GOVERNMENT OF THE DISTRICT OF COLUMBIA FIRST SOURCE EMPLOYMENT AGREEMENT FOR NON CONSTRUCTION CONTRACTS ONLY

GOVERNMENT-ASSISTED CONTRACT INFORMATION

CONTRACT/SOLICITATION NUMBER: _____

DISTRICT CONTRACTING AGENCY: _____

CONTRACTING OFFICER: _____

TELEPHONE NUMBER: _____ Email: _____

TOTAL CONTRACT AMOUNT _____

EMPLOYER CONTRACT AMOUNT: _____

CONTRACT NAME: _____

CONTRACT ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

CONTRACT START DATE: _____ CONTRACT END DATE: _____

EMPLOYER START DATE: _____ EMPLOYER END DATE: _____

TOTAL GOVERNMENT ASSISTED FUNDED AMOUNT: _____ DATE _____

☐ CONTRACT ☐ GRANT ☐ LOAN ☐ TAX ABATEMENT OR EXEMPTION ☐ LAND TRANSFER ☐ LAND DISPOSITION ☐ DEVELOPMENT AGREEMENT ☐ TAX INCREMENT FINANCING ☐ ANY ADDITIONAL LEGISLATION, IF YES _____

D.C. CODE#

BASE YEAR ☐ OPTION YEAR: 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ ***(SELECT CONTRACT YEAR)***

DESCRIPTION OF WORK: _____

EMPLOYER INFORMATION

EMPLOYER NAME: _____

EMPLOYER ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE NUMBER: _____ FEDERAL IDENTIFICATION NO.: _____

CONTACT PERSON: _____

TITLE: _____

E-MAIL: _____ TELEPHONE NUMBER: _____

CERTIFIED BUSINESS ENTERPRISE CERTIFICATION NUMBER: _____

D.C. APPRENTICESHIP COUNCIL REGISTRATION NUMBER: _____

ARE YOU A SUBCONTRACTOR ☐ YES ☐ NO IF YES, NAME OF PRIME CONTRACTOR: _____

NONPROFIT ORGANIZATION WITH 50 EMPLOYEES OR LESS: YES ☐ No ☐

This First Source Employment Agreement (Agreement), in accordance with Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Official Code §§ 2-219.01 – 2-219.05) and relevant provisions of the Apprenticeship Requirements Amendment Act of 2004 (D.C. Official Code § 2-219.03 and § 32-1431 is between the District of Columbia Department of Employment Services (DOES) and EMPLOYER.

Pursuant to this Agreement, the EMPLOYER, which includes all contractors and subcontractors, shall meet the following requirements:

Employer shall hire 51% District of Columbia residents (DC residents) for all new jobs created by the Contract and 35% of all apprenticeship hours worked in connection with the Contract shall be worked by DC residents registered in programs approved by the District of Columbia Apprenticeship

Council.

EMPLOYER shall use DOES as its first source for recruitment, referral, and placement of new hires for all new jobs created by the Government Assisted Project or Contract (Contract).

The Parties agree to the terms and conditions of the Agreement as follows:

I. DEFINITIONS

The following definitions shall govern the terms used in this Agreement.

A. **Apprentice** means a worker who is employed to learn an apprenticeable occupation under the terms and conditions of approved apprenticeship standards.

B. **Beneficiary** means:

1. The signatory to a contract executed by the Mayor which involves any District of Columbia government funds or funds which, in accordance with a federal grant or otherwise, the District government administers and which details the number and description of all jobs created by a government-assisted Contract for which the beneficiary is required to use the First Source Register.

2. A recipient of a District government economic development action, including contracts, grants, loans, tax abatements, land transfers for redevelopment, or tax increment financing that results in a financial benefit of $300,000 or more from an agency, commission, instrumentality, or other entity of the District government, including a financial or banking institution which serves as the repository for $1 million or more of District of Columbia funds.

3. A retail or commercial tenant that is a direct recipient of a District government economic development action, including contracts, grants, loans, tax abatements, land transfers for public redevelopment, or tax increment financing in excess of $300,000.

C. **Contracting Agency** means any District of Columbia agency that is awarded a government-assisted Contract totaling $300,000 or more.

D. **Direct labor costs** means all costs, including wages and benefits, associated with the hiring and employment of personnel assigned to a process in which payroll expenses are traced to the units of output and are included in the cost of goods sold.

E. **EMPLOYER** means any entity awarded a government-assisted Project or Contract totaling $300,000.00 or more, including all individual contractor and subcontractor entities at any tier, who performed work on the Project or Contract.

F. **First Source Employer Portal** means the website consisting of a connected group of static and dynamic (functional) pages and forms on the World Wide Web accessible by Uniform Resource Locator (URL) and maintained by DOES to provide information and reporting functionality to EMPLOYERS.

G. **First Source Register** means the DOES Automated Applicant Files, which consists of the names of District of Columbia residents registered with DOES.

H. **Good faith effort** means an EMPLOYER has exhausted all reasonable means to comply with any affirmative action, hiring, or contractual goal(s) pursuant to the First Source law and Agreement.

I. **Government-assisted Project or Contract (Contract)** means any construction or non-construction Project or Contract receiving funds or resources, valued at $300,00 or more, from the District of Columbia or funds or resources which, in accordance with a federal grant or otherwise, the District of Columbia government administers, including contracts, grants, loans, tax abatements or exemptions, land transfers, land disposition and development agreements, tax increment financing, or any combination of the aforementioned.

J. **Hard to employ** means a District of Columbia resident who is confirmed by DOES as:

1. An ex-offender who has been