

# **CONTRA COSTA COUNTY**

1025 ESCOBAR STREET  
MARTINEZ, CA 94553



## **AGENDA**

**Tuesday, May 14, 2024**

**1:00 PM**

### **HOUSING AUTHORITY**

***FEDERAL D. GLOVER, CHAIR  
CANDACE ANDERSEN, VICE CHAIR***

***JOHN GIOIA***

***DIANE BURGIS***

***KEN CARLSON***

***CYNTHIA JORDAN***

***JOANN SEGURA***

***JOSEPH VILLARREAL, EXECUTIVE DIRECTOR, (925) 957-8001***

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Persons who wish to address the Board during public comment or with respect to an item on the agenda may comment in person or may call in during the meeting by dialing 888-278-0254 followed by the access code 843298#. A caller should indicate they wish to speak on an agenda item by pushing "#2" on their phone. Persons who wish to address the Board in person should complete the form provided for that purpose. Access via Zoom is also available using the following link: <https://cccounty-us.zoom.us/j/87344719204>. Those participating via Zoom should indicate they wish to speak on an agenda item by using the "raise your hand" feature in the Zoom app. To provide contact information, please contact Clerk of the Board at [clerkoftheboard@cob.cccounty.us](mailto:clerkoftheboard@cob.cccounty.us) or call 925-655-2000. A Spanish language interpreter is available to assist Spanish-speaking callers. If the Zoom connection malfunctions for any reason, the meeting may be paused while a fix is attempted. If the connection is not reestablished, the Board will continue the meeting in person without remote access.

Public comments generally will be limited to two minutes per speaker. In the interest of facilitating the business of the Board, the total amount of time that a member of the public may use in addressing the Board on all agenda items is 10 minutes. Your patience is appreciated.

A lunch break or closed session may be called at the discretion of the Board Chair. Staff reports related to open session items on the agenda are also accessible online at [www.contracosta.ca.gov](http://www.contracosta.ca.gov).

1:00 P.M. Convene and call to order

**1. CONSIDER CONSENT ITEMS (Items listed as C.1 through C.4 on the following agenda) – Items are subject to removal from Consent Calendar by request of any Commissioner or on request for discussion by a member of the public. Items removed from the Consent Calendar will be considered with the Discussion Items.**

**2. DISCUSSION ITEMS**

**D.1** CONSIDER accepting a report on the Las Deltas film and oral history projects. [24-1267](#)

**Attachments:** [Tangled Roots An Oral History of Community in Las Deltas.pdf](#)

**D.2** CONSIDER accepting a report on a proposed Department of Labor enforcement action against the owner of The Terraces at Nevin, a project-based voucher property. [24-1280](#)

**Attachments:** [Charging Letter-Lowery Pena-2024 02 09\\_signed.pdf](#)

D.3 PUBLIC COMMENT (2 Minutes)

**3. CLOSED SESSION**

A. CONFERENCE WITH LABOR NEGOTIATORS (Gov. Code § 54957.6)

- 1. Agency Negotiators: Joseph Villarreal and Stacey Cue.

Employee Organization: Public Employees Union, Local One

- 2. Agency Negotiators: Joseph Villarreal

Unrepresented Employees: All unrepresented employees.

**4. CONSENT ITEMS**

- C.1 RECEIVE the Housing Authority of the County of Contra Costa’s investment report for the quarter March 31, 2024. [24-1281](#)

**Attachments:** [Investment Report for QE 03-31-24.pdf](#)

- C.2 APPROVE and AUTHORIZE the Executive Director to execute a contract with Paul Edwards Management and Consulting, LLC, in an amount not to exceed \$1,500,000 for services related to the Housing Choice Voucher program for the period May 1, 2024 through April 30, 2025, with an option to extend the term through October 31, 2027. (100% Housing Choice Voucher administrative fees) [24-1257](#)

- C.3 ADOPT Resolution No. 5259, certifying the results for the Section 8 Management Assessment Plan, subject to HUD confirmatory review, for the Housing Authority of the County of Contra Costa, for the period April 1, 2023 through March 31, 2024. [24-1282](#)

**Attachments:** [SEMAP Resolution FYE 3-31-24](#)  
[SEMAP PROJECTION AND SCORE SHEET 2024.xlsx](#)  
[SEMAP 52649 Certification FYE 3.31.24.pdf](#)  
[Semap Certification Indicator 8 page 2.pdf](#)

- C.4 DENY claim filed by Monika Lynette Brown. [24-1283](#)

**5. ADJOURN**

**AGENDA DEADLINE: Thursday, 12 noon, 12 days before the Tuesday Board meetings.**

**GENERAL INFORMATION**

**The Board meets in all its capacities pursuant to Ordinance Code Section 24-2.402.**

**Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the Clerk of the Board to a majority of the members of the Board of Supervisors less than 96 hours prior to that meeting are available for public inspection at 1025 Escobar Street, First Floor, Martinez, CA 94553, during normal business hours.**

**All matters listed under CONSENT ITEMS are considered by the Board to be routine and will be enacted by one motion. There will be no separate discussion of these items unless requested by a member of the Board before the Board votes on the motion to adopt. Each member of the public will be allowed two minutes to comment on the entire consent agenda.**

**Persons who wish to speak on matters set for PUBLIC HEARINGS will be heard when the Chair calls for public testimony. Each speaker during public testimony will be limited to two minutes. After public testimony, the hearing is closed and the matter is subject to discussion and action by the Board. Comments on matters listed on the agenda or otherwise within the purview of the Board of Supervisors can be submitted to the office of the Clerk of the Board via mail: Board of Supervisors, 1025 Escobar Street, First Floor, Martinez, CA 94553 or to [clerkoftheboard@cob.cccounty.us](mailto:clerkoftheboard@cob.cccounty.us).**

**Time limits for public speakers may be adjusted at the discretion of the Chair.**

**The County will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Clerk of the Board at least 24 hours before the meeting, at (925) 655-2000.**

**Anyone desiring to submit an inspirational thought nomination for inclusion on the Board Agenda may contact the Office of the County Administrator or Office of the Clerk of the Board, 1025 Escobar Street, Martinez, California.**

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**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

**Pursuant to Government Code section 84308, members of the Board of Supervisors are disqualified and not able to participate in any agenda item involving contracts (other than competitively bid, labor, or personal employment contracts), franchises, discretionary land use permits and other entitlements if the Board member received, since January 1, 2023, more than \$250 in campaign contributions from the applicant or contractor, an agent of the applicant or contractor, or any financially interested participant who actively supports or opposes the**

**County’s decision on the agenda item. Members of the Board of Supervisors who have received, and applicants, contractors or their agents who have made, campaign contributions totaling more than \$250 to a Board member since January 1, 2023, are required to disclose that fact for the official record of the subject proceeding. Disclosures must include the amount of the campaign contribution and identify the recipient Board member, and may be made either in writing to the Clerk of the Board of Supervisors before the subject hearing or by verbal disclosure at the time of the hearing.**



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 24-1267

**Agenda Date:** 5/14/2024

**Agenda #:** D.1

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** LAS DELTAS FILM AND ORAL HISTORY PROJECTS

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

CONSIDER accepting a report on the Las Deltas film and oral history projects.

### BACKGROUND:

As we have discussed before, the Housing Authority (HACCC) was part of the Partnership for the Bay's Future (PBF) North Richmond Policy Grant site team (Site Team), centered around our conversion of the former Las Deltas public housing site. Apart from HACCC, the Site Team includes Richmond LAND, Community Housing Development Corporation of North Richmond (CHDC), and Richmond Our Power Coalition (ROPC). The Site Team partnered with Creative Wildfire to create a booklet and video that features several former residents of Las Deltas. The purpose of the video and booklet is to ensure that stories of the residents of Las Deltas are not erased as the land is redeveloped. Both projects convey the feelings the former residents had about living at Las Deltas and, for those in the last cohort at Las Deltas, the feelings they had being forced to move as part of the redevelopment of the neighborhood. While there is a melancholic tone to both pieces, it is important to capture the sentiments of former residents as this is rarely, if ever, done when public housing is torn down. The pieces that exist tend to be academic studies and books written years after the fact.

While HACCC had few reasonable choices in how we chose to proceed at Las Deltas, and most housing authorities across the nation face similar limited choices in trying to preserve public housing, it is important that we listen to former residents and take the experiences chronicled here and, hopefully, elsewhere, into account when we move forward on these projects.

The oral history is titled Tangled Roots: An Oral History of Community in Las Deltas and was written by Juleon Robinson, a PhD student in geography at Cal, and Hannah Phalen, HACCC's PBF Fellow. Micah Bazant, of Creative Wildfire, designed the booklet. The film is titled Tangled Roots: Stories of Community in Las Deltas and was directed by Adamu Chan, one of the 2023-2024 artist cohort with Creative Wildfire.

Creative Wildfire "supports artists and grassroots organizations to create art that fuels our movements and imagines the world we need to thrive." It is a project of Climate Justice Alliance, Movement Generation, and New Economy Coalition. Creative

In addition to Juleon, Hannah, Micah, and Adamu, both projects were supported by Katherine Ramos, Dulce Galicia, Keala Uchoa, the Board of Richmond Our Power Coalition, Urban Tilth, Joseph Villarreal, and Tony Ucciferri from HACCC, Tania Pulido and Robert Rogers from District 1 Supervisor John Gioia's office,

HACCC Board member Cynthia Jordan and Doug Harris.

The oral history is attached, and staff will show the short film at the Board meeting.

**FISCAL IMPACT:**

None. Information item only.

**CONSEQUENCE OF NEGATIVE ACTION:**

None. Information item only.

# Tangled Roots:

AN ORAL HISTORY  
OF COMMUNITY  
IN LAS DELTAS







# **Tangled Roots:**

## **An Oral History of Community in Las Deltas**

Interviews and editing by Juleon Robinson and Hannah Phalen. Design by Micah Bazant.

This booklet is one part of a two-part project that includes a short film by Adamu Chan, *Tangled Roots: Stories of Community in Las Deltas*. Watch the film at [youtu.be/G0acaG7wEPQ](https://youtu.be/G0acaG7wEPQ).

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# Acknowledgements

This project came together only through the hard work and dedication of the many Richmond-based organizers who have committed themselves to a bountiful future for the community they love. Special thanks to Katherine Ramos and Dulce Galicia for their vision early on in the project, and support from the Board of Richmond Our Power Coalition throughout the development of this project.

We would like to thank the staff of the Housing Authority of Contra Costa County who provided context and archival material for this work, especially Joseph Villarreal and Tony Ucciferri whose deep knowledge of Las Deltas helped us embed individual histories into the longer arc of public housing in West County. We would also like to thank Tania Pulido and Robert Rogers of the District 1 Supervisor's Office for sharing historical information and archival photos, and providing feedback.

Many thanks also to our close collaborators on this project, Adamu Chan, Micah Bazant, and the [Creative Wildfire](#) project, for guiding us throughout this process and producing a powerful set of visuals to pair with the book.

Finally, and most importantly, we would like to thank the former Las Deltas residents who shared their time and histories for this project: Devin Bryant, Khadija Gordan, Cheryl Hairston, Michelle Hersey, Malika Sanders, Charlene Rogers, LaQuisha Thomas. The rich tapestry of your contributions ensure Las Deltas will be remembered in all its complexity, and it is our hope that these memories will ground ongoing efforts for all former Las Deltas residents to return to the community they once called home.



*“Experiencing racism out here is very different [than in the South]. So what I say to people is that I am a product of desegregation simply because of where I was born and raised. To have to fight for equality... **so many things are hidden and kept from African-American people, Black people, and we’ve suffered a lot as a people. And to be able to survive all of that, and not only survive, but to be able to invent and create things that the entire world uses and to not be given the credit that we deserve, we should not have to pay to go to college to take African-American Studies to learn about what we’ve done... There’s so many disparities, so many things that happen in African-American communities that people are not aware of. People don’t want to know. They don’t care to know. As long as it doesn’t affect them or their household, then they’re fine with that.**”*

—Michelle Hersey

# Introduction

The Las Deltas Public Housing complex was constructed between 1952 to 1961 to house the thousands of workers who flocked to Richmond during the World War II mobilization. Upon completion, the 214-unit property stretched across roughly 19 acres of land and consisted of a 134-unit main campus known as “the projects”, an office, a maintenance building, a Head Start center, and a youth recreation center. In addition to the main campus, Las Deltas also included 38 duplexes and 4 single-family dwellings dispersed—known as “scattered sites” – that were spread throughout the community of North Richmond.

At the time of its demolition, Las Deltas represented 20% of the housing in North Richmond, a 1.4 square-mile unincorporated community located between Richmond, California and the San Pablo Bay. A marshy, flood-prone corner of Contra Costa County, North Richmond was transformed by the war mobilization as working-class Black war migrants sought housing near the plentiful jobs in the Kaiser Shipyards. During this period, the Richmond real estate industry advertised the city to white war workers as a place for ‘white men, civilized men, twentieth century Americans’ who could appreciate the ‘beauty of owning propert – real property – a HOME.’<sup>1</sup> These attitudes culminated in a deeply segregated housing market that left Black war workers with few affordable options in the city of Richmond. Navigating their own Bay Area housing crisis, these Black workers made their own community in the peripheral pocket of Contra Costa County overlooking the Bay. Ever since, North Richmond has been characterized by a history of cultural richness, community spirit, and

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1 “Walls Addition to the City of Richmond,” 1939 pamphlet, Richmond Pamphlets Collection, Bancroft Library, University of California, Berkeley.



*North Richmond has been characterized by a history of cultural richness, community spirit, and resilience despite decades of discriminatory housing policies, economic disinvestment, and environmental injustice that have isolated the community, both physically and figuratively, from the development of the Bay Area.*

resilience despite decades of discriminatory housing policies, economic disinvestment, and environmental injustice that have isolated the community, both physically and figuratively, from the development of the Bay Area.

While the demographics of North Richmond have shifted over time, the economic, environmental, and political barriers that isolated the community in the 1940s persist into the present. Formerly a majority-Black community, the 2020 U.S. Census reported a population that is now 17% Black/African American and 68% Hispanic/Latino. Over 50% of households rent their home, but 60% of these tenants are burdened with paying more than 30% of their household income on rent.

These conditions of housing insecurity have increased pressures on the Housing Authority of the County of Contra Costa (HACCC), the government agency that administers Las Deltas. As the need for permanently affordable housing has intensified over the first two decades of the 21st century, however, federal and state governments have drastically reduced funding for public housing provision. Faced with inadequate public funding and a struggle to bring in additional financial resources to support the complex, HACCC eventually became unable to finance necessary repairs in Las Deltas.

In 2017, the Housing Authority moved forward with a plan to redevelop the complex due to deteriorating conditions and a vacancy rate that far exceeded all other Contra Costa public housing. For residents, this meant the demolition of their homes and the challenge of finding safe, healthy, and affordable housing without severing community ties. As a part of the redevelopment process, the Housing Authority has worked with community partners in North Richmond to craft a set of policies that would allow former residents



to return to the community and provide them with the resources to remain and flourish.

Whether housing of last resort for struggling Bay Area families or a home for longtime North Richmond residents, Las Deltas provided a site to set down roots and build community. This booklet seeks to tell the stories of those who called Las Deltas home; those who raised children, built community, and found stability in a neighborhood often characterized by cycles of violence and cycles of loss. The stories told by these former residents illustrate the ways home is more than a physical structure; it is a sense of collective spirit. Most importantly, it shows that this spirit lives on in the visions these former residents have for the future of North Richmond.



## Participant Introductions

This booklet comprises a series of oral histories conducted with seven former residents of Las Deltas who lived in the complex at the time of its closure. These residents represent only a fraction of the 81 households relocated during redevelopment. Of the individuals who offered their stories: all identified as Black Americans, six of seven are women, and all participants are parents. While their experiences provide a rich portrait of life in, and after, the complex, they are not wholly representative of the Las Deltas community. Of particular note, this booklet does not include the voices of the younger people—mostly men—most often implicated in the interpersonal violence that shaped life in North Richmond. Undoubtedly, if we were able to speak with these former Las Deltas residents, their experiences would provide a distinct, and important, perspective for reckoning with the history of the complex. With this in mind, these oral histories should be considered only a fragment of the rich tapestry of stories yet to be told about North Richmond.

*Interviews have been edited for brevity and clarity.*

# Life Before Las Deltas

Vallejo

DB

KG

MS

CH

MH

Richmond

## Where participants lived before moving to North Richmond

DB = Devin Bryant

KG = Khadija Gordan

CH = Cheryl Hairston

MH = Michelle Hersey

MS = Malika Sanders

CR = Charlene Rogers

LT = LaQuisha Thomas

San Francisco

Oakland

CR

LT

## DEVIN BRYANT

“My sporadic housing journey started early in life. Lots of moving from the time I was born until about the age of eight, and then we moved to Vallejo... For the most part, quiet is how I can describe Vallejo. Sometimes you would hear tires screeching, gunfire, sometimes you may hear about someone doing something that they shouldn’t. But for the most part, Vallejo was a quiet town that was good for being able to go outside and not have to worry about a lot of negativity riding down your block. Other than that, there wasn’t much as far as culture in Vallejo itself. There just weren’t a lot of museums or, you know, intellectual thought areas, it’s somewhat of a wasteland. My family was a part of those affected by the housing bubble. I lived partially homeless until I was the age of 20. Once I started my own family, we needed to find a better housing situation. We came across Las Deltas as one of those options, and were able to move in a couple years later...”

*Devin is a 33 year-old resident of Stockton. He moved into Las Deltas in 2013 and lived there for 3 years with his wife and child.*



## **KHADIJA GORDAN**

“I was born and raised in Richmond... I grew up at 335 Chesley Avenue, a corner house. My house was yellow. I enjoyed my house there, my home. Everybody knew each other. I miss home. When things went off, everyone chipped in and helped each other out. In everything. Like it was strictly like it was a big family there. It was home to me. It was where my mother was raised. And it’s still there to this day. It was good... I lost a lot of people on the North Richmond streets and this and that, but other than that it was good...”

*Khadija is a current resident of Rodeo. She moved into Las Deltas after growing up in North Richmond, and remained a resident of Las Deltas until 2017.*

## **CHERYL HAIRSTON**

“I remember [coming back to the Bay Area] like it was yesterday, January 29, 1993 at 8:01pm arriving at the Oakland bus station. It was exciting. I had my children with me. I just left a domestic violence situation. I had to leave and the Holy Spirit told me to come to California... The different scenery of the lights coming across the Bay Bridge for the first time was just magnifying. It was beautiful. Yeah, me and my children really enjoyed it. It was a struggle at first. I met a guy who showed me where the welfare office was and we became friends. He showed me how to get back to my mother’s house. He taught me how to get on welfare and go to the Salvation Army. I stayed there for 28 days in Emeryville. I moved after about a year or two, but my brother didn’t like where I lived. He said that’s where the prostitutes and the drug dealers are. I didn’t know, I just saw an apartment in my budget. My brother got very, very upset and moved me to San Rafael. I went into a drug rehab

program up there. It didn't work, I relapsed. Then I moved into the Bay Area Rescue Mission. From there, I moved into Las Deltas....”

*Cheryl is a 56 year-old resident of Richmond. She moved into Las Deltas in 2009 and lived there for 8 years with her son and daughter.*

## **MICHELLE HERSEY**

“My history starts in Birmingham, Alabama. Born and raised there. We moved out of the projects when I was four years old, and moved into the suburbs. It was a nice neighborhood. We walked to school. There was desegregation, so you can kind of tell how old I am, but through the desegregation we had to get bused to predominantly white schools when I got to seventh

PHOTO OF MICHELLE HERSEY



grade. Actually, my sister and I were some of the first Black cheerleaders, one of the first jazz dancers. I went to school. I went to college one year, and then I got in the military. So I am a Marine Corps veteran, and I did that for about three years.

I was stationed in North Carolina, and [my ex] later joined me there. We ended up having five kids... And then when he got out of the military, we moved up to the Bay Area. We kind of bounced around for a few years. We've lived in San Leandro, San Lorenzo, San Francisco, left San Francisco, and went back to North Carolina. I lived with my father in law for a little bit, and then I came back to California as a single person with kids. We were homeless for a bit. Took a while, but there was some good people that were able to allow us to stay with them. Back then it was called the Richmond Rescue Mission. And we was blessed to be there. There was some good things that came out of that. Although I did get injured there, you know, because when you're in a shelter, there's a lot of different people, lots of different personalities, a lot of different things going on. I was stabbed during my stay there. And so they took care of me, they extended my stay with my children and whatnot. And so we were able to move out later on with a friend. And then was able later on to secure my own place."

*Michelle is a 58 year-old resident of San Pablo. She moved into Las Deltas in 2002 and lived there for 15 years with 4 of her 5 children. A community volunteer, Michelle volunteered at the community center, Project P.R.I.D.E., for many years. She's an advocate for growth and change. Even though Michelle has changed locations, she still has a heart for North Richmond and the surrounding communities.*

## LAQUISHA THOMAS

“99th & Plymouth – ‘the Dirt Road’ – I would say that’s where my history really came from. It was a lot of dirt and rocks, gravel, like you know, it wasn’t paved down or nothing... actually my first scars came from the dirt road like my first fights, my first falling off the bikes, it was a good little childhood. All the family was on the Dirt Road. My mom grew up with her siblings and their friends, her sisters and brothers got kids together because they’re the older siblings... It’s just a whole keep it in the family thing that made us even more of a bigger family because of how they were in their younger days being so tight and close to our circle. I can’t imagine not growing up with my cousins. My cousins were all like sisters and brothers.”

*LaQuisha is a 32 year-old resident of Richmond. She moved into Las Deltas in 2011 and lived there for 6 years with her son*

PHOTO OF LAQUISHA THOMAS





## **MALIKA SANDERS**

“I don’t know nothing about my mom’s side because they really disowned her because she had Black babies. On my dad’s side, they come from Oklahoma... Tulsa. After Black Wall Street burned, they migrated to Stockton. They had a couple of businesses and then, you know that whole thing. They came to California right after the [Tulsa race massacre]. Some of them came to the Bay Area. My mom met my dad in Oregon, when they was really young. She ran away to be with him. She had me in 1979 in Oakland and raised me in Richmond. Majority of my dad’s side of the family is still in Stockton and Reno, Nevada now. I am the only one left out here in the Bay Area.”

*Malika is a 44 year-old resident of North Richmond. She moved into Las Deltas in 2002 and lived there for 17 years with her four kids.*

## **CHARLENE ROGERS**

“My dad worked. He brought [my mom], if I remember what she said, when they first met. I think she said when they got married, he was 16 because back then you could marry like that if your parents agreed. And she was like 12, I think. I didn’t believe that then, but I believe it now. I got their marriage license. I found it when she passed away. But he came out here through a job working on the ships. He did that all the way up until he died in 2004. I heard that he worked there all his years until he got asbestos in his lungs. He started getting sick, then he got on dialysis and he died from asbestos, lung cancer, in 2004. I was taking care of him. He was back and forth in the hospital and I took care of him up until the day he passed away. Anyway, it was still racist and all that junk back then, but my parents moved to what’s called Russell City. It’s in Hayward, but it is not a real city no

more. It's got industrial stuff right there. They stayed there for a while, a long time until they moved out of Russell City. My mom worked for an airline. Then from there she worked at a warehouse, like a cannery. She worked at the cannery for years until she got sick. She died of cancer too, and my brother died of cancer. Then my other brother died of cancer. So there's cancer in our family."


*Charlene is a 60 year-old resident of Rodeo. She moved into Las Deltas in 2009 and lived there for 9 years with her six children.*

PHOTO OF CHARLENE ROGERS



# To Struggle and Strive Together: Life in Las Deltas

For many residents, Las Deltas represented housing of last resort and many moved in after years spent on the public housing waiting list. For others, Las Deltas and North Richmond have sheltered their families for generations. Both groups struggled with the systemic disinvestment that plagued Black communities throughout the Bay Area. Despite those conditions, they built social and spatial ties that persist into the present. This section outlines how residents came to Las Deltas; the conditions of violence and disrepair that characterized life in the neighborhood; and the ways people made homes and forged lifeways in North Richmond despite interpersonal and systemic violence. In all, these anecdotes about Life in Las Deltas illustrate that the neighborhood was more than the disrepair and violence that appeared in headlines throughout the Bay Area; it was shelter and it was home.



*“We were all just striving, trying to make sure that our kids were able to go to school, get what they needed to get, and to be able to grow and be healthy.”*

*—Michelle Hersey*

# Life In Las Deltas



## Where participants lived in North Richmond

- DB = Devin Bryant
- KG = Khadija Gordan
- CH = Cheryl Hairston
- MH = Michelle Hersey
- MS = Malika Sanders
- CR = Charlene Rogers
- LT = LaQuisha Thomas



## Port of Entry & Place of Transition

### LAQUISHA THOMAS

“[I moved to Las Deltas] right after 2010. Like right after I graduated from high school. But I didn’t really move to Las Deltas, because I was scared. Like, I’m from Oakland... I’m not about to live in nobody else’s hood or whatever. So I had my place in [Las Deltas] and kept my stuff there, but I was still moving back and forth between my Mama’s and my Auntie’s houses. My auntie Trina was in Oakland and my mom was staying in Pittsburg or Antioch at the time. So I would leave from [my Auntie’s] house and drop my things off at Las Deltas. Then I would go to my mom’s house, get some more things and bring stuff to the new house. But like, I didn’t feel comfortable [in Las Deltas].”

### MICHELLE HERSEY

“My first impression [of Las Deltas] was that it was a little bit scary because of the things that you hear about North Richmond. We moved in April of 2003 and I just wanted to just move in, be able to pay my bills and go on with life. I didn’t want to really give a lot of credence to the dangerous things that we heard.... But when I moved in, I was in survival mode. And most people, when they’re in an urban area, they’re surviving too. So they’re doing what they have to do, what they feel they have to do. They’re doing what they can to survive.... and so I was kind of reserved when I first got there, but then it just changed. I began to meet some of the ladies that were also single parents and to just talk to them and learn their likes, their dislikes. Hey, this is me. I’m the same way. So we had a lot of similarities. We had a lot of things that we agreed upon that we did not like. And we were all] just striving, trying to make sure that our kids were able to go to school, get what they needed to get, and to be able to grow and be healthy.”

## **DEVIN BRYANT**

“The reason Las Deltas was important for [me and my family] was because it gave us some emergency housing and it had close proximity to the BART stations... But when I moved into Las Deltas in January 2013, it was dusty. It seemed like there was a little bit of haze. I think it may have been because of the industrial area, a lot of open fields... and the streets were a little bit rough [with] a lot of potholes and chunks of asphalt missing and things like that. But there was a lot of people on the streets riding bikes, walking, talking to each other, conversating, a lot of people knowing each other’s names.... So when I moved into the neighborhood, I didn’t feel like I was excluded. It was warm. And, you know, the folks brought me in without any hesitation.”

## **CHARLENE ROGERS**

“[When] my dad took sick in the first part of 2004 I just grabbed my kids—even the grown ones—and we moved back to Oakland. I got a place on 98th and D Street in East Oakland. Then the apartment next door caught on fire and it burned down. I lost everything. The Red Cross helped me but then we had to stay in motel rooms. They gave me vouchers and I went through the homeless thing, all that stuff for a minute. And then... I guess it was God because when [my daughter] moved into her new place... I won’t forget this— I was lying on the floor and I got a phone call and it was somebody from Las Deltas offering to show me an apartment.... I didn’t know how to get there but we winged it on the bus and the BART. And I’ll never forget, we walked up and down the street, up and down. We walked toward the projects. I’m like, ‘Oh, my God, I know they not finna put me in here.’ So I proceeded on and went into the office and we talked to the lady. I did a bunch of paperwork. And I was like, ‘So you guys giving me a place?’ She said, ‘Yeah, you got your housing.’ And oh my god, I was so so happy.”



