose of this Plan is to provide employment and business opportunity for businesses and lower income persons who are residents of the Bryan – College Station MSA referred to as the Section 3 Area under the Community Development Block Grant Program, by setting forth procedures to be implemented by contractors and subcontractors to assure compliance with Section 3 of the Housing and Urban Development Act, as defined in 24 CFR part 135 (for project receiving federal assistance of \$200,000 or more or contractors or subcontractors of covered projects receiving \$100,000 or more).
- II. **DEFINITIONS** “Lower-income resident” is any person who resides within the Bryan – College Station MSA or applicable Section 3 area and whose personal income does not exceed 80% of the median income, adjusted for family size, for the Metropolitan Statistical Area (MSA).

“Business concerns located within the Section 3 covered area” means those individuals or firms located within the established boundaries of the Bryan – College Station MSA area and which qualify as small under the small business size standards of the Small Business Administration; or firms which are 51% or more owned by persons residing within those established boundaries and who qualify under the Small Business Administration regulations as socially or economically disadvantaged, or as small under the small business size standards of the Small Business Administration.

“Section 3 Area” is that area which includes the areas inside the Bryan – College Station MSA. These boundaries are the most feasible areas to carry out the goals and objectives of Section 3 regulations.

GENERAL PROJECT INFORMATION

- III. **POLICY STATEMENT**
- A. The work to be performed under a Section-3 applicable contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development (HUD) and is subject to the requirements of Section 3 of the Housing and Urban Development Act (project contracts of \$200,000 or more). Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in the area or owned in substantial part by persons residing in the area of the project.
- B. Successful bidders will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development as set forth in 24 CFR part 135, and all applicable rules and orders of HUD issued thereunder prior to the execution of the contract. The parties to the contract certify and agree that they are under no contractual and other disability which would prevent them from complying with these requirements.
- C. The City, where applicable, will require the contractor to send to each labor organization or representative of workers with which they have a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers’ representative of a commitment under the Section 3 clause and shall have posted copies of the notice in conspicuous places available to employees and applicants for employment or training.
- D. The City will require the contractor to include the Section 3 clause in every subcontract for work in connection with the project. The contractor will be required to take appropriate action upon a finding that the subcontractor is in violation of regulations at 24 CFR Part 135 as issued by the

Secretary of Housing and Urban Development. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of the regulations and will not execute any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

- E. Compliance with the provision of Section 3 as codified in 24 CFR Part 135, all applicable rules and order of the Department issued thereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified in the grant or loan agreement or contract through which federal assistance is provided, and/or to such sanctions as are specified by the Department in 24 CFR Part 135.

IV. UTILIZATION OF SECTION 3 AREA RESIDENTS AND BUSINESSES

A. All contractors subject to Section 3 regulation will provide a “Preliminary Statement of Work Force Needs” form, prior to the signing of a contract. This form shows the needed number and types of job classifications, current vacant positions and expected positions for new hires in the projected work force.

1. Each applicant, recipient, contractor or subcontractor undertaking work in connection with a Section 3 covered project can fulfill the obligation to utilize lower income project area residents as trainees to the greatest extent in the various training categories and filling any vacant training positions with lower income project area residents except for those training position which remain unfilled after a good faith effort has been made to fill them with eligible income project area residents.
2. Each applicant, recipient, contractor or subcontractor undertaking work in connection with a Section 3 covered project can fulfill the obligation to utilize lower income project area residents as employees to the greatest extent feasible by identifying the number and types of positions not currently occupied by regular, permanent employees and establishing a goal of positions to be filled by lower income residents of the Section 3 covered project area and thereafter making a good faith effort to fill the identified positions.
3. In recruiting and filling vacancies, the City of Bryan, Texas will require contractors and subcontractors to attempt to recruit from the appropriate areas the necessary number of lower income residents 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 such as Employment or Workforce Commissions, Rehabilitation Commissions, Manpower Services, Community Action Agencies, Commission for the Blind, Veteran’s Outreach Programs, etc. When lower income resident workers apply, either on their own initiative or on referral from any source, the contractor or subcontractor shall determine if the qualifications are satisfactory and if there are openings.

