

## Section 3 Bid Package

<u>ITEM</u>	<u>PURPOSE</u>
<b>Section 3 Clause:</b>	This is a Section 3 Covered housing rehabilitation, housing construction or other public construction project. The provisions of 24 CFR 135.38 apply to contracts and subcontracts of \$100,000 or more.
<b>Business Certification:</b>	Used to document the status of a bidder or subcontractor as a Section 3 Business or as a business that is making a written commitment to meet the Section 3 goals through hiring or subcontracting to other Section 3 Businesses.
<b>Economic Opportunity Plan:</b>	Used to document that a bidder is making a written commitment to meet the Section 3 goals through new hires or subcontracting to other Section 3 Businesses. Subcontracted Section 3 Businesses must be documented with the Business Certification as a Section 3 business at the time of bid.
<b>Outreach Efforts:</b>	The successful bidder will be required to post a listing of all job openings (construction and non-construction) at the site of construction, City Hall, local community based employment agencies, and any trade unions or worker's representative organizations to which the contractor is a signatory. Contractors may utilize the Notice of Section 3 Commitment form for this purpose.
<b>Resident Certifications:</b>	Used to document each individual claimed on a Business Certification form as a Section 3 Resident (owners or employees) and to document new hires.
<b>Economic Opportunity Report:</b>	Section 3 covered contractors are required to submit a Section 3 Economic Opportunity Report on July 1 <sup>st</sup> and with their final Certified Payroll Report to document all Section 3 hiring activity and outreach efforts during the project.

Required Section 3 contract clauses are identified on the following page.

**Section 3 Clause**  
24 CFR Part 135

- 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 the U.S. Department of Housing and Urban Development (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 will comply with HUD's regulations as set forth 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 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 persons 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 regulations under 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 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 BID PREFERENCE** may be given to a bidder who is a qualified *Section 3 Business Concern*; and provides a reasonable bid.

A *Section 3 Business* is a business where fifty-one percent (51%) of the business is owned by a resident of Los Angeles/Orange County that meets the income guidelines; or 30% or more of the permanent workforce are residents who live in Los Angeles/Orange County and meet the income guidelines.

A *Section 3 RESPONSIVE BIDDER* is a bidder that submits a *Section 3 Business Certification* form with their bid, documenting that they qualify as a *Section 3 business concern* because they are;

- a) 51% of the business is owned by a resident of Los Angeles County/Orange County who meet the income guidelines; or
- b) 30% or more of the permanent workforce is comprised of residents who live in Los Angeles/Orange County that meet income guidelines.

A *Section 3 NON-RESPONSIVE BIDDER* is a bidder that fails to provide a *Section 3 Business Certification* form and all signed *Resident Certification supporting forms* with a bid response,

A *Section 3 REASONABLE BID* is a bid that is not more than the value of "X" HIGHER than the LOWEST BID. The *X- FACTOR*; a standard formula used to determine the maximum dollar amount that can be add to the lowest bid when considering a bid preference for *Section 3* qualified business concern. Calculate the maximum acceptable bid or highest dollar amount that can be considered in awarding the contract to a *Section 3* qualified business concern by adding the lesser of the percentage (dollar amount of the lowest bid) or the dollar amount provided in the row for the bid range column (see chart below). The lowest bid can be increased by the calculated dollar amount resulting from this computation when you are applying the bid a preference.

BID RANGE - If the Lowest Bid is		The X-FACTOR	
At	But Less	is the lesser	
\$100,000	N/A	10%	\$9,000
\$100,000	\$200,000	9%	\$18,000
\$200,000	\$300,000	8%	\$21,000
\$300,000	\$400,000	7%	\$24,000
\$400,000	\$500,000	6%	\$25,000
\$500,000	\$1,000,000	5%	\$40,000
\$1,000,000	\$2,000,000	4%	\$80,000
\$2,000,000	\$4,000,000	3%	\$80,000
\$4,000,000	\$7,000,000	2%	\$105,000
\$7,000,000		1.5%	

NOTE: If the lowest bid of a qualified *Section 3 Responsive Bidder* is not reasonable (not within the *Zone of Consideration*), OR no bidders are responsive to *Section 3* requirements, no preference should be given and the contract will be awarded to the lowest bid from any responsive and responsible bidder in accordance with the LCA's polity and procedures, consistent with *California Public Contracting Code*.