## **CHERYL HAIRSTON**

“[My Bay Area housing journey before Las Deltas] was a test. It was trying. It was hard. My mother died. I tried to rekindle a relationship with my dad that became successful in the end. But it was hard. It was very, very hard. Being a single mother with two children. Just before I moved into Las Deltas, I was a nurse and I fell and I injured my knee on the job and it kind of ended my career. So I’ve been disabled ever since. And it’s been very very hard... Las Deltas came at a time where I didn’t know which way was up. I was in a Christian based drug rehab program and it finally worked. After I left the program, I moved to Las Deltas and there was a very nice woman that lived behind me and the neighbors across the street kind of took me and my children in. We became very good neighbors and like a good family.”

## Home: “The Place Where All the Love Was At”

### **KHADIJA GORDAN**

“I had a large family and my house was our safe haven. I enjoyed walking down Market Street to my two-bedroom home. My favorite rooms were my living room and my kitchen because that’s where all the love was at. That’s where all the joy was at. I loved entertaining, cooking and everything [in those rooms]. And the community of Las Deltas felt like home too because everyone respected me and I respected them.”

### **DEVIN BRYANT**

“We lived in a duplex. The area [in front of the house] was primarily grass with a little slope. At the end of the grass, we had a two car driveway and behind my driveway, there was a tree. This tree was probably about 30 or 40 feet tall and had leaves in the summer, plenty of colors in the fall. There was a little walkway next to the tree that the front door was nestled in. And once you walk past the front door, you could walk yourself into the backyard where there was a gate that cut off most of the walkway area to the backyard. Just a little bit of space for you to walk through. And then the backyard may have been 40 foot in one direction, 20 foot across. So there was a good amount of space for my kids to go in the backyard and run around in the grass. And there was a pad of concrete where they were able to ride their bikes and tricycles.... [It felt like home because] we were able to get settled and focused on what we wanted to do with ourselves and how you wanted to get it done. The neighborhood was mostly quiet. So my kids went outside and played. You know, I hung out on the front trying to start a little garden, making the street as beautiful as I could.”



## **CHARLENE ROGERS**

“I had four rooms. Two baths. A big front yard. I liked putting a swimming pool out there, and [the kids would] swim and stuff like that. Then I had another piece of the yard where I had my garden and we had a shed right there. There was a tree in the front yard. It was a cherry tree by the front door... I couldn’t believe it when I first moved in; I never had a four bedroom house for that low of a rent. We had a lot of good times in there. A lot of birthday parties with all my grandkids. They said mine was the party house... I had all the birthdays there, all the barbecues. I really miss it though. I wish we could go back over there now. I think that was like the best house I ever had...”

## **MICHELLE HERSEY**

“I was on Silver Avenue towards the back. It was great. I had four bedrooms. To be able to have enough rooms, because I moved from a three bedroom, one bath into a four bedroom, one and a half bath. And we had a nice front yard, a big backyard. Instead of having to go to the laundromat, we were able to have a washing machine in the house. There was a washer dryer hookup and clothes lines out in the back. So that was a major plus. And then to have the rent be around my income [was great], because if you are in the Bay Area, it’s very, very expensive to live here. If you’re in the Bay Area and you’re not on Section 8, you’re not in public housing, or you’re not in some type of affordable housing, you’re going to have to have at least two or three roommates to even survive. It took me five years to get public housing, and I was grateful, and I loved that place.”

## **Community: It was Green, it was Beautiful**

### **CHERYL HAIRSTON**

“The people in the community that knew me would come over and we would have get-togethers in my backyard. I hosted a couple of funerals, too. People who came for funerals that came and stayed there, and they said how nice the house was. I tried to keep it as peaceful and calm as I possibly could so it was a nice place to be. It was a nice area to be in.... I liked the area down there by the school [Verde Elementary]. I really, really enjoyed it. And the neighbors that I could say good morning to when all the kids are coming home from school. I stood out there with my butt in my chair and my kids will be out there and we gave candy and snacks to the little school kids coming by and that was nice.”



## **MICHELLE HERSEY**

“We had great memories [in Las Deltas]. I don’t really necessarily know everybody by name, but I know them by face... and I’m from the South, so normally I will greet you as, Hey, sugar, how you doing? Hey sweetie. Okay, baby, I’ll talk to you later. That’s how we are in the south. So my southern roots kind of just are here.... [On Thanksgiving,] I would cook a lot of stuff: make collard greens, make dressing... we would have turkey and ham. My girls would make a cake. I would make the peach cobbler. And everybody would come, all the people in the neighborhood came to my house and maybe not get all the food, but they definitely wanted some of the cobbler.”

## **KHADIJA GORDAN**

“All my friends that I went to school with, they lived in the projects [the main complex]. Since I was like 12 years old. I was younger than that, and I always wanted to go to the projects. My best friend, she lived there as well. I wasn’t allowed to go to the projects. But eventually, I was able to go. And I loved it there..... We had a park over there. My friends. My best friend’s mom would bake and make things. I just had fun there.”

## **LAQUISHA THOMAS**

“Anybody who I see out here [near the main campus], y’all going to know me, but y’all not going to mess with me, but y’all going to know me. So I just kept it cool, polite. I have a good mannerism. So like I said, I’m easy to get along. I’m an open person.... it’s just how you carry yourself. If you come in with a certain demeanor, you’re definitely going to get checked. That’s in anybody’s hood. But if you come in and just keep showing your presence, that you’re not a threat. You don’t have to worry about me and mines, we in and out.”

## Cycles of Violence, Cycles of Loss

### CHERYL HAIRSTON

“Oh I never felt safe there. It was beautiful and all that but it was never a safe place to be, you know, because that was when the youngsters was out and they all want to do their little gang things and whatnot. They would write on my wall and then Housing Authority would have to come and paint over the gang insignia.... But once they got to know me and knew that that was a part of the community, they didn’t bother me, and they didn’t bother my children. The only one that bothered me was the drug dealer that lived behind me. His mother didn’t know he was selling drugs, but he was and he threatened us a lot. He made life at Las Deltas very difficult for me and my children... One time he threatened my daughter. He told her he would come slap her and so we had to call the police. I never felt safe there, not with him. He would come out with his gun waving it around. He just did a lot of intimidating things. But my spirit is strong. I come from a strong background. And the one thing I will not tolerate is abuse... The last thing I was going to do was let a drug dealer bully me. We went toe to toe a few times until his mother died. But after his mother died, he got off the hook bad. It was bad. But I knew eventually he was going to do something to get him put out but no, they put everybody out. So that was my release from him and I felt peace after I got to Antioch.”

### MICHELLE HERSEY

“It was jarring at times, because I wasn’t used to that behavior. I mean, I’m coming from the suburbs, I’m coming from a military background. So very orderly, not used to fights or things like that. Not used to different things like that happening. Because I never really lived in an urban

area... But you know, it was interesting, you learn what to do, what not to do, where to go, where not to go.... And so I pretty much really kept my kids at home, in the house, they could play in the yard, we had a front yard in the backyard. And

*“I’m the type of person that doesn’t believe that there’s really a bad neighborhood. There’s just places that are either comfortable or uncomfortable. But humans are humans, and everybody wants a little bit of respect and everybody is just looking to live their life with as much of that mutual respect as possible.”*

—Devin Bryant

so I will let them play at home. And if anybody wanted to play with them, we played at home.”

## DEVIN BRYANT

“I had heard some negative reviews. Just from some folks that I had gone to high school with that actually grew up in the North Richmond area, or the Iron Triangle [neighborhood], and I’m the type of person

that doesn’t believe that there’s really a bad neighborhood. There’s just places that are either comfortable or uncomfortable. But humans are humans, and everybody wants a little bit of respect and everybody is just looking to live their life with as much of that mutual respect as possible. So sometimes, I felt like the neighborhood got a bad rap. Now, mind you, there was some instances where some things happened that were unfortunate. But that happens in all types of neighborhoods, and it doesn’t really have a limit as to where it can happen. Some of those things being you know, like kids getting hit by cars or, you know, individuals being shot. But even though those things were going on, there was still a lot of community, a lot of people talking to one another, reaching out trying to, you know, be a little

more thoughtful and respectful of the person next to him. I saw a lot of people that whether it was they just were missing a meal or they didn't have clothing, a lot of the neighbors would share. They invite other folks into their homes. They do hand-me-downs or, you know, there was someone that needed interview clothing, and people would share for the betterment of the community. Everyone had the opportunity to build if they wanted to."

### **CHARLENE ROGERS**

"A boy got shot while I was living at Las Deltas. He fell right by my daughter's window. That was one incident. Another incident, my son had just cleaned his room up. He just walked out the room when they started shooting outside and two of the bullets hit my son's window. I was frantic about that. Like oh my God, I really want to get away from here but I didn't know where else to go so I had to wing it. Which we did. It was okay..."



## **LAQUISHA THOMAS**

“Somebody got shot, actually, in front of my house, my son probably was like, three to four months, coming out of the front door. And then we had to go back through the house to go through the back door to walk all the way around. That probably was like the second or third year of me being in North Richmond... Overall, Richmond was sadder than when we lived in Oakland. I’m not even gonna lie. It was real sad. Like I saw stuff in Oakland, but I really seen stuff in Richmond.”

## **KHADIJA GORDAN**

“Due to gun violence, I lost a lot of cousins and family members to the streets of North Richmond. But like I said, I kind of put it behind me and moved on.”

## **MALIKA SANDERS**

“I have boys so I had to talk to them. I have four boys and one girl. Females are more safe, safer than the boys. You know, when it comes to that, I can go anywhere in Richmond and ain’t nobody gonna bother me because I ain’t about that. But even if you’re my boys and my son goes somewhere outside, just because he’s from North Richmond somebody might try to pop him, you know, even though he ain’t, they ain’t about that. They never got in trouble, they ain’t been in none of that. I kept them sheltered. I think that’s why. I didn’t let them play outside a lot because of what was going on in the neighborhood with North Richmond and Central Richmond having issues with each other. So I really kept my kids sheltered. They didn’t play outside.”

## Architectures of Confinement

### MALIKA SANDERS

“The plumbing sucked so bad [in my home]. Housing Authority workers were always having to come up and use a drain cleaner in the backyard, probably once every six months, it was just terrible. They paint the outside of the house and try to make it look pretty on the outside, but they didn’t give a damn about the inside... It was hard to get them to come fix stuff correctly. They put bandaids on stuff. I guess their workers were just pathetic... It made me depressed. Like it made me mad. I keep calling these people and they don’t want to come fix this. So I learned how to fix a lot of stuff myself... I guess we were being told for years and years and years that [the Housing Authority] was getting ready to tear [the housing] down so I think that’s why they didn’t want to come and fix stuff.”





## **CHERYL HAIRSTON**

“Where we lived [in the scattered site housing] was like we were in the larger North Richmond community... When you ride through [the main campus], you feel like you’re not supposed to be there and I was always afraid to go over there because you just didn’t know what to expect– shooting or something, or anything. So I like to go early in the morning, get my rent, get my paperwork done, and get back to my house. Because they will be out there shooting craps, they will be out there selling drugs, fighting you name it. It was frightening to be up in there. They will ask you ‘Who do you know in here?’ That’s when I first moved in and they didn’t know who I was. And they were asking me questions like they were going to hurt me. But they didn’t.... [My neighbor] Mr. Mitchell told them that I was good people and that I’m not a problem. And so I was able to go and ride to the corner store on my scooter. I met a lot of them at the store and I got to know them and they saw that I was nice and polite. And they treated me with kindness. They called me auntie...”

## **LAQUISHA THOMAS**

“I really would say I wasn’t worried about the neighborhood. I was more so worried about the corrupt [Housing Authority] people who robbed me. That’s why when I was living there I really wasn’t staying there. Right after I moved in, the maintenance people came and illegally took all my memories, everything that I worked for to put inside the house for me and my child to get the house ready.”

# Demolition and Dispersal

After decades of debate regarding the rehabilitation and redevelopment of Las Deltas, the Housing Authority officially decommissioned the complex in 2017. The recollections of demolition and dispersal in this section recount the challenges of searching for stability during this period of upheaval. Despite relocation support from the Housing Authority, former Las Deltas residents felt as though they had few real choices in finding new homes. Whether they accepted Section 8 vouchers to support a rental in the private market or chose to relocate elsewhere in the public housing system, relocation was a struggle.<sup>2</sup> Those who accepted Section 8 faced extensive discrimination based on their housing status and were still forced to navigate increasing rents throughout Contra Costa County. Other residents chose to stay in public housing, and many were relocated to the HACCC complex in Rodeo, California. This group of former Las Deltas residents described conditions that mirrored the deterioration of Las Deltas, except they were left without the networks of support they had developed in North Richmond.

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<sup>2</sup> Section 8 vouchers are a housing subsidy funded by the federal government and administered by local public housing authorities. This housing subsidy is paid directly to a landlord by the public housing authority and the family pays the difference between the actual rent charged by the landlord and the amount subsidized by the program.

*“Some folks were angry because they’d never been anywhere else, and their whole life has been there, then they have to uproot and they don’t know anything about these other places.”*

*—Devin Bryant*

*“I would have told them ‘Hell no. No, no, I don’t want to come over here. For what? No, it’s the same thing.’”*

*— Charlene Rogers*



## A Time of Little Choice

### DEVIN BRYANT

“It took about six to eight months for us to get the unit that we were going to be relocating to. I just remember it being confusing for some people. I remember going to some of the Town Halls they had for us and things like that. To tell us the gist of their plan. There was a lot of confusion and disappointment. Some folks were angry because they’d never been anywhere else, and their whole life has been there, then they have to uproot and they don’t know anything about these other places.”

### CHERYL HAIRSTON

“Yeah, [relocating] wasn’t easy at all. It felt like even though we had been going to the meetings, nobody was looking for places [for us] to stay. The relocation just came out of the blue. All of a sudden these people come by the house and they have Section 8 vouchers and public housing offers [and they asked] ‘Which one would you like?’ My son was visiting and he said, ‘Mom, Section 8, Section 8.’ So when it comes time to move, we used a Section 8 voucher to find new places to stay. When we looked at those lists and visited the apartments on both lists that they were sending us to, they



were all way out in Pittsburg... I don't know these places. I haven't been there before. So it was stressful for me and I kind of resented a little bit that I had to move so fast."

### **MALIKA SANDERS**

"My first reaction was: it's about time [to redevelop Las Deltas]. And then they gave us the choice of going back into public housing or getting Section 8, and I chose Section 8... But it's so hard to find people that accept Section 8 and I had no choice but to take the first place I found. Now I have a slumlord."

### **CHERYL HAIRSTON**

"Some folks at Las Deltas did not like the redevelopment process at all... They have lived there for many, many more years than I have been there. I've met families that raised two generations in those buildings back there. Even more than that. You know, I've met elderly people who live there who can't afford to go anywhere else. And they were concerned about their home, where they were going to move, what the prices of rent these days, where they're going to relocate to.... I didn't want to be in public housing anymore so I chose the Section 8 voucher."

### **CHARLENE ROGERS**

"No, I didn't have a choice. I have never been over here [public housing in Rodeo] ever... If I had a choice and if I knew that this place over here was just like where I left. I would have told them 'Hell no. No, no, I don't want to come over here. For what? No, it's the same thing.'"

## Scattered Seeds

### DEVIN BRYANT

“There was a few different places that they’d be trying to relocate us to... Primarily the offer was to move to Pittsburg and then if you didn’t want to move to Pittsburg, there was a couple of spaces in either Martinez or Rodeo. We chose Rodeo... My children were in school in Hercules at the time, and it was closer to where their mother was living. So it made it easier as far as getting them to school and the logistics. When we got to Rodeo, it was totally different. It wasn’t the same welcoming feeling... that I can tell you. The first couple of weeks that I was there, I went outside with my push broom and my stuff to pick up all the trash and glass and I did the entire parking lot and all the walkways. I probably spent four to five hours out there that day, just cleaning up trash before [my kids] got there. Just so that if we wanted to go outside barefoot, we could if we wanted to, or lay on the grass, we could without being worried about glass or if there was something that was gonna stick us. Within a day there were more bottles and papers. It was really disappointing that the folks didn’t take the same care and make sure that the neighborhood was safe for the children. It was a lot more people densely housed. There wasn’t this sense of space and identity that you could get; it was more of a get to your place and live inside. There wasn’t really an outside community that was positive. Folks that was living in the community were attacking each other and making it unsafe, you know, where I didn’t feel comfortable letting my kids go outside for a little while because they were still very small when we moved over into that area. As time went on it got better, but before we left the area there had been some very tragic things that went on. So I think that neighborhoods got a little ways to go before they can really get to that level of camaraderie and community. But I’d have the best hopes for them.”

## After Relocation

Rodeo

MS  
MH San Pablo  
North Richmond

Richmond

LT

### Where participants lived after relocation

DB = Devin Bryant  
KG = Khadija Gordan  
CH = Cheryl Hairston  
MH = Michelle Hersey  
MS = Malika Sanders  
CR = Charlene Rogers  
LT = LaQuisha Thomas

### KHADIJA GORDAN

“I really don’t remember [how I found out about Las Deltas closing]... I think that I received a letter. I kind of put it behind me and moved on. But I remember coming here to my brand new home in Rodeo. I needed housing and I chose Rodeo because it’s closer to family members and all that... It was closer to my aunties that was living in Richmond. I really didn’t want to leave North Richmond. But I was going through some things myself as far as my health, a lot of different things. And I didn’t want to leave, but I’m here now. So it’s like just things I don’t even want to bring up. It’s great [in Rodeo]. I love it. The families that live here. We have a community center just like over in North Richmond. Everyone pretty much gets along. It’s quiet.”

**CHERYL HAIRSTON**

“I really wanted to try and get me another place in Richmond. That’s what I really wanted. I really wanted to live in Richmond. I did not want to come and just be out here in Antioch, but I thought I had no choice, and I didn’t have adequate transportation, so I took this apartment. Not knowing when I took this apartment, it’s infested with roaches. It’s infested. I live with an infestation, the whole building is infested. I went from no roaches to roaches every day. So I’m ready to move. I want to move. I want to get out of here. I don’t want to go back to Las Deltas, but now the area is beautiful. I go there because my daughter lives in Richmond so I drive through the old neighborhood continuously. And now you can’t even tell all of that used to go in North Richmond. You can’t even tell. It’s quiet. It’s peaceful.”

**MICHELLE HERSEY**

“The factors [when deciding to move to San Pablo] were location, location, public transportation, being able to get back and forth to work, that was important. But because I chose Section 8, [relocation] was a bit difficult. The places that they had available to move, the transportation was not good, in my opinion.... Your Antioch, your Pittsburg, your Brentwood, when you don’t have a car, you know, it doesn’t make sense.”



## MALIKA SANDERS

“I guess they [relocated everyone] one at a time or you know, I don’t know how they did it. But when I finally came up it was like it’s time to go... My dumbass took the first place that I found that accepted a voucher and I shouldn’t have.... My new place [in North Richmond] is comfortable. But as far as the fixing of things, let me tell you a story. I have a master bathroom in my bedroom with a double vanity. Two months in, both of them sinks in there fell through. And I asked her, I told her, she was supposed to send somebody. It took me calling her once a week for four months. And she still didn’t send nobody for me to go ahead and replace this thing for myself. Like this lady just wants her money. She don’t care about nothing that’s wrong. I told her there’s a leak in my bathroom. The tub faucet keeps going, and she still ain’t sent nobody and I told her this about three weeks ago. So now she’s gonna be paying part of my water bill. She still ain’t never send nobody, like I told her four or five times. So I gotta learn how to fix a lot of stuff. YouTube is my best friend. But it’s comfortable. It does feel like home here. I got a nice size backyard. We can have the barbecues and stuff and you know my kids do the landscaping and plant flowers and stuff. My granddaughter loves coming over here every weekend. I don’t know, I think it feels like home because of my family. That’s it.”

## **LAQUISHA THOMAS**

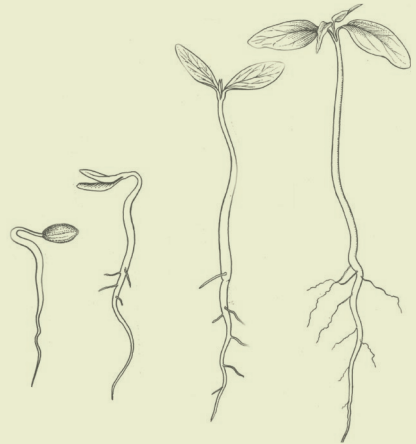
“They knew me as the moving queen, you know? They like ‘Are you always moving?’ I can adjust anywhere. I’m the adult. But it’s more so about my son. You know, how he feel with the environment, the vibes that he gets from there. I just feel like every step that I have taken in my life since I moved from Las Deltas, it’s just been trying to upgrade, like try to put my best foot forward... I just want to prevail better for my son, like, I want him to see like okay Mom, you took us from the hood. When we moved from Las Deltas, he was like, ‘Mom, I want a blue house.’ Every time he says something like that, it happens every time. Like, we got a blue house. So I know we’re blessed. We just got to keep it moving. I just want to be comfortable. I want him to be comfortable... I talked to him about us moving and being homeowners and stuff. He like ‘So I’m gonna get a pool, we’ll get a jacuzzi? I’m tired of this house. I want my walls blue.’ So he’s making plans right now. Like he’s ready as much as I’m ready and we just want something more settling.”

## **CHARLENE ROGERS**

“I didn’t know about over here [in Rodeo]. But like when I first moved here in 2018, I was like ‘Oh shit, they moved me to another hellhole.’ Did they know where they were sending me to? But I’m here. I made the best of it. It done quieted down a lot now though, but still, I still don’t want to be over here.”

# To Replant Our Roots: Hopes for Redevelopment

In the winter of 2023, the Housing Authority of the County of Contra Costa released a three-part Las Deltas redevelopment plan that stands to transform the housing landscape in North Richmond.<sup>3</sup> For former residents, this plan represents the potential to replant their roots in the community after a long, difficult relocation process. In this section, residents outline their hopes and dreams for North Richmond as the redevelopment process begins to take shape. These visions extend beyond housing to include the neighborhood institutions they want to strengthen, the community challenges they want to leave behind, and most importantly, the community principles they want to enshrine for future generations of North Richmond residents.



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3 A small portion of the scattered site housing will be transferred to community-based developers for rehabilitation, while the rest of the units will be sold at market rate to raise funds for the other public housing complexes throughout Contra Costa County. The plan also calls for the construction of a new complex on the site of the main campus building. All of these new housing opportunities will prioritize former residents of Las Deltas and other longtime North Richmond residents through a Local Preference Policy, with the intention of stabilizing the local community amidst waves of displacement in the city and throughout the region. To read more, go to this link: <https://contracostaha.org/las-deltas-redevelopment/>

## **MICHELLE HERSEY**

“Do I have a say in [the plans for redevelopment]? No, because I feel like people have already decided what they’re going to do. The city, the county, the Housing Authority, everybody started to make their decision... I would wish that they would [build trust with the community]. If you’re going to develop a community, you should be invested in the people.”

## **MALIKA SANDERS**

“I mean they did this same kind of redevelopment to Easter Hill on the Southside of Richmond. And that’s pretty nice. They put a pool there and everything and a little center for the children. I want to propose that they make sure they got something for the kids to do so the kids aren’t hanging in the streets. Have a little community center or something for kids to go play basketball or whatever they do, or play video games. So they’re not in the streets of North Richmond. That will be my main concern.”

## **MICHELLE HERSEY**

You have to have a community center [like there was, Project Pride]. I mean, where are the kids going to go? What are they going to do? That was pretty much the only place that I was helping children to thrive. And they actually did a free lunch program there. They fed the kids, so the kids ate every day, and then there would be events and they would barbecue, and that was the spot. You know what I mean? And that was a place for the younger kids. And then they developed a larger community center for the older generation of children that were teenagers and young adults for them to come. And I think that needs to be put back in there as well so that you can continue with summer jobs and permanent employment, a place for people to go to be able to do job

search, get on the computer, find jobs, hold interviews, just different things. I think it would be great to include that in the redevelopment. I think it's a must. It is something that needs to be included because really there's not another place like that in North Richmond."

### **LAQUISHA THOMAS**

"Having a single-family two bedroom home for me and my son would bring comfort and privacy. Not that I have anything to hide, because I'm no criminal. I have no record, never gonna do anything like that. I just don't like being bothered. Like, I don't like to feel like I gotta have my guard up. I shouldn't have to make my son do extra things just to be comfortable or make someone else comfortable. It's the freedom for me. It's the freedom for my son. He's like 'I hate this house.' Everything was breaking down in here and I just feel like this is a stop. It's not our placement. You know, I mean, we're just here momentarily."

### **MALIKA SANDERS**

"I think the Housing Authority needs to make sure the new development got gates. Make sure everything works in there. And it's not just putting band aids or cheap stuff as far as plumbing and all that. No paper thin walls where you can hear everybody's conversation... Make sure the housing is insulated right so the heating don't go through the roof. Make sure the pipes are working right so residents don't have to pay too much in water."

## **CHARLENE ROGERS**

“I’m just hoping that the new community don’t get drug infested no more because North Richmond is a good place to live. It was just toxic over there [in Las Deltas]. They had a big ol’ nice park down the street with the baseball field, a Boys and Girls Club thing right there, but I couldn’t send my two kids there, it was so infested with drugs. I want to be back where I was. On that block there was a lot of senior citizens through the whole block... I like quiet neighbors. Good people that’s gonna take care of the community. You know, I could go outside. Oh, I can do my grass. I can go outside without worrying about being shot. Or like I be wanting to go outside in my backyard to sit. You know what I mean? Stuff like that stuff that I couldn’t do then. I wish I could do some changes now when they rebuild over there. And I have a feeling that you know, it’s gonna be different. This is gonna be different.”

## **CHERYL HAIRSTON**

“So many people had to be moved, including myself. But sometimes change is good for the greater good. And I believe that’s what they’re doing for the last year or two is revamping it and I’m all for that. I don’t want my community back, not like it was... I would like to have neighborly people who accept change and can get along, have our meetings and have community get-togethers. You know, picnics and things like that with the community. But most of all, I just really want to go back to Las Deltas because I was there for 11 years and I started roots there. And then it was snatched from me to where now I am today with roaches and trying to figure out where else I can live. My health is not like it used to be. I can’t get out and look for places like I wanted. It made it worse for me leaving Las Deltas.”

## DEVIN BRYANT

“My dad had the opportunity to move into the new central building that they built in the center of Fred Jackson Way. And so I’ve gone past there. It’s nice. It’s a nice building. But I’m glad that we didn’t move him in there because it’s an apartment complex situation. The outside of the building is beautiful. And the streets, the landscaping, everything is being redone. I’ve seen a lot more work being put into the neighborhoods than I ever thought was gonna happen. I think that the neighborhood is going to change. But I think that it’s going to keep its spirit... I don’t think that everybody’s going to have the opportunity to return. I don’t think that everybody’s going to choose to return. But I don’t think that the community is going to lose that original spirit that you started with where folks care about each other. And they try to do the best that they can for their neighbors. I think it is gonna be a nice neighborhood once it gets finished. Because there’s so many different opportunities for a person to enjoy themselves, whether it be walking down the trails, whether it be getting on a bus quickly to the BART station and going across the bay. There’s so many opportunities for work and transportation and, you know, I hope that they bring some sort swap meet or something, or, a little flea market, a small flea market where people get together, you know, just a community day once a month or every few weeks, where folks get together and and you can go down and find the woodworker that’s in the neighborhood or you can go and find the person that does the stained glass or you know, whatever eclectic ideas that may be around, giving it a little bit more life. I think that that would be pretty cool. So I’ve got good hopes for what it can turn into.”

