

RESOLUTION NO. 19-811-12

A RESOLUTION TO ADOPT THE SECTION 3 PLAN TO COMPLY WITH 24 CFR, PART 135 OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 3

WHEREAS, City of John Day (“City”) has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow City; and

WHEREAS, The United States Congress passed Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) to further the goal of ensuring that federal funds benefit the residents of projects funded wholly or in part by those funds; and

WHEREAS, Part 135 of Section 3 is to establish the standards and procedures to be followed to ensure that the objectives of Section 3 are met; and

WHEREAS, City has developed a Section 3 Plan in adherence to 24 CFR, Part 135 that more comprehensively addresses the standards and procedures prescribed in the Act; and

WHEREAS, The Section 3 Plan has been reviewed by the City Manager as senior staff member and his comments were incorporated into the Plan;

NOW, THEREFORE, City resolves as follows:

1. Findings. The above-stated findings contained in this Resolution No. 19-811-12 (this “Resolution”) are hereby adopted.

2. Adoption. City adopts and implements the Section 3 Plan to ensure compliance with federal law and designates City Manager as the Section 3 Coordinator for City.

3. Miscellaneous. All pronouns contained in this Resolution and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes,” and “including” are not limiting. The provisions of this Resolution are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Resolution is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Resolution. This Resolution may be corrected by order of the Council to cure editorial and/or clerical errors. This Resolution will be in full force and effect from and after its approval and adoption.

[signature page follows]

APPROVED AND ADOPTED by the City Council of City of John Day and signed by the mayor
this 21st day of May 2019.

Ron Lundbom, Mayor

ATTEST:

Nicholas Green, City Manager

CITY OF JOHN DAY SECTION 3 PLAN

General Policy Statement

It is the policy of the City of John Day to require its contractors to make a good faith effort to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

The City of John Day implements this policy in accordance with City established contracting rules and policies as well as the awarding of contracts to contractors, vendors, professional service providers/consultants and suppliers, to create employment and business opportunities for residents of the City of John Day and other qualified low- and very low-income persons.

The policy will ensure that in good faith the City of John Day will have a reasonable level of success in the recruitment, employment, and utilization of Section 3 residents and other eligible persons and Section 3 business concerns working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. The City of John Day shall examine and consider a contractor's, professional service provider/consultant or vendor's potential for success by providing employment and business opportunities to Section 3 residents and business concerns prior to acting on any proposed contract award.

Good Faith Effort

At a minimum, the following tasks must be completed to demonstrate a good faith effort with the requirements of Section 3. The City of John Day and each contractor, subcontractor, professional services provider, vendor or supplier seeking to establish a good faith effort as required should get to fill all training positions with persons residing in the target area.

1. Send notices of job availability subcontracting opportunities subject to these requirements to recruitment sources, organizations and other community groups capable of referring eligible Section 3 applicants, including Works Source Oregon.
2. Include in all solicitations and advertisements a statement to encourage eligible Section 3 residents to apply.
3. When using a newspaper of major circulation to request bids/quotes or to advertise employment opportunities to also advertise in minority-owned newspapers.
4. Maintain a list of all residents from the target area who have applied either on their own or by referral from any service, and employ such persons, if otherwise eligible and if a trainee position exists. (If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy). A list of eligible applicants will be maintained for future vacancies.

Any construction contractor, professional services provider, vendor or supplier must 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 obligation under 24 CFR Part 135.

WHAT IF MY BUSINESS DOES NOT QUALIFY AS A SECTION 3 BUSINESS?

The City will, to the greatest extent feasible, offer contracting opportunities to Section 3 business concerns. However, in the event no Section 3 business bids on a contract, or bids but is not able to demonstrate to the City satisfaction that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions of the proposed contract through the competitive bidding process.

That business concern must meet, as all business must (including Section 3 businesses), the general conditions of compliance (refer to Section 3 Clause [Construction Contracts] and Section 3 Clause [Non-Construction Contracts]).

This will include:

1. Submitting a list of all positions necessary to complete contract, name of employees who will fill those positions, names of all other employees.
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.
3. To the greatest extent feasible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 residents (all categories) in order to priority.
4. As positions are vacated during completion of contract, following guidelines enumerated in numbers 2 and 3 above.
5. Submitting Compliance Reports as required.
6. If notified of non-compliance, correcting non-compliance within allowable time period.

Section 3 Purpose

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires the City of John Day to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.

Section 3 Contracting Policy and Procedure

Section 3 residents must meet the minimum qualifications of the position to be filled and a Section 3 business concern must have the ability to and capability to perform successfully under the terms and conditions of the proposed contract.

The City of John Day will incorporate Section 3 in its existing Procurement Policy and adopt a Section 3

Contracting Policy and Procedure to be included in all procurements generated for use with HUD funding. This policy and procedure contain goal requirements for awarding contracts to Section 3 Business Concerns.

All contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to the City of John Day will be required to complete certifications, as appropriate, as acknowledgement of the Section 3 contracting and employment provisions required by this section. Such certifications shall be adequately supported with appropriate documentation as referenced in the form. Refer to Exhibit 4.

In addition, the City of John Day has initiated efforts to enhance resident hiring in specific procurement areas. These initiatives are designed to set the requirements for resident hiring and developing and/or strengthening administrative procedures for facilitating contractors' hiring of Section 3 residents, other low income and/or very low-income residents residing in the City of John Day. In promote good faith effort to enhance Section 3 compliance all procurement documents must meet the following:

1. Each bidder/proposer must include a Section 3 Opportunities Plan and Certification (Exhibit 5) or a separate schedule which indicates its commitment to meet the Section 3 resident hiring requirements.
2. If a bidder/proposer fails to submit a Section 3 Opportunities Plan and Certification or a separate schedule and the related data along with the bid/proposal, such bid/proposal will be declared as "non-responsive."
3. For invitations for Bids ("IFB") where awards are made to the lowest, responsive and responsible bidder, the bidder's commitment to satisfy Section 3 resident hiring requirements will be a factor used in determining whether the bidder is "responsive."
4. For QBS's, RFQ's, RFP's and IFB's, contractors shall be required to detail the cost of the bid or proposal by separately categorizing contract cost by labor (person hours and dollar amounts).

The City of John Day and their covered contractors, subcontractors, professional service providers/consultants or subrecipients) will in good faith comply with the requirements of Section 3 for new employment, training, or contracting opportunities resulting from the expenditure of HUD funding. The City responsibility includes:

1. Providing a list of all Section 3 residents and business concerns within their area;
2. Advertise to have residents' businesses complete the pre-qualifying certification form;
3. Develop a system to collect the pre-qualifying certification forms and to verify the accuracy of the completed forms;
4. Contract work (contracts of \$100,000 or more for construction or any non-construction activity leading to construction i.e. engineering, architectural services) with preference to Section 3 residents and business concerns by giving preference to Section 3 residents and business concerns located closer to the project site;
5. Require construction contractors, engineers, architects, program managers, vendors and suppliers, etc. to submit a Section 3 Opportunities Plan and Certification plan with their bid/proposal;
6. Ensuring businesses that they can use the Work Source Oregon – First Source Hiring Agreement in complying with the Section 3 requirements;
7. Implementing procedures to notify Section 3 residents and business concerns about training,

- employment, and contracting opportunities generated by Section 3 covered assistance;
8. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
 9. Incorporating the Section 3 Clause into all covered solicitations and contracts receiving HUD funding [see 24 CFR Part 135.38];
 10. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
 11. Assisting and actively cooperating with the State in making contractors and subcontractors comply;
 12. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
 13. Documenting actions taken to comply with Section 3; and
 14. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.
 15. Informing any subrecipient/sub-grantee of City CDBG funds that they must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients/sub-grantees that receive covered funding. The information and assistance that will be provided includes but is not limited to the following:
 - a. Inform subrecipients/sub-grantees about the requirements of Section 3;
 - b. Assist subrecipients/sub-grantees and their contractors with achieving compliance;
 - c. Monitor subrecipient/sub-grantee performance with respect to meeting the requirements of Section 3; and
 - d. Report to HUD on the cumulative Section 3 activities taking place within their jurisdiction on an annual basis.

The existing City of John Day Procurement Policy also contains goal requirements for awarding contracts to Small Disadvantaged Businesses, formerly Minority and Women Business Enterprises (M/WBE).

Section 3 Contract Clause

The Section 3 Contract Clause specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 Clause must be included in all Section 3 covered projects. The Section 3 Contract Clause is included in Exhibit 1.

Numeric Goals for Section 3 Employment & Training

It is the policy of the City of John Day to utilize residents and other Section 3 eligible persons and businesses concerns in contracts partially or wholly funded with monies from the Department of Housing and Urban Development (HUD). This document establishes employment and training goals that contractors and subcontractors should meet in order to comply with Section 3 requirements. (Reference 24 CFR 135.30 – Numerical goal for meeting the greatest extent feasible requirement). The numerical goal is:

- Thirty percent (30%) of the aggregate number of new hires in any fiscal year.

It is the responsibility of contractors, professional service providers/consultants, vendors and suppliers to

implement progressive efforts to attain Section 3 compliance. Any firm that does not meet the Section 3 numerical goals must demonstrate why meeting the goals were not feasible. All firms submitting bids or proposals are required to certify that they comply with the requirements of Section 3.