V. CONTRACTOR OR SUBCONTRACTOR AFFIRMATIVE ACTION PLAN. All competitive bidders and negotiated contractors, subject to 24 CFR Part 135 regulations (projects receiving over \$200,000 in funding, and contracts or subcontracts over \$100,000) will submit to the City of Bryan utilization goals. Evaluation of each bid and negotiated contract will include the determination of responsiveness by evaluation of the proposed goals and provisions to achieve these objectives of Section 3 regulations.

- A. Contractors will explain how they intend to cooperate in employing lower income residents and/or small businesses and what actions you will use to persuade contractors to do the same.
- B. Contractors will describe all subcontracts that have been let

- C. Contractors will describe subcontracts which have not yet been let
 - D. Contractors will list Employment Agencies, Workforce Commissions, News Media, and Minority Organizations, Plans Rooms or other organizations to be used in recruiting employees. A completed "Preliminary Statement of Work Force Needs" should be mailed to each organization contacted by the contractor.
 - E. Contractors will identify below the names and addresses of business organizations, such as the Chamber of Commerce, Home-Builder Associations, etc. to be contacted to attract small businesses.
 - F. Contractors will indicate the percentage of low-income residents you hope to hire in relation to total employees hired, and the time frame involved.
- VI. GRIEVANCE PROCEDURE. Lower income residents and owners of small businesses will be informed that in the event of a grievance or complaint against the municipality or the general contractor, they may file by mail a grievance with:
- A. Assistant Secretary for Equal Opportunity & Fair Housing
Department of Housing and Urban Development
451 Seventh St., S.W. - Room 5100
Washington, D.C. 20410-2000
 - B. Fair Housing and Equal Opportunity Division
Department of Housing and Urban Development
801 Cherry Street
P.O. Box 2905
Fort Worth, TX 76113-2905
- VII. STATEMENTS Subcontractors will be informed of their requirement to submit copies of their Section 3 (Affirmative Action Plan) to the municipality to determine whether established goals will accomplish the objective of Section 3 regulations.
- VIII. CERTIFICATION. Contractors will certify if they will not subcontract any part of contract.
- IX. LOW INCOME LIMITS. Contractors will be provided with the current low income limits as published by HUD.
- X. HUB INTERNET WEBSITE. Contractors will be provided with the internet site for searching for Historically Under-utilized Businesses (HUB's), to include MBE and WBE businesses:
- <http://www.window.state.tx.us/procurement//cdbl/hubonly.html>
- XI. EQUAL OPPORTUNITY CERTIFICATION. Certification of Non-segregated Facilities must be submitted prior to the award of a federally assisted construction contract exceeding \$100,000 which is not exempt from the provisions of the equal opportunity clause. Contractors and subcontractors receiving federally assisted construction contract awards exceeding \$100,000 which are not exempt from the provisions of the equal opportunity clause will be required to provide for the forwarding of the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$100,000 and are not exempt from the provisions of the equal opportunity clause:

CERTIFICATION OF NON-SEGREGATED FACILITIES

The federally assisted construction contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees

to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this certification is a violation of the equal opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time-clocks, locker rooms and other storage or dressing areas, transportation, and housing facilities provided for employees on the basis of race, color, religion, sex or national origin, because of habit, local custom, or any other reason. The federally assisted construction contractor agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$100,000 which are not exempt from the provisions of the equal opportunity clause, and that he will retain such certifications in his files.

XII. STATUTORY ASSURANCES AND COMPLIANCIES: Contractors will be required to certify compliance with the following statutes:

- A. **EQUAL EMPLOYMENT OPPORTUNITY.** The Contractor will certify as to compliance with Section 109 of the Housing and Community Development Act of 1974 and in conformance with the requirements imposed by or pursuant to the Regulations of the Department of Housing and Urban Development (24 CFR Part 570.601) issued pursuant to that Section; and in accordance with that Section, no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the Community Development funds.
- B. **COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED.** The Contractor will certify that: Contractor will comply with Title VI of the Civil Rights Act of 1964 (P.L. 83-352) and all requirements imposed by or pursuant to regulations of the Department of Justice appearing at 28 CFR et Seq and especially Subparts C and D thereof issued pursuant to that title, to the end that no person shall on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Contractor receives compensation through the City, and the United States shall have the right to seek judicial enforcement of this assurance. The Contractor agrees to post in a conspicuous place available to employees and applicants for employment, government notices setting forth the provisions of this nondiscrimination clause. The Contractor will, in all solicitations of advertisement for employees placed by or in behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, or national origin.
- C. **COMPLIANCE WITH EXECUTIVE ORDER 11246, AS AMENDED.** The contractor will certify that: During the performance of the contract the contractor will:
- (a) conform to Executive Order No. 11246 of September 24, 1965 (E.O. 11246) which requires that Contractor not discriminate against any employee or applicant for employment because of race, religion, sex, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment 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.

- (b) 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, religion, sex, color, or national origin.
- (c) 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 labor union or workers' representative of the Contractor's commitments under Section 202 of E.O. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (d) The Contractor will comply with all provisions of E.O. 11246, and the rules, regulations, and relevant orders of the Secretary of Labor.
- (e) The Contractor will furnish all information and reports required by E.O. 11246, 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.
- (f) 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 E.O. 11246, and such other sanctions may be imposed and remedies invoked as provided in E.O. 11246, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (g) The Contractor will include the provisions of paragraphs (a) through (f) of this section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of E.O. 11246, 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 Department of Housing and Urban Development may direct as a means of enforcing such provisions, that in the event the 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.

XIII. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED. Contractors will certify that no person under the age of sixteen years and no person who, at the time, is serving sentence in a penal or correctional institution shall be employed on the work covered by this Contract.

XIV. REGULATIONS PURSUANT TO THE COPELAND "ANTI-KICKBACK ACT". The Contractor shall certify compliance with the most current regulations of the United States Department of Labor, made pursuant to the Copeland "Anti-Kickback Act" (48 Stat. 948; 62 Stat. 862; Title U.S.C., Section 874; and Title 40 U.S.C., Section 276C – to be incorporated by reference), and any amendments thereof and shall cause these provisions to be inserted into any subcontractors contract.

- XV. **CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS.** (Applicable to Federally assisted construction contracts and related subcontracts exceeding \$100,000) Contractor will certify compliance with Air and Water Acts such that during the performance of the contract, the contractor and all subcontractors shall comply with the requirements of this Clean Air Act, as amended, 42 USC 1857 at seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 at seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended. In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:
- (a) 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 40 CFR 15.20.
 - (b) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) 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 there under.
 - (c) 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.
 - (d) 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.
- XVI. **COMPLIANCE WITH FEDERAL LABOR STANDARDS PROVISIONS.** The Contractor shall certify agreement to comply with all requirements related to the Davis-Bacon Act and other federally related Labor Standard requirements as noted in the bid and contract documents. Upon request by the City, the Contractor shall agree to provide evidence of compliance consistent with this paragraph.
- XVII. **COMPLIANCE WITH LOCAL, STATE, AND FEDERAL REGULATIONS.** The Contractor shall certify agreement to comply with all local, state and federal laws, ordinances and regulations applicable to the services to be provided under this contract. Upon request by the City, the Contractor agrees to provide evidence of compliance consistent with this paragraph.
- XVIII. **QUESTIONS CONCERNING CERTAIN FEDERAL STATUTES AND REGULATIONS.** All questions arising under the Contract which relate to the application or interpretation of (a) the aforesaid Copeland Anti-Kickback Act, (b) the Contract Work Hours and Safety Standards Act, (c) the aforesaid Davis-Bacon Act, (d) the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said Acts, or (e) the labor standards provisions of any other pertinent Federal statute, shall be referred, through the Local Public Agency or Public Body and the Secretary of Housing and Urban Development, to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling of interpretation which shall be authoritative and may be relied upon for the purposes of this Contract.
- XIX. **BID DOCUMENTS:** The Following Language will be included in all bid documents subject to Section 3 Requirements:

STATUTORY ASSURANCES AND COMPLIANCIES

1. EQUAL EMPLOYMENT OPPORTUNITY:

The Contractor hereby assures compliance with Section 109 of the Housing and Community Development Act of 1974 and in conformance with the requirements imposed by or pursuant to the Regulations of the Department of Housing and Urban Development (24 CFR Part 570.601) issued pursuant to that Section; and in accordance with that Section, no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the Community Development funds.

2. COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED

The Contractor hereby agrees that he will comply with Title VI of the Civil Rights Act of 1964 (P.L. 83-352) and all requirements imposed by or pursuant to regulations of the Department of Justice appearing at 28 CFR et Seq and especially Subparts C and D thereof issued pursuant to that title, to the end that no person shall on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Contractor receives compensation through the City, and the United States shall have the right to seek judicial enforcement of this assurance. The Contractor agrees to post in a conspicuous place available to employees and applicants for employment, government notices setting forth the provisions of this nondiscrimination clause. The Contractor will, in all solicitations of advertisement for employees placed by or in behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, or national origin.

3. COMPLIANCE WITH EXECUTIVE ORDER 11246, AS AMENDED

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

- (h) The Contractor will conform to Executive Order No. 11246 of September 24, 1965 (E.O. 11246) which requires that Contractor not discriminate against any employee or applicant for employment because of race, religion, sex, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment 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.
- (i) 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, religion, sex, color, or national origin.
- (j) 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 labor union or workers' representative of the Contractor's commitments under Section 202 of E.O. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (k) The Contractor will comply with all provisions of E.O. 11246, and the rules, regulations, and relevant orders of the Secretary of Labor.
- (l) The Contractor will furnish all information and reports required by E.O. 11246, 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.
- (m) 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 E.O. 11246, and such other sanctions may be imposed and remedies invoked as provided in E.O. 11246, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (n) The Contractor will include the provisions of paragraphs (a) through (f) of this section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of E.O. 11246, 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 Department of Housing and Urban Development may direct as a means of enforcing such provisions, that in the event the 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.

4. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED

No person under the age of sixteen years and no person who, at the time, is serving sentence in a penal or correctional institution shall be employed on the work covered by this Contract.

5. REGULATIONS PURSUANT TO THE COPELAND "ANTI-KICKBACK ACT"

The Contractor shall comply with the most current regulations of the United States Department of Labor, made pursuant to the Copeland "Anti-Kickback Act" (48 Stat. 948; 62 Stat. 862; Title U.S.C., Section 874; and Title 40 U.S.C., Section 276C -- herein incorporated by reference), and any amendments thereof and shall cause these provisions to be inserted into any subcontractors contract.

6. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(Applicable to Federally assisted construction contracts and related subcontracts exceeding \$100,000)

Compliance with Air and Water Acts:

During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of this Clean Air Act, as amended, 42 USC 1857 at seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 at seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- (e) 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 40 CFR 15.20.
- (f) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) 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.
- (g) 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.
- (h) 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.

7. COMPLIANCE WITH FEDERAL LABOR STANDARDS PROVISIONS

The Contractor hereby agrees to comply with all requirements related to federally related Labor Standard requirements as may be noted in the bid and contract documents. Upon request by the City, the Contractor agrees to provide evidence of compliance consistent with this paragraph.

8. COMPLIANCE WITH LOCAL, STATE, AND FEDERAL REGULATIONS

The Contractor hereby agrees to comply with all local, state and federal laws, ordinances and regulations applicable to the services to be provided under this contract. Upon request by the City, the Contractor agrees to provide evidence of compliance consistent with this paragraph.

9. QUESTIONS CONCERNING CERTAIN FEDERAL STATUTES AND REGULATIONS

All questions arising under this Contract which relate to the application or interpretation of (a) the aforesaid Copeland Anti-Kickback Act, (b) the Contract Work Hours and Safety Standards Act, (c) the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said Acts, or (d) the labor standards provisions of any other pertinent Federal statute, shall be referred, through the Local Public Agency or Public Body and the Secretary of Housing and Urban Development, to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling of interpretation which shall be authoritative and may be relied upon for the purposes of this Contract.

CERTIFICATION

Certification – All information provided above is true and complete to the best of my knowledge and belief. I certify that I will comply with the aforementioned local, state and federal requirements and provide proof of such to the City to confirm compliance with said laws and regulations.