## CHERYL HAIRSTON

“I would like to see a diverse community. I really would. Because I think we could all get along better if there’s just not one predominant group in the community. Let it be a mix of people. To where we could get along. We’ll respect each other better, I believe, going forward. I’d like to see some beautiful homes there. I’d like to be in one of those beautiful homes out in the community. That’s always been my wish to go back. I just haven’t figured out how until this opportunity came along. I’m looking forward to what they will do. I hope they take our suggestions to heart and really think about them and implement them in some kind of way. If we do have a say, like they said we do. I would like to see what they come up with as far as the design where they’re going to put the tiny houses at. What would the structures be like? Is it going to be like the old one? I hope not, not like the old one. But I don’t have an idea of what design I would want to see. I just want it to be better than what it was.”





## Conclusion

Today, between 1st Street and Ruby Avenue, an overgrown vacant lot covers the site of the Las Deltas main campus. Locked metal gates separate the open space from the rest of North Richmond, keeping the past and the future in sight yet out of reach. The scattered sites remain, but they are boarded up with metal barriers on the windows. For many former residents of the complex, this scene mirrors the ways structural forces have displaced them from a community where they had set down roots. On one hand, they have had to navigate rising Bay Area rental prices as the real estate market transforms homes into financial assets. On the other, these former residents have had to figure out how to sustain their own community through repeated cuts to federal and local funding for public housing. Caught between a private market that has never supported working-class Black families and the dissolution of the public safety net, these former residents now face potential disappearance from the landscape. The stories in this booklet intervene in this geographic and narrative displacement, reinserting their lives, struggles, and spatial claims to North Richmond into the conversation around redevelopment. As a new future takes shape, these stories demonstrate the power of community roots in maintaining a sense of place. Despite the knots that formed during decades of structural and interpersonal violence, these roots endure. And as these overlapping histories demonstrate, the visions of the future embedded within these tangled roots may serve as the foundation for a new community to bloom.







# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 24-1280

**Agenda Date:** 5/14/2024

**Agenda #:** D.2

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** PROPOSED DEPARTMENT OF LABOR ENFORCEMENT ACTION AGAINST THE OWNER OF THE TERRACES AT NEVIN, A PROJECT-BASED VOUCHER PROPERTY

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

CONSIDER accepting a report on a proposed Department of Labor (DOL) enforcement action against the owner of The Terraces at Nevin (Terraces), a project-based voucher (PBV) property.

### BACKGROUND:

The Terraces are comprised of two large, almost new affordable housing buildings across the street (22nd) from each other in Richmond. One building is dedicated to seniors (with larger sized bedroom units than normal) and one to families. In the senior building, 127 of the 128 units have PBVs. In the other building, there are 35 PBV units out of 141.

In 2020, as the result of a different investigation, the DOL began reviewing the pay records of Lowery-Pena Construction Company, Inc., related to its work at The Terraces on Nevin in Richmond and at Brunswick Commons in Grass Valley. The construction period was from late 2017 until 2021. The DOL believes that Lowery-Pena should have paid workers at the Terraces at Plumber and Steamfitter rates instead of the Laborer and Underground Utility Worker rates at which they were paid. Lowery-Pena insists it classified and paid its workers correctly. To date, the DOL and Lowery-Pena have not resolved their disagreement and are scheduled to try the case before an Administrative Law Judge in mid-May.

Should the DOL prevail in this case, they want HACCC to withhold housing assistance payments (HAP) to The Terraces (the Section 8 subsidies tied to the PBV units) until all \$555,970.58 has been repaid. This is based on language in HUD's PBV contract used by housing authorities. While HUD acknowledges that language holding the owner ultimately responsible for ensuring that wages are paid properly exists in the PBV contract, HUD's position is that HAP paid to the owner belongs to the tenant, not the owner, and thus HACCC should not withhold HAP to repay the DOL. At this stage, staff (and HUD) are unsure how this matter will be resolved between the DOL and HUD.

If HACCC is required to withhold \$555,970.58 in HAP to the Terraces, the property could face significant financial disruption, including, in the most extreme case, the loss of its tax credit status and the removal of its PBVs. This would likely mean lenders would claim the property, the families and seniors living there would have to search elsewhere for housing, HACCC would lose 162 units dedicated to its clients and the City and County would lose much-needed affordable housing.

Staff are currently waiting to hear back from HUD and/or the owner. Staff will provide the Board with an update at its meeting. The charging letter from the DOL to Lowery-Pena is attached.

**FISCAL IMPACT:**

The proposed action will not directly impact the Housing Authority's (HACCC) finances. However, the DOL may require HACCC to withhold \$555,970.58 in housing assistance payments to the Terraces. If this occurs, the property could face significant disruption, including, in the most extreme case, the loss of its tax credit status and the removal of its PBVs.

**CONSEQUENCE OF NEGATIVE ACTION:**

None. Informational item only.

**DEPARTMENT OF LABOR**  
**Wage and Hour Division**  
**Western Regional Office**  
**90 7<sup>th</sup> Street, Suite 4-390**  
**San Francisco, CA 94103-6714**  
**415-625-7700**



02/09/2024

Lowery-Pena Construction Company Inc.  
 Attn: Mr. Michael Lowery, Owner/President/CEO/CFO  
 1509 W Yosemite Ave., Suite A1  
 Manteca, CA 95337  
 FEIN: 47-4101635

Mr. Michael Lowery, an Individual  
 1509 W Yosemite Ave., Suite A1  
 Manteca, CA 95337

Ms. Laura McHugh  
 Attorney  
 Duggan McHugh Law Corporation  
 641 Fulton Ave., Suite 100  
 Sacramento, CA 95825

**Subject: Opportunity to Request a Hearing Under the Davis-Bacon Related Acts (DBRA)**

Re: Subcontractor Lowery-Pena Construction Company Inc., 1509 W Yosemite Ave., Suite A1, Manteca, CA 95337 and the following contracts:

|   | <b>Terraces at Nevin</b>  | <b>Brunswick Commons</b>  | <b>Sango Court</b>   |
|---|---|---|--|
| <b>Location</b>                         | 21-23 Nevin Ave.,<br>Richmond, CA 94804   | 936 Old Tunnel Rd.,<br>Grass Valley, CA   | 355 Sango Court,<br>Milpitas, CA 95035   |
| <b>Prime Contract<br/>Scope of Work</b> | Building Section 8<br>Project-Based Voucher<br>Program (PBV) low-<br>income apartments  | Building Section 8<br>Project-Based Voucher<br>Program (PBV) low-<br>income apartments  | Building Section 8<br>Project-Based Voucher<br>Program (PBV) low-<br>income apartments |
| <b>Subcontract Scope<br/>of Work</b>    | Installation of plumbing<br>system for new<br>construction of apartment<br>building   | Installation of plumbing<br>system for new<br>construction of apartment<br>building   | Installation of plumbing<br>system for new<br>construction of apartment<br>building    |
| <b>Prime Contractor</b>                 | Pacific West Builders,<br>Inc. DBA Idaho Pacific<br>West Builders Inc., 430<br>E. State St., Suite 100,<br>Eagle, ID 83616 (part of<br>The Pacific Companies) | Pacific West Builders,<br>Inc. DBA Idaho Pacific<br>West Builders Inc., 430<br>E. State St., Suite 100,<br>Eagle, ID 83616 (part of<br>The Pacific Companies) | Nibbi Brothers<br>Associates, Inc., 1000<br>Brannan St., Ste 102, San<br>Francisco, CA |

|                           |   |   |   |
|---------------------------|---|---|---|
| <b>Owner/Developer</b>    | Richmond Nevin Associates, 430 E. State St., Suite 100, Eagle, ID 83616, General Partners of this California Limited Partnership is TPC Holdings VI, LLC at 430 E. State St., Suite 100, Eagle, ID 83616 (part of The Pacific Companies) and Central Valley Coalition for Affordable Housing at 3351 M St., Suite 100, Merced, CA 95348 | Grass Valley PSH Associates, 430 E. State St., Suite 100, Eagle, ID 83616, General Partners of this California Limited Partnership is TPC Holdings VII, LLC at 430 E. State St., Suite 100, Eagle, ID 83616 (part of The Pacific Companies) and Brunswick-BBP, LLC at 1455 Butte House Rd., Yuba City, CA 95993 | Sango Court, L.P., 2220 Oxford St., Berkeley, CA 94704, General Partner of which is RCD GP III LLLC at 2220 Oxford St. Berkeley, CA 94704. Sole member/manager of RCD GP III LLLC is Daniel Sawisiak, Executive Director of Resources for Community Development at 2220 Oxford Street, Berkeley, CA 94704 |
| <b>Contracting Agency</b> | U.S. Department of Housing and Urban Development (HUD) is the federal contracting agency, Contra Costa County Housing Authority is the local Public Housing Agency (PHA)  | U.S. Department of Housing and Urban Development (HUD) is the federal contracting agency, Regional Housing Authority is the local Public Housing Agency (PHA)   | U.S. Department of Housing and Urban Development (HUD) is the federal contracting agency, Santa Clara County Housing Authority is the local Public Housing Agency (PHA)   |
| <b>Contract No.</b>       | Increment No. of the Annual Contributions Contract (ACC) between HUD and Contra Costa County Housing Authority is CA011VO0306   | Increment No. of the Annual Contributions Contract (ACC) between HUD and Regional Housing Authority is CA048VO0475  | Increment No. of the Annual Contributions Contract (ACC) between HUD and Santa Clara County Housing Authority is CA059VOW144  |
| <b>Award Date</b>         | City of Richmond Housing Authority as the Public Housing Agency (PHA) signed the Agreement to Enter into Housing Assistance Payments (AHAP) with Richmond Nevin Associates as the Developer/Owner on 12/20/2017   | Regional Housing Authority as the Public Housing Agency (PHA) signed the Agreement to Enter into Housing Assistance Payments (AHAP) with Grass Valley PSH Associates as the Developer/Owner on 12/16/2020   | Santa Clara County Housing Authority as the Public Housing Agency (PHA) signed the Agreement to Enter into Housing Assistance Payments (AHAP) with Sango Court, L.P. as the Developer/Owner on 01/14/2022   |
| <b>DOL Case ID No.</b>    | 1953052   | 1953052   | 1980502   |

Dear Mr. Lowery,

This letter is in reference to the investigation of your firm's compliance with applicable labor standards on the cited projects. These projects were subject to the labor standards provisions of the U.S. Housing Act of 1937, as amended; the Contract Work Hours and Safety Standards Act (CWHSSA), as amended; and Department of Labor Regulations, 29 CFR Part 5. A copy of the pertinent sections of 29 CFR Part 5, which includes the labor standards provisions made a part of the contract specifications, is enclosed.

By virtue of the labor standards provisions of the U.S. Housing Act of 1937, as amended, and 29 CFR Part 5, your firm was required to pay the various classes of laborers and mechanics employed on this project the full amounts earned, computed at wage rates of not less than those determined by the Secretary of Labor and included in the contract for the various classes of laborers and mechanics. In addition, under the Contract Work Hours and Safety standards Act (CWHSSA), as amended, your firm was required to pay laborers and mechanics overtime compensation of not less than one and one-half times their basic rate of pay for all hours worked on the project in excess of forty per week. In accordance with 29 CFR 5.5(a)(3)(i), your firm was required to maintain and preserve for a period of three years payroll and basic records for all laborers and mechanics working at the project site. Finally, your firm was required by 29 CFR 5.5(a)(3)(ii) to submit weekly a certified copy of all payrolls to the contracting agency with the certification to affirm that the payrolls were correct and complete, that the wage rates contained therein were not less than those determined by the Secretary of Labor, and that the classification set forth for each laborer and mechanic conformed to the work performed. These requirements were included in and made a part of the contract specifications.

29 CFR 5.12(a)(1) provides that whenever any contractor or subcontractor is found by the Secretary of Labor to have disregarded their obligations to workers or subcontractors under the Davis-Bacon Act, any of the other applicable statutes referenced by 29 CFR 5.1, which includes the U.S. Housing Act of 1937, this part, or part 3 of this subtitle, such contractor or subcontractor and their responsible officers, if any, and any firm, corporation, partnership, or association in which such contractor, subcontractor, or responsible officer has an interest will be ineligible for a period of 3 years to be awarded any contract or subcontract of the United States or the District of Columbia and any contract or subcontract subject to the labor standards provisions of any of the statutes referenced by 29 CFR 5.1.

29 CFR 5.12(b)(1) provides that whenever as a result of an investigation conducted by the Federal agency or the Department of Labor, and where the Administrator of the Wage and Hour Division finds reasonable cause to believe that a contractor or subcontractor has committed violations which constitute a disregard of its obligations to workers or subcontractors under the Davis-Bacon Act, the labor standards provisions of any of the other applicable statutes referenced by 29 CFR 5.1, this part, or part 3 of this subtitle, the Administrator will notify the contractor or subcontractor and responsible officers, if any, and any firms, corporations, partnerships, or associations in which the contractors, subcontractors, or responsible officers are known to have an interest of the finding and afford such contractor, subcontractor, responsible officer, and any other parties notified an opportunity for a hearing as to whether debarment action should be taken. The Administrator will furnish to those notified a summary of the investigative findings.



As you are aware, the Wage and Hour Division conducted an investigation of your firm's compliance with applicable labor standards on the referenced projects. That investigation revealed violations from at least 7/2/2018 to 04/16/2023 of the labor standards provisions referenced above, as described in the enclosed summary of the investigation findings. I have carefully reviewed the investigation and I find reasonable cause to believe that the violations, as described on the enclosed summary, constitute disregard of a contractor's obligations to workers under the Davis-Bacon Related Acts within the meaning of 29 CFR 5.12(a)(1).

Therefore, in accordance with the provisions of 29 CFR 5.11(b) and 5.12(b), I am at this time offering you an opportunity to request a hearing before one of the Department of Labor's Administrative Law Judges, as outlined in 29 CFR 5.12(b), for a determination of the issues in this case, including the amount of back wages due and whether the violations constitute disregard of a contractor's obligations to workers under the Davis-Bacon Related Acts.

If you want to request a hearing, please submit your request in writing to this office. Your request must be postmarked within thirty (30) days of the date of this letter, and shall set forth those findings which are in dispute, the reasons therefore, and any affirmative defenses with respect to the violations and debarment as required by 29 CFR 5.11(b) (2) and 5.12(b)(1). All responses must be sent to:

Ruben Rosalez  
c/o Michael Tumbaga  
U.S. Department of Labor  
Wage & Hour Division  
Western Regional Office  
90 7th St., Suite 4-390  
San Francisco, CA 94103

If I do not hear from you within the specified time period, the determination concerning the back wage findings shall be final with respect to you. For the Terraces at Nevin and the Brunswick Commons projects, if the prime contractor The Pacific Companies also fails to request a hearing within the specified time period, we will proceed to notify the contracting agencies that action should be taken to withhold Section 8-Project-Based Voucher Program (PBV) monthly rental subsidy to the Owner/Developer of the projects and disburse the monies to the affected employees. For the Sango Court project, the full back wages amount by the Prime Contractor Nibbi Brothers Associates, Inc. and deposited into Department of Labor Wage and Hour Division Western Region Office will be disbursed to the affected employees. Of course, if you wish to make restitution at this time, you may do so by forwarding a certified check to this office in the amount of \$589,805.40 for the Terraces at Nevin and the Brunswick Commons projects (Case ID No. 1953052) and \$221,085 for the Sango Court project (Case ID No. 1980502), made payable to "Wage and Hour Division – Labor." **Please place respective case number on the face of the check.** Alternately, you may pay the back wages via [www.pay.gov](http://www.pay.gov).

In addition, if I have not heard from you within the specified time frame, my decision as to the imposition of ineligibility sanctions under 29 CFR 5.12(a)(1) shall be final, and I will request the Comptroller General to place your individual and company names on the ineligible bidders list for violations of the U.S. Housing Act of 1937.

Inclusion on the ineligible bidders list would prohibit Lowery-Pena Construction Company Inc. and Michael Lowery, individually and as Owner/President/CEO/CFO of Lowery-Pena Construction Company Inc. and any firm, corporation, partnership, or association in which you have an interest, from being awarded any contract or subcontract of the United States or the District of Columbia and any contract or subcontract subject to the labor standards provisions of any of the statutes referenced by 29 CFR 5.1 for a period of 3 years.

For questions or concerns, or to get information on how to pay back wages via electronic funds transfer, contact Regional Enforcement Coordinator Rebecca Clark at [clark.rebecca@dol.gov](mailto:clark.rebecca@dol.gov).

Sincerely,



Ruben Rosalez  
Regional Administrator

Encl: Summary of Violations  
29 C.F.R. Part 5

Cc:  
Pacific West Builders, Inc. DBA Idaho Pacific West Builders Inc. (Prime Contractor of the Terraces at Nevin and the Brunswick Commons projects)  
Attn: Mr. Caleb Roope, President and Ms. Emily Kuziej, Labor Compliance Manager  
430 E. State St., Suite 100  
Eagle, ID 83616

Nibbi Brothers Associates, Inc. (Prime Contractor of the Sango Court project)  
Attn: Mr. Tom Giarrusso, Project Executive  
Nibbi Brothers Associates, Inc.  
1000 Brannan St., Ste 102  
San Francisco, CA 94103

Mr. Paul V. Simpson (Nibbi Brothers Associates, Inc.'s Attorney)  
Attorney  
Simpson, Garrity, Innes & Jacuzzi PC  
601 Gateway Blvd., Suite 950  
South San Francisco, CA 94080

**SUMMARY OF INVESTIGATION FINDINGS-THE TERRACES AT NEVIN AND THE  
BRUNSWICK COMMONS PROJECTS**

Subcontractor: Lowery-Pena Construction Company Inc.  
1509 W Yosemite Ave., Suite A1  
Manteca, CA 95337

Prime Contractor: Pacific West Builders, Inc. DBA Idaho Pacific West Builders Inc.  
430 E. State St., Suite 100  
Eagle, ID 83616

Contracts: Terraces at Nevin, 21-23 Nevin Ave., Richmond, CA 94804 and Brunswick Commons, 936 Old Tunnel Rd., Grass Valley, CA

Contract Nos: Increment No. of the Annual Contributions Contract (ACC) for the Terraces at Nevin Project is CA011VO0306, Increment No. of the Annual Contributions Contract (ACC) for the Brunswick Commons Project is CA048VO0475

DOL Case ID No.: 1953052

**Nature of Violations**

Davis-Bacon and Related Acts (DBRA) - 29 CFR 5.5(a)(1)-(11)

- Failure to pay prevailing wage rates
- Failure to pay for all hours worked
- Misclassification
- Apprentice/Trainee
  - incorrect ratio
  - unregistered
  - improperly paid
- Other

Subcontractor Lowery-Pena Construction Company Inc. failed to pay the required prevailing wage rate and fringe benefits to 49 employees by misclassifying Plumbers as Laborers or Underground Utility Workers/Landscape Fitters. This violation occurred on two projects- Terraces at Nevin and the Brunswick Commons of the same prime contractor Pacific West Builders, Inc. The projects are federally assisted Section 8-Project-Based Voucher Program (PBV) low-income apartments subsidized by U. S. Department of Housing and Urban Development (HUD) in terms of rental subsidies from HUD to local Public Housing Agencies and then to the Owner of the apartment buildings under U.S. Housing Act of 1937. The DBA Clauses are incorporated into the prime contract, subcontract, Agreement to Enter into Housing Assistance Payments (AHAP), and Housing Assistance Payment Contract (HAP).

The subcontractor firm Lowery-Pena Construction Company Inc. also failed to pay wages on a weekly basis as required but instead paid bi-weekly. This violation occurred on the Terraces at Nevin project during the period from start of the subcontract on 07/02/2018 to

04/05/2021 when the firm corrected the practice and started paying weekly.

Record Keeping - 29 CFR 5.5(a)(3)

- Incomplete records
- Failure to maintain basic payroll records
- Failure to submit certified payroll records
- Submission of falsified payroll records

Subcontractor Lowery-Pena Construction Company Inc. falsely presented on certified payroll as paying wages weekly but was actually paying bi-weekly. This violation occurred on the Terraces at Nevin project during the period from start of the subcontract on 07/02/2018 to 04/05/2021 when the firm corrected the practice and started paying weekly.

Contract Work Hours and Safety Standards Act (CWHSSA) - 29 CFR 5.5 (b)(1)-(5)

- Overtime

**Investigation Findings**

|                                    |                     |
|------------------------------------|---------------------|
| Total DBRA Back Wages Computed     | <b>\$589,805.40</b> |
| Number of Employees Due Back Wages | <b>49</b>           |
| Back Wages Paid                    | <b>\$0</b>          |

Terraces at Nevin Project

Applicable Wage Determination No.: CA180029 01/19/2018  
Period Back Wages Were Computed: 07/02/2018- 08/22/2021

Misclassification 1: Underground Utility Worker/Landscape Fitter  
Correct classification: Plumber and Steamfitter  
Wages required: basic hourly rate \$55.92 + fringe benefit \$34.44 = total \$90.36  
Wages paid: basic hourly rate \$27.10+ fringe benefit 16.30= total \$43.40  
Number of employees misclassified: 11  
Back wages due: \$39,070.72

Misclassification 2: Laborer Group 1  
Correct classification: Plumber and Steamfitter  
Wages required: basic hourly rate \$55.92 + fringe benefit \$34.44 = total \$90.36  
Wages paid: basic hourly rate \$29.79+ fringe benefit \$22.38= total \$52.17  
Number of employees misclassified: 22  
Back wages due: \$515,970.58

Terraces at Nevin Project total back wages due: \$555,041.30

Brunswick Commons Project

Applicable Wage Determination No.: CA20200030 01/03/2020  
Period Back Wages Were Computed: 04/12/2021- 09/04/2022  
Misclassification: Laborer

Correct classification: Plumber

Wages required: basic hourly rate \$21.45 + fringe benefit 14.05= total \$35.50

Wages paid: worker's regular rate, varying from \$20 to \$28

Number of employees misclassified: 22

Back wages due: \$34,764.10

### **SUMMARY OF INVESTIGATION FINDINGS-THE SANGO COURT PROJECT**

Subcontractor: Lowery-Pena Construction Company Inc.

1509 W Yosemite Ave., Suite A1

Manteca, CA 95337

Prime Contractor: Nibbi Brothers Associates, Inc.

1000 Brannan St., Ste 102,

San Francisco, CA 94103

Contract: Sango Court, 355 Sango Court, Milpitas, CA 95035

Contract No.: Increment No. of the Annual Contributions Contract (ACC) between HUD and Santa Clara County Housing Authority is CA059VOW144

DOL Case ID No.: 1980502

### **Nature of Violations**

#### **Davis-Bacon and Related Acts (DBRA) - 29 CFR 5.5(a)(1)-(11)**

Failure to pay prevailing wage rates

Failure to pay for all hours worked

Misclassification

Apprentice/Trainee

incorrect ratio

unregistered

improperly paid

Other

Subcontractor Lowery-Pena Construction Company Inc. failed to pay the required prevailing wage rate and fringe benefits to 25 employees by misclassifying Plumber as Laborer or Operating Engineer.

#### **Record Keeping - 29 CFR 5.5(a)(3)**

Incomplete records

Failure to maintain basic payroll records

Failure to submit certified payroll records

Submission of falsified payroll records

Subcontractor Lowery-Pena Construction Company Inc. submitted falsified Certified Payroll, reporting higher wage than actually paid, and misrepresenting days and hours and classification worked.

Contract Work Hours and Safety Standards Act (CWHSSA) - 29 CFR 5.5 (b)(1)-(5)

Overtime

Subcontractor Lowery-Pena Construction Company Inc. failed to pay overtime at the required rate of one and one-half times the basic rate of pay. Subcontractor paid overtime at straight time.

**Investigation Findings**

|   |                   |
|---|-------------------|
| DBRA Back Wages Computed                  | \$220,810         |
| CWHSSA Back Wages Computed                | \$275             |
| Total DBRA and CWHSSA Back Wages Computed | <b>\$ 221,085</b> |
| Number of Employees Due Back Wages        | <b>25</b>         |
| Back Wages Paid                           | <b>\$0</b>        |
|   |                   |

Applicable Wage Determination No.: CA20220018 01/14/2022

Period Back Wages Were Computed: 04/18/2022-04/16/2023

Underpayment 1: Misclassified Plumbers as Laborers

Correct wage rate is \$68.76 Basic Hourly Rate + \$46.63 Fringe Benefit = \$115.39 Total.

Subcontractor paid various rates of \$54.19, \$58.79, \$60.74, \$63.24

Underpayment 2: Misclassified Plumbers as Operating Engineers

Correct wage rate is \$68.76 Basic Hourly Rate + \$46.63 Fringe Benefit = \$115.39 Total.

Subcontractor paid various rates of \$78.57, \$84.78, \$88.65

Underpayment 3: Paid California State Wage Determination Rate

Correct wage rate is \$68.76 Basic Hourly Rate + \$46.63 Fringe Benefit = \$115.39 Total.

Subcontractor paid \$111.89

Number of employees underpaid: 25

Back wages due: \$221,085

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This content is from the eCFR and is authoritative but unofficial.

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## **Title 29 – Labor**

### **Subtitle A – Office of the Secretary of Labor**

#### **Part 5 Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)**

##### **Subpart A Davis-Bacon and Related Acts Provisions and Procedures**

**§ 5.1** Purpose and scope.

**§ 5.2** Definitions.

*§§ 5.3-5.4 [Reserved]*

**§ 5.5** Contract provisions and related matters.

**§ 5.6** Enforcement.

**§ 5.7** Reports to the Secretary of Labor.

**§ 5.8** Liquidated damages under the Contract Work Hours and Safety Standards Act.

**§ 5.9** Suspension of funds.

**§ 5.10** Restitution, criminal action.

**§ 5.11** Disputes concerning payment of wages.

**§ 5.12** Debarment proceedings.

**§ 5.13** Rulings and interpretations.

**§ 5.14** Variations, tolerances, and exemptions from parts 1 and 3 of this subtitle and this part.

**§ 5.15** Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.

*§ 5.16 [Reserved]*

*§ 5.17 [Reserved]*

**§ 5.18** Remedies for retaliation.

##### **Subpart B Interpretation of the Fringe Benefits Provisions of the Davis-Bacon Act**

**§ 5.20** Scope and significance of this subpart.

*§ 5.21 [Reserved]*

**§ 5.22** Effect of the Davis-Bacon fringe benefits provisions.

**§ 5.23** The statutory provisions.

**§ 5.24** The basic hourly rate of pay.

**§ 5.25** Rate of contribution or cost for fringe benefits.

**§ 5.26** “\* \* \* contribution irrevocably made \* \* \* to a trustee or to a third person”.

**§ 5.27** “\* \* \* fund, plan, or program”.

**§ 5.28** Unfunded plans.

**§ 5.29** Specific fringe benefits.

§ 5.30 Types of wage determinations.

§ 5.31 Meeting wage determination obligations.

§ 5.32 Overtime payments.

§ 5.33 Administrative expenses of a contractor or subcontractor.

**Subpart C** Severability

§ 5.40 Severability.

## **PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)**

**Authority:** 5 U.S.C. 301; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 28 U.S.C. 2461 note; 40 U.S.C. 3141 et seq.; 40 U.S.C. 3145; 40 U.S.C. 3148; 40 U.S.C. 3701 et seq.; Secretary's Order No. 01–2014, 79 FR 77527; and the laws referenced by § 5.1(a).