Numeric Goals for Contracting Activities

Absent evidence to the contrary, the City of John Day considers contractors, professional service providers/consultants, vendors and suppliers of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30. Specifically:

1. 30 percent of the aggregate number of new hires shall be Section 3 residents;
2. 10 percent of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and
3. 3 percent of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.

Businesses that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable the state to make a compliance determination.

Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment, suspension, or limited denial of participation in HUD programs pursuant to 24 CFR Part 24.

Section 3 Program Resident/Participant Certification Procedure

Section 3 Residents Are:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local HUD income limits set forth for low- or very low-income households.

The City of John Day will certify Section 3 program participants who reside in the City of John Day and who are seeking preference in training and employment by completing and attaching adequate proof of Section 3 eligibility, as required (see Exhibit 3 – Section 3 Participant Eligibility for Preference form).

1. All persons living in the City who meet the Section 3 eligibility guidelines can, by appointment, visit with the Section 3 Coordinator to complete a job readiness assessment.
2. Once this assessment is complete, the Section 3 Coordinator will determine if the individual meets the eligibility requirements and is job ready.
3. The Section 3 job readiness component is a part of the City of John Day commitment to provide economic opportunities and training to residents/eligible participants to become gainfully employed.

Resident Hiring Requirements

The City of John Day has adopted the following scale for resident hiring that is to be used on all construction contracts, service contracts and professional service contracts that contain a labor component. An appropriate number of residents with particular qualifications or a willingness to begin unskilled labor will be able to participate in contracted labor efforts.

TOTAL LABOR DOLLARS USE TOTAL CONTRACT AMOUNT FOR SERVICE CONTRACTS	RESIDENT AS A % OF TOTAL LABOR DOLLARS
Labor dollars \$25,000 but less than \$100,000	10% of the labor dollars
\$100,000, but less than \$200,000	9% of the labor dollars
At least \$200,000, but less than \$300,000	8% of the labor dollars
At least \$300,000, but less than \$400,000	7% of the labor dollars
At least \$400,000, but less than \$500,000	6% of the labor dollars
At least \$500,000, but less than \$1 million	5% of the labor dollars
At least \$1 million, but less than \$2 million	4% of the labor dollars
At least \$2 million, but less than \$4 million	3% of the labor dollars
At least \$4 million, but less than \$7 million	2% of the labor dollars
\$7 million or more	1 – ½% of the labor dollars

With this sliding formula, it is expected that an appropriate number of public housing residents and neighborhood residents with particular qualifications or willingness to begin unskilled labor will be able to participate in contracted labor efforts. A prime contractor, through its subcontractor(s), may satisfy the Section 3 resident hiring requirement set forth above.

1. Contractor/subcontract or joint venture with a resident owned business. The business must be 51% of more owned by Section 3 residents; or
2. The contractor/sub-contractor that can demonstrate that at least 30% of the current employees of the company are Section 3 residents; or
3. At least 30% of the contractor/sub-contractors employees are Section 3 residents, within 3 years of the date of first employment with the company; or
4. The contractor/sub-contractor commits to subcontracting at least 25% of the total value of the contract to section 3 sub-contractors, as defined above, and to provide the necessary evidence; or
5. The contractor/sub-contractor will incur costs of providing skilled training for residents in an amount commensurate with the sliding scale set forth in the Resident Hiring Scale; or
6. The contractor/sub-contractor makes a contribution to an Education Fund to provide assistance to residents to obtain training. The level of contribution would be commensurate with the sliding scale set forth in the Resident Hiring Scale.

Preference For Section 3 Residents in Training and Employment Opportunities in providing training and employment opportunities, generated from the expenditure of Section 3 activities to Section 3 residents, the following order of preference will be followed:

1. Section 3 residents from the service area or neighborhood in which the Section 3 covered project is located.
2. Participants in HUD Youthbuild Programs.
3. Homeless persons residing in the area service area or neighborhood in which the Section 3 covered project is located.
4. Other Section 3 residents.

Section 3 Residents Recruitment, Training, and Employment Goals

City of John Day will develop resources to provide training and employment opportunities to Section 3 program participants by implementing the following:

1. Training opportunities will be advertised by distributing flyers via mass mailings and posting in common areas of the housing developments as well as all local public housing management offices.
2. The resident councils, resident management corporations, as well as neighborhood community organizations will be contacted to request their assistance in notifying residents of the available training and employment opportunities.
3. Employment opportunities will be advertised by posting job vacancies in common areas of any local public housing developments as well as contacting resident councils, resident management corporations, and neighborhood community organizations.
4. A database will be developed of certified Section 3 residents of public housing and other Section 3 residents.
5. A database will be developed to maintain a skill assessment of all Section 3 residents of public housing and other Section 3 residents.
6. A database will be developed of eligible qualified Section 3 Business concerns to contact with respect to the availability of contract opportunities.
7. Relationships will be developed with local area employers in an effort to solicit job vacancies to determine skills needed in their workforce, thereby providing training to residents developing skills that will transfer into the external labor market.
8. A provision for a specific number of public housing or Section 3 program participants to be trained or employed by the contractor will be incorporated into the contract.