Signature

Date

(Print Name and Title)

CERTIFICATION OF NON-SEGREGATED FACILITIES

The federally assisted construction contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this certification is a violation of the equal opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time-clocks, locker rooms and other storage or dressing areas, transportation, and housing facilities provided for employees on the basis of race, color, religion, sex or national origin, because of habit, local custom, or any other reason. The federally assisted construction contractor agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$100,000 which are not exempt from the provisions of the equal opportunity clause, and that he will retain such certifications in his files.

NOTICE TO PROSPECTIVE CONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NON-SEGREGATED FACILITIES:

A Certification of Non-segregated Facilities must be submitted prior to the award of a contract or subcontract exceeding \$100,000 which is not exempt from the provisions of the Equal Opportunity Clause.

CERTIFICATION

Certification – The information above is true and complete to the best of my knowledge and belief.

Signature

Date

(Print Name and Title)

Section 3 of the Housing and Urban Development Act of 1968(24 CFR Part 135.38) . The work to be performed under this bid is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development (HUD) and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to Section 3 business concerns which are located in the area or owned in substantial part by Section 3 residents in the area of the project. By submitting a bid, the bidder certifies and agrees that they are under no contractual and other disability which would prevent them from complying with these requirements.

The successful bidder shall send to each labor organization or representative of workers with which they have a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of this commitment under Section 3 clause and shall have posted copies of the notice in conspicuous places available to employees and applicants for employment or training.

The successful bidder will provide a "Preliminary Statement of Work Force Needs" form, prior to the signing of a contract. This form shows the needed number and types of job classifications, current vacant positions and expected positions for new hires in the projected work force to accomplish the work of this bid. In recruiting and filling vacancies to accomplish the work of this bid, the successful bidder shall recruit from the College Station-Bryan MSA the necessary number of lower income or public housing residents through: local advertising media, signs placed at the project site, and notices to appropriate community organizations and public or private institutions operating within or serving the project area such as: Public Housing Agencies, Employment or Workforce Commissions, Rehabilitation Commissions, Manpower Services, Community Action Agencies, Commission for the Blind, Veteran's Outreach Programs, and any other appropriate .

Section 3 Resident - A "section 3 resident" is: 1) a public housing resident; or 2) a low- or very low-income person residing in the College Station-Bryan Metropolitan Statistical Area (MSA). The preferences provided under this regulation are based on income-level and location, and are race and gender-neutral.

Section 3 Business Concern - Section 3 business concerns are businesses which can provide evidence that they meet one of the following: 51 percent or more owned by Section 3 residents; or at least 30 percent of its full time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications above.

Numerical Goals: Contractors and subcontractors shall meet the minimum numerical goals set forth at 24 CFR Part 135.30:

1. 30 percent of the aggregate number of new hires shall be Section 3 residents; and
2. 10 percent of all contracts or subcontracts shall be awarded to Section 3 business concerns.
3. At least three (3) percent of the total dollar amount of all other section 3 covered contracts
4. In accordance with 24 CFR § 135.30, if these minimum requirements are not met, sufficient documentation must be kept to provide reasoning and justification for non-compliance. This documentation should include evidence of all Section 3 outreach efforts.

Section 3 Grievance Procedure: Bidders are hereby informed that in the event of a grievance or complaint against the city related to Section 3, they may file by mail a grievance with:

- A. Assistant Secretary for Equal Opportunity & Fair Housing

Department of Housing and Urban Development
451 Seventh St., S.W. - Room 5100
Washington, D.C. 20410-2000, or;

- B. Fair Housing and Equal Opportunity Division
Department of Housing and Urban Development
801 Cherry Street
P.O. Box 2905
Fort Worth, TX 76113-2905

Section 3 (24 CFR Part 135.38)

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).

**SECTION 3 BUSINESS CERTIFICATION
AND NARRATIVE SECTION 3 ACTION PLAN**

The work to be performed under this bid is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development (HUD) and **is subject to the requirements of Section 3** of the Housing and Urban Development Act of 1968.