**Source:** 48 FR 19541, Apr. 29, 1983, unless otherwise noted.

### **Subpart A—Davis-Bacon and Related Acts Provisions and Procedures**

**Source:** 48 FR 19540, Apr. 29, 1983, unless otherwise noted.

**Editorial Note:** Nomenclature changes to subpart A of part 5 appear at 61 FR 19984, May 3, 1996.

### **§ 5.1 Purpose and scope.**

(a) The regulations contained in this part are promulgated under the authority conferred upon the Secretary of Labor by Reorganization Plan No. 14 of 1950 (64 Stat. 1267, as amended, 5 U.S.C. appendix) and the Copeland Act (48 Stat. 948; 18 U.S.C. 874; 40 U.S.C. 3145) in order to coordinate the administration and enforcement of labor standards provisions contained in the Davis-Bacon Act (46 Stat. 1494, as amended; 40 U.S.C. 3141 et seq.) and its related statutes (“Related Acts”).

(1) A listing of laws requiring Davis-Bacon labor standards provisions can be found at [www.dol.gov/agencies/whd/government-contracts](http://www.dol.gov/agencies/whd/government-contracts) or its successor website.

(2) [Reserved]

(b) Part 1 of this subtitle contains the Department's procedural rules governing requests for wage determinations and the issuance and use of such wage determinations under the Davis-Bacon Act and its Related Acts.

[88 FR 57731, Aug. 23, 2023]



## § 5.2 Definitions.

**Administrator.** The term “Administrator” means the Administrator of the Wage and Hour Division, U.S. Department of Labor, or authorized representative.

**Agency.** The term “agency” means any Federal, State, or local government agency or instrumentality, or other similar entity, that enters into a contract or provides assistance through loan, grant, loan guarantee or insurance, or otherwise, to a project subject to the Davis-Bacon labor standards, as defined in this section.

(1) **Federal agency.** The term “Federal agency” means an agency or instrumentality of the United States or the District of Columbia, as defined in this section, that enters into a contract or provides assistance through loan, grant, loan guarantee or insurance, or otherwise, to a project subject to the Davis-Bacon labor standards.

(2) [Reserved]

**Agency Head.** The term “Agency Head” means the principal official of an agency and includes those persons duly authorized to act on behalf of the Agency Head.

**Apprentice and helper.** The terms “apprentice” and “helper” are defined as follows:

(1) “Apprentice” means:

- (i) A person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship; or
- (ii) A person in the 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 or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice;

(2) These provisions do not apply to apprentices and trainees employed on projects subject to 23 U.S.C. 113 who are enrolled in programs which have been certified by the Secretary of Transportation in accordance with 23 U.S.C. 113(c).

(3) A distinct classification of helper will be issued in wage determinations applicable to work performed on construction projects covered by the labor standards provisions of the Davis-Bacon and Related Acts only where:

- (i) The duties of the helper are clearly defined and distinct from those of any other classification on the wage determination;
- (ii) The use of such helpers is an established prevailing practice in the area; and
- (iii) The helper is not employed as a trainee in an informal training program. A “helper” classification will be added to wage determinations pursuant to § 5.5(a)(1)(iii)(A) only where, in addition, the work to be performed by the helper is not performed by a classification in the wage determination.

**Building or work.** The term “building or work” generally includes construction activities of all types, as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The term includes, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, solar panels, wind turbines, broadband installation, installation of electric car chargers, plants, highways,

parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The term "building or work" also includes a portion of a building or work, or the installation (where appropriate) of equipment or components into a building or work.

*Construction, prosecution, completion, or repair.* The term "construction, prosecution, completion, or repair" means the following:

- (1) These terms include all types of work done—
  - (i) On a particular building or work at the site of the work, as defined in this section, by laborers and mechanics employed by a contractor or subcontractor, or
  - (ii) In the construction or development of a project under a development statute.
- (2) These terms include, without limitation (except as specified in this definition):
  - (i) Altering, remodeling, installation (where appropriate) on the site of the work of items fabricated offsite;
  - (ii) Painting and decorating;
  - (iii) Manufacturing or furnishing of materials, articles, supplies or equipment, but only if such work is done by laborers or mechanics
    - (A) Employed by a contractor or subcontractor, as defined in this section, on the site of the work, as defined in this section, or
    - (B) In the construction or development of a project under a development statute;
  - (iv) "Covered transportation," defined as any of the following activities:
    - (A) Transportation that takes place entirely within a location meeting the definition of "site of the work" in this section;
    - (B) Transportation of one or more "significant portion(s)" of the building or work between a "secondary construction site" as defined in this section and a "primary construction site" as defined in this section;
    - (C) Transportation between an "adjacent or virtually adjacent dedicated support site" as defined in this section and a "primary construction site" or "secondary construction site" as defined in this section;
    - (D) "Onsite activities essential or incidental to offsite transportation," defined as activities conducted by a truck driver or truck driver's assistant on the site of the work that are essential or incidental to the transportation of materials or supplies to or from the site of the work, such as loading, unloading, or waiting for materials to be loaded or unloaded, but only where the driver or driver's assistant's time spent on the site of the work is not *de minimis*; and
    - (E) Any transportation and related activities, whether on or off the site of the work, by laborers and mechanics employed in the construction or development of the project under a development statute.
  - (v) Demolition and/or removal, under any of the following circumstances:

- (A) Where the demolition and/or removal activities themselves constitute construction, alteration, and/or repair of an existing building or work. Examples of such activities include the removal of asbestos, paint, components, systems, or parts from a facility that will not be demolished; as well as contracts for hazardous waste removal, land recycling, or reclamation that involve substantial earth moving, removal of contaminated soil, re-contouring surfaces, and/or habitat restoration.
  - (B) Where subsequent construction covered in whole or in part by the labor standards in this part is contemplated at the site of the demolition or removal, either as part of the same contract or as part of a future contract. In determining whether covered construction is contemplated within the meaning of this provision, relevant factors include, but are not limited to, the existence of engineering or architectural plans or surveys of the site; the allocation of, or an application for, Federal funds; contract negotiations or bid solicitations; the stated intent of the relevant government officials; and the disposition of the site after demolition.
  - (C) Where otherwise required by statute.
- (3) Except for transportation that constitutes "covered transportation" as defined in this section, construction, prosecution, completion, or repair does not include the transportation of materials or supplies to or from the site of the work.

**Contract.** The term "contract" means any prime contract which is subject wholly or in part to the labor standards provisions of any of the laws referenced by § 5.1 and any subcontract of any tier thereunder, let under the prime contract. With the exception of work performed under a development statute, the terms contract and subcontract do not include agreements with employers that meet the definition of a material supplier under this section.

**Contracting officer.** The term "contracting officer" means the individual, a duly appointed successor, or authorized representative who is designated and authorized to enter into contracts on behalf of an agency, sponsor, owner, applicant, or other similar entity.

**Contractor.** The term "contractor" means any individual or other legal entity that enters into or is awarded a contract that is subject wholly or in part to the labor standards provisions of any of the laws referenced by § 5.1, including any prime contract or subcontract of any tier under a covered prime contract. In addition, the term contractor includes any surety that is completing performance for a defaulted contractor pursuant to a performance bond. The U.S. Government, its agencies, and instrumentalities are not contractors, subcontractors, employers or joint employers for purposes of the labor standards provisions of any of the laws referenced by § 5.1. A State or local government is not regarded as a contractor or subcontractor under statutes providing loans, grants, or other Federal assistance in situations where construction is performed by its own employees. However, under development statutes or other statutes requiring payment of prevailing wages to all laborers and mechanics employed on the assisted project, such as the U.S. Housing Act of 1937, State and local recipients of Federal-aid must pay these workers according to Davis-Bacon labor standards. The term "contractor" does not include an entity that is a material supplier, except if the entity is performing work under a development statute.

**Davis-Bacon labor standards.** The term "Davis-Bacon labor standards" as used in this part means the requirements of the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act (other than those relating to safety and health), the Copeland Act, and the prevailing wage provisions of the other statutes referenced in § 5.1, and the regulations in this part and in parts 1 and 3 of this subtitle.

**Development statute.** The term “development statute” includes the United States Housing Act of 1937; the Housing Act of 1949; and the Native American Housing Assistance and Self-Determination Act of 1996, and any other Davis-Bacon Related Act that requires payment of prevailing wages under the Davis-Bacon labor standards to all laborers and mechanics employed in the development of a project and for which the Administrator determines that the statute's language and/or legislative history reflected clear congressional intent to apply a coverage standard different from the Davis-Bacon Act itself.

**Employed.** Every person performing the duties of a laborer or mechanic in the construction, prosecution, completion, or repair of a public building or public work, or building or work financed in whole or in part by assistance from the United States through loan, grant, loan guarantee or insurance, or otherwise, is “employed” regardless of any contractual relationship alleged to exist between the contractor and such person.

**Laborer or mechanic.** The term “laborer or mechanic” includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term “laborer” or “mechanic” includes apprentices, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchpersons or guards. The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual. Persons employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR part 541 are not deemed to be laborers or mechanics. Forepersons who devote more than 20 percent of their time during a workweek to mechanic or laborer duties, and who do not meet the criteria of part 541, are laborers and mechanics for the time so spent.

**Material supplier.** The term “material supplier” is defined as follows:

- (1) A material supplier is an entity meeting all of the following criteria:
  - (i) Its only obligations for work on the contract or project are the delivery of materials, articles, supplies, or equipment, which may include pickup of the same in addition to, but not exclusive of, delivery, and which may also include activities incidental to such delivery and pickup, such as loading, unloading, or waiting for materials to be loaded or unloaded; and
  - (ii) Its facility or facilities that manufactures the materials, articles, supplies, or equipment used for the contract or project:
    - (A) Is not located on, or does not itself constitute, the project or contract's primary construction site or secondary construction site as defined in this section; and
    - (B) Either was established before opening of bids on the contract or project, or is not dedicated exclusively, or nearly so, to the performance of the contract or project.
- (2) If an entity, in addition to being engaged in the activities specified in paragraph (1)(i) of this definition, also engages in other construction, prosecution, completion, or repair work at the site of the work, it is not a material supplier.

**Prime contractor.** The term “prime contractor” means any person or entity that enters into a contract with an agency. For the purposes of the labor standards provisions of any of the laws referenced by § 5.1, the term prime contractor also includes the controlling shareholders or members of any entity holding a prime contract, the joint venturers or partners in any joint venture or partnership holding a prime contract, and any contractor (e.g., a general contractor) that has been delegated the responsibility for overseeing all

or substantially all of the construction anticipated by the prime contract. For the purposes of the provisions in §§ 5.5 and 5.9, any such related entities holding different prime contracts are considered to be the same prime contractor.

**Public building or public work.** The term "public building or public work" includes a building or work, the construction, prosecution, completion, or repair of which, as defined in this section, is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency. The construction, prosecution, completion, or repair of a portion of a building or work, or the installation (where appropriate) of equipment or components into a building or work, may still be considered a public building or work, even where the entire building or work is not owned, leased by, or to be used by a Federal agency, as long as the construction, prosecution, completion, or repair of that portion of the building or work, or the installation (where appropriate) of equipment or components into that building or work, is carried on by authority of or with funds of a Federal agency to serve the interest of the general public.

**Secretary.** The term "Secretary" includes the Secretary of Labor, and their authorized representative.

**Site of the work.** The term "site of the work" is defined as follows:

(1) "Site of the work" includes all of the following:

- (i) The primary construction site(s), defined as the physical place or places where the building or work called for in the contract will remain.
- (ii) Any secondary construction site(s), defined as any other site(s) where a significant portion of the building or work is constructed, *provided* that such construction is for specific use in that building or work and does not simply reflect the manufacture or construction of a product made available to the general public, and *provided further* that the site is either established specifically for the performance of the contract or project, or is dedicated exclusively, or nearly so, to the performance of the contract or project for a specific period of time. A "significant portion" of a building or work means one or more entire portion(s) or module(s) of the building or work, such as a completed room or structure, with minimal construction work remaining other than the installation and/or final assembly of the portions or modules at the place where the building or work will remain. A "significant portion" does not include materials or prefabricated component parts such as prefabricated housing components. A "specific period of time" means a period of weeks, months, or more, and does not include circumstances where a site at which multiple projects are in progress is shifted exclusively or nearly so to a single project for a few hours or days in order to meet a deadline.
- (iii) Any adjacent or virtually adjacent dedicated support sites, defined as:
  - (A) Job headquarters, tool yards, batch plants, borrow pits, and similar facilities of a contractor or subcontractor that are dedicated exclusively, or nearly so, to performance of the contract or project, *and* adjacent or virtually adjacent to either a primary construction site or a secondary construction site, and
  - (B) Locations adjacent or virtually adjacent to a primary construction site at which workers perform activities associated with directing vehicular or pedestrian traffic around or away from the primary construction site.

- (2) With the exception of locations that are on, or that themselves constitute, primary or secondary construction sites as defined in paragraphs (1)(i) and (ii) of this definition, site of the work does not include:
- (i) Permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular Federal or federally assisted contract or project; or
  - (ii) Fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a material supplier, which are established by a material supplier for the project before opening of bids and not on the primary construction site or a secondary construction site, even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

**Subcontractor.** The term "subcontractor" means any contractor that agrees to perform or be responsible for the performance of any part of a contract that is subject wholly or in part to the labor standards provisions of any of the laws referenced in § 5.1. The term subcontractor includes subcontractors of any tier.

**United States or the District of Columbia.** The term "United States or the District of Columbia" means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including non-appropriated fund instrumentalities and any corporation for which all or substantially all of its stock is beneficially owned by the United States or by the foregoing departments, establishments, agencies, or instrumentalities.

**Wages.** The term "wages" means the basic hourly rate of pay; any contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a bona fide fringe benefit fund, plan, or program; and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the laborers and mechanics affected. The fringe benefits enumerated in the Davis-Bacon Act include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing; unemployment benefits; life insurance, disability insurance, sickness insurance, or accident insurance; vacation or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits. Fringe benefits do not include benefits required by other Federal, State, or local law.

**Wage determination.** The term "wage determination" includes the original decision and any subsequent decisions revising, modifying, superseding, correcting, or otherwise changing the provisions of the original decision. The application of the wage determination must be in accordance with the provisions of § 1.6 of this subtitle.

[88 FR 57731, Aug. 23, 2023]

## §§ 5.3-5.4 [Reserved]

## § 5.5 Contract provisions and related matters.

Link to an amendment published at [88 FR 57734](#), Aug. 23, 2023.

(a) **Required contract clauses.** The Agency head will cause or require the contracting officer to require the contracting officer to insert in full, or (for contracts covered by the Federal Acquisition Regulation (48 CFR chapter 1)) by reference, in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the laws referenced by § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(1) **Minimum wages —**

(i) **Wage rates and fringe benefits.** All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly 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. As provided in paragraphs (d) and (e) of this section, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of this section; 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph (a)(4) of this section. 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 classifications and wage rates conformed under paragraph (a)(1)(iii) of this section) and the Davis-Bacon poster (WH-1321) must 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) **Frequently recurring classifications.**

(A) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph (a)(1)(iii) of this section, provided that:

- (1) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
  - (2) The classification is used in the area by the construction industry; and
  - (3) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.
- (B) The Administrator will establish wage rates for such classifications in accordance with paragraph (a)(1)(iii)(A)(3) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

(iii) **Conformance.**

- (A) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate 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 used 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) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.
- (C) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov). The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov), refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.



- (E) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs (a)(1)(iii)(C) and (D) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph (a)(1)(iii)(C) or (D) of this section must 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.
  - (iv) **Fringe benefits not expressed as an hourly rate.** 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 may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.
  - (v) **Unfunded plans.** 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, in accordance with the criteria set forth in § 5.28, 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.
  - (vi) **Interest.** In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.
- (2) **Withholding –**
- (i) **Withholding requirements.** The [write in name of Federal agency or the recipient of Federal assistance] may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in paragraph (a) of this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph (a)(3)(iv) of this section, the [Agency] may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, 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.

(ii) **Priority to withheld funds.** The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

- (A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (B) A contracting agency for its reprocurement costs;
- (C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (D) A contractor's assignee(s);
- (E) A contractor's successor(s); or
- (F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

(3) **Records and certified payrolls –**

(i) **Basic record requirements –**

- (A) **Length of record retention.** All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.
- (B) **Information required.** Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.
- (C) **Additional records relating to fringe benefits.** Whenever the Secretary of Labor has found under paragraph (a)(1)(v) of this section 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 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must 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.
- (D) **Additional records relating to apprenticeship.** Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

(ii) **Certified payroll requirements –**

- (A) **Frequency and method of submission.** The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the [write in name of appropriate Federal agency] if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the [write in name of agency]. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.
- (B) **Information required.** The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph (a)(3)(i)(B) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).
- (C) **Statement of Compliance.** Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:
- (1) That the certified payroll for the payroll period contains the information required to be provided under paragraph (a)(3)(ii) of this section, the appropriate information and basic records are being maintained under paragraph (a)(3)(i) of this section, and such information and records are correct and complete;
  - (2) That each laborer or mechanic (including each helper and apprentice) working 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; and

- (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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.
- (D) **Use of Optional Form WH-347.** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(C) of this section.
- (E) **Signature.** The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.
- (F) **Falsification.** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.
- (G) **Length of certified payroll retention.** The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.
- (iii) **Contracts, subcontracts, and related documents.** The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.
- (iv) **Required disclosures and access –**
  - (A) **Required record disclosures and access to workers.** The contractor or subcontractor must make the records required under paragraphs (a)(3)(i) through (iii) of this section, and any other documents that the [write the name of the agency] or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the [write the name of the agency] or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.
  - (B) **Sanctions for non-compliance with records and worker access requirements.** If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into

consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

- (C) **Required information disclosures.** Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the [write in name of appropriate Federal agency] if the agency is a party to the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the [write in name of agency], the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

(4) **Apprentices and equal employment opportunity –**

(i) **Apprentices –**

- (A) **Rate of pay.** Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (B) **Fringe benefits.** Apprentices must 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 benefits must be paid in accordance with that determination.
- (C) **Apprenticeship ratio.** The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph (a)(4)(i)(D) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(4)(i)(A) of this section, must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

- (D) **Reciprocity of ratios and wage rates.** Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.
- (ii) **Equal employment opportunity.** The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- (5) **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses contained in paragraphs (a)(1) through (11) of this section, along with the applicable wage determination(s) and such other clauses or contract modifications as the [write in the name of the Federal agency] may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.
- (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 the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- (10) **Certification of eligibility.**
  - (i) By entering into this contract, the contractor certifies that neither it 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 40 U.S.C. 3144(b) or § 5.12(a).
  - (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

- (iii) The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.
- (11) **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:
- (i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;
  - (ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;
  - (iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or
  - (iv) Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.
- (b) **Contract Work Hours and Safety Standards Act (CWHSSA).** The Agency Head must cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1) through (5) of this section in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses must be inserted in addition to the clauses required by paragraph (a) of this section or 29 CFR 4.6. As used in this paragraph (b), the terms "laborers and mechanics" include watchpersons 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 he or she is employed on such work to work in excess of forty 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 forty hours in such workweek.
  - (2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. 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 watchpersons and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$32 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1).
  - (3) **Withholding for unpaid wages and liquidated damages –**
    - (i) **Withholding process.** The [write in the name of the Federal agency or the recipient of Federal assistance] may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor

so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this paragraph (b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

(ii) **Priority to withheld funds.** The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

- (A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (B) A contracting agency for its reprourement costs;
- (C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (D) A contractor's assignee(s);
- (E) A contractor's successor(s); or
- (F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

(4) **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs (b)(1) through (5) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

(5) **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- (i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
- (ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;



- (iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or
  - (iv) Informing any other person about their rights under CWHSSA or this part.
- (c) **CWHSSA required records clause.** In addition to the clauses contained in paragraph (b) of this section, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other laws referenced by § 5.1, the Agency Head must cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of 3 years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made; and actual wages paid. Further, the Agency Head must cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job.
- (d) **Incorporation of contract clauses and wage determinations by reference.** Although agencies are required to insert the contract clauses set forth in this section, along with appropriate wage determinations, in full into covered contracts, and contractors and subcontractors are required to insert them in any lower-tier subcontracts, the incorporation by reference of the required contract clauses and appropriate wage determinations will be given the same force and effect as if they were inserted in full text.
- (e) **Incorporation by operation of law.** The contract clauses set forth in this section (or their equivalent under the Federal Acquisition Regulation), along with the correct wage determinations, will be considered to be a part of every prime contract required by the applicable statutes referenced by § 5.1 to include such clauses, and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Administrator grants a variance, tolerance, or exemption from the application of this paragraph. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

(The information collection, recordkeeping, and reporting requirements contained in the following paragraphs of this section were approved by the Office of Management and Budget:

| Paragraph     | OMB Control No. |
|---------------|-----------------|
| (a)(1)(ii)(B) | 1235-0023       |
| (a)(1)(ii)(C) | 1235-0023       |
| (a)(1)(iv)    | 1235-0023       |
| (a)(3)(i)     | 1235-0023       |
| (a)(3)(ii)(A) | 1235-0023       |
|               | 1235-0008       |
| (c)           | 1235-0023       |

[48 FR 19540, Apr. 29, 1983, as amended at 51 FR 12265, Apr. 9, 1986; 55 FR 50150, Dec. 4, 1990; 57 FR 28776, June 26, 1992; 58 FR 58955, Nov. 5, 1993; 61 FR 40716, Aug. 5, 1996; 65 FR 69693, Nov. 20, 2000; 73 FR 77511, Dec. 19, 2008; 81 FR 43450, July 1, 2016; 82 FR 2225, 2226, Jan. 9, 2017; 83 FR 12, Jan 2, 2018; 84 FR 218, Jan. 23, 2019; 87 FR 2334, Jan. 14, 2022; 88 FR 2215, Jan. 13, 2023; 88 FR 57734, Aug. 23, 2023; 89 FR 1815, Jan. 11, 2024]

**§ 5.6 Enforcement.**

(a) **Agency responsibilities.**

(1)

(i) The Federal agency has the initial responsibility to ascertain whether the clauses required by § 5.5 and the appropriate wage determination(s) have been incorporated into the contracts subject to the labor standards provisions of the laws referenced by § 5.1. Additionally, a Federal agency that provides Federal financial assistance that is subject to the labor standards provisions of the Act must promulgate the necessary regulations or procedures to require the recipient or sub-recipient of the Federal assistance to insert in its contracts the provisions of § 5.5. No payment, advance, grant, loan, or guarantee of funds will be approved by the Federal agency unless it ensures that the clauses required by § 5.5 and the appropriate wage determination(s) are incorporated into such contracts. Furthermore, no payment, advance, grant, loan, or guarantee of funds will be approved by the Federal agency after the beginning of construction unless there is on file with the Federal agency a certification by the contractor that the contractor and its subcontractors have complied with the provisions of § 5.5 or unless there is on file with the Federal agency a certification by the contractor that there is a substantial dispute with respect to the required provisions.

(ii) If a contract subject to the labor standards provisions of the applicable statutes referenced by § 5.1 is entered into without the incorporation of the clauses required by § 5.5, the agency must, upon the request of the Administrator or upon its own initiative, either terminate and resolicit the contract with the required contract clauses, or incorporate the required clauses into the contract (or ensure they are so incorporated) through supplemental agreement, change order, or any and all authority that may be needed. Where an agency has not entered directly into such a contract but instead has provided Federal financial assistance, the agency must ensure that the recipient or sub-recipient of the Federal assistance similarly incorporates the clauses

required into its contracts. The method of incorporation of the correct wage determination, and adjustment in contract price, where appropriate, should be in accordance with applicable law. Additionally, the following requirements apply:

- (A) Unless the Administrator directs otherwise, the incorporation of the clauses required by § 5.5 must be retroactive to the date of contract award or start of construction if there is no award.
- (B) If this incorporation occurs as the result of a request from the Administrator, the incorporation must take place within 30 days of the date of that request, unless the agency has obtained an extension from the Administrator.
- (C) The contractor must be compensated for any increases in wages resulting from incorporation of a missing contract clause.
- (D) If the recipient refuses to incorporate the clauses as required, the agency must make no further payment, advance, grant, loan, or guarantee of funds in connection with the contract until the recipient incorporates the required clauses into its contract, and must promptly refer the dispute to the Administrator for further proceedings under § 5.13.
- (E) Before terminating a contract pursuant to this section, the agency must withhold or cross-withhold sufficient funds to remedy any back wage liability resulting from the failure to incorporate the correct wage determination or otherwise identify and obligate sufficient funds through a termination settlement agreement, bond, or other satisfactory mechanism.
- (F) Notwithstanding the requirement to incorporate the contract clauses and correct wage determination within 30 days, the contract clauses and correct wage determination will be effective by operation of law, retroactive to the beginning of construction, in accordance with § 5.5(e).

(2)

- (i) Certified payrolls submitted pursuant to § 5.5(a)(3)(ii) must be preserved by the Federal agency for a period of 3 years after all the work on the prime contract is completed, and must be produced at the request of the Department of Labor at any time during the 3-year period, regardless of whether the Department of Labor has initiated an investigation or other compliance action.
- (ii) In situations where the Federal agency does not itself maintain certified payrolls required to be submitted pursuant to § 5.5(a)(3)(ii), upon the request of the Department of Labor the Federal agency must ensure that such certified payrolls are provided to the Department of Labor. Such certified payrolls may be provided by the applicant, sponsor, owner, or other entity, as the case may be, directly to the Department of Labor, or to the Federal agency which, in turn, must provide those records to the Department of Labor.

- (3) The Federal agency will cause such investigations to be made as may be necessary to assure compliance with the labor standards clauses required by § 5.5 and the applicable statutes referenced in § 5.1. Investigations will be made of all contracts with such frequency as may be necessary to assure compliance. Such investigations will include interviews with workers, which must be taken in confidence, and examinations of certified payrolls, regular payrolls, and other basic records required to be maintained under § 5.5(a)(3). In making such examinations, particular care

must be taken to determine the correctness of classification(s) of work actually performed, and to determine whether there is a disproportionate amount of work by laborers and of apprentices registered in approved programs. Such investigations must also include evidence of fringe benefit plans and payments thereunder. Federal agencies must give priority to complaints of alleged violations.

- (4) In accordance with normal operating procedures, the contracting agency may be furnished various investigatory material from the investigation files of the Department of Labor. None of the material, other than computations of back wages, liquidated damages, and monetary relief for violations of § 5.5(a)(11) or (b)(5), and the summary of back wages due, may be disclosed in any manner to anyone other than Federal officials charged with administering the contract or program providing Federal assistance to the contract, without requesting the permission and views of the Department of Labor.

**(b) Department of Labor investigations and other compliance actions.**

- (1) The Administrator will investigate and conduct other compliance actions as deemed necessary in order to obtain compliance with the labor standards provisions of the applicable statutes referenced by § 5.1, or to affirm or reject the recommendations by the Agency Head with respect to labor standards matters arising under the statutes referenced by § 5.1.
- (2) Federal agencies, contractors, subcontractors, sponsors, applicants, owners, or other entities, as the case may be, must cooperate with any authorized representative of the Department of Labor in the inspection of records, in interviews with workers, and in all other aspects of the investigations or other compliance actions.
- (3) The findings of such an investigation or other compliance action, including amounts found due, may not be altered or reduced without the approval of the Department of Labor.
- (4) Where the underpayments disclosed by such an investigation or other compliance action total \$1,000 or more, where there is reason to believe that the contractor or subcontractor has disregarded its obligations to workers or subcontractors, or where liquidated damages may be assessed under CWHSSA, the Department of Labor will furnish the Federal agency an enforcement report detailing the labor standards violations disclosed by the investigation or other compliance action and any action taken by the contractor or subcontractor to correct the violations, including any payment of back wages or any other relief provided workers or remedial actions taken for violations of § 5.5(a)(11) or (b)(5). In other circumstances, the Department of Labor will furnish the Federal agency a notification summarizing the findings of the investigation or other compliance action.