Assisting Contractors to Achieve Section 3 Hiring and Contracting Goals

The City of John Day will assist contractors with little or no experience in achieving Section 3 hiring and contracting goals by:

- Requiring the contractor to present a list, to the Section 3 Coordinator, of the number of subcontracting and/or employment opportunities expected to be generated from the initial contract.
- The Section 3 Coordinator will provide the contractor with a list of interested and qualified Section 3 residents for construction projects.
- The Section 3 Coordinator will provide contractor with a list of Section 3 business concerns interested and qualified for construction projects.

- The Section 3 Coordinator will inform contractor of known issues that might affect Section 3 residents from performing job related duties.
- The Section 3 Coordinator will review the new hire clause with contractors and subcontractors to ensure that the requirement is understood. It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to employ Section 3 program participants before any other person, when hiring additional employees needed to complete proposed work to be performed with HUD (federal) funds.

Preference for Contracting with Section 3 Business Concerns

A Section 3 Business Concern within the Section 3 local area is one of the following:

1. Businesses that are 51 percent or more owned by Section 3 residents;
2. Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

The City of John Day, in compliance with Section 3 regulations, will require contractors and subcontractors (including professional service contractors) to direct their efforts towards contracts to Section 3 business concerns in the following order to priority:

1. Section 3 business concerns that provide economic opportunities for Section 3 residents in the service area or neighborhood in which the Section covered project is located.
2. Business concerns that carry-out HUD Youthbuild Programs.
3. Other Section 3 business concerns.

Contractors and subcontractors are expected to extend to the greatest extent feasible, efforts to achieve the numerical goals established by the City of John Day

Evidence of Section 3 Certification

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with the City of John Day shall complete the Certification For Business Concerns Seeking Section 3 Preference In Contracting and Demonstration of Capability form, which can be obtained from the Section 3 Coordinator. The business seeking Section 3 preference must be able to provide adequate documentation as evidence of eligibility for preference under the Section 3 Program. The certification form is Exhibit 4 to this plan.

Certifications for Section 3 preference for business concerns must be submitted to the Section 3 Coordinator of the City of John Day prior to the submission of bids for approval. If the Section 3 Coordinator previously approved the business concern to be Section 3 certified, the certification can be submitted along with the bid.

Efforts to Award Contract Opportunities to Section 3 Business Concerns

The City of John Day will use some of the following methods to notify and contract with Section 3 business concerns when contracting opportunities exist.

1. Advertise contracting opportunities via some of the following newspaper, mailings, posting notices that provide general information about the work to be contracted and where to obtain additional information.
2. Provide written notice of contracting opportunities to all known Section 3 business concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.
3. Coordinate pre-bid meetings at which the Section 3 business concerns would be informed of upcoming contracting opportunities in advance.
4. Conduct workshops on contracting procedures to include bonding, insurance, and other pertinent requirements, in a timely manner in an effort to allow Section 3 business concerns the opportunity to take advantage of any upcoming contracting opportunities.
5. Contact the City of John Day, business assistance agencies, Minority and Women's Business Enterprise (M/WBE) contractor associations and community organizations to inform them of contracting opportunities and to request their assistance in identifying Section 3 businesses.
6. Establish relationships with the Small Business Administration (SBA), Minority and Women's Business Enterprise M/WBE association, Community Development Corporations, and other sources as necessary to assist SPHA with educating and mentoring residents with a desire to start their own businesses.
7. Seek out referral sources in order to ensure job readiness for public housing residents through on-the-job-training (OJT) and mentoring to obtain necessary skills that will transfer into the external labor market.
8. Develop resources or seek out training to assist residents interested in starting their own businesses to learn to prepare contracts, prepare taxes, obtain licenses, bonding, and insurance.

Contractor's Requirements in Employing Section 3 Residents/Participants:

Under the City of John Day Section 3 Program, contractors, subcontractors, professional service providers/consultants, vendors and supplies are required to submit a Section 3 Opportunities Plan and Certification and to:

1. Provide employment opportunities to Section 3 residents/participants in the priority order listed below:
 - a) Category 1 – Section 3 Residents from the service area or neighborhood in which the Section 3 covered project is located,
 - b) Category 2 – Section 3 Participants in HUD Youthbuild Programs carried out in the service area or neighborhood in which the Section 3 covered project is located,