Section 3 Resident - A "section 3 resident" is: 1) a public housing (HUD) resident; or 2) a low- or very low-income person residing in the College Station-Bryan Metropolitan Statistical Area (MSA). The preferences provided under this regulation are based on income-level and location, and are race and gender-neutral. The following income limits apply to the households of those considered Section 3 residents based upon income:

2010 City of Bryan Income Limits for Consideration as Low to Moderate Income.

Household #	1	2	3	4	5	6	7	8
Max. Income ('10-'11)	\$31,950	\$36,500	\$41,050	\$45,600	\$49,250	\$52,900	\$56,550	\$60,200

Section 3 Business Concern - Section 3 business concerns are businesses which can provide evidence that they meet one of the following: 51 percent or more owned by Section 3 residents; or at least 30 percent of its full time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications above..

The Bidder represents and certifies as part of its bid that it **will comply** with the requirements of Section 3 in one of the following categories:

- CATEGORY A SECTION 3 BUSINESS CONCERN (OWNERSHIP):**

51% or more of the business is owned by Section 3 Residents (low income or public housing (HUD) residents in the College Station-Bryan MSA (attach copy of the first and last page of current lease and documentation of business ownership, such as articles of incorporation, form 1099, tax return, bank statement, or other satisfactory proof of ownership, along with the attached Affidavit of Section 3 Business Ownership).

CATEGORY B SECTION 3 BUSINESS CONCERN (WORKFORCE):

Full-time, permanent workforce of the business currently includes 30% or more Section 3 eligible residents, or within three years of the date of first employment with the business concern were Section 3 residents (attach a list of all employees with Section 3 employees so designated, along with an Affidavit of Section 3 employee status from each Section 3 employee.)

CATEGORY C SECTION 3 BUSINESS CONCERN (SUBCONTRACT):

The bidder hereby commits to subcontract at least 25% of the total amount of subcontracts to Category A or B Section 3 businesses. **Attach on separate sheets the name, address, phone number, amount of subcontract and Section 3 Business Concern category (A or B) for each intended Section 3 Business Concern subcontractor, and attach satisfactory documentation of the subcontractor's Section 3 status.**

SECTION 3 NARRATIVE AFFIRMATIVE ACTION PLAN

All competitive bidders for Section 3 covered projects must submit to the City of Bryan a Section 3 narrative affirmative action plan including utilization goals. Evaluation of each bid and will include the determination of responsiveness by evaluation of the proposed goals and provisions to achieve the objectives of Section 3 regulations.

- A. Explain how you intend to recruit a minimum of 30% of Section 3 residents for **any new hires** from the time this bid is submitted until the contract is complete, and what actions you will use to require subcontractors to do the same.

- B. If you intend to subcontract, explain how you intend to subcontract a minimum of 10% of the work of this bid to Section 3 business concerns.

- C. Describe how you will document and maintain evidence of all Section 3 outreach efforts, and how you will require any subcontractors to do the same.

- D. The successful bidder will provide a “Preliminary Statement of Work Force Needs” form, prior to the signing of a contract. This form shows the needed number and types of job classifications, current vacant positions and expected positions for new hires in the projected work force to accomplish the work of this bid. In recruiting and filling vacancies to accomplish the work of this bid, the successful bidder shall recruit from the College Station-Bryan MSA the necessary number of lower income or public housing residents

through: local advertising media, signs placed at the project site, and notices to appropriate community organizations and public or private institutions operating within or serving the project area such as: Public Housing Agencies, Employment or Workforce Commissions, Rehabilitation Commissions, Manpower Services, Community Action Agencies, Commission for the Blind, Veteran's Outreach Programs, and any other appropriate entities. Provide a narrative list of resources to be used in recruiting Section 3 employees. Upon contracting, a completed "Preliminary Statement of Work Force Needs" shall be provided by the contractor to each organization contacted.

Resource List:

If no recruitment or hiring is anticipated, briefly explain why.

- E. Grievance Procedure: Section 3 employees must be informed that in the event of a grievance or complaint against the municipality or the general contractor, they may file by mail a grievance with:

Assistant Secretary for Equal Opportunity & Fair Housing
Department of Housing and Urban Development
451 Seventh St., S.W. - Room 5100
Washington, D.C. 20410-2000, or;

Fair Housing and Equal Opportunity Division
Department of Housing and Urban Development
801 Cherry Street
P.O. Box 2905
Fort Worth, TX 76113-2905

- F. Subcontractors: Subcontractors will be informed of their requirement to submit a Section 3 Action Plan and certifications to the City.