- (c) Confidentiality requirements.** It is the policy of the Department of Labor to protect from disclosure the identity of its confidential sources and to prevent an unwarranted invasion of personal privacy. Accordingly, the identity of a worker or other informant who makes a written or oral statement as a complaint or in the course of an investigation or other compliance action, as well as portions of the statement which would tend to reveal the identity of the informant, will not be disclosed in any manner to anyone other than Federal officials without the prior consent of the informant. Disclosure of such statements is also governed by the provisions of the "Freedom of Information Act" (5 U.S.C. 552, see part 70 of this subtitle) and the "Privacy Act of 1974" (5 U.S.C. 552a, see part 71 of this subtitle).

[88 FR 57739, Aug. 23, 2023]

## § 5.7 Reports to the Secretary of Labor.

(a) **Enforcement reports.**

- (1) Where underpayments by a contractor or subcontractor total less than \$1,000, where there is no reason to believe that the contractor or subcontractor has disregarded its obligations to workers or subcontractors, and where restitution has been effected and future compliance assured, the Federal agency need not submit its investigative findings and recommendations to the Administrator, unless the investigation or other compliance action was made at the request of the Department of Labor. In the latter case, the Federal agency will submit a factual summary report detailing any violations including any data on the amount of restitution paid, the number of workers who received restitution, liquidated damages assessed under the Contract Work Hours and Safety Standards Act, corrective measures taken (such as “letters of notice” or remedial action taken for violations of § 5.5(a)(11) or (b)(5)), and any information that may be necessary to review any recommendations for an appropriate adjustment in liquidated damages under § 5.8.
- (2) Where underpayments by a contractor or subcontractor total \$1,000 or more, or where there is reason to believe that the contractor or subcontractor has disregarded its obligations to workers or subcontractors, the Federal agency will furnish within 60 days after completion of its investigation, a detailed enforcement report to the Administrator.

(b) **Semi-annual enforcement reports.** To assist the Secretary in fulfilling the responsibilities under Reorganization Plan No. 14 of 1950, Federal agencies shall furnish to the Administrator by April 30 and October 31 of each calendar year semi-annual reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and its related acts covering the periods of October 1 through March 31 and April 1 through September 30, respectively. Such reports shall be prepared in the manner prescribed in memoranda issued to Federal agencies by the Administrator. This report has been cleared in accordance with FPMR 101–11.11 and assigned interagency report control number 1482–DOL-SA.

(c) **Additional information.** Upon request, the Agency Head shall transmit to the Administrator such information available to the Agency with respect to contractors and subcontractors, their contracts, and the nature of the contract work as the Administrator may find necessary for the performance of his or her duties with respect to the labor standards provisions referred to in this part.

(d) **Contract termination.** Where a contract is terminated by reason of violations of the labor standards provisions of the statutes listed in § 5.1, a report shall be submitted promptly to the Administrator and to the Comptroller General (if the contract is subject to the Davis-Bacon Act), giving the name and address of the contractor or subcontractor whose right to proceed has been terminated, and the name and address of the contractor or subcontractor, if any, who is to complete the work, the amount and number of the contract, and the description of the work to be performed.

[48 FR 19540, Apr. 29, 1983, as amended at 88 FR 57734, Aug. 23, 2023]

## § 5.8 Liquidated damages under the Contract Work Hours and Safety Standards Act.

(a) The Contract Work Hours and Safety Standards Act requires that laborers or mechanics shall be paid wages at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in any workweek. In the event of violation of this provision, the contractor and any subcontractor shall be liable for the unpaid wages and in addition for liquidated damages, computed with respect to each laborer or mechanic employed in violation of the Act in the amount of \$32 for each

calendar day in the workweek on which such individual was required or permitted to work in excess of forty hours without payment of required overtime wages. Any contractor or subcontractor aggrieved by the withholding of liquidated damages shall have the right to appeal to the head of the agency of the United States (or the territory of District of Columbia, as appropriate) for which the contract work was performed or for which financial assistance was provided.

- (b) **Findings and recommendations of the Agency Head.** The Agency Head has the authority to review the administrative determination of liquidated damages and to issue a final order affirming the determination. It is not necessary to seek the concurrence of the Administrator but the Administrator shall be advised of the action taken. Whenever the Agency Head finds that a sum of liquidated damages administratively determined to be due is incorrect or that the contractor or subcontractor violated inadvertently the provisions of the Act notwithstanding the exercise of due care upon the part of the contractor or subcontractor involved, and the amount of the liquidated damages computed for the contract is in excess of \$500, the Agency Head may make recommendations to the Secretary that an appropriate adjustment in liquidated damages be made or that the contractor or subcontractor be relieved of liability for such liquidated damages. Such findings with respect to liquidated damages shall include findings with respect to any wage underpayments for which the liquidated damages are determined.
- (c) The recommendations of the Agency Head for adjustment or relief from liquidated damages under paragraph (a) of this section shall be reviewed by the Administrator or an authorized representative who shall issue an order concurring in the recommendations, partially concurring in the recommendations, or rejecting the recommendations, and the reasons therefor. The order shall be the final decision of the Department of Labor, unless a petition for review is filed pursuant to part 7 of this title, and the Administrative Review Board in its discretion reviews such decision and order; or, with respect to contracts subject to the Service Contract Act, unless petition for review is filed pursuant to part 8 of this title, and the Administrative Review Board in its discretion reviews such decision and order.
- (d) Whenever the Agency Head finds that a sum of liquidated damages administratively determined to be due under section 104(a) of the Contract Work Hours and Safety Standards Act for a contract is \$500 or less and the Agency Head finds that the sum of liquidated damages is incorrect or that the contractor or subcontractor violated inadvertently the provisions of the Contract Work Hours and Safety Standards Act notwithstanding the exercise of due care upon the part of the contractor or subcontractor involved, an appropriate adjustment may be made in such liquidated damages or the contractor or subcontractor may be relieved of liability for such liquidated damages without submitting recommendations to this effect or a report to the Department of Labor. This delegation of authority is made under section 105 of the Contract Work Hours and Safety Standards Act and has been found to be necessary and proper in the public interest to prevent undue hardship and to avoid serious impairment of the conduct of Government business.

[48 FR 19541, Apr. 29, 1983, as amended at 51 FR 12265, Apr. 9, 1986; 51 FR 13496, Apr. 21, 1986; 81 FR 43450, July 1, 2016; 83 FR 12, Jan. 2, 2018; 84 FR 218, Jan. 23, 2019; 87 FR 2334, Jan. 14, 2022; 88 FR 2215, Jan. 13, 2023; 89 FR 1815, Jan. 11, 2024]

## § 5.9 Suspension of funds.

- (a) **Suspension and withholding.** In the event of failure or refusal of the contractor or any subcontractor to comply with the applicable statutes referenced by § 5.1 and the labor standards clauses contained in § 5.5, whether incorporated into the contract physically, by reference, or by operation of law, the Federal agency (and any other agency), may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, take such action as may be necessary to cause the suspension of the payment, advance, or guarantee of funds until such time as the violations are

discontinued and/or until sufficient funds are withheld as may be considered necessary to compensate workers for the full amount of wages and monetary relief to which they are entitled, and to cover any liquidated damages and pre-judgment or post-judgment interest which may be due.

- (b) **Cross-withholding.** To satisfy a contractor's liability for back wages on a contract, in addition to the suspension and withholding of funds from the contract(s) under which the violation(s) occurred, the necessary funds also may be withheld under any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards and/or the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency.
- (c) **Cross-withholding from different legal entities.** Cross-withholding of funds may be requested from contracts held by other entities that may be considered to be the same prime contractor as that term is defined in § 5.2. Such cross-withholding is appropriate where the separate legal entities have independently consented to it by entering into contracts containing the withholding provisions at § 5.5(a)(2) and (b)(3). Cross-withholding from a contract held by a different legal entity is not appropriate unless the withholding provisions were incorporated in full or by reference in that different legal entity's contract. Absent exceptional circumstances, cross-withholding is not permitted from a contract held by a different legal entity where the Davis-Bacon labor standards were incorporated only by operation of law into that contract.

[88 FR 57740, Aug. 23, 2023]

### § 5.10 Restitution, criminal action.

- (a) In cases other than those forwarded to the Attorney General of the United States under paragraph (b) of this section where violations of the labor standards clauses contained in § 5.5 and the applicable statutes referenced by § 5.1 result in underpayment of wages to workers or monetary damages caused by violations of § 5.5(a)(11) or (b)(5), the Federal agency or an authorized representative of the Department of Labor will request that restitution be made to such workers or on their behalf to plans, funds, or programs for any type of bona fide fringe benefits within the meaning of 40 U.S.C. 3141(2)(B), including interest from the date of the underpayment or loss. Interest on any back wages or monetary relief provided for in this part will be calculated using the percentage established for the underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily.
- (b) In cases where the Agency Head or the Administrator finds substantial evidence that such violations are willful and in violation of a criminal statute, the matter will be forwarded to the Attorney General of the United States for prosecution if the facts warrant. In all such cases the Administrator will be informed simultaneously of the action taken.

[88 FR 57741, Aug. 23, 2023]

### § 5.11 Disputes concerning payment of wages.

- (a) This section sets forth the procedure for resolution of disputes of fact or law concerning payment of prevailing wage rates, overtime pay, proper classification, or monetary relief for violations of § 5.5(a)(11) or (b)(5). The procedures in this section may be initiated upon the Administrator's own motion, upon referral of the dispute by a Federal agency pursuant to § 5.5(a)(9), or upon request of the contractor or subcontractor.

(b)

- (1) In the event of a dispute described in paragraph (a) of this section in which it appears that relevant facts are at issue, the Administrator will notify the affected contractor and subcontractor, if any, by registered or certified mail to the last known address or by any other means normally assuring delivery, of the investigation findings. If the Administrator determines that there is reasonable cause to believe that either the contractor, the subcontractor, or both, should also be subject to debarment under the Davis-Bacon Act or any of the other applicable statutes referenced by § 5.1, the notification will so indicate.
- (2) A contractor or subcontractor desiring a hearing concerning the Administrator's investigation findings must request such a hearing by letter or by any other means normally assuring delivery, sent within 30 days of the date of the Administrator's notification. The request must set forth those findings which are in dispute and the reasons therefor, including any affirmative defenses.
- (3) Upon receipt of a timely request for a hearing, the Administrator will refer the case to the Chief Administrative Law Judge by Order of Reference, with an attached copy of the notification from the Administrator and the response of the contractor or subcontractor, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to resolve the disputed matters. The hearings will be conducted in accordance with the procedures set forth in part 6 of this subtitle.

(c)

- (1) In the event of a dispute described in paragraph (a) of this section in which it appears that there are no relevant facts at issue, and where there is not at that time reasonable cause to institute debarment proceedings under § 5.12, the Administrator will notify the contractor and subcontractor, if any, by registered or certified mail to the last known address or by any other means normally assuring delivery, of the investigation findings, and will issue a ruling on any issues of law known to be in dispute.
- (2)
  - (i) If the contractor or subcontractor disagrees with the factual findings of the Administrator or believes that there are relevant facts in dispute, the contractor or subcontractor must advise the Administrator by letter or by any other means normally assuring delivery, sent within 30 days of the date of the Administrator's notification. In the response, the contractor or subcontractor must explain in detail the facts alleged to be in dispute and attach any supporting documentation.
  - (ii) Upon receipt of a response under paragraph (c)(2)(i) of this section alleging the existence of a factual dispute, the Administrator will examine the information submitted. If the Administrator determines that there is a relevant issue of fact, the Administrator will refer the case to the Chief Administrative Law Judge in accordance with paragraph (b)(3) of this section. If the Administrator determines that there is no relevant issue of fact, the Administrator will so rule and advise the contractor and subcontractor, if any, accordingly.
- (3) If the contractor or subcontractor desires review of the ruling issued by the Administrator under paragraph (c)(1) or (2) of this section, the contractor or subcontractor must file a petition for review thereof with the Administrative Review Board within 30 days of the date of the ruling, with a copy thereof to the Administrator. The petition for review must be filed in accordance with part 7 of this subtitle.



- (d) If a timely response to the Administrator's findings or ruling is not made or a timely petition for review is not filed, the Administrator's findings or ruling will be final, except that with respect to debarment under the Davis-Bacon Act, the Administrator will advise the Comptroller General of the Administrator's recommendation in accordance with § 5.12(a)(2). If a timely response or petition for review is filed, the findings or ruling of the Administrator will be inoperative unless and until the decision is upheld by the Administrative Law Judge or the Administrative Review Board.

[88 FR 57741, Aug. 23, 2023]

## § 5.12 Debarment proceedings.

### (a) *Debarment standard and ineligible list.*

- (1) Whenever any contractor or subcontractor is found by the Secretary of Labor to have disregarded their obligations to workers or subcontractors under the Davis-Bacon Act, any of the other applicable statutes referenced by § 5.1, this part, or part 3 of this subtitle, such contractor or subcontractor and their responsible officers, if any, and any firm, corporation, partnership, or association in which such contractor, subcontractor, or responsible officer has an interest will be ineligible for a period of 3 years to be awarded any contract or subcontract of the United States or the District of Columbia and any contract or subcontract subject to the labor standards provisions of any of the statutes referenced by § 5.1.
- (2) In cases arising under contracts covered by the Davis-Bacon Act, the Administrator will transmit to the Comptroller General the name(s) of the contractors or subcontractors and their responsible officers, if any, and any firms, corporations, partnerships, or associations in which the contractors, subcontractors, or responsible officers are known to have an interest, who have been found to have disregarded their obligations to workers or subcontractors, and the recommendation of the Secretary of Labor or authorized representative regarding debarment. In cases arising under contracts covered by any of the applicable statutes referenced by § 5.1 other than the Davis-Bacon Act, the Administrator determines the name(s) of the contractors or subcontractors and their responsible officers, if any, and any firms, corporations, partnerships, or associations in which the contractors, subcontractors, or responsible officers are known to have an interest, to be debarred. The names of such ineligible persons or firms will be published on SAM or its successor website, and an ineligible person or firm will be ineligible for a period of 3 years from the date of publication of their name on the ineligible list, to be awarded any contract or subcontract of the United States or the District of Columbia and any contract or subcontract subject to the labor standards provisions of any of the statutes referenced by § 5.1.

### (b) *Procedure.*

- (1) In addition to cases under which debarment action is initiated pursuant to § 5.11, whenever as a result of an investigation conducted by the Federal agency or the Department of Labor, and where the Administrator finds reasonable cause to believe that a contractor or subcontractor has committed violations which constitute a disregard of its obligations to workers or subcontractors under the Davis-Bacon Act, the labor standards provisions of any of the other applicable statutes referenced by § 5.1, this part, or part 3 of this subtitle, the Administrator will notify by registered or certified mail to the last known address or by any other means normally assuring delivery, the contractor or subcontractor and responsible officers, if any, and any firms, corporations, partnerships, or associations in which the contractors, subcontractors, or responsible officers are known to have an interest of the finding.

- (i) The Administrator will afford such contractor, subcontractor, responsible officer, and any other parties notified an opportunity for a hearing as to whether debarment action should be taken under paragraph (a) of this section. The Administrator will furnish to those notified a summary of the investigative findings.
- (ii) If the contractor, subcontractor, responsible officer, or any other parties notified wish to request a hearing as to whether debarment action should be taken, such a request must be made by letter or by any other means normally assuring delivery, sent within 30 days of the date of the notification from the Administrator, and must set forth any findings which are in dispute and the basis for such disputed findings, including any affirmative defenses to be raised.
- (iii) Upon timely receipt of such request for a hearing, the Administrator will refer the case to the Chief Administrative Law Judge by Order of Reference, with an attached copy of the notification from the Administrator and the responses of the contractor, subcontractor, responsible officers, or any other parties notified, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to determine the matters in dispute.
- (iv) In considering debarment under any of the statutes referenced by § 5.1 other than the Davis-Bacon Act, the Administrative Law Judge will issue an order concerning whether the contractor, subcontractor, responsible officer, or any other party notified is to be debarred in accordance with paragraph (a) of this section. In considering debarment under the Davis-Bacon Act, the Administrative Law Judge will issue a recommendation as to whether the contractor, subcontractor, responsible officers, or any other party notified should be debarred under 40 U.S.C. 3144(b).

(2) Hearings under this section will be conducted in accordance with part 6 of this subtitle. If no hearing is requested within 30 days of the date of the notification from the Administrator, the Administrator's findings will be final, except with respect to recommendations regarding debarment under the Davis-Bacon Act, as set forth in paragraph (a)(2) of this section.

(c) *Interests of debarred parties.*

(1) A finding as to whether persons or firms whose names appear on the ineligible list have an interest under 40 U.S.C. 3144(b) or paragraph (a) of this section in any other firm, corporation, partnership, or association, may be made through investigation, hearing, or otherwise.

(2)

- (i) The Administrator, on their own motion or after receipt of a request for a determination pursuant to paragraph (c)(3) of this section, may make a finding on the issue of interest.
- (ii) If the Administrator determines that there may be an interest but finds that there is insufficient evidence to render a final ruling thereon, the Administrator may refer the issue to the Chief Administrative Law Judge in accordance with paragraph (c)(4) of this section.
- (iii) If the Administrator finds that no interest exists, or that there is not sufficient information to warrant the initiation of an investigation, the requesting party, if any, will be so notified and no further action taken.

(iv)

- (A) If the Administrator finds that an interest exists, the person or firm affected will be notified of the Administrator's finding (by certified mail to the last known address or by any other means normally assuring delivery), which will include the reasons therefore, and such person or firm will be afforded an opportunity to request that a hearing be held to decide the issue.
  - (B) Such person or firm will have 20 days from the date of the Administrator's ruling to request a hearing. A person or firm desiring a hearing must request it by letter or by any other means normally assuring delivery, sent within 20 days of the date of the Administrator's notification. A detailed statement of the reasons why the Administrator's ruling is in error, including facts alleged to be in dispute, if any, must be submitted with the request for a hearing.
  - (C) If no hearing is requested within the time mentioned in paragraph (c)(2)(iv)(B) of this section, the Administrator's finding will be final and the Administrator will notify the Comptroller General in cases arising under the DBA. If a hearing is requested, the ruling of the Administrator will be inoperative unless and until the Administrative Law Judge or the Administrative Review Board issues an order that there is an interest.
- (3)
- (i) A request for a determination of interest may be made by any interested party, including contractors or prospective contractors and associations of contractors, representatives of workers, and interested agencies. Such a request must be submitted in writing to the Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.
  - (ii) The request must include a statement setting forth in detail why the petitioner believes that a person or firm whose name appears on the ineligible list has an interest in any firm, corporation, partnership, or association that is seeking or has been awarded a contract or subcontract of the United States or the District of Columbia, or a contract or subcontract that is subject to the labor standards provisions of any of the statutes referenced by § 5.1. No particular form is prescribed for the submission of a request under this section.
- (4) The Administrator, on their own motion under paragraph (c)(2)(ii) of this section or upon a request for hearing where the Administrator determines that relevant facts are in dispute, will by order refer the issue to the Chief Administrative Law Judge, for designation of an Administrative Law Judge who will conduct such hearings as may be necessary to render a decision solely on the issue of interest. Such proceedings must be conducted in accordance with the procedures set forth in part 6 of this subtitle.
- (5) If the person or firm affected requests a hearing and the Administrator determines that relevant facts are not in dispute, the Administrator will refer the issue and the record compiled thereon to the Administrative Review Board to render a decision solely on the issue of interest. Such proceeding must be conducted in accordance with the procedures set forth in part 7 of this subtitle.

[88 FR 57741, Aug. 23, 2023]

### § 5.13 Rulings and interpretations.

- (a) All questions relating to the application and interpretation of wage determinations (including the classifications therein) issued pursuant to part 1 of this subtitle, of the rules contained in this part and in parts 1 and 3 of this subtitle, and of the labor standards provisions of any of the laws referenced in § 5.1 must be referred to the Administrator for appropriate ruling or interpretation. These rulings and interpretations are authoritative and those under the Davis-Bacon Act may be relied upon as provided for in section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 259). Requests for such rulings and interpretations should be submitted via email to [dgceinquiries@dol.gov](mailto:dgceinquiries@dol.gov); by mail to Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210; or through other means directed by the Administrator.
- (b) If any such ruling or interpretation is made by an authorized representative of the Administrator of the Wage and Hour Division, any interested party may seek reconsideration of the ruling or interpretation by the Administrator of the Wage and Hour Division. The procedures and time limits set out in § 1.8 of this subtitle apply to any such request for reconsideration.

[88 FR 57743, Aug. 23, 2023]

### § 5.14 Variations, tolerances, and exemptions from parts 1 and 3 of this subtitle and this part.

The Secretary of Labor may make variations, tolerances, and exemptions from the regulatory requirements of this part and those of parts 1 and 3 of this subtitle whenever the Secretary finds that such action is necessary and proper in the public interest or to prevent injustice and undue hardship. Variations, tolerances, and exemptions may not be made from the statutory requirements of any of the statutes listed in § 5.1 unless the statute specifically provides such authority.

### § 5.15 Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.

- (a) **General.** Upon his or her own initiative or upon the request of any Federal agency, the Secretary of Labor may provide under section 105 of the Contract Work Hours and Safety Standards Act reasonable limitations and allow variations, tolerances, and exemptions to and from any or all provisions of that Act whenever the Secretary finds such action to be necessary and proper in the public interest to prevent injustice, or undue hardship, or to avoid serious impairment of the conduct of Government business. Any request for such action by the Secretary shall be submitted in writing, and shall set forth the reasons for which the request is made.
- (b) **Exemptions.** Pursuant to section 105 of the Contract Work Hours and Safety Standards Act, the following classes of contracts are found exempt from all provisions of that Act in order to prevent injustice, undue hardship, or serious impairment of Government business:
  - (1) Contract work performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: A State of the United States; the District of Columbia; Puerto Rico; the Virgin Islands; Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); American Samoa; Guam; Wake Island; Eniwetok Atoll; Kwajalein Atoll; and Johnston Island.

- (2) Agreements entered into by or on behalf of the Commodity Credit Corporation providing for the storing in or handling by commercial warehouses of wheat, corn, oats, barley, rye, grain sorghums, soybeans, flaxseed, rice, naval stores, tobacco, peanuts, dry beans, seeds, cotton, and wool.
- (3) Sales of surplus power by the Tennessee Valley Authority to States, counties, municipalities, cooperative organization of citizens or farmers, corporations and other individuals pursuant to section 10 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 8311).

(c) **Tolerances.**

- (1) The "basic rate of pay" under section 102 of the Contract Work Hours and Safety Standards Act may be computed as an hourly equivalent to the rate on which time-and-one-half overtime compensation may be computed and paid under section 7 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207), as interpreted in part 778 of this title. This tolerance is found to be necessary and proper in the public interest in order to prevent undue hardship.
- (2) Concerning the tolerance provided in paragraph (c)(1) of this section, the provisions of section 7(d)(2) of the Fair Labor Standards Act and § 778.7 of this title should be noted. Under these provisions, payments for occasional periods when no work is performed, due to vacations, and similar causes are excludable from the "regular rate" under the Fair Labor Standards Act. Such payments, therefore, are also excludable from the "basic rate" under the Contract Work Hours and Safety Standards Act.
- (3) See § 5.8(c) providing a tolerance subdelegating authority to the heads of agencies to make appropriate adjustments in the assessment of liquidated damages totaling \$500 or less under specified circumstances.
- (4)
  - (i) Time spent in an organized program of related, supplemental instruction by laborers or mechanics employed under bona fide apprenticeship programs may be excluded from working time if the criteria prescribed in paragraphs (c)(4)(ii) and (iii) of this section are met.
  - (ii) The apprentice comes within the definition contained in § 5.2.
  - (iii) The time in question does not involve productive work or performance of the apprentice's regular duties.

(d) **Variations.**

- (1) In the event of failure or refusal of the contractor or any subcontractor to comply with overtime pay requirements of the Contract Work Hours and Safety Standards Act, if the funds withheld by Federal agencies for the violations are not sufficient to pay fully the unpaid wages and any back pay or other monetary relief due laborers and mechanics, with interest, and the liquidated damages due the United States, the available funds will be used first to compensate the laborers and mechanics for the wages to which they are entitled (or an equitable portion thereof when the funds are not adequate for this purpose); and the balance, if any, will be used for the payment of liquidated damages.
- (2) In the performance of any contract entered into pursuant to the provisions of 38 U.S.C. 620 to provide nursing home care of veterans, no contractor or subcontractor under such contract shall be deemed in violation of section 102 of the Contract Work Hours and Safety Standards Act by virtue of failure to pay the overtime wages required by such section for work in excess of 40 hours in the

workweek to any individual employed by an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of 14 consecutive days is accepted in lieu of the workweek of 7 consecutive days for the purpose of overtime compensation and if such individual receives compensation for employment in excess of 8 hours in any workday and in excess of 80 hours in such 14-day period at a rate not less than  $1\frac{1}{2}$  times the regular rate at which the individual is employed, computed in accordance with the requirements of the Fair Labor Standards Act of 1938, as amended.

- (3) Any contractor or subcontractor performing on a government contract the principal purpose of which is the furnishing of fire fighting or suppression and related services, shall not be deemed to be in violation of section 102 of the Contract Work Hour and Safety Standards Act for failing to pay the overtime compensation required by section 102 of the Act in accordance with the basic rate of pay as defined in paragraph (c)(1) of this section, to any pilot or copilot of a fixed-wing or rotary-wing aircraft employed on such contract if:
- (i) Pursuant to a written employment agreement between the contractor and the employee which is arrived at before performance of the work.
    - (A) The employee receives gross wages of not less than \$300 per week regardless of the total number of hours worked in any workweek, and
    - (B) Within any workweek the total wages which an employee receives are not less than the wages to which the employee would have been entitled in that workweek if the employee were paid the minimum hourly wage required under the contract pursuant to the provisions of the Service Contract Act of 1965 and any applicable wage determination issued thereunder for all hours worked, plus an additional premium payment of one-half times such minimum hourly wage for all hours worked in excess of 40 hours in the workweek;
  - (ii) The contractor maintains accurate records of the total daily and weekly hours of work performed by such employee on the government contract. In the event these conditions for the exemption are not met, the requirements of section 102 of the Contract Work Hours and Safety Standards Act shall be applicable to the contract from the date the contractor or subcontractor fails to satisfy the conditions until completion of the contract.

*(Reporting and recordkeeping requirements in paragraph (d)(2) have been approved by the Office of Management and Budget under control numbers 1235-0023 and 1235-0018. Reporting and recordkeeping requirements in paragraph (d)(3)(ii) have been approved by the Office of Management and Budget under control number 1235-0018)*

*[48 FR 19541, Apr. 29, 1983, as amended at 51 FR 12265, Apr. 9, 1986; 61 FR 40716, Aug. 5, 1996; 82 FR 2226, Jan. 9, 2017; 88 FR 57743, Aug. 23, 2023]*

**§ 5.16 [Reserved]**

**§ 5.17 [Reserved]**

## § 5.18 Remedies for retaliation.

- (a) **Administrator request to remedy violation.** When the Administrator finds that any person has discriminated in any way against any worker or job applicant in violation of § 5.5(a)(11) or (b)(5), or caused any person to discriminate in any way against any worker or job applicant in violation of § 5.5(a)(11) or (b)(5), the Administrator will notify the person, any contractors for whom the person worked or on whose behalf the person acted, and any upper tier contractors, as well as the relevant contracting agency(ies) of the discrimination and request that the person and any contractors for whom the person worked or on whose behalf the person acted remedy the violation.
- (b) **Administrator directive to remedy violation and provide make-whole relief.** If the person and any contractors for whom the person worked or on whose behalf the person acted do not remedy the violation, the Administrator in the notification of violation findings issued under § 5.11 or § 5.12 will direct the person and any contractors for whom the person worked or on whose behalf the person acted to provide appropriate make-whole relief to affected worker(s) and job applicant(s) or take appropriate remedial action, or both, to correct the violation, and will specify the particular relief and remedial actions to be taken.
- (c) **Examples of available make-whole relief and remedial actions.** Such relief and remedial actions may include, but are not limited to, employment, reinstatement, front pay in lieu of reinstatement, and promotion, together with back pay and interest; compensatory damages; restoration of the terms, conditions, and privileges of the worker's employment or former employment; the expungement of warnings, reprimands, or derogatory references; the provision of a neutral employment reference; and the posting of a notice to workers that the contractor or subcontractor agrees to comply with the Davis-Bacon Act and Related Acts anti-retaliation requirements.

