



STAFF REPORT – CITY COUNCIL MEETING

January 18, 2023

TO: Honorable Mayor and City Council Members

FROM: David Loya, Director of Community Development

PREPARER: Susan Diehl McCarthy, Community Development Specialist

DATE: December 27, 2022

TITLE: **Adopt Resolution No. 223-30, A Resolution of the City Council of the City of Arcata Adopting the Section 3 Plan for HUD-Funded Housing Rehabilitation, Housing Construction, and Public Construction Projects.**

RECOMMENDATION:

Staff recommends the City Council adopt Resolution No. 223-30, A Resolution of the City Council of the City of Arcata Adopting the Section 3 Plan for HUD-Funded Housing Rehabilitation, Housing Construction, and Public Construction Projects.

INTRODUCTION:

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 (12 U.S.C. 1701u) which is regulated by the provisions of 24 CFR 75 to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assisted housing, and to business concerns providing economic opportunities to low- and very low-income persons.

BACKGROUND:

On July 1, 2021, HUD issued a Final Rule overhauling the previous Section 3 requirements under 24 CFR 135, and established new benchmarks and requirements for compliance. The City is required to implement Section 3 and report compliance to the State. The proposed Section 3 Plan sets out implementation applicability, responsibilities, and requirements under 24 CFR 75.

DISCUSSION:

Section 3 requirements are applicable to housing rehabilitation, housing construction, and public construction projects which are fully or partially funded by HUD (such as CDBG and HOME) in the amount of \$200,000 or more.

Subrecipients, contractors, and subcontractors contracted with the City for work on covered projects must certify that they will comply with Section 3 requirements. They are responsible for ensuring

Section 3 language is included in any contract with subcontractors; reporting labor data; and, if benchmarks are not met, describing any qualitative efforts to comply with Section 3 to the City.

Benchmarks for employing low-income workers as a percentage of the entire project labor force were established by HUD. The City provides reports on Section 3 compliance together with existing periodic reports for covered projects. Reports are reviewed by California Housing and Community Development (HCD) and reported to HUD, which is responsible for monitoring.

The City of Arcata is responsible for including Section 3 language in all contracts and subcontracts for covered projects; ensuring that subrecipients, contractors, and subcontractors are aware of and make best efforts to comply with Section 3; reporting implementation with regular reports; and reporting qualitative efforts undertaken by the City if benchmarks are not met.

It should be noted that Section 3 implementation can be more difficult in rural areas because prevailing wages are required for HUD-assisted projects, while published income levels for low-income individuals are pegged at a lower rate in rural areas by HUD. This may mean that it will be difficult to meet benchmarks. Several low-cost and simple qualitative efforts for contractors and the City are described in the proposed Section 3 Plan to ensure compliance with requirements.

The proposed Section 3 Plan provides a framework for Section 3 implementation and ongoing administration.

Staff requests that the City Council adopt Resolution 223-30 (Attachment A) approving the Section 3 Plan at today's meeting.

POLICY IMPLICATIONS:

An approved Section 3 Plan will implement the 24 CFR 75 policy as required by HUD.

ENVIRONMENTAL REVIEW (NEPA):

As development of a plan, and as an administrative activity, the proposed Section 3 Plan is exempt from NEPA per 24 CFR 58.34(a)(1) and (3).

The plan is not a project as defined by CEQA.

BUDGET/FISCAL IMPACT:

The primary burden of tracking the labor force for any applicable project will fall on the subrecipient, contractor, or subcontractor. There will be City staff time costs related to identifying covered projects, implementing required language, receiving labor force reports and/or qualitative efforts generated by a subrecipient, contractor, or subcontractor, and reporting to HCD. Staff time will be paid for from General Administration funds for covered CDBG and HOME projects.

ATTACHMENTS:

A. Resolution 223-30 (PDF)