When awarding a contract to the lowest and responsible the contractor must commit to documenting good-faith efforts to achieve *Section 3* goals of:

- Hiring 30% of aggregate new hires who reside in Los Angeles/Orange County and are income qualified,
- Subcontract 25% of the total subcontracting dollars to *Section 3* qualified business concerns

This commitment is accomplished by submitting a signed *Section 3 Commitment form* and with a detailed *Economic Opportunity Plan* attached to the commitment prior to signing a contract. The contractor will be required to provide the LCA with an *Economic Opportunity Report* with their final *Certified Payroll Report*.

Section 3 Business Certification Form

PROJECT NAME: SKATE BOARD PARK SECURITY Camera PROJECT NUMBER: 1-P-21 BID/CONTRACT AMOUNT: 82,331.<sup>00</sup>  
BUSINESS NAME: SCANSYS, INC  
BUSINESS ADDRESS: 6475 Knott Ave #3, Buena Park CA 90620  
TELEPHONE NUMBER: 562-428-0200 LICENSE NUMBER: 1039985 EMPLOYEE IDENTIFICATION NUMBER: 11-3785211 DUNS NUMBER: 785137741

1. The above named business is a Section 3 Business Concern based on the following qualifications:

- 51-percent owned by Section 3 Residents  
Number of Section 3 Resident Owners: \_\_\_ / Number of Owners: \_\_\_ = % \_\_\_  
(Attach Resident Certifications for all Section 3 owners claimed)
- At least 30-percent of permanent, full-time employees are Section 3 Residents  
Number of Section 3 employees 2 / all full-time employees 4 = 50 %  
(Attach Resident Certifications for all Section 3 employees claimed)

2. The above named business is not a Section 3 business Concern, but commits to meeting the Section 3 goal on this project by:

- Making a Written Commitment - (Submit Section 3 Economic Opportunity Plan)

The Section 3 Economic Opportunity Plan (attached) submitted by our company declares our intention to incorporate Section 3 into our normal hiring practices beginning with all openings effective on or after the date of contract award, with the goal of becoming a Section 3 Business Concern. On this project, our company will:

Hire Section 3 qualified residents at least 30-percent aggregate new hire positions, and/or subcontract 25-percent or more of the contract amount to Section 3 Businesses.

(Attach the Section 3 Economic Opportunity Plan, Business Certifications for all Section 3 subcontracts claimed, and collect Section 3 Resident Certifications throughout the duration of the project)

The undersigned declares that the above information is complete and correct.

MARK Lee  
OWNER/PRINCIPAL NAME

[Signature]  
SIGNATURE

9/30/21  
DATE

**Section 3 Economic Opportunity Plan**

*Must be submitted with Bid if Box 2 is checked on the Section 3 Business Certification*

**NOTE: THIS SUBMITAL MUST INCLUDE NUMERICAL GOALS IN ORDER TO BE RESPONSIVE TO SECTION 3.  
PART I OR PART II MUST REFLECT NUMERICAL HIRING OR CONTRACTING GOALS.**

N/A	<small>FEDERAL IDENTIFICATION: (CONTRACT NO.)</small>	<small>DOLLAR AMOUNT OF BID/AWARD:</small>
	<small>CONTACT PERSON</small>	<small>BID OPENING DATE</small>
	<small>PHONE</small>	<small>FAX</small>

**Part I: Employment and Training Commitment**

Job Classification	Total New hires	Section 3 New hires	% New hires who are Section 3 Residents
Professionals			%
Technicians			%
Office/Clerical			%
Trade:			%
Trade:			%
Trade:			%
Trade:			%
Trade:			%
Trade:			%
<b>Total:</b>			<b>%</b>