[88 FR 57743, Aug. 23, 2023]

## Subpart B—Interpretation of the Fringe Benefits Provisions of the Davis-Bacon Act

**Source:** 29 FR 13465, Sept. 30, 1964, unless otherwise noted.

### § 5.20 Scope and significance of this subpart.

The 1964 amendments (Pub. L. 88–349) to the Davis-Bacon Act require, among other things, that the prevailing wage determined for Federal and federally assisted construction include the basic hourly rate of pay and the amount contributed by the contractor or subcontractor for certain fringe benefits (or the cost to them of such benefits). The purpose of this subpart is to explain the provisions of these amendments and make available in one place official interpretations of the fringe benefits provisions of the Davis-Bacon Act. These interpretations will guide the Department of Labor in carrying out its responsibilities under these provisions. These interpretations are intended also to provide guidance to contractors and their associations; laborers and mechanics and their organizations; and local, State, and Federal agencies. The interpretations contained in this subpart are authoritative and may be relied upon as provided for in section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 259). The omission to discuss a particular problem in this subpart or in interpretations supplementing it should not be taken to indicate the adoption of any position by the Secretary of Labor with respect to such problem or to constitute an administrative interpretation, practice, or enforcement policy. Questions on matters not fully covered by this subpart may be referred to the Secretary for interpretation as provided in § 5.13.

[88 FR 57743, Aug. 23, 2023]

## § 5.21 [Reserved]

### § 5.22 Effect of the Davis-Bacon fringe benefits provisions.

The Davis-Bacon Act and the prevailing wage provisions of the statutes referenced in § 1.1 of this subtitle confer upon the Secretary of Labor the authority to predetermine, as minimum wages, those wage rates found to be prevailing for corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the area in which the work is to be performed. See the definitions of the terms “prevailing wage” and “area” in § 1.2 of this subtitle. The fringe benefits amendments enlarge the scope of this authority by including certain bona fide fringe benefits within the meaning of the terms “wages”, “scale of wages”, “wage rates”, “minimum wages”, and “prevailing wages”, as used in the Davis-Bacon Act.

[88 FR 57744, Aug. 23, 2023]

### § 5.23 The statutory provisions.

Pursuant to the Davis-Bacon Act, as amended and codified at 40 U.S.C. 3141(2), the term “prevailing wages” and similar terms include the basic hourly rate of pay and, for the listed fringe benefits and other bona fide fringe benefits not required by other law, the contributions irrevocably made by a contractor or subcontractor to a trustee or third party pursuant to a bona fide fringe benefit fund, plan, or program, and the costs to the contractor or subcontractor that may be reasonably anticipated in providing bona fide fringe benefits pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the affected laborers and mechanics. Section 5.29 discusses specific fringe benefits that may be considered to be bona fide.

[88 FR 57744, Aug. 23, 2023]

### § 5.24 The basic hourly rate of pay.

“The basic hourly rate of pay” is that part of a laborer's or mechanic's wages which the Secretary of Labor would have found and included in wage determinations prior to the 1964 amendments. The Secretary of Labor is required to continue to make a separate finding of this portion of the wage. In general, this portion of the wage is the cash payment made directly to the laborer or mechanic. It does not include fringe benefits.

### § 5.25 Rate of contribution or cost for fringe benefits.

- (a) Under the amendments, the Secretary is obligated to make a separate finding of the rate of contribution or cost of fringe benefits. Only the amount of contributions or costs for fringe benefits which meet the requirements of the act will be considered by the Secretary. These requirements are discussed in this subpart.
- (b) The rate of contribution or cost is ordinarily an hourly rate, and will be reflected in the wage determination as such. In some cases, however, the contribution or cost for certain fringe benefits may be expressed in a formula or method of payment other than an hourly rate. In such cases, the Secretary may in his discretion express in the wage determination the rate of contribution or cost used in the formula or method or may convert it to an hourly rate of pay whenever he finds that such action would facilitate the administration of the Act. See § 5.5(a)(1)(i) and (iii).



- (c) Except as provided in this section, contractors must “annualize” all contributions to fringe benefit plans (or the reasonably anticipated costs of an unfunded benefit plan) to determine the hourly equivalent for which they may take credit against their fringe benefit obligation. The “annualization” principle reflects that DBRA credit for contributions made to bona fide fringe benefit plans (or the reasonably anticipated costs of an unfunded benefit plan) is allowed based on the effective rate of contributions or costs incurred for total hours worked during the year (or a shorter time period) by a laborer or mechanic.
- (1) **Method of computation.** To annualize the cost of providing a fringe benefit, a contractor must divide the total cost of the fringe benefit contribution (or the reasonably anticipated costs of an unfunded benefit plan) by the total number of hours worked on both private (non-DBRA) work and work covered by the Davis-Bacon Act and/or Davis-Bacon Related Acts (DBRA-covered work) during the time period to which the cost is attributable to determine the rate of contribution per hour. If the amount of contribution varies per worker, credit must be determined separately for the amount contributed on behalf of each worker.
- (2) **Exception requests.** Contractors, plans, and other interested parties may request an exception from the annualization requirement by submitting a request to the WHD Administrator. A request for an exception may be granted only if each of the requirements of paragraph (c)(3) of this section is satisfied. Contributions to defined contribution pension plans (DCPPs) are excepted from the annualization requirement, and exception requests therefore are not required in connection with DCPPs, provided that each of the requirements of paragraph (c)(3) is satisfied and the DCPP provides for immediate participation and essentially immediate vesting (*i.e.*, the benefit vests within the first 500 hours worked). Requests must be submitted in writing to the Division of Government Contracts Enforcement by email to [DBAannualization@dol.gov](mailto:DBAannualization@dol.gov) or by mail to Director, Division of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Ave. NW, Room S-3502, Washington, DC 20210.
- (3) **Exception requirements.** Contributions to a bona fide fringe benefit plan (or the reasonably anticipated costs of an unfunded benefit plan) are excepted from the annualization requirement if all of the following criteria are satisfied:
- (i) The benefit provided is not continuous in nature. A benefit is not continuous in nature when it is not available to a participant without penalty throughout the year or other time period to which the cost of the benefit is attributable; and
  - (ii) The benefit does not compensate both private work and DBRA-covered work. A benefit does not compensate both private and DBRA-covered work if any benefits attributable to periods of private work are wholly paid for by compensation for private work.

[29 FR 13465, Sept. 30, 1964, as amended at 88 FR 57744, Aug. 23, 2023]

## § 5.26 “\* \* \* contribution irrevocably made \* \* \* to a trustee or to a third person”.

- (a) **Requirements.** The following requirements apply to any fringe benefit contributions made to a trustee or to a third person pursuant to a fund, plan, or program:
- (1) Such contributions must be made irrevocably;
  - (2) The trustee or third person may not be affiliated with the contractor or subcontractor;
  - (3) A trustee must adhere to any fiduciary responsibilities applicable under law; and

(4) The trust or fund must not permit the contractor or subcontractor to recapture any of the contributions paid in or any way divert the funds to its own use or benefit.

(b) **Excess payments.** Notwithstanding the above, a contractor or subcontractor may recover sums which it had paid to a trustee or third person in excess of the contributions actually called for by the plan, such as excess payments made in error or in order to cover the estimated cost of contributions at a time when the exact amount of the necessary contributions is not yet known. For example, a benefit plan may provide for definite insurance benefits for employees in the event of contingencies such as death, sickness, or accident, with the cost of such definite benefits borne by the contractor or subcontractor. In such a case, if the insurance company returns the amount that the contractor or subcontractor paid in excess of the amount required to provide the benefits, this will not be deemed a recapture or diversion by the employer of contributions made pursuant to the plan. (See Report of the Senate Committee on Labor and Public Welfare, S. Rep. No. 963, 88th Cong., 2d Sess., p. 5.)

[88 FR 57744, Aug. 23, 2023]

### § 5.27 “\* \* \* fund, plan, or program”.

The contributions for fringe benefits must be made pursuant to a fund, plan or program (sec. 1(b)(2)(A) of the act). The phrase “fund, plan, or program” is merely intended to recognize the various types of arrangements commonly used to provide fringe benefits through employer contributions. The phrase is identical with language contained in section 3(1) of the Welfare and Pension Plans Disclosure Act. In interpreting this phrase, the Secretary will be guided by the experience of the Department in administering the latter statute. (See Report of Senate Committee on Labor and Public Welfare, S. Rep. No. 963, 88th Cong., 2d Sess., p. 5.)

### § 5.28 Unfunded plans.

(a) The costs to a contractor or subcontractor which may be reasonably anticipated in providing benefits of the types described in the Act, pursuant to an enforceable commitment to carry out a financially responsible plan or program, are considered fringe benefits within the meaning of the Act (see 40 U.S.C. 3141(2)(B)(ii)). The legislative history suggests that these provisions were intended to permit the consideration of fringe benefits meeting these requirements, among others, and which are provided from the general assets of a contractor or subcontractor. (Report of the House Committee on Education and Labor, H. Rep. No. 308, 88th Cong., 1st Sess., p. 4; see also S. Rep. No. 963, p. 6.)

(b) Such a benefit plan or program, commonly referred to as an unfunded plan, may not constitute a fringe benefit within the meaning of the Act unless:

(1) It could be reasonably anticipated to provide the benefits described in the Act;

(2) It represents a commitment that can be legally enforced;

(3) It is carried out under a financially responsible plan or program;

(4) The plan or program providing the benefits has been communicated in writing to the laborers and mechanics affected; and

(5) The contractor or subcontractor requests and receives approval of the plan or program from the Secretary, as described in paragraph (c) of this section.

- (c) To receive approval of an unfunded plan or program, a contractor or subcontractor must demonstrate in its request to the Secretary that the unfunded plan or program, and the benefits provided under such plan or program, are “bona fide,” meet the requirements set forth in paragraphs (b)(1) through (4) of this section, and are otherwise consistent with the Act. The request must include sufficient documentation to enable the Secretary to evaluate these criteria. Contractors and subcontractors may request approval of an unfunded plan or program by submitting a written request in one of the following manners:
- (1) By mail to the United States Department of Labor, Wage and Hour Division, Director, Division of Government Contracts Enforcement, 200 Constitution Ave. NW, Room S-3502, Washington, DC 20210;
  - (2) By email to [unfunded@dol.gov](mailto:unfunded@dol.gov) (or its successor email address); or
  - (3) By any other means directed by the Administrator.
- (d) Unfunded plans or programs may not be used as a means of avoiding the Act's requirements. The words “reasonably anticipated” require that any unfunded plan or program be able to withstand a test of actuarial soundness. Moreover, as in the case of other fringe benefits payable under the Act, an unfunded plan or program must be “bona fide” and not a mere simulation or sham for avoiding compliance with the Act. To prevent these provisions from being used to avoid compliance with the Act, the Secretary may direct a contractor or subcontractor to set aside in an account assets which, under sound actuarial principles, will be sufficient to meet future obligations under the plan. Such an account must be preserved for the purpose intended. (S. Rep. No. 963, p. 6.)

[88 FR 57744, Aug. 23, 2023]

### § 5.29 Specific fringe benefits.

- (a) The act lists all types of fringe benefits which the Congress considered to be common in the construction industry as a whole. These include the following: Medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, vacation and holiday pay, defrayment of costs of apprenticeship or other similar programs, or other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other Federal, State, or local law to provide any of such benefits.
- (b) The legislative history indicates that it was not the intent of the Congress to impose specific standards relating to administration of fringe benefits. It was assumed that the majority of fringe benefits arrangements of this nature will be those which are administered in accordance with requirements of section 302(c)(5) of the National Labor Relations Act, as amended (S. Rep. No. 963, p. 5).
- (c) The term “other bona fide fringe benefits” is the so-called “open end” provision. This was included so that new fringe benefits may be recognized by the Secretary as they become prevailing. It was pointed out that a particular fringe benefit need not be recognized beyond a particular area in order for the Secretary to find that it is prevailing in that area. (S. Rep. No. 963, p. 6).
- (d) The legislative reports indicate that, to insure against considering and giving credit to any and all fringe benefits, some of which might be illusory or not genuine, the qualification was included that such fringe benefits must be “bona fide” (H. Rep. No. 308, p. 4; S. Rep. No. 963, p. 6). No difficulty is anticipated in determining whether a particular fringe benefit is “bona fide” in the ordinary case where the benefits are those common in the construction industry and which are established under a usual fund, plan, or

program. This would be typically the case of those fringe benefits listed in paragraph (a) of this section which are funded under a trust or insurance program. Contractors may take credit for contributions made under such conventional plans without requesting the approval of the Secretary of Labor under § 5.5(a)(1)(iv).

- (e) Where the plan is not of the conventional type described in paragraph (d) of this section, the Secretary must examine the facts and circumstances to determine whether fringe benefits under the plan are “bona fide” in accordance with requirements of the Act. This is particularly true with respect to unfunded plans discussed in § 5.28. Contractors or subcontractors seeking credit under the Act for costs incurred for such plans must request specific approval from the Secretary under § 5.5(a)(1)(iv).
- (f) The act excludes fringe benefits which a contractor or subcontractor is obligated to provide under other Federal, State, or local law. No credit may be taken under the act for the payments made for such benefits. For example, payment for workmen's compensation insurance under either a compulsory or elective State statute are not considered payments for fringe benefits under the Act. While each situation must be separately considered on its own merits, payments made for travel, subsistence or to industry promotion funds are not normally payments for fringe benefits under the Act. The omission in the Act of any express reference to these payments, which are common in the construction industry, suggests that these payments should not normally be regarded as bona fide fringe benefits under the Act.
- (g) For a contractor or subcontractor to take credit for the costs of an apprenticeship program, the following requirements must be met:
  - (1) The program, in addition to meeting all other relevant requirements for fringe benefits in this subpart, must be registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship (“OA”), or with a State Apprenticeship Agency recognized by the OA.
  - (2) The contractor or subcontractor may only take credit for amounts reasonably related to the costs of the apprenticeship benefits actually provided to the contractor's employees, such as instruction, books, and tools or materials. It may not take credit for voluntary contributions beyond such costs. Amounts the employer is required to contribute by a collective bargaining agreement or by a bona fide apprenticeship plan will be presumed to be reasonably related to such costs in the absence of evidence to the contrary.
  - (3) Costs incurred for the apprenticeship for one classification of laborer or mechanic may not be used to offset costs incurred for another classification.
  - (4) In applying the annualization principle to compute the allowable fringe benefit credit pursuant to § 5.25, the total number of working hours of employees to which the cost of an apprenticeship program is attributable is limited to the total number of hours worked by laborers and mechanics in the apprentice's classification. For example, if a contractor enrolls an employee in an apprenticeship program for carpenters, the permissible hourly Davis-Bacon credit is determined by dividing the cost of the program by the total number of hours worked by the contractor's carpenters and carpenters' apprentices on covered and non-covered projects during the time period to which the cost is attributable, and such credit may only be applied against the contractor's prevailing wage obligations for all carpenters and carpenters' apprentices for each hour worked on the covered project.

[29 FR 13465, Sept. 30, 1964, as amended at 88 FR 57745, Aug. 23, 2023]

### § 5.30 Types of wage determinations.

- (a) When fringe benefits are prevailing for various classes of laborers and mechanics in the area of proposed construction, such benefits are includable in any Davis-Bacon wage determination. The examples contained in paragraph (c) of this section demonstrate how fringe benefits may be listed on wage determinations in such cases.
- (b) Wage determinations do not include fringe benefits for various classes of laborers and mechanics whenever such benefits do not prevail in the area of proposed construction. When this occurs, the wage determination will contain only the basic hourly rates of pay which are prevailing for the various classes of laborers and mechanics. An illustration of this situation is contained in paragraph (c) of this section.
- (c) The following illustrates examples of the situations discussed in paragraph (a) and (b) of this section:

#### Figure 1 to Paragraph (c)

| <b>CLASSIFICATION</b>                                       | <b>RATE</b> | <b>FRINGES</b>  |
|---|-------------|---|
| Bricklayer  | \$21.96     | \$0.00  |
| Electrician   | \$47.65     | 3%+\$14.88  |
| Elevator mechanic   | \$48.60     | \$35.825+a+b<br>a. PAID<br>HOLIDAYS:<br>New Year's<br>Day, Memorial<br>Day,<br>Independence<br>Day, Labor<br>Day, Veterans'<br>Day,<br>Thanksgiving<br>Day, Christmas<br>Day and the<br>Friday after<br>Thanksgiving.<br><br>b.<br>VACATIONS:<br>Employer<br>contributes 8%<br>of basic hourly<br>rate for 5 years<br>or more of<br>service; 6% of<br>basic hourly<br>rate for 6<br>months to 5<br>years of service<br>as vacation pay<br>credit. |
| Ironworker, structural                                      | \$32.00     | \$12.01   |
| Laborer: common or general                                  | \$21.93     | \$6.27  |
| Operator: bulldozer   | \$18.11     | \$0.00  |
| Plumber (excludes HVAC duct,<br>pipe and unit installation) | \$38.38     | \$16.67   |

Note 1 to paragraph (c): This format is not necessarily in the exact form in which determinations will issue; it is for illustration only.

[88 FR 57745, Aug. 23, 2023]

### § 5.31 Meeting wage determination obligations.

- (a) A contractor or subcontractor performing work subject to a Davis-Bacon wage determination may discharge their minimum wage obligations for the payment of both straight time wages and fringe benefits by paying in cash, making payments or incurring costs for “bona fide” fringe benefits of the types listed in the applicable wage determination or otherwise found prevailing by the Secretary of Labor, or by a combination thereof.
- (b) A contractor or subcontractor may discharge their obligations for the payment of the basic hourly rates and the fringe benefits where both are contained in a wage determination applicable to their laborers or mechanics in the following ways:
  - (1) By paying not less than the basic hourly rate to the laborers or mechanics and by making contributions for “bona fide” fringe benefits in a total amount not less than the total of the fringe benefits required by the wage determination. For example, the obligations for “Laborer: common or general” in § 5.30, figure 1 to paragraph (c), will be met by the payment of a straight time hourly rate of not less than \$21.93 and by contributions of not less than a total of \$6.27 an hour for “bona fide” fringe benefits; or
  - (2) By paying in cash directly to laborers or mechanics for the basic hourly rate and by making an additional cash payment in lieu of the required benefits. For example, where an employer does not make payments or incur costs for fringe benefits, they would meet their obligations for “Laborer: common or general” in § 5.30, figure 1 to paragraph (c), by paying directly to the laborers a straight time hourly rate of not less than \$28.60 (\$21.93 basic hourly rate plus \$6.27 for fringe benefits); or
  - (3) As stated in paragraph (a) of this section, the contractor or subcontractor may discharge their minimum wage obligations for the payment of straight time wages and fringe benefits by a combination of the methods illustrated in paragraphs (b)(1) and (2) of this section. Thus, for example, their obligations for “Laborer: common or general” may be met by an hourly rate, partly in cash and partly in payments or costs for fringe benefits which total not less than \$28.60 (\$21.93 basic hourly rate plus \$6.27 for fringe benefits).

[88 FR 57746, Aug. 23, 2023]

### § 5.32 Overtime payments.

- (a) The act excludes amounts paid by a contractor or subcontractor for fringe benefits in the computation of overtime under the Fair Labor Standards Act, the Contract Work Hours and Safety Standards Act, and the Walsh-Healey Public Contracts Act whenever the overtime provisions of any of these statutes apply concurrently with the Davis-Bacon Act or its related prevailing wage statutes. It is clear from the legislative history that in no event can the regular or basic rate upon which premium pay for overtime is calculated under the aforementioned Federal statutes be less than the amount determined by the Secretary of Labor as the basic hourly rate (i.e. cash rate) under section 1(b)(1) of the Davis-Bacon Act. (See S. Rep. No. 963, p. 7.) Contributions by employees are not excluded from the regular or basic rate upon which overtime is computed under these statutes; that is, an employee's regular or basic straight-time rate is computed on his earnings before any deductions are made for the employee's contributions to

fringe benefits. The contractor's contributions or costs for fringe benefits may be excluded in computing such rate so long as the exclusions do not reduce the regular or basic rate below the basic hourly rate contained in the wage determination.

(b) The legislative report notes that the phrase "contributions irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program" was added to the bill in Committee. This language in essence conforms to the overtime provisions of section 7(d)(4) of the Fair Labor Standards Act, as amended. The intent of the committee was to prevent any avoidance of overtime requirements under existing law. See H. Rep. No. 308, p. 5.

(c)

(1) The act permits a contractor or subcontractor to pay a cash equivalent of any fringe benefits found prevailing by the Secretary of Labor. Such a cash equivalent would also be excludable in computing the regular or basic rate under the Federal overtime laws mentioned in paragraph (a). For example, the W construction contractor pays his laborers or mechanics \$3.50 in cash under a wage determination of the Secretary of Labor which requires a basic hourly rate of \$3 and a fringe benefit contribution of 50 cents. The contractor pays the 50 cents in cash because he made no payments and incurred no costs for fringe benefits. Overtime compensation in this case would be computed on a regular or basic rate of \$3.00 an hour. However, in some cases a question of fact may be presented in ascertaining whether or not a cash payment made to laborers or mechanics is actually in lieu of a fringe benefit or is simply part of their straight time cash wage. In the latter situation, the cash payment is not excludable in computing overtime compensation. Consider the examples set forth in paragraphs (c)(2) and (3) of this section.

(2) The X construction contractor has for some time been paying \$3.25 an hour to a mechanic as his basic cash wage plus 50 cents an hour as a contribution to a welfare and pension plan. The Secretary of Labor determines that a basic hourly rate of \$3 an hour and a fringe benefit contribution of 50 cents are prevailing. The basic hourly rate or regular rate for overtime purposes would be \$3.25, the rate actually paid as a basic cash wage for the employee of X, rather than the \$3 rate determined as prevailing by the Secretary of Labor.

(3) Under the same prevailing wage determination, discussed in paragraph (c)(2) of this section, the Y construction contractor who has been paying \$3 an hour as his basic cash wage on which he has been computing overtime compensation reduces the cash wage to \$2.75 an hour but computes his costs of benefits under section 1(b)(2)(B) as \$1 an hour. In this example the regular or basic hourly rate would continue to be \$3 an hour. See S. Rep. No. 963, p. 7.

### § 5.33 Administrative expenses of a contractor or subcontractor.

(a) **Creditable costs.** The costs incurred by a contractor's insurance carrier, third-party trust fund, or other third-party administrator that are directly related to the administration and delivery of bona fide fringe benefits to the contractor's laborers and mechanics can be credited towards the contractor's obligations under a Davis-Bacon wage determination. Thus, for example, a contractor may take credit for the premiums it pays to an insurance carrier or the contributions it makes to a third-party trust fund that both administers and delivers bona fide fringe benefits under a plan, where the insurance carrier or third-party trust fund uses those monies to pay for bona fide fringe benefits and for the administration and delivery of such benefits, including evaluating benefit claims, deciding whether they should be paid, approving referrals to specialists, and other reasonable costs of administering the plan. Similarly, a contractor may also take credit for monies paid to a third-party administrator to perform tasks that are directly related to the administration and delivery of bona fide fringe benefits, including under an unfunded plan.



- (b) **Noncreditable costs.** A contractor's own administrative expenses incurred in connection with the provision of fringe benefits are considered business expenses of the firm and are therefore not creditable towards the contractor's prevailing wage obligations, including when the contractor pays a third party to perform such tasks in whole or in part. For example, a contractor may not take credit for the costs of office employees who perform tasks such as filling out medical insurance claim forms for submission to an insurance carrier, paying and tracking invoices from insurance carriers or plan administrators, updating the contractor's personnel records when workers are hired or separate from employment, sending lists of new hires and separations to insurance carriers or plan administrators, or sending out tax documents to the contractor's workers, nor can the contractor take credit for the cost of paying a third-party entity to perform these tasks. Additionally, recordkeeping costs associated with ensuring the contractor's compliance with the Davis-Bacon fringe benefit requirements, such as the cost of tracking the amount of a contractor's fringe benefit contributions or making sure contributions cover the fringe benefit amount claimed, are considered a contractor's own administrative expenses and are not considered directly related to the administration and delivery of bona fide fringe benefits. Thus, such costs are not creditable whether the contractor performs those tasks itself or whether it pays a third party a fee to perform those tasks.
- (c) **Questions regarding administrative expenses.** Any questions regarding whether a particular cost or expense is creditable towards a contractor's prevailing wage obligations should be referred to the Administrator for resolution prior to any such credit being claimed.

[88 FR 57747, Aug. 23, 2023]

## Subpart C—Severability

**Source:** 88 FR 57747, Aug. 23, 2023, unless otherwise noted.

### § 5.40 Severability.

The provisions of this part are separate and severable and operate independently from one another. If any provision of this part is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further agency action, the provision is to be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision is severable from this part and will not affect the remaining provisions.



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 24-1281

**Agenda Date:** 5/14/2024

**Agenda #:** C.1

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** INVESTMENT REPORT FOR QUARTER ENDING MARCH 31, 2024

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

RECEIVE the Housing Authority of the County of Contra Costa's investment report for the quarter March 31st, 2024.

### BACKGROUND:

California Government Code (CGC) Section 53646 requires the Housing Authority of the County of Contra Costa (HACCC) to present the Board of Commissioners with a quarterly investment report that provides a complete description of HACCC's portfolio. The report is required to show the issuers, type of investments, maturity dates, par values (equal to market value here) and the current market values of each component of the portfolio, including funds managed by third party contractors. It must also include the source of the portfolio valuation (in HACCC's case it is the issuer). Finally, the report must provide certification that (1) all investment actions executed since the last report have been made in full compliance with the Investment Policy and; (2) HACCC will meet its expenditure obligations for the next six months. (CGC 53646(b)).

The state-mandated report has been amended to indicate the amount of interest earned and how the interest was allocated. The amended report is attached.

In summary, HACCC had \$25,428.61 in interest earnings for the quarter ending March 31, 2024. That interest was earned within discrete programs and most of the interest earned is available only for use within the program which earned the interest. Further, interest earnings may be restricted to specific purposes within a given program.

The Housing Choice Voucher Program reserve as of 12/31/2013 held in cash and investments was transitioned to the HUD held program reserve account.

Non-restricted interest earnings within both the voucher and public housing programs must be used solely within those programs, but such interest earnings can be used for a wider range of purposes within the individual programs. The interest earned in the State and Local Fund can be used for any purpose within HACCC's scope of operations.

The interest earned for the quarter ending March 31, 2024 is shown below. A more detailed report is attached.

|                              |                             |                              |                              |                              |
|------------------------------|-----------------------------|------------------------------|------------------------------|------------------------------|
| Public Housing               | Housing Choice Voucher Fund |                              | Central Office               | State & Local                |
| Unrestricted Interest Earned | Restricted Interest Earned  | Unrestricted Interest Earned | Unrestricted Interest Earned | Unrestricted Interest Earned |
| \$16,918.47                  |                             |                              | \$3,479.55                   | \$5,030.59                   |

**FISCAL IMPACT:**

None. For reporting purposes only.

**CONSEQUENCE OF NEGATIVE ACTION:**

Should the Board of Commissioners elect not to accept the investment report it would result in an audit finding of non-compliance and could ultimately affect future funding from HUD.