- c) Category 3 – Section 3 Residents of Section 8 of the local Housing Authority as well as all other residents residing in the service area or neighborhood in which the Section 3 covered project is located. Section residents must meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).
 - d) Category 4 – Section 3 Residents/Homeless persons residing in the area service area or neighborhood in which the Section 3 covered project is located.
 - e) Category 5 - Other Section 3 residents/participants.
2. After the award of contracts, the contractor must, prior to beginning work, inform Section 3 participants of the development at which the work will be performed, by providing the following:
 - a. Names of the Section 3 business concerns to be utilized,
 - b. Estimates of the number of employees to be utilized for contract,
 - c. Projected number of available positions, to include job descriptions and wage rates (construction wages consistent with Davis Bacon),
 - d. Efforts that will be utilized to seek Section 3 participants.
 3. Contractors must notify the Section 3 Coordinator of their interests regarding employment of Section 3 participants prior to hiring. The Section 3 Coordinator will ensure that the participant is Section 3 eligible, by assessing the Section 3 database to ensure job readiness. Additionally, the City of John Day will be contacted to ensure that the individuals are not involved in any legal proceedings against/with the City of John Day.
 4. Submit a list of core employees (including administrative, clerical, planning and other positions pertinent to the construction trades) at the time of contract award. Document the performance of Section 3 participants (positive and negative), regarding punctuality, attendance, etc., and provide this information to the Section 3 Coordinator.
 5. Immediately notify the Section 3 Coordinator of any problems experienced due to the employment of Section 3 participants.
 6. Immediately notify the Section 3 Coordinator if a participant quits, walks off, or is terminated for any reason. The contractor must provide written documentation of all such incidents to support such decisions to the Section 3 Coordinator to determine if an investigation is warranted.
 7. Businesses can use the Work Source Oregon – First Source Hiring Agreement in complying with the Section 3 requirements.

Internal Section 3 Complaint Procedure

In an effort to resolve complaints generated due to non-compliance through an internal process, the City of John Day encourages submittal of such complaints to its Section 3 Coordinator as follows:

1. Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 135.
2. Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.
3. An investigation will be conducted if complaint is found to be valid. The Section 3 Coordinator will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
4. The Section 3 Coordinator will provide written documentation detailing the findings of the

investigation of the complaint. The City Manager will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than thirty (30) days after the filing of complaint.

If complainants wish to have their concerns considered outside of the City of John Day a complaint may be filed with:

Assistant Secretary for Fair Housing and Equal Opportunity
United States Department of Housing and Urban Development
451 Seventh Street, SW
Washington, DC 20410

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

Enforcement

To enforce the decision-making process pertaining to determining applicable percentages for resident hiring, enforcement strategies are set forth below.

During the post award or pre-bid conference, the objective shall be to impact critical Section 3 information to the contractor prior to commencement of the work/project. The following contract requirements shall be discussed in detail: (Non-construction contracts do not require Davis- Bacon)

Davis-Bacon
Minority and Women Owned Business Participation
Resident Hiring Professional

Each representative will define specific functional requirements and require the contractor to certify its understanding of the terms and conditions of the contract as they pertain to Davis-Bacon, resident hiring and Minority and Women Owned Business participation.

Monitoring and Enforcement Authority and Responsibility

The function of monitoring and enforcing resident hiring will be carried out by the City of John Day Section 3 Coordinator, including all field activities.

EXHIBIT 1 – DEFINITIONS

Assistant – the Assistant Secretary for Fair Housing and Equal Opportunity.

Business Concern – a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

Contractor - any entity which contracts to perform work generated the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

Employment Opportunities Generated by Section 3 Covered Assistance – all employment opportunities generated by the expenditure of Section 3 covered public assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 135.3 (a) (1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3 (a) (2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

Housing Authority (HA) – Public Housing Agency.

Housing Development – low-income housing owned, developed, or operated by public housing agencies in accordance with HUD’s public housing program regulations codified in 24 CFR Chapter IX.

HUD Youthbuild Programs – programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

JTPA – The Job Training Partnership Act (29 U.S.C. 1579 (a)).

Low-income person – families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low- income families.

Metropolitan Area – a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

New Hires – full-time employees for permanent, temporary or seasonal employment opportunities.

Recipient – any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State unit of local government, PHA, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any

successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

Section 3 – Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 Business Concern – a business concern:

- 1) That is 51 percent or more owned by Section 3 resident; or
- 2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- 3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 above.

Section 3 Covered Assistance –

- 1) public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- 2) public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- 3) public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- 4) assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 Clause – the contract provisions set forth in Section 135.38.

Section 3 Covered Contracts – a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

Section 3 Covered Project - the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 Resident – a public housing resident or an individual who resides in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and who is considered to be a low-to very low-income person.

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

Very low-income person – families (including single persons) whose income do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or

lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

SECTION 3 CLAUSE

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 Clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

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. Contractor shall complete THE REQUIRED Section 3 report form 60002 and submit it to the City with the final construction pay estimate for the project.