G. Implementation Schedule: Provide a schedule timeline of the implementation of this plan:

H. Describe training opportunities your firm can provide for low income or public housing Section 3 residents as well as an overview of your training plan.

I. The successful bidder shall send to each labor organization or representative of workers with which they have a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of the contractor's commitment under the Section 3 clause and shall have posted copies of the notice in conspicuous places available to employees and applicants for employment or training. List any labor organizations or worker representatives with whom your firm has a collective bargaining agreement, contract, or other understanding:

SECTION 3 CERTIFICATION

Title 18, Section 1001 of the U.S. Code states that any person who knowingly and willingly makes or uses a document or writing containing any false, fictitious, fraudulent statement or entity, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both. The undersigned gives express consent to the City of Bryan to verify any information provided by the vendor within this Section 3 Business Certification Form.

CERTIFICATION

Certification – The information above is true and complete to the best of my knowledge and belief.

Signature

Date

(Print Name and Title)

AFFIDAVIT OF SECTION 3 EMPLOYEES
(Used to Certify Category B Section 3 Business Concern –Workforce)

On this _____ day of _____, 20__ I, _____, hereby certify
Date Month Year Name of Employee

that I am an employee of: _____.
Name of Employer

And, I am **(Circle as many as apply)**:

- A. **A resident of public (HUD) housing** within the Bryan-College Station MSA (attach front and back page of lease).
- B. **Currently Low income:** Employee's annual household income does not exceed 80% of the area median income based upon the following table:

2010 City of Bryan Income Limits for Consideration as Low to Moderate Income.

Household #	1	2	3	4	5	6	7	8
Max. Income ('10-'11)	\$31,950	\$36,500	\$41,050	\$45,600	\$49,250	\$52,900	\$56,550	\$60,200

- C. **Previously Low income** based upon the table above, within 3 years prior to becoming employed by this employer

Title 18, Section 1001 of the U.S. Code states that any person who knowingly and willingly makes or uses a document or writing containing any false, fictitious, or fraudulent statement in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

I certify that the above statements are true and correct. I understand that any misstatement or falsification of information shall be grounds for revocation or termination of any Section 3 covered contract with the firm in which I am employed.

Signature of Section 3 Employee

Date

Printed Name of Section 3 Employee

STATE OF TEXAS §
§ **ACKNOWLEDGMENT**
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the __ day of _____, 200__, by

(name),

Notary Public in and for
the State of Texas

**AFFIDAVIT OF SECTION 3 BUSINESS CONCERN OWNERSHIP
(Used to Certify Category A Section 3 Business Concern –Ownership)**

On this _____ day of _____, 20____ I, _____, hereby certify
 Date Month Year Name of Owner

that I am the/an owner of: _____
 Name of Business

At least 51% of the ownership interest in this business is by Section 3 residents (low income or public housing residents).

And, I am (Circle as many as apply):

- A. **A resident of public (HUD) housing** within the Bryan-College Station MSA (attach front and back page of lease).
- B. **Currently Low income:** Owner's annual household income does not exceed 80% of the area median income based upon the following table:

2010 City of Bryan Income Limits for Consideration as Low to Moderate Income.

Household #	1	2	3	4	5	6	7	8
Max. Income ('10-'11)	\$31,950	\$36,500	\$41,050	\$45,600	\$49,250	\$52,900	\$56,550	\$60,200

Title 18, Section 1001 of the U.S. Code states that any person who knowingly and willingly makes or uses a document or writing containing any false, fictitious, or fraudulent statement in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

I certify that the above statements are true and correct. I understand that any misstatement or falsification of information shall be grounds for revocation or termination of any Section 3 covered contract with the firm in which I am employed.

 Signature of Section 3 Business Owner

 Date

 Printed Name of Section 3 Business Owner

STATE OF TEXAS §
 § **ACKNOWLEDGMENT**
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the __day of _____, 200__, by
 _____ (name).

 Notary Public in and for
 the State of Texas