**HOUSING AUTHORITY OF CONTRA COSTA COUNTY  
INVESTMENT REPORT : PORTFOLIO HOLDINGS BY TYPE**

**For Period Ending: 3/31/2024**

| Issuer                               | Investment Type        | Amount Invested     | Yield  | Investment Date | Maturity Date | Estimated Value@ Maturity Date |
|--------------------------------------|------------------------|---------------------|--------|-----------------|---------------|--------------------------------|
| <b><u>Cantella &amp; Company</u></b> |                        |                     |        |                 |               |                                |
| Fidelity Market Reserves             | Money Market           | 35,597.33           | 4.440% | ongoing         | ongoing       | 35,597.33                      |
|                                      |                        |                     |        |                 |               |                                |
|                                      |                        |                     |        |                 |               |                                |
| State Bank of India                  | Certificate of Deposit | 140,000.00          | 1.100% | 5/28/20         | 5/28/25       | 147,704.22                     |
| Texas Exchange Bank                  | Certificate of Deposit | 105,000.00          | 1.000% | 6/19/20         | 6/19/25       | 110,252.88                     |
| State Bank of India                  | Certificate of Deposit | 105,000.00          | 1.000% | 4/27/21         | 4/27/26       | 110,252.88                     |
| Sally Mae Bank                       | Certificate of Deposit | 75,000.00           | 1.050% | 9/23/21         | 9/22/26       | 78,937.50                      |
| Synchrony Bank                       | Certificate of Deposit | 100,000.00          | 0.950% | 9/24/21         | 9/24/26       | 104,752.60                     |
| Federal Home Loan bank               | Govt Agency            | 115,000.00          | 1.350% | 1/27/22         | 1/27/26       | 121,214.25                     |
| Federal Home Loan bank               | Govt Agency            | 110,000.00          | 1.750% | 2/04/22         | 1/27/27       | 119,588.08                     |
| American Express national Bank       | Certificate of Deposit | 247,000.00          | 2.000% | 3/09/22         | 3/09/27       | 271,713.53                     |
| Capital One Bank, USA                | Certificate of Deposit | 230,000.00          | 2.250% | 3/23/22         | 3/23/27       | 255,889.18                     |
| Ally Bank                            | Certificate of Deposit | 220,000.00          | 3.100% | 5/19/22         | 5/09/25       | 240,291.84                     |
| BMO Harris Bank                      | Certificate of Deposit | 150,000.00          | 3.300% | 6/15/22         | 6/15/27       | 174,763.56                     |
| Morgan Stanley Bank                  | Certificate of Deposit | 150,000.00          | 3.750% | 6/30/22         | 6/30/27       | 178,140.41                     |
| Discover Bank                        | Certificate of Deposit | 140,000.00          | 3.300% | 7/20/22         | 7/20/26       | 158,492.66                     |
| Sallie Mae Bank                      | Certificate of Deposit | 173,000.00          | 3.300% | 7/20/22         | 7/21/25       | 190,158.28                     |
| Federal Home Loan bank               | Govt Agency            | 150,000.00          | 4.000% | 9/02/22         | 8/25/27       | 179,884.93                     |
| Capital One NA                       | Certificate of Deposit | 245,000.00          | 4.300% | 9/30/22         | 9/30/27       | 297,703.86                     |
| CIBC Bank USA                        | Certificate of Deposit | 150,000.00          | 4.350% | 5/16/23         | 5/15/28       | 182,642.88                     |
| Texas Trust Credit Union             | Certificate of Deposit | 150,000.00          | 5.000% | 8/09/23         | 8/09/27       | 180,020.55                     |
| Greenstate Credit Union              | Certificate of Deposit | 130,000.00          | 5.000% | 8/29/23         | 8/29/28       | 162,535.62                     |
| Wells Fargo Bank                     | Certificate of Deposit | 150,000.00          | 4.450% | 12/12/23        | 12/12/28      | 183,411.58                     |
| Lineage Bank                         | Certificate of Deposit | 160,000.00          | 5.000% | 1/24/24         | 1/24/29       | 200,043.84                     |
| Nicolet National Bank                | Certificate of Deposit | 100,000.00          | 4.250% | 3/25/24         | 9/08/28       | 118,956.16                     |
| <b>GRAND TOTALS</b>                  |                        | <b>3,330,597.33</b> |        |                 |               | <b>3,802,948.61</b>            |

|                             |                |                     |       |         |         |                     |
|-----------------------------|----------------|---------------------|-------|---------|---------|---------------------|
| L.A.I.F. (Acct # 25-07-003) | Liquid Account | 113,790.62          | 4.30% | ongoing | ongoing | 113,790.62          |
|                             |                |                     |       |         |         |                     |
| <b>GRAND TOTALS</b>         |                | <b>3,444,387.95</b> |       |         |         | <b>3,916,739.23</b> |

# HOUSING AUTHORITY OF CONTRA COSTA COUNTY

## INVESTMENT REPORT BY FUND

For Period Ending 3/31/2024

| Issuer                               | Amount Invested     | Amount Invested by Fund: |                   |                   |                        |                       |
|--------------------------------------|---------------------|--------------------------|-------------------|-------------------|------------------------|-----------------------|
|                                      |                     | Public Housing           | Management        | Central Office    | Housing Choice Voucher | Rental Rehabilitation |
| <b><u>Cantella &amp; Company</u></b> |                     |                          |                   |                   |                        |                       |
| Fidelity Market Reserves             | 35,597.33           | 4,233.11                 | 15,746.20         | 15,618.02         |                        |                       |
|                                      |                     |                          |                   |                   |                        |                       |
|                                      |                     |                          |                   |                   |                        |                       |
| State Bank of India                  | 140,000.00          |                          | 140,000.00        |                   |                        |                       |
| Texas Exchange Bank                  | 105,000.00          |                          | 105,000.00        |                   |                        |                       |
| State Bank of India                  | 105,000.00          | 105,000.00               |                   |                   |                        |                       |
| Sally Mae Bank                       | 75,000.00           | -                        |                   | 75,000.00         |                        |                       |
| Synchrony Bank                       | 100,000.00          | 100,000.00               |                   |                   |                        |                       |
| Federal Home Loan bank               | 115,000.00          | 115,000.00               |                   |                   |                        |                       |
| Federal Home Loan bank               | 110,000.00          | 110,000.00               |                   |                   |                        |                       |
| American Express national Bank       | 247,000.00          | 247,000.00               |                   |                   |                        |                       |
| Capital One Bank, USA                | 230,000.00          | 230,000.00               |                   |                   |                        |                       |
| Ally Bank                            | 220,000.00          | 220,000.00               |                   |                   |                        |                       |
| BMO Harris Bank                      | 150,000.00          | 150,000.00               |                   |                   |                        |                       |
| Morgan Stanley Bank                  | 150,000.00          | 150,000.00               |                   |                   |                        |                       |
| Discover Bank                        | 140,000.00          | 140,000.00               |                   |                   |                        |                       |
| Sallie Mae Bank                      | 173,000.00          |                          | 173,000.00        |                   |                        |                       |
| Federal Home Loan bank               | 150,000.00          | 150,000.00               |                   |                   |                        |                       |
| Capital One NA                       | 245,000.00          | 245,000.00               |                   |                   |                        |                       |
| CIBC Bank USA                        | 150,000.00          |                          | 150,000.00        |                   |                        |                       |
| Texas Trust Credit Union             | 150,000.00          | 150,000.00               |                   |                   |                        |                       |
| Greenstate Credit Union              | 130,000.00          | 130,000.00               |                   |                   |                        |                       |
| Wells Fargo Bank                     | 150,000.00          |                          |                   | 150,000.00        |                        |                       |
| Lineage Bank                         | 160,000.00          |                          |                   | 160,000.00        |                        |                       |
| Nicolet National Bank                | 100,000.00          | 100,000.00               |                   |                   |                        |                       |
| <b>GRAND TOTALS</b>                  | <b>3,330,597.33</b> | <b>2,346,233.11</b>      | <b>583,746.20</b> | <b>400,618.02</b> | -                      | -                     |
|                                      |                     |                          |                   |                   |                        |                       |
| L.A.I.F. (Acct # 25-07-003)          | 113,790.62          | -                        | -                 | -                 |                        | 113,790.62            |
|                                      |                     |                          |                   |                   |                        |                       |
| <b>GRAND TOTALS</b>                  | <b>3,444,387.95</b> | <b>2,346,233.11</b>      | <b>583,746.20</b> | <b>400,618.02</b> | -                      | <b>113,790.62</b>     |

# HOUSING AUTHORITY OF CONTRA COSTA COUNTY

## Report per CGC 53646 CURRENT MARKET VALUE

For Period Ending 3/31/2024

| Issuer                               | Investment Type        | Maturity Date | Amount Invested     | Current Market Value (at 3/31/24) | Yield |
|--------------------------------------|------------------------|---------------|---------------------|-----------------------------------|-------|
| <b><u>Cantella &amp; Company</u></b> |                        |               |                     |                                   |       |
| Fidelity Market Reserves             | Money Market           | ongoing       | 35,597.33           | 35,597.33                         | 4.44% |
| State Bank of India                  | Certificate of Deposit | 5/28/2025     | 140,000.00          | 133,800.80                        | 1.10% |
| Texas Exchange Bank                  | Certificate of Deposit | 6/19/2025     | 105,000.00          | 99,974.70                         | 1.00% |
| State Bank of India                  | Certificate of Deposit | 4/27/2026     | 105,000.00          | 97,123.95                         | 1.00% |
| Sally Mae Bank                       | Certificate of Deposit | 9/22/2026     | 75,000.00           | 68,556.00                         | 1.05% |
| Synchrony Bank                       | Certificate of Deposit | 9/24/2026     | 100,000.00          | 91,160.00                         | 0.95% |
| Federal Home Loan bank               | Govt Agency            | 1/27/2026     | 115,000.00          | 108,055.15                        | 1.35% |
| Federal Home Loan bank               | Govt Agency            | 1/27/2027     | 110,000.00          | 101,721.40                        | 1.75% |
| American Express national Bank       | Certificate of Deposit | 3/09/2027     | 247,000.00          | 229,104.85                        | 2.00% |
| Capital One Bank, USA                | Certificate of Deposit | 3/23/2027     | 230,000.00          | 214,769.00                        | 2.25% |
| Ally Bank                            | Certificate of Deposit | 5/09/2025     | 220,000.00          | 215,250.20                        | 3.10% |
| BMO Harris Bank                      | Certificate of Deposit | 6/15/2027     | 150,000.00          | 144,309.00                        | 3.30% |
| Morgan Stanley Bank                  | Certificate of Deposit | 6/30/2027     | 150,000.00          | 146,322.00                        | 3.75% |
| Discover Bank                        | Certificate of Deposit | 7/20/2026     | 140,000.00          | 135,492.00                        | 3.30% |
| Sallie Mae Bank                      | Certificate of Deposit | 7/21/2025     | 173,000.00          | 169,254.55                        | 3.30% |
| Federal Home Loan bank               | Govt Agency            | 8/25/2027     | 150,000.00          | 146,236.50                        | 4.00% |
| Capital One NA                       | Certificate of Deposit | 9/30/2027     | 245,000.00          | 243,503.05                        | 4.30% |
| CIBC Bank USA                        | Certificate of Deposit | 5/15/2028     | 150,000.00          | 150,045.00                        | 4.35% |
| Texas Trust Credit Union             | Certificate of Deposit | 8/09/2027     | 150,000.00          | 152,209.50                        | 5.00% |
| Greenstate Credit Union              | Certificate of Deposit | 8/29/2028     | 130,000.00          | 133,545.10                        | 5.00% |
| Wells Fargo Bank                     | Certificate of Deposit | 12/12/2028    | 150,000.00          | 150,900.00                        | 4.45% |
| Lineage Bank                         | Certificate of Deposit | 1/24/2029     | 160,000.00          | 158,953.60                        | 5.00% |
| Nicolet National Bank                | Certificate of Deposit | 9/08/2028     | 100,000.00          | 99,710.00                         | 4.25% |
|                                      |                        |               | <b>3,330,597.33</b> | <b>3,225,593.68</b>               |       |
| L.A.I.F. (Acct # 25-07-003)          | Liquid Account         | ongoing       | 113,790.62          | 113,790.62                        | 4.30% |
| <b>GRAND TOTALS</b>                  |                        |               | <b>3,444,387.95</b> | <b>3,339,384.30</b>               |       |

# HOUSING AUTHORITY OF CONTRA COSTA COUNTY

## Investment Interest Earnings Report

For Period Ending 3/31/2024

| 150189                               | Amount Invested     | Interest Earned this Qtr | Interest Earned this Quarter by Fund |                 |                 |                 |                 |
|--------------------------------------|---------------------|--------------------------|--------------------------------------|-----------------|-----------------|-----------------|-----------------|
|                                      |                     |                          | Public Housing                       | Management      | Central         | Rental Rehab    | Housing Voucher |
|                                      |                     |                          | Unrestricted                         | Unrestricted    | Unrestricted    | Unrestricted    | Unrestricted    |
| <b><u>Cantella &amp; Company</u></b> |                     |                          |                                      |                 |                 |                 |                 |
| Fidelity Market Reserves             | 35,597.33           | 389.72                   | 46.34                                | 172.39          | 170.99          | -               | -               |
|                                      |                     |                          |                                      |                 |                 |                 |                 |
|                                      |                     |                          |                                      |                 |                 |                 |                 |
| State Bank of India                  | 140,000.00          | 379.73                   | -                                    | 379.73          | -               | -               | -               |
| Texas Exchange Bank                  | 105,000.00          | 258.90                   | -                                    | 258.90          | -               | -               | -               |
| State Bank of India                  | 105,000.00          | 258.90                   | 258.90                               | -               | -               | -               | -               |
| Sally Mae Bank                       | 75,000.00           | 194.18                   | -                                    | -               | 194.18          | -               | -               |
| Synchrony Bank                       | 100,000.00          | 234.25                   | 234.25                               | -               | -               | -               | -               |
| Federal Home Loan bank               | 115,000.00          | 382.81                   | 382.81                               | -               | -               | -               | -               |
| Federal Home Loan bank               | 110,000.00          | 474.66                   | 474.66                               | -               | -               | -               | -               |
| American Express national Bank       | 247,000.00          | 1,218.08                 | 1,218.08                             | -               | -               | -               | -               |
| Capital One Bank, USA                | 230,000.00          | 1,276.03                 | 1,276.03                             | -               | -               | -               | -               |
| Ally Bank                            | 220,000.00          | 1,681.64                 | 1,681.64                             | -               | -               | -               | -               |
| BMO Harris Bank                      | 150,000.00          | 1,220.55                 | 1,220.55                             | -               | -               | -               | -               |
| Morgan Stanley Bank                  | 150,000.00          | 1,386.99                 | 1,386.99                             | -               | -               | -               | -               |
| Discover Bank                        | 140,000.00          | 1,139.18                 | 1,139.18                             | -               | -               | -               | -               |
| Sallie Mae Bank                      | 173,000.00          | 1,407.70                 |                                      | 1,407.70        |                 |                 | -               |
| Federal Home Loan bank               | 150,000.00          | 1,479.45                 | 1,479.45                             | -               | -               | -               | -               |
| Capital One NA                       | 245,000.00          | 2,597.67                 | 2,597.67                             | -               | -               | -               | -               |
| CIBC Bank USA                        | 150,000.00          | 1,608.90                 |                                      | 1,608.90        |                 |                 | -               |
| Texas Trust Credit Union             | 150,000.00          | 1,849.32                 | 1,849.32                             |                 | -               |                 |                 |
| Greenstate Credit Union              | 130,000.00          | 1,602.74                 | 1,602.74                             |                 |                 |                 |                 |
| Wells Fargo Bank                     | 150,000.00          | 1,645.89                 | -                                    | -               | 1,645.89        |                 |                 |
| Lineage Bank                         | 160,000.00          | 1,468.49                 | -                                    | -               | 1,468.49        |                 |                 |
| Nicolet National Bank                | 100,000.00          | 69.86                    | 69.86                                | -               | -               |                 |                 |
| <b>-</b>                             | <b>3,330,597.33</b> | <b>24,225.64</b>         | <b>16,918.47</b>                     | <b>3,827.62</b> | <b>3,479.55</b> | <b>-</b>        | <b>-</b>        |
| L.A.I.F. (Acct # 25-07-003)          | 113,790.62          |                          |                                      |                 |                 | 1,202.97        |                 |
|                                      |                     |                          |                                      |                 |                 |                 |                 |
| <b>GRAND TOTALS</b>                  | <b>3,444,387.95</b> | <b>25,428.61</b>         | <b>16,918.47</b>                     | <b>3,827.62</b> | <b>3,479.55</b> | <b>1,202.97</b> | <b>-</b>        |



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 24-1257

**Agenda Date:** 5/14/2024

**Agenda #:** C.2

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** CONTRACT WITH PAUL EDWARDS MANAGEMENT AND CONSULTING, LLC FOR SERVICES RELATED TO THE HOUSING CHOICE VOUCHER PROGRAM

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

APPROVE and AUTHORIZE the Executive Director to execute a contract with Paul Edwards Management and Consulting, LLC, in an amount not to exceed \$1,500,000 for services related to the Housing Choice Voucher program for the period May 1, 2024 through April 30, 2025, with an option to extend the term through October 31, 2027 at an additional cost.

### BACKGROUND:

Over the course of the past 5 to 10 years, HACCC has struggled to recruit and hire staff to support the HCV program. Historically, staff have come to work for HACCC and built careers of serving the public, opting to stay with the agency for decades. However, in the years prior to the COVID pandemic and especially since the COVID pandemic, we have not only seen a dramatic reduction in the number of applications we receive from applicants interested in staff positions at HACCC, but retention of successfully hired staff has been abysmal with many new employees choosing to depart within one to three years of being hired. Consequently, HACCC's HCV department has struggled to maintain a staffing level over 65% over the past 5 years.

HACCC has been forced to hire temporary staff to fill in when these vacancies exist, but the quality of the work has suffered dramatically given the long and steep learning curve to master the complex regulations and policies associated with the HCV program. Moreover, temporary staffing has been highly unreliable for this type of work and, often, income certifications are missed or the delivery of services to tenants and landlords has suffered. This has led to a significant increase in the level of complaints from our participants, landlords and community partners and HACCC has decided to take steps to alleviate the existing issue.

Currently, HACCC has five caseloads that are not staffed by regular employees. This translates into approximately 3000 households who are not able to access the services they need to ensure they are paying the proper rent amount and securing the homes and leases they seek for moves or program participation. Moreover, HUD requires that all households have annual income redeterminations and HACCC has fallen out of compliance with this requirement.

Paul Edwards Management is a full-service housing consultant. PEM has a strong background working with Public Housing Authorities (PHA), conducting initial eligibility, interim reexaminations, annual reexaminations, unit transfers, contract rent changes, voucher portability, and end of participation transaction.



PEM achieves this by maintaining a business model that focuses on utilizing and optimizing resources, developing a skilled and knowledgeable work force, embracing technology, and establishing strong relationships throughout the housing industry built on integrity and trust. They are currently engaged as the HCV administrator for the San Francisco Housing Authority as well as the Housing Authorities for the City of Pittsburg, and Counties of Yolo and Marin to name a few.

PEM will not only provide day to day case management of the 5 vacant caseloads in the HCV department, but they will also establish a call center to facilitate the many calls and inquiries that come to HACCC every day. Once operational, we believe that PEM will greatly assist HACCC reverse the course of non-responsiveness experienced since the COVID pandemic as well as move HACCC back towards full functionality until a permanent staff is hired and retained.

HUD requires housing authorities to competitively procure goods and services, a process normally undertaken by each individual agency. However, HUD permits housing authorities to award contracts to firms selected by a state or local governmental agency in a competitive solicitation process. The state or local government's selection process must meet HUD's procurement guidelines and must have been for the same goods and services sought by the housing authority. HUD encourages housing authorities to procure goods and services in this manner in order to "foster greater economy and efficiency..."

In August of 2022, the San Francisco Housing Authority issued Request for Proposals No. 22-440-RFP-002 seeking qualified bidders for the Administration and Operation of the HCV Program. Paul Edwards Management and Consulting submitted the most qualified and responsive bid and was awarded the contract. HACCC will rely on this procurement to award this contract to PEM for comparable goods and services. The contract will be for a period of two years during which PEM will serve up to 3,000 households for comprehensive program needs of the families and HACCC.

**FISCAL IMPACT:**

The cost of the HCV program services provided by PEM will be paid from administrative fees earned by HACCC for administration of the Housing Choice Voucher (HCV) program.

**CONSEQUENCE OF NEGATIVE ACTION:**

If the action to approve and authorize the Executive Director to enter into a contract with Paul Edwards Management and Consulting, LLC (PEM) for services related to the Housing Choice Voucher (HCV) program for a period of two years in an amount not to exceed \$3.5 million is not approved, HACCC's HCV program is in jeopardy of becoming troubled and failing its annual SEMAP certification which will have significant financial consequences to the agency in the way of lost revenue for new funding opportunities.



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 24-1282

**Agenda Date:** 5/14/2024

**Agenda #:** C.3

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** STANDARD PERFORMER STATUS UNDER THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S SECTION EIGHT MANAGEMENT ASSESSMENT PROGRAM FOR FISCAL FYE 2024

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

ADOPT Resolution No. 5259, certifying the results for the Section 8 Management Assessment Plan (SEMAP), subject to HUD confirmatory review, for the Housing Authority of the County of Contra Costa (HACCC) for the period from April 1, 2023 through March 31, 2024.

### BACKGROUND:

HUD utilizes SEMAP to evaluate a public housing authority's (PHA) management of the HCV program. SEMAP scores are based on a combination of electronic data reported to HUD at regular intervals by PHAs and self-reported scores based on internal audits conducted by PHA staff. PHAs use HUD's SEMAP Certification form to submit their scores. HACCC's completed form for the fiscal year is attached. The SEMAP rating consists of fourteen separate performance indicators plus a Bonus Indicator. Scores for Indicators 1-8 on the attached SEMAP Certification form are based upon HACCC's internal review and an external review conducted by a consultant. Scores for Indicators 9-14 on the attached SEMAP Certification form are based on HUD's automatic scoring of these Indicators. Based on staff's certification, HACCC's HCV program is entitled to receive 125 out of 140 possible points, which will result in a SEMAP score of 89%. The rating becomes official after HUD reviews and approves the submission. If HUD maintains this score, HACCC will qualify as a "Standard Performer" under HUD's SEMAP program.

HACCC achieved a favorable score in 13 of 13 of the SEMAP Indicators for which it is eligible. Specifically, HACCC scored points in the following Indicators:

- Selection From the Waiting List
- Determination of Rent Reasonableness
- Determination of Adjusted Income
- Maintaining Current Utility Allowance Schedules
- Conducting Quality Control Inspections
- Expanding Housing Opportunities
- Maintaining Current Payment Standards
- Conducting Annual Income Reexaminations
- Correctly Calculating Tenant Rent
- Conducting Pre-Contract Housing Quality Standards (HQS) Inspections
- Housing Quality Standards Enforcement

- Annual HQS Inspections
- Lease-Up/Utilization Rate
- Housing Quality Standards Enforcement

Because the Agency is no longer eligible; HACCC did not score any points in the following Indicator:

- Family Self Sufficiency (FSS)

HACCC is no longer rated under SEMAP for this Indicator because we have graduated more FSS participants than the minimum required by HUD. Were the Agency still rated, HACCC would receive points for this Indicator.

**FISCAL IMPACT:**

HUD provides over one hundred and ninety-five million dollars annually to serve low-income families in Contra Costa County via the Housing Choice Voucher (HCV) rental assistance program. Approval of this SEMAP certification is a condition for continued funding.

**CONSEQUENCE OF NEGATIVE ACTION:**

Should the Board of Commissioners elect not to approve Resolution No. 5259, HACCC would be in jeopardy of losing over one hundred and ninety-five million dollars in funding that provides rental assistance for low-income families in Contra Costa County.

THE BOARD OF COMMISSIONERS  
HOUSING AUTHORITY OF THE COUNTY OF CONTRA COSTA

**RESOLUTION NO. 5259**

RESOLUTION APPROVING THE SECTION EIGHT MANAGEMENT ASSESSMENT PROGRAM  
CERTIFICATION FOR THE HOUSING CHOICE VOUCHER PROGRAM AND AUTHORIZING  
SUBMISSION OF RELATED DOCUMENTATION

WHEREAS, it is the desire of the Board of Commissioners of the Housing Authority of the County of Contra Costa to continue to provide housing assistance payments for qualified low-income tenants; and

WHEREAS, the Housing Authority of the County of Contra Costa desires to ensure that its Housing Choice Voucher program functions within the standards of the U.S. Department of Housing and Urban Development (HUD) Section 8 Management Assessment Program (SEMAP);

WHEREAS, 24 CFR Section 985.101, a PHA to submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year;

WHEREAS, the certification must be approved by PHA board resolution and signed by the PHA executive director.

WHEREAS, a PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSING AUTHORITY, as follows:

1. The SEMAP certification for the Housing Authority of the County of Contra Costa for the period ending March 31, 2023, is hereby approved subject to any subsequent HUD confirmatory reviews; and,
2. The Executive Director of the Housing Authority of the County of Contra Costa is authorized to submit this certification and any related documentation to the U.S. Department of Housing and Urban Development. This Resolution shall be effective immediately.

PASSED AND ADOPTED ON \_\_\_\_\_ by  
the following vote of the Commissioners.

AYES:

NOES:

ABSENT:

ABSTAIN:

I HEREBY CERTIFY THAT THIS IS A  
TRUE AND CORRECT COPY OF AN  
ACTION TAKEN AND ENTERED ON THE  
MINUTES OF THE BOARD OF  
COMMISSIONERS ON THE DATE SHOWN.