**THE CITY OF JOHN DAY
RESIDENT EMPLOYMENT OPPORTUNITY DATA
ELIGIBILITY FOR PREFERENCE CERTIFICATION FORM**

Eligibility for Preference

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

Certification for Resident Seeking Section 3 Preference in Training and Employment

I, _____, am a legal resident of the City of _____ and certify that I meet the income eligibility guidelines for a low- or very-low-income person as published on the reverse.

My permanent address is: _____

I have attached the following documentation as evidence of my status:

- a. Copy of lease demonstrating proof of residency in a public housing development
- b. Copy of receipt of public assistance such as a Section 8 certificate or voucher
- c. Copy of evidence of participation in a public assistance program such as Youthbuild, JTPA, Job Corps etc.
- d. Income tax records
- e. Other

Signature: _____

Print Name: _____ Date: _____

TABLE A-2019 Low- and Moderate-Income Data

City/County	New April 1, 2019 LMISD	OLD -2016 LMISD	City/County	New April 1, 2019 LMISD	OLD-2016 LMISD
Baker County	40.71%	42.56%	Deschutes County	38.85%	36.58%
Baker City	45.08%	46.44%	La Pine	60.98%	82.74%
Greenhorn	0.00%	0%	Sisters	42.41%	35.70%
Haines*	56.40%	56.40%	Douglas County	41.75%	38.73%
Halfway	63.49%	55.84%	Canyonville	54.78%	50.00%
Huntington	52.31%	59.26%	Drain*	56.30%	56.30%
Richland	68.57%	50.00%	Elkton	51.11%	37.84%
Sumpter	57.14%	37.93%	Glendale	58.75%	60.87%
Unity	40.00%	54.55%	Myrtle Creek	48.01%	49.71%
Benton County	48.68%	48.22%	Oakland	47.10%	30.49%
Adair Village	43.98%	35.56%	Reedsport	57.56%	47.29%
Monroe	63.70%	69.75%	Riddle	50.00%	40.19%
Philomath	49.62%	37.61%	Roseburg	40.27%	37.80%
Clatsop County	41.53%	38.65%	Sutherlin	49.65%	40.16%
Astoria	43.15%	42.52%	Winston	47.43%	50.00%
Cannon Beach	40.89%	47.95%	Yoncalla	45.89	59.60%
Gearhart	41.44%	13.73%	Gilliam County	45.16%	41.91%
Seaside	57.38%	50.84%	Arlington	48.74%	37.00%
Warrenton	46.47%	42.03%	Condon	49.07%	47.50%
Columbia	46.36%	38.17%	Lonerock	75.00%	42.86%
Clatskanie	56.34%	49.29%	Grant County	41.10%	40.88%
Columbia City	44.31%	33.33%	Canyon City	36.36%	35.71%
Prescott	27.27%	66.67%	Dayville	36.67%	58.62%
Rainier	57.65%	46.81%	Granite	80.00%	0%
Scappoose	36.90%	34.77%	John Day *	57.3% *	57.3%
St. Helens	51.65%	42.94%	Long Creek	34.29%	54.55%
Vernonia	51.05%	45.34%	Monument*	56.90%	56.90%
Coos County	42.67%	38.21%	Mt. Vernon*	57.30%	57.30%
Bandon	50.33%	46.91%	Prairie City	49.36%	46.05%
Coos Bay	45.22%	41.52%	Seneca*	56.60% *	56.60%
Coquille	56.64%	36.04%	Harney County	47.27%	38.42%
Lakeside	40.52%	39.26%	Burns	54.15%	40.92%
Myrtle Point	36.25%	54.56%	Hines	36.73%	40.40%
North Bend	39.71%	33.66%	Hood River County	34.93%	39.58%
Powers	67.11%	36.00%	Cascade Locks	61.43%	44.50%
Crook County	45.91%	36.54%	Hood River	41.96%	44.08%
Prineville	55.33%	44.40%	Jackson County	42.26%	38.20%
Curry County	41.09%	44.72%	Butte Falls	54.55%	32.38%
Brookings	39.00%	44.70%	Central Point	36.77	32.41%
Gold Beach	39.43%	34.64%	Eagle Point	40.98%	39.26%
Port Orford	56.15%	42.86%	Gold Hill	46.86%	41.10%

*Indicates results of income surveys conducted in accordance with CDBG requirements. Income Survey results are valid for five years from the date the survey was completed.

Attested by: _____

INSTRUCTIONS FOR COMPLETING THE SECTION 3 OPPORTUNITIES PLAN (SERVICE & PROFESSIONAL CONTRACTS)

The purpose of Section 3 is to ensure that jobs and economic opportunities generated by HUD financial assistance for housing and community development programs shall be directed to low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns which provide economic opportunities to low and very low income persons.

Section I

The Section 3 Opportunities Plan is to be completed for construction and professional service contracts. There are four (4) ways in which Section 3 can be fulfilled. They are listed in order of preference:

1. Subcontract or joint venture with a Section 3 resident owned business. The business must be 51% or more owned by Section 3 residents or Subcontractor/joint venture with a business whose permanent full-time employees include persons at least 30% of whom are currently Section 3 residents or within 3 three years of the date of first employment with the business concern were Section 3 residents, or
2. Direct hiring Section 3 residents of the service area or the neighborhood in which the covered project is located, or
3. Incur the cost of providing skilled training for residents in an amount commensurate with the sliding scale set forth. Such training shall be determined after consultation with the Section 3 Coordinator of the City of John Day or,
4. Contribute to a Section 3 resident educational fund in an amount commensurate with the sliding scale included in the Section 3 Conditions.

If a prime contractor is unable to satisfy the Section 3 resident hiring requirements per the above, the requirements may be satisfied through any subcontractors that may be involved in the project:

1. If the (sub)contractor has identified a resident owned business or a business which employs 30% or more Public Housing or Neighborhood residents, this paragraph is to be completed by indicating the number of resident owned businesses that will be used on the contract/spec number shown at the end of the paragraph.
2. If the (sub)contractor plans to hire Public Housing or Neighborhood residents to work for its company, paragraph two (2) must be completed with the contract/spec number and the percentage of compliance in hiring the resident(s).

For example, if your contract amount is \$100,000.00, the Section 3 dollar amount that must be expended is 10% of your labor dollars or \$10,000.00. If the whole dollar amount is to be expended on the resident's salary, then 100% is to be inserted on the percent line. If a percentage amount less than 100% will be expended on the resident's salary, that amount must

be inserted on the line and the remaining percentage must be expended through subcontracting/joint venturing with a resident owned business or a business that employs 30% or more residents, or placed into _____Section 3 Resident Educational Fund. In which case, the corresponding paragraph must be completed.

3. If the (sub)contractor has exhausted the first two (2) options, then the full amount of the contractor's Section 3 obligations will be placed into _____Resident Educational Fund, in which case paragraph three (3) must be completed and paragraphs one (1) and two (2) will contain zeroes in the percentage lines.

Section II

The second portion of the Section 3 Opportunities Plan begins with the specification or request for proposal title and number.

Section III

The third section is to be completed by listing current staff to be used to complete the work bid upon.

1. List the job titles,
2. Complete the Needed column if additional staff will be required to fulfill the classification,
3. In the Total column, list the total number of staff plus the number needed,
4. In the low and very low income area residents (LIAR) columns, list the number of current staff who are residents of City of John Day public housing, or who are low or very low income neighborhood residents,
5. In the To Be Filled column, list the number of positions that fit into the low and very low-income public housing residents and low and very (LIAR) who will be hired.
6. In the Hiring Goal column, list the number of Public Housing residents or LIAR you intend to hire.

Section IV

The final section is to be completed after the contract has been awarded, interviews have taken place and residents have been hired. The completed Section 3 Opportunities Plan must be submitted to the City of John Day Section 3 Coordinator.

Each contractor is required to attend a pre-construction conference with the City's Section 3 coordinator where contractual obligations will be explained, the contractor's Section 3 dollar amount will be determined, and the contractor's hiring goals will be discussed. The Section 3 coordinator will refer qualified residents to be interviewed by the contractor.

The Section 3 Opportunities Plan that is submitted with the QBS/RFP/IFB and the final copy that is submitted to the Section 3 Coordinator must be signed and include the title of person executing the plan.

SECTION 3 OPPORTUNITIES PLAN

Business Opportunities and Employment Training of the City of John Day Public Housing Residents and Low and Very Low Income Neighborhood Residents

Section I. Opportunities Plan

The Contractor has identified _____ Section 3 resident owned business(es) or _____ business(es) which employ 30% or more Section 3 residents to comply with _____% of its Section 3 requirements covered under Contract# _____. (Option 1)

Alternately, the Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.1 et seq. and this City of John Day Section 3 plan implemented through Resolution #_____ dated _____. The Contractor hereby submits this document to identify employment opportunities for Section 3 public housing residents and low and very low-income area residents, during the term of the contract between the Contractor and the City of John Day. The Contractor affirms that the jobs identified shall be for meaningful employment that may or may not be related to the scope of services covered under Contract #_____. The Contractor has committed to employ the following in order to comply with _____% of its Section 3 requirements. (Option 2)

The above percentage(s) for Option 1 and 2 equal(s) 50% of the Contractor’s Section 3 obligations. Option three (3) on page 1 of the instructions equal 25% of compliance and Option four (4) on page 1 of the instructions equals 25% of compliance. You may choose one option to comply or all; however, total compliance must equal 100%. The Contractor hereby agrees by signing below that any remaining percentages will be deducted from payouts placed in the _____Section 3 Educational Fund.

Section II. Labor Survey

Project Title: _____ Job
 Title: _____ Local
 Contract/Agreement Number: _____

Job Title (1)	Needed (2)	Number of Positions			Hiring Goal		
		Total (a)	LICSDR(b)	LIAR (c)	To be Filled (4)	LICSDR (a)	LIAR (b)

Section III Resident List

Section 3 resident employee information (jobs to be filled)

Job Title	LICSPHAR or LIAR Name	Address	Social Security (last four only)

LISPHAR= Low and very low income public housing authority resident

LIAR= Low and Very low income area resident

Please check the Option(s) that describe your contracting efforts:

Option 1: Subcontract with Section 3 Business(es) – 25%

Option 2: Hire Section 3 residents/participants – 25%

Option 3: I have a training program in place and am willing to train _____ residents – 25%

Option 4: Contribute to the _____ training/educational fund for resident training – 25%

In the event I am awarded the contract, I have the option to submit my check in the compliance amount of the start of contract date, or allow _____ to deduct payment from my draw requests. (Compliance amount is based upon the labor dollars of the contract award.)

You may comply by choosing one or all options. Remember your compliance must be equal to 100% as noted on page 1, paragraph three (3), or any remaining percentages will be deducted from payouts and placed in the _____ resident training/educational fund account.

The failure of the contractor to comply with the above-approved plan shall be a material breach of the contract.

Contractor's Signature and Title

Date: _____

SECTION 3 OPPORTUNITIES PLAN CERTIFICATION

NAME OF PRIME CONTRACTOR/ PROFESSIONAL SERVICES PROVIDER: _____

Local contract/Agreement

#: _____

CONTRACT

Name: _____

WARNING: THIS DOCUMENT IS REQUIRED FOR ALL CONSTRUCTION OR LABOR RELATED PROCUREMENTS AND PROFESSIONAL SERVICE AGREEMENTS.

The Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.38 implementing Section 3 requirements. The contractor hereby submits this Section 3 Opportunities Plan.

The Contractor shall provide a status report identifying its progress in meeting the Section 3 goals established in this Section 3 Opportunities Plan on a quarterly basis throughout the contract period. The quarterly status report shall be submitted no later than 10 days after the end of each calendar quarter of the contract (e.g., April 10 for calendar quarter January 1 to March 31). The status report shall be in at least the same level of detail as the approved Section Opportunities Plan. For any goal not met, the report shall identify any other economic opportunities, which the contractor has provided, or intend to provide to Section 3 and neighborhood residents.

The failure of the Contractor to comply with the approved plan shall be a material breach of the contract.

Each Bidder/Proposer for a construction or labor related contract and professional services agreement must complete the Section 3 Opportunities Plan and submit all relevant information required herein. A prime contractor, through its' subcontractors may satisfy the Section 3 Resident Hiring Requirements. Please complete the Skill Needs Table in Section 1 of Section 3 Opportunities Plan in the following columns.

1. Indicate each category of employment for all phase of this contract;
2. The number of positions which will be needed in each category;
3. How many of those positions are currently filled;
 - a. The number filled by neighborhood residents, excluding _____ and _____ residents;
 - b. The number filled by Public Housing residents;
 - c. How many positions need to be filled;
4. Indicate your goal for the number of positions you intend to fill with:

- a. Section 3 Residents
- b. Low and Very low income area residents.

NOTE: The minimum of trainees is that which can reasonably be utilized in each occupation, and no less than the number established by the U.S. Secretary of Labor for construction and non-construction labor related occupations. The contractor shall fill all vacant positions with low-income persons (earning less than 80% of the median income in the City of John Day and these positions shall not be filled immediately prior to undertaking work in order to circumvent regulations as set forth at 24 C.F.R. Part 135 et seq: as amended.

II. SECTION 3 BUSINESSES SUBCONTRACTING OPPORTUNITIES

In a one (1) page letter on your company's letterhead:

1. Indicate the goals, expressed in terms of percentage of planning subcontracting dollars, for the use of Section 3 business concerns as subcontractors.
2. A statement of the total dollar amount to be subcontracted, total dollar amount to be subcontracted to Section 3 business concerns for building trades, and total dollar amount to be subcontracted to Section 3 business concerns for other than building trades work (maintenance, repair, modernization and redevelopment).
3. A description of the method used to develop the goals above and the efforts to be undertaken by the Contractor to meet those goals.

Acknowledged by:

(President or Authorized Officer) Date: _____