**Part II: Contract Award Commitment to Section 3 Businesses (Subcontractors, Suppliers, etc.)**

Name of Section 3 business concern	Specify construction or non-construction contract	Contract Amount
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
<b>Total:</b>		<b>\$</b>
<b>Percentage of the Prime Contract to be awarded to Section 3 Business Concerns:</b>		<b>%</b>

### **Sample Outreach Efforts for Contractors Seeking to Hire Section 3 Residents**

A Section 3 responsive bidder who commits to hire Section 3 Residents by directing employment and training opportunities toward low- and very low-income persons, particularly those who are recipients of government assistance for housing, may use any combination of outreach efforts to meet the Section 3 commitment made when a Section 3 Economic Opportunity Plan has been submitted.

**REMEMBER:** All employees of a business/firm count toward meeting your Section 3 compliance goals—Section 3 New Hires do not have to be construction workers, they just have to be a part of your permanent, full-time staff.

- At the beginning of the project, and subsequently as positions become available, the Notice of Section 3 Commitment shall be submitted to and/or posted at the following locations:
  - At the site of construction; and
  - At any trade unions or worker's representatives organizations to which the contractor is a signatory.
- Submit a request for dispatch of apprentices to local apprenticeship committees.
- Enter into "first-source" hiring agreements with organizations representing Section 3 residents, such as a local Workforce Investment Board.
- Sponsor a HUD-certified "Step-Up" employment and training program for Section 3 residents.
- Advertise training and employment positions by distributing flyers (Notice of Section 3 Commitment or other flyer that identifies the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development(s) adjacent to the project site.
- Post training and employment position flyers in public housing developments, offices of the local government, and other conspicuous places.
- Contact State-approved apprenticeship programs to gain access to potentially low-income residents who are actively seeking job-placement and training.
- Contact agencies administering HUD Youthbuild programs, and requesting their assistance to recruit current HUD Youthbuild program participants who are in need of permanent placement.
- Advertise any positions to be filled through the local media, such as community television networks, newspapers of general circulation, or commonly-used job placement websites such as [www.monster.com](http://www.monster.com)

2020-2021 RESIDENT CERTIFICATION

(Section 3 of the Housing & Urban Development Act of 1968, as amended)

Name: Michael Kang

Address: 13855 Savanac Dr. D Whittier CA 90604

I hereby certify that I am:

A Public Housing resident (specify the Name of the Public Housing site):

A low-income resident of the metropolitan area of Los Angeles County based on the following

FAMILY SIZE

INCOME LIMITS

Table with 5 columns: Family Size (1-8), Extremely Low, Very Low, Low, Moderate. Each cell contains a dollar range and a checkbox.

Not a public housing or low-income resident of the metropolitan area of Los Angeles County

Michael Kang (Print Name), [Signature] (Signature), 9/30/2021 (Date)

THIS SECTION MUST BE COMPLETED BY THE EMPLOYER

The above person is; a permanent full-time new-hire, who was hired on:

Scansys Inc (Business Name), Mark Lee (Print Name of Owner/Agent), [Signature] (Signature of Owner/Agent), 9/30/21 (Date)

THIS SECTION MUST BE COMPLETED BY THE LOCAL CONTRACTING AGENCY (LCA)

Name of LCA, Project Name, Project Number

Income Level: Extremely Low, Very Low, Low, Moderate

Not income qualified for the following reason(s):

Targeted Service Area (provide Census Tract: and Block Group)

Youth Build Program, McKinney Homeless Program, Other qualified program:

Print Name of Section 3 Coordinator, Signature, Date

**2020-2021 RESIDENT CERTIFICATION**  
 (Section 3 of the Housing & Urban Development Act of 1968, as amended)

Name: CHRIS NICHOLS

Address: 1059 N. WALNUT AVE, SAN DIMAS CA 91773

I hereby certify that I am:

A Public Housing resident (specify the Name of the Public Housing site):  
 \_\_\_\_\_

A low-income resident of the metropolitan area of **Los Angeles County** based on the following

**FAMILY SIZE**

**INCOME LIMITS**

	<b>Extremely Low</b>	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>
<input checked="" type="checkbox"/> 1	\$ 23,700 or less <input type="checkbox"/>	\$ 39,450 or less <input checked="" type="checkbox"/>	\$ 63,100 or less <input type="checkbox"/>	\$ 84,900 or more <input type="checkbox"/>
<input type="checkbox"/> 2	\$23,701-\$27,050 <input type="checkbox"/>	\$39,451-\$45,050 <input type="checkbox"/>	\$ 63,101-\$72,100 <input type="checkbox"/>	\$ 74,200 or more <input type="checkbox"/>
<input type="checkbox"/> 3	\$27,751-\$30,450 <input type="checkbox"/>	\$45,051-\$50,700 <input type="checkbox"/>	\$ 72,101-\$81,100 <input type="checkbox"/>	\$ 83,500 or more <input type="checkbox"/>
<input type="checkbox"/> 4	\$30,451-\$33,800 <input type="checkbox"/>	\$50,701-\$56,300 <input type="checkbox"/>	\$ 81,101-\$90,100 <input type="checkbox"/>	\$ 92,750 or more <input type="checkbox"/>
<input type="checkbox"/> 5	\$33,801-\$36,550 <input type="checkbox"/>	\$56,301-\$60,850 <input type="checkbox"/>	\$ 90,101-\$97,350 <input type="checkbox"/>	\$100,150 or more <input type="checkbox"/>
<input type="checkbox"/> 6	\$36,351-\$39,250 <input type="checkbox"/>	\$60,851-\$65,850 <input type="checkbox"/>	\$ 97,351-\$104,550 <input type="checkbox"/>	\$107,600 or more <input type="checkbox"/>
<input type="checkbox"/> 7	\$39,251-\$41,950 <input type="checkbox"/>	\$65,851-\$69,850 <input type="checkbox"/>	\$104,551-\$111,750 <input type="checkbox"/>	\$115,000 or more <input type="checkbox"/>
<input type="checkbox"/> 8	\$41,951-\$44,650 <input type="checkbox"/>	\$69,851-\$74,350 <input type="checkbox"/>	\$111,751-\$118,950 <input type="checkbox"/>	\$122,450 or more <input type="checkbox"/>

Not a public housing or low-income resident of the metropolitan area of Los Angeles County

CHRIS NICHOLS  
 Print Name

*Chris Nichols*  
 Signature

9/30/21  
 Date

**THIS SECTION MUST BE COMPLETED BY THE EMPLOYER**

The above person is:  a permanent full-time  new-hire, who was hired on: \_\_\_\_\_

SCANSYS, INC  
 Business Name

MARK LEE  
 Print Name of Owner/Agent

*Mark Lee*  
 Signature of Owner/Agent

9/30/21  
 Date

**THIS SECTION MUST BE COMPLETED BY THE LOCAL CONTRACTING AGENCY (LCA)**

Name of LCA \_\_\_\_\_ Project Name \_\_\_\_\_ Project Number \_\_\_\_\_

Income Level:  Extremely Low  Very Low  Low  Moderate

Not income qualified for the following reason(s): \_\_\_\_\_

Targeted Service Area (provide Census Tract: \_\_\_\_\_ and Block Group) \_\_\_\_\_

Youth Build Program  McKinney Homeless Program  Other qualified program: \_\_\_\_\_

Print Name of Section 3 Coordinator \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

**Notice of Section 3 Commitment**

Submit with Bid, Post at Jobsite, Forward to Labor Unions

TO: Southern California Chapter of the Associated Builders & Contractors, Inc.  
(NAME OF LABOR UNION, WORKERS REPRESENTATIVE, ETC.)  
1400 N. Kellogg Dr. Suite A. Anaheim CA 92807  
(ADDRESS)

Scansys, Inc  
(NAME OF BIDDER/CONTRACTOR)

Skate Board park Security Camera 1-P-21  
PROJECT NAME PROJECT NUMBER

The undersigned currently holds a contract with Scansys, Inc involving federal housing and community development assistance from the U.S. Department of Housing and Urban Development, or has a subcontract with a prime contractor holding such contract.