ATTESTED \_\_\_\_\_  
JOSEPH VILLARREAL, CLERK OF THE  
BOARD OF COMMISSIONERS AND  
EXECUTIVE DIRECTOR

By \_\_\_\_\_

**Housing Authority of the County of Contra Costa  
SEMAP Score Projection**

|   | <b>Indicator</b>   | <b>Max Points</b> | <b>Projected Points</b> | <b>Rating Criteria</b>   | <b>Status</b>   |
|---|--|-------------------|-------------------------|--|---|
| 1 | <b>Selection from the Waiting List.</b> Written policies in Admin Plan; At least 98% were selected in accordance with policies and met the selection preference criteria   | 15                | 15                      | Yes response - 15 Pts;<br>No - 0 Pts   | PBV and Tenant-Based wait lists all accessed correctly.   |
| 2 | <b>Reasonable Rent.</b> Written method to determine and document when rent is reasonable. PHA's method takes into consideration the location, size, type, quality, and age of the program unit and any amenities, housing services, maintenance or utilities provided by the owners.   | 20                | 15                      | 98 % in compliance - 20 Pts;<br>80 - 97 % in compliance - 15 Pts;<br>< 80 points - 0 Pts | 61 files reviewed; standard met full points               |
| 3 | <b>Determination of Adjusted Income.</b> PHA obtained third party verification or documented why third party verification was not available; properly attributed allowances for expenses; and, where the family is responsible for utilities, used the appropriate utility allowance   | 20                | 15                      | 90 % met standard - 20 Pts;<br>80 to 89 % met standard - 15 Pts                          | 61 files reviewed; standard met for 15 points             |
| 4 | <b>Utility Allowance Schedule.</b> The PHA reviewed utility rate data within the last 12 months, and adjusted its utility allowance schedule if there has been a change of 10% or more in a utility rate since the last time the utility allowance schedule was revised.   | 5                 | 5                       | Yes response - 5 Pts;<br>No - 0 Pts  | Implemented new schedules effective 3/1/2023 and 3/1/2024 |
| 5 | <b>HQS Quality Control Inspections.</b> A PHA supervisor met the minimum sample size required for quality control of HQS inspections. and represents a cross section of neighborhoods and the work of a cross section of inspectors.   | 5                 | 5                       | Yes response - 5 Pts;<br>No - 0 Pts  | QC inspections completed as required                      |
| 6 | <b>HQS Enforcement.</b> Quality control for all cases sampled that cited life-threatening HQS deficiencies were corrected within 24 hours and 98 % of all other cited HQS deficiencies were corrected within no more than 30 calendar days or abated   | 10                | 10                      | 100 % of 24 Hr and 98 % of 30 Day Fails Corrected or Abated - 10 Pts.<br>If not, 0 - Pts | 37 files reviewed; standard met for full points.          |
| 7 | <b>Expanding Housing Opportunities.</b> 1) written policy defining areas 2) Documented action taken to encourage owner participation 3) Maps with job, school and Services detailed 4) Listing in Briefing Packet of Owners 5) Explanation of Portability in Packet with Contacts for surrounding PHAs 6) Analysis of Difficulty to find housing and whether need higher Payment Standards | 5                 | 5                       | All Items met - 5 Pts;<br>Any missed - 0 Pts.  | Completed all requirements                                |
| 8 | <b>Payment Standards.</b> Must be between 90% and 110 %  | 5                 | 5                       | Yes response - 5 Pts;<br>No - 0 Pts  | PS updated and within 90 to 110 % range                   |

**Housing Authority of the County of Contra Costa  
SEMAP Score Projection**

|    |   |    |    |   |   |
|----|---|----|----|---|---|
| 9  | <b>Annual Reexaminations.</b> Within last 12 months.  | 10 | 10 | 96 - 100 % on time - 10 Pts;<br>90 to 95% on time - 5 Pts;<br>< 90 % on time - 0 Pts  | Standard met for full points.   |
| 10 | <b>Correct Tenant Rent Calculations.</b> The PHA correctly calculates tenant rent.  | 5  | 5  | 98 % Accurate - 5 Pts;<br>Less than 98 % accurate - 0 Pts.  | HACCC met standard for correct tenant rent calculations and full points for this indicator. |
| 11 | <b>Precontract HQS Inspections.</b> Each newly leased unit passed HQS inspection before the beginning date of the assisted lease and HAP contract.              | 5  | 5  | 98 % Inspected prior to HAP - 5 Pts.<br>Less than 98 % - 0 Pts.   | All units inspected prior to HAP execution.<br>HACCC 100% in compliance.                    |
| 12 | <b>Annual HQS Inspections.</b> The PHA inspects each unit under contract at least annually.   | 10 | 10 | 96 - 100 % on time - 10 Pts;<br>90 to 95% on time - 5 Pts;<br>< 90 % on time - 0 Pts  | Standard met for full points.   |
| 13 | <b>Lease-Up.</b> The PHA executes assistance contracts on behalf of eligible families for the number of units that has been under budget for at least one year. | 20 | 20 | 98 % Utilized - 20 Pts.;<br>95 to 97 % Utilized - 15 Pts;<br>< 95% Utilized - 0 Pts.  | 100.65% of budget expended - standard met.  |
| 14 | <b>Family Self-Sufficiency Enrollment.</b> The PHA has enrolled families in FSS as required.  | 0  | 0  | 80 % of Slots Filled and 30 % Escrow - 10 Pts; 60 - 79 % Slots filled and 30 % Escrow - 8 Pts; 80 % filled and < 30 % escrow - 5 Pts; < 60 % Slots Filled but 30 % Escrow - 5 Pts.; 60 - 79 % Slots filled but < 30 % Escrow - 3 Pts. | Program voluntary and not rated   |
| 15 | <b>Deconcentration Bonus</b>  | 5  | 0  | 50 % of all families in low poverty Census tracts; or Percent of movers with children to low poverty CTs 2 % > than last FY; or percent of movers over last 2 FYs 2 % or greater than second to last FY - 5 Pts                       | Census Data in Yardi does not support points for any of three criteria methods              |

**Total    140                    125                                    89.29%**

**90 - 100 % = High Performer**  
**60 - 89 % = Standard Performer**  
**Less Than 60 % = Troubled**

# Section 8 Management Assessment Program (SEMAP) Certification

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing

OMB Approval No. 2577-0215  
(exp. 12/31/2026)

Public reporting burden for this collection of information is estimated to average 12 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

This collection of information is required by 24 CFR sec 985.101 which requires a Public Housing Agency (PHA) administering a Section 8 tenant-based assistance program to submit an annual SEMAP Certification within 60 days after the end of its fiscal year. The information from the PHA concerns the performance of the PHA and provides assurance that there is no evidence of seriously deficient performance. HUD uses the information and other data to assess PHA management capabilities and deficiencies, and to assign an overall performance rating to the PHA. Responses are mandatory and the information collected does not lend itself to confidentiality.

**Instructions** Respond to this certification form using the PHA's actual data for the fiscal year just ended.

| PHA Name  | For PHA FY Ending (mm/dd/yyyy) | Submission Date (mm/dd/yyyy) |
|---|--------------------------------|------------------------------|
| Housing Authority of the County of Contra Costa | 3/31/2024                      | 05/06/2024                   |

**Check here if the PHA expends less than \$300,000 a year in Federal awards**

Indicators 1 - 7 will not be rated if the PHA expends less than \$300,000 a year in Federal awards and its Section 8 programs are not audited for compliance with regulations by an independent auditor. A PHA that expends less than \$300,000 in Federal awards in a year must still complete the certification for these indicators.

## Performance Indicators

1. Selection from the Waiting List. (24 CFR 982.54(d)(1) and 982.204(a))

(a) The PHA has written policies in its administrative plan for selecting applicants from the waiting list.

PHA Response Yes  No

(b) The PHA's quality control samples of applicants reaching the top of the waiting list and of admissions show that at least 98% of the families in the samples were selected from the waiting list for admission in accordance with the PHA's policies and met the selection criteria that determined their places on the waiting list and their order of selection.

PHA Response Yes  No

2. Reasonable Rent. (24 CFR 982.4, 982.54(d)(15), 982.158(f)(7) and 982.507)

(a) The PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units (i) at the time of initial leasing, (ii) before any increase in the rent to owner, and (iii) at the HAP contract anniversary if there is a 5 percent decrease in the published FMR in effect 60 days before the HAP contract anniversary. The PHA's method takes into consideration the location, size, type, quality, and age of the program unit and of similar unassisted units, and any amenities, housing services, maintenance or utilities provided by the owners.

PHA Response Yes  No

(b) The PHA's quality control sample of tenant files for which a determination of reasonable rent was required shows that the PHA followed its written method to determine reasonable rent and documented its determination that the rent to owner is reasonable as required for (check one):

PHA Response  At least 98% of units sampled  80 to 97% of units sampled  Less than 80% of units sampled

3. Determination of Adjusted Income. (24 CFR part 5, subpart F and 24 CFR 982.516)

The PHA's quality control sample of tenant files shows that at the time of admission and reexamination, the PHA properly obtained third party verification of adjusted income or documented why third party verification was not available; used the verified information in determining adjusted income; properly attributed allowances for expenses; and, where the family is responsible for utilities under the lease, the PHA used the appropriate utility allowances for the unit leased in determining the gross rent for (check one):

PHA Response  At least 90% of files sampled  80 to 89% of files sampled  Less than 80% of files sampled

4. Utility Allowance Schedule. (24 CFR 982.517)

The PHA maintains an up-to-date utility allowance schedule. The PHA reviewed utility rate data that it obtained within the last 12 months, and adjusted its utility allowance schedule if there has been a change of 10% or more in a utility rate since the last time the utility allowance schedule was revised.

PHA Response Yes  No

5. HQS Quality Control Inspections. (24 CFR 982.405(b))

A PHA supervisor (or other qualified person) reinspected a sample of units during the PHA fiscal year, which met the minimum sample size required by HUD (see 24 CFR 985.2), for quality control of HQS inspections. The PHA supervisor's reinspected sample was drawn from recently completed HQS inspections and represents a cross section of neighborhoods and the work of a cross section of inspectors.

PHA Response Yes  No

6. HQS Enforcement. (24 CFR 982.404)

The PHA's quality control sample of case files with failed HQS inspections shows that, for all cases sampled, any cited life-threatening HQS deficiencies were corrected within 24 hours from the inspection and, all other cited HQS deficiencies were corrected within no more than 30 calendar days from the inspection or any PHA-approved extension, or, if HQS deficiencies were not corrected within the required time frame, the PHA stopped housing assistance payments beginning no later than the first of the month following the correction period, or took prompt and vigorous action to enforce the family obligations for (check one):

PHA Response  At least 98% of cases sampled  Less than 98% of cases sampled

7. Expanding Housing Opportunities. (24 CFR 982.54(d)(5), 982.153(b)(3) and (b)(4), 982.301(a) and 983.301(b)(4) and (b)(12)).  
**Applies only to PHAs with jurisdiction in metropolitan FMR areas.**

Check here if not applicable

(a) The PHA has a written policy to encourage participation by owners of units outside areas of poverty or minority concentration which clearly delineates areas in its jurisdiction that the PHA considers areas of poverty or minority concentration, and which includes actions the PHA will take to encourage owner participation.

PHA Response Yes  No

(b) The PHA has documentation that shows that it took actions indicated in its written policy to encourage participation by owners outside areas of poverty and minority concentration.

PHA Response Yes  No

(c) The PHA has prepared maps that show various areas, both within and neighboring its jurisdiction, with housing opportunities outside areas of poverty and minority concentration; the PHA has assembled information about job opportunities, schools and services in these areas; and the PHA uses the maps and related information when briefing voucher holders.

PHA Response Yes  No

(d) The PHA's information packet for voucher holders contains either a list of owners who are willing to lease, or properties available for lease, under the voucher program, or a list of other organizations that will help families find units and the list includes properties or organizations that operate outside areas of poverty or minority concentration.

PHA Response Yes  No

(e) The PHA's information packet includes an explanation of how portability works and includes a list of neighboring PHAs with the name, address and telephone number of a portability contact person at each.

PHA Response Yes  No

(f) The PHA has analyzed whether voucher holders have experienced difficulties in finding housing outside areas of poverty or minority concentration and, where such difficulties were found, the PHA has considered whether it is appropriate to seek approval of exception payment standard amounts in any part of its jurisdiction and has sought HUD approval when necessary.

PHA Response Yes  No

8. Payment Standards. The PHA has adopted payment standards schedule(s) in accordance with § 982.503.

PHA Response Yes  No

Enter FMRs and payment standards (PS)

|                      |                      |                      |                      |                      |
|----------------------|----------------------|----------------------|----------------------|----------------------|
| 0-BR FMR <u>1825</u> | 1-BR FMR <u>2131</u> | 2-BR FMR <u>2590</u> | 3-BR FMR <u>3342</u> | 4-BR FMR <u>4547</u> |
| PS <u>2007</u>       | PS <u>2344</u>       | PS <u>2849</u>       | PS <u>3676</u>       | PS <u>4349</u>       |

If the PHA has jurisdiction in more than one FMR area, and/or if the PHA has established separate payment standards for a PHA-designated part of an FMR area, attach similar FMR and payment standard comparisons for each FMR area and designated area.

9. Annual Reexaminations. The PHA completes a reexamination for each participating family at least every 12 months. (24 CFR 982.516)

PHA Response Yes  No

10. Correct Tenant Rent Calculations. The PHA correctly calculates tenant rent in the rental certificate program and the family rent to owner in the rental voucher program. (24 CFR 982, Subpart K)

PHA Response Yes  No

11. Initial HQS Inspections. Newly leased units pass HQS inspection within the time period required. This includes both initial and turnover inspections for the PBV program. (24 CFR 982.305; 983.103(b)-(d)).

PHA Response Yes  No

12. Periodic HQS Inspections. The PHA has met its periodic inspection requirement for its units under contract (982.405 and 983.103(e)).

PHA Response Yes  No

13. Lease-Up. The PHA executes housing assistance contracts for the PHA's number of baseline voucher units, or expends its annual allocated budget authority.

PHA Response Yes  No

14a. Family Self-Sufficiency Enrollment. The PHA has enrolled families in FSS as required. (24 CFR 984.105)

**Applies only to PHAs required to administer an FSS program .**

Check here if not applicable

PHA Response

a. Number of mandatory FSS slots (Count units funded under the FY 1992 FSS incentive awards and in FY 1993 and later through 10/20/1998. Exclude units funded in connection with Section 8 and Section 23 project-based contract terminations; public housing demolition, disposition and replacement; HUD multifamily property sales; prepaid or terminated mortgages under section 236 or section 221(d)(3); and Section 8 renewal funding. Subtract the number of families that successfully completed their contracts on or after 10/21/1998.)

or, Number of mandatory FSS slots under HUD-approved exception



b. Number of FSS families currently enrolled

c. Portability: If you are the **initial** PHA, enter the number of families currently enrolled in your FSS program, but who have moved under portability and whose Section 8 assistance is administered by another PHA

Percent of FSS slots filled (b + c divided by a)

14b. Percent of FSS Participants with Escrow Account Balances. The PHA has made progress in supporting family self-sufficiency as measured by the percent of currently enrolled FSS families with escrow account balances. (24 CFR 984.305)

**Applies only to PHAs required to administer an FSS program .**

Check here if not applicable

PHA Response Yes  No

Portability: If you are the **initial** PHA, enter the number of families with FSS escrow accounts currently enrolled in your FSS program, but who have moved under portability and whose Section 8 assistance is administered by another PHA

**Deconcentration Bonus Indicator** (Optional and only for PHAs with jurisdiction in metropolitan FMR areas).

The PHA is submitting with this certification data which show that:

- (1) Half or more of all Section 8 families with children assisted by the PHA in its principal operating area resided in low poverty census tracts at the end of the last PHA FY;
- (2) The percent of Section 8 mover families with children who moved to low poverty census tracts in the PHA's principal operating area during the last PHA FY is at least two percentage points higher than the percent of all Section 8 families with children who resided in low poverty census tracts at the end of the last PHA FY;

or

- (3) The percent of Section 8 mover families with children who moved to low poverty census tracts in the PHA's principal operating area over the last two PHA FYs is at least two percentage points higher than the percent of all Section 8 families with children who resided in low poverty census tracts at the end of the second to last PHA FY.

PHA Response Yes  No  If yes, attach completed deconcentration bonus indicator addendum.

I hereby certify under penalty of perjury that, to the best of my knowledge, the above responses are true and correct for the PHA fiscal year indicated above. I also certify that, to my present knowledge, there is not evidence to indicate seriously deficient performance that casts doubt on the PHA's capacity to administer Section 8 rental assistance in accordance with Federal law and regulations.

**Warning:** Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012, 1014; 31 U.S.C. §3729, 3802).

Executive Director, signature

Chairperson, Board of Commissioners, signature

Date (mm/dd/yyyy) \_\_\_\_\_

Date (mm/dd/yyyy) \_\_\_\_\_

The PHA may include with its SEMAP certification any information bearing on the accuracy or completeness of the information used by the PHA in providing its certification.

# SEMAP Certification - Addendum for Reporting Data for Deconcentration Bonus Indicator

Date (mm/dd/yyyy) \_\_\_\_\_

PHA Name \_\_\_\_\_

Principal Operating Area of PHA \_\_\_\_\_  
(The geographic entity for which the Census tabulates data)

**Special Instructions for State or regional PHAs** Complete a copy of this addendum for each metropolitan area or portion of a metropolitan area (i.e., principal operating areas) where the PHA has assisted 20 or more Section 8 families with children in the last completed PHA FY. HUD will rate the areas separately and the separate ratings will then be weighted by the number of assisted families with children in each area and averaged to determine bonus points.

2020 Census Poverty Rate of Principal Operating Area \_\_\_\_\_

## Criteria to Obtain Deconcentration Indicator Bonus Points

To qualify for bonus points, a PHA must complete the requested information and answer yes for only one of the 3 criteria below. However, State and regional PHAs must always complete line 1) b for each metropolitan principal operating area.

- 1) \_\_\_\_\_ a. Number of Section 8 families with children assisted by the PHA in its principal operating area at the end of the last PHA FY who live in low poverty census tracts. A low poverty census tract is a tract with a poverty rate at or below the overall poverty rate for the principal operating area of the PHA, or at or below 10% whichever is greater.
- \_\_\_\_\_ b. Total Section 8 families with children assisted by the PHA in its principal operating area at the end of the last PHA FY.
- \_\_\_\_\_ c. Percent of all Section 8 families with children residing in low poverty census tracts in the PHA's principal operating area at the end of the last PHA FY (line a divided by line b).
- Is line c 50% or more? Yes  No

- 2) \_\_\_\_\_ a. Percent of all Section 8 families with children residing in low poverty census tracts in the PHA's principal operating area at the end of the last completed PHA FY.
- \_\_\_\_\_ b. Number of Section 8 families with children who moved to low poverty census tracts during the last completed PHA FY.
- \_\_\_\_\_ c. Number of Section 8 families with children who moved during the last completed PHA FY.
- \_\_\_\_\_ d. Percent of all Section 8 mover families with children who moved to low poverty census tracts during the last PHA fiscal year (line b divided by line c).
- Is line d at least two percentage points higher than line a? Yes  No

- 3) \_\_\_\_\_ a. Percent of all Section 8 families with children residing in low poverty census tracts in the PHA's principal operating area at the end of the second to last completed PHA FY.
- \_\_\_\_\_ b. Number of Section 8 families with children who moved to low poverty census tracts during the last two completed PHA FYs.
- \_\_\_\_\_ c. Number of Section 8 families with children who moved during the last two completed PHA FYs.
- \_\_\_\_\_ d. Percent of all Section 8 mover families with children who moved to low poverty census tracts over the last two completed PHA FYs (line b divided by line c).
- Is line d at least two percentage points higher than line a? Yes  No

**If one of the 3 criteria above is met, the PHA may be eligible for 5 bonus points.**

**See instructions above concerning bonus points for State and regional PHAs.**

## CA011 - SEMAP Certification - Indicator #8 - Page 2

Payment Standards. The PHA has adopted current payment standards for the voucher program by unit size for each FMR area in the PHA jurisdiction and, if applicable, for each PHA-designated part of an FMR area, which do not exceed 110 percent of the current applicable FMR and which are not less than 90 percent of the current FMR (unless a lower percent is approved by HUD). (24 CFR 982.503)

PHA Response: Yes  No

### Enter Current FMRs and Payment Standards (PS) Effective 10/1/2022:

| Bedroom Size     | 0      | 1      | 2      | 3      | 4      |
|------------------|--------|--------|--------|--------|--------|
| FMR              | \$1658 | \$1969 | \$2405 | \$3144 | \$3706 |
| Payment Standard | \$1823 | \$2165 | \$2645 | \$3458 | \$4076 |

| Bedroom Size     | 0      | 1      | 2      | 3      | 4      |
|------------------|--------|--------|--------|--------|--------|
| FMR              | \$1658 | \$1969 | \$2405 | \$3144 | \$3706 |
| Payment Standard | \$1658 | \$1969 | \$2405 | \$3144 | \$3706 |

### Enter Current FMRs and Payment Standards (PS) Effective 10/1/2023:

| Bedroom Size     | 0       | 1       | 2       | 3       | 4       |
|------------------|---------|---------|---------|---------|---------|
| FMR              | \$1,825 | \$2,131 | \$2,590 | \$3,342 | \$3,954 |
| Payment Standard | \$2,007 | \$2,344 | \$2,849 | \$3,676 | \$4,349 |

| Bedroom Size     | 0       | 1       | 2       | 3       | 4       |
|------------------|---------|---------|---------|---------|---------|
| FMR              | \$1,825 | \$2,131 | \$2,590 | \$3,342 | \$3,954 |
| Payment Standard | \$1,825 | \$2,131 | \$2,590 | \$3,342 | \$3,954 |

If the PHA has jurisdiction in more than one FMR area, and/or if the PHA has established separate payment standards for a PHA-designated part of an FMR area, attach similar FMR and payment standard comparisons for each FMR area and designated area.

# ALL HCV PROGRAM PARTICIPANTS IMPORTANT PROGRAM INFORMATION



## Attachment to Rent Adjustment Letter

**Tenant Number:**

Head of Household Name:

The Housing Authority will apply the Payment Standard below at your annual recertification. This new Payment Standard will be used to calculate both tenant rent responsibility and owner Housing Assistance Payments (HAP) in compliance with HUD's voucher calculation methodology.

**EFFECTIVE DATE: October 1, 2022**

**YARDI - TABLE 6**

### SECTION 1: NEW PAYMENT STANDARD

**EAST COUNTY - Antioch, Bay Point, Bethel Island, Brentwood, Byron, Discovery Bay, Knightsen, Oakley**

|           | 0-BR           | 1-BR           | 2-BR           | 3-BR           | 4-BR           | 5-BR           | 6-BR           | 7-BR           |
|-----------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| <b>PS</b> | <b>\$1,658</b> | <b>\$1,969</b> | <b>\$2,405</b> | <b>\$3,144</b> | <b>\$3,706</b> | <b>\$4,261</b> | <b>\$4,817</b> | <b>\$5,373</b> |
| % of FMR  | 100%           | 100%           | 100%           | 100%           | 100%           | 100%           | 100%           | 100%           |

**EFFECTIVE DATE: October 1, 2022**

**YARDI - TABLE 7 and 8**

**All Other Cities Except Pittsburg:**

|           | 0-BR           | 1-BR           | 2-BR           | 3-BR           | 4-BR           | 5-BR           | 6-BR           | 7-BR           |
|-----------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| <b>PS</b> | <b>\$1,823</b> | <b>\$2,165</b> | <b>\$2,645</b> | <b>\$3,458</b> | <b>\$4,076</b> | <b>\$4,687</b> | <b>\$5,298</b> | <b>\$5,910</b> |
| % of FMR  | 109.95%        | 109.55%        | 109.98%        | 109.99%        | 109.98%        | 110.00%        | 109.99%        | 109.99%        |

|             |                |                |                |                |                |                |                |                |
|-------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| FMR         | \$1,658        | \$1,969        | \$2,405        | \$3,144        | \$3,706        | \$4,261        | \$4,817        | \$5,373        |
| 110% of FMR | <b>\$1,823</b> | <b>\$2,165</b> | <b>\$2,645</b> | <b>\$3,458</b> | <b>\$4,076</b> | <b>\$4,687</b> | <b>\$5,298</b> | <b>\$5,910</b> |

### SECTION 2: INCOME LIMITS EFFECTIVE 04/18/2022

| Family Size<br>(# of persons) | Extremely Low ( 30%)<br>Income | Very Low (50%)<br>Income | Low (80%)<br>Income |
|-------------------------------|--------------------------------|--------------------------|---------------------|
| 01                            | \$30,000                       | \$50,000                 | \$74,200            |
| 02                            | 34,300                         | 57,150                   | 84,800              |
| 03                            | 38,600                         | 64,300                   | 95,400              |
| 04                            | 42,850                         | 71,400                   | 106,000             |
| 05                            | 46,300                         | 77,150                   | 114,500             |
| 06                            | 49,750                         | 82,850                   | 123,000             |
| 07                            | 53,150                         | 88,550                   | 131,450             |
| 08                            | 56,600                         | 94,250                   | 139,950             |

**Disclaimer:** This information is provided as a courtesy of the Housing Authority of the County of Contra Costa to assist you on determining if you are eligible for housing programs within the agency. **Payment Standards represent the maximum subsidy permitted not the maximum rent available. All rents are subject to Rent Reasonableness Determination.** This information is subject to change without notice.

# ALL HCV PROGRAM PARTICIPANTS IMPORTANT PROGRAM INFORMATION



## Attachment to Rent Adjustment Letter

**Tenant Number:**

Head of Household Name:

The Housing Authority will apply the Payment Standard below at your annual recertification. This new Payment Standard will be used to calculate both tenant rent responsibility and owner Housing Assistance Payments (HAP) in compliance with HUD's voucher calculation methodology.

**EFFECTIVE DATE: October 1, 2023**

**YARDI - TABLE 6**

### SECTION 1: NEW PAYMENT STANDARD

**EAST COUNTY - Antioch, Bay Point, Bethel Island, Brentwood, Byron, Discovery Bay, Knightsen, Oakley**

|           | 0-BR           | 1-BR           | 2-BR           | 3-BR           | 4-BR           | 5-BR           | 6-BR           | 7-BR           |
|-----------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| <b>PS</b> | <b>\$1,825</b> | <b>\$2,131</b> | <b>\$2,590</b> | <b>\$3,342</b> | <b>\$3,954</b> | <b>\$4,547</b> | <b>\$5,140</b> | <b>\$5,733</b> |
| % of FMR  | 100%           | 100%           | 100%           | 100%           | 100%           | 100%           | 100%           | 100%           |

**EFFECTIVE DATE: October 1, 2023**

**YARDI - TABLE 7 and 8**

**All Other Cities Except Pittsburg:**

|           | 0-BR           | 1-BR           | 2-BR           | 3-BR           | 4-BR           | 5-BR           | 6-BR           | 7-BR           |
|-----------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| <b>PS</b> | <b>\$2,007</b> | <b>\$2,344</b> | <b>\$2,849</b> | <b>\$3,676</b> | <b>\$4,349</b> | <b>\$5,001</b> | <b>\$5,654</b> | <b>\$6,306</b> |
| % of FMR  | 109.97%        | 110.00%        | 110.00%        | 109.99%        | 109.99%        | 109.98%        | 110.00%        | 109.99%        |

|             |                |                |                |                |                |                |                |                |
|-------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| FMR         | <b>\$1,825</b> | <b>\$2,131</b> | <b>\$2,590</b> | <b>\$3,342</b> | <b>\$3,954</b> | <b>\$4,547</b> | <b>\$5,140</b> | <b>\$5,733</b> |
| 110% of FMR | <b>\$2,007</b> | <b>\$2,344</b> | <b>\$2,849</b> | <b>\$3,676</b> | <b>\$4,349</b> | <b>\$5,001</b> | <b>\$5,654</b> | <b>\$6,306</b> |

### SECTION 2: INCOME LIMITS EFFECTIVE 05/15/2023

| Family Size<br>(# of persons) | Extremely Low (30%)<br>Income | Very Low (50%)<br>Income | Low (80%)<br>Income |
|-------------------------------|-------------------------------|--------------------------|---------------------|
| 01                            | \$31,050                      | \$51,800                 | \$78,550            |
| 02                            | 35,500                        | 59,200                   | 89,750              |
| 03                            | 39,950                        | 66,600                   | 100,950             |
| 04                            | 44,350                        | 73,950                   | 112,150             |
| 05                            | 47,900                        | 79,900                   | 121,150             |
| 06                            | 51,450                        | 85,800                   | 130,100             |
| 07                            | 55,000                        | 91,700                   | 139,100             |
| 08                            | 58,550                        | 97,650                   | 148,050             |

**Disclaimer:** This information is provided as a courtesy of the Housing Authority of the County of Contra Costa to assist you on determining if you are eligible for housing programs within the agency. **Payment Standards represent the maximum subsidy permitted not the maximum rent available. All rents are subject to Rent Reasonableness Determination.** This information is subject to change without notice.



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 24-1283

**Agenda Date:** 5/14/2024

**Agenda #:** C.4

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** Claims

Recommendation of the County Administrator  Recommendation of Board Committee

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### **RECOMMENDATIONS:**

DENY claim filed by Monika Lynette Brown.

### **BACKGROUND:**

Monika Lynette Brown: Personal injury claim for slip and fall in an amount to exceed \$25,000.

### **FISCAL IMPACT:**

No fiscal impact.

### **CONSEQUENCE OF NEGATIVE ACTION:**

Not acting on the claims could extend the claimants' time limits to file actions against the County.