You are advised that under the provisions of the above contract or subcontract and in accordance with Section 3 of the Housing and Urban Development Act of 1968, the undersigned is obligated to the greatest extent feasible, to give opportunities for employment and training to lower income residence of the project area and to award contracts for work on the project to business concerns which are located in or are owned in substantial part by project area residence.

Regarding current employment opportunities for Section 3, the minimum number and job titles are:

Minimum Number	Job Classification
1	Electrician

Regarding job referrals, request that consideration be given to the assignment of persons residing in the service area or neighborhood in which the project is located.

The anticipated date the work will begin is \_\_\_\_\_

For additional information, please contact:

MARK Lee President at 562 428-0200  
CONTACT PERSON'S NAME TITLE PHONE

This notice is furnished to you pursuant to the provisions of the above contract or subcontract and Section 3 of the Housing and Urban Development Act of 1968. Copies of this notice will be posted by the undersigned in conspicuous places available to employees or applicants for employment.

MARK Lee [Signature]  
PRINT NAME SIGNATURE  
9/30/21 President  
DATE TITLE

### Section 3 Economic Opportunity Report

If a Section 3 Economic Opportunity Plan was submitted with the Bid, or upon request,  
Submit with Final Certified Payroll Report or on July 1<sup>st</sup>, whichever occurs first.

N/A	<b>PROJECT NUMBER:</b>	<b>DOLLAR AMOUNT OF CONTRACT:</b>
	<b>CONTRACTOR CONTACT PERSON:</b>	<b>PHONE (INCLUDE AREA CODE):</b>
	<b>DATE REPORT SUBMITTED:</b>	<b>DATE(S) COVERED:</b>
	<b>CONTRACTOR'S LICENSE NUMBER AND CLASS:</b>	<b>FEDERAL EIN:</b>

**Part I: Employment/training of Section 3 Residents (Minimum Goal: 30% of New Hires)**

Job Category	Number of New Hires	Number of New Hires that are Section 3 Residents	% of Aggregate Number of Staff Hours of New Hires that are Sec. 3 Residents	% of Total Staff Hours for Section 3 Employees and Trainees	Number of Section 3 Trainees
Professionals					
Technicians					
Office/Clerical					
Trade:					
Trade:					
Trade:					
Trade:					
Trade:					
<b>TOTALS:</b>			<b>%</b>	<b>%</b>	

**Part II: Subcontracts Awarded (Minimum Subcontract Goal is 25% of the Prime Contract Amount)**

Number of Subcontracts awarded:	Number of Section 3 Businesses Contracted:	
Name of Qualified Business Concern	Construction or Non-construction Contract	Amount
		\$
		\$
		\$
		\$
<b>Total Dollar Amount of Subcontracts awarded to Section 3 qualified Business Concerns:</b>		<b>\$</b>
<b>Dollar Amount of All Subcontracts:</b>		<b>\$</b>
<b>Percentage of the total dollar amount awarded to qualified Business Concerns:</b>		<b>%</b>

N/A

**Part III: Summary of the efforts that were made to generate economic opportunities**

- Trained and/or Employed \_\_\_\_ low-income individuals equal to \_\_\_\_ (%) of the aggregate new hires. (Attach Resident Certifications)
- Awarded a Subcontract to \_\_\_\_ qualified Business Concerns equal to \_\_\_\_ (%) of the contract amount. (Attach Business Certifications)
- Attempted to recruit low-income individuals through:
  - Advertised through local media, television, radio, newspaper (Attach copy of advertisement)
  - Signs prominently displayed at the project site
  - Contacts with community organizations
  - Contacted management to notify residents and posted or distributed flyers at public housing authority (Attach list)
- Participated in a HUD program or other program which promotes the training or employment of low-income individuals
- Participated in a HUD program or other program which promotes the award of contracts to Section 3 Qualified Business Concerns
- Contacted agencies administering HUD Youth-Build programs. (Attach list)
- Maintained a file of eligible qualified low-income Residents and qualified Business Concerns for future employment.

OTHER: (Describe and attach supporting documentation)

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According to Title 18, Section 1001 of the U.S. Code, it is a felony for any person to knowingly and willingly make false or fraudulent statements to any department of the United States Government. I, the undersigned, hereby certify that all statements contained herein, are true and correct to the best of my knowledge and belief.

Under the penalty of perjury, I certify that the above information is true and correct.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
PHONE

## Federal Labor Standards Provisions

## U.S. Department of Housing and Urban Development Office of Labor Relations

### Applicability

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

A. 1. (i) **Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 8), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

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

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

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

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

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

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20219. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 224 of Title 31 of the United States Code.

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

#### 4. Apprentices and Trainees.

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

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

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

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

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

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

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

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

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

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

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

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

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

(III) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration . . . makes, utters or publishes any statement knowing the same to be false . . . shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

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

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

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

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

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

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

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

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

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 85 Stat 68). 40 USC 2701 et seq.

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

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
REPORT OF ADDITIONAL CLASSIFICATION AND RATE**

**HUD FORM 4230A**  
OMB Approval Number 2501-0011  
(Exp. 07/01/2010)

<p>1. FROM (name and address of requesting agency)</p> <p style="text-align: center; font-size: 2em;">N/A</p>	<p>2. PROJECT NAME AND NUMBER</p> <hr/> <p>3. LOCATION OF PROJECT (City, County and State)</p>
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<p>4. BRIEF DESCRIPTION OF PROJECT</p>	<p>5. CHARACTER OF CONSTRUCTION</p> <table style="width: 100%;"> <tr> <td><input type="checkbox"/> Building</td> <td><input type="checkbox"/> Residential</td> </tr> <tr> <td><input type="checkbox"/> Heavy</td> <td><input type="checkbox"/> Other (specify)</td> </tr> <tr> <td><input type="checkbox"/> Highway</td> <td></td> </tr> </table>	<input type="checkbox"/> Building	<input type="checkbox"/> Residential	<input type="checkbox"/> Heavy	<input type="checkbox"/> Other (specify)	<input type="checkbox"/> Highway	
<input type="checkbox"/> Building	<input type="checkbox"/> Residential						
<input type="checkbox"/> Heavy	<input type="checkbox"/> Other (specify)						
<input type="checkbox"/> Highway							
<p>6. WAGE DECISION NO. (include modification number, if any)</p> <p><input type="checkbox"/> COPY ATTACHED</p>	<p>7. WAGE DECISION EFFECTIVE DATE</p>						

8. WORK CLASSIFICATION(S)	HOURLY WAGE RATES	
	BASIC WAGE	FRINGE BENEFIT(S) (if any)

<p>9. PRIME CONTRACTOR (name, address)</p>	<p>10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)</p>
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**Check All That Apply:**

- The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision.
- The proposed classification is utilized in the area by the construction industry.
- The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision.
- The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s).
- Supporting documentation attached, including applicable wage decision.

**Check One:**

- Approved, meets all criteria. DOL confirmation requested.
- One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.

<p style="text-align: center;">Agency Representative <i>(Typed name and signature)</i></p> <p style="text-align: center;">Date</p> <p style="text-align: center;">Phone Number</p>	<p><b>FOR HUD USE ONLY</b> UR2000:</p> <p>Log in:</p> <p>Log out:</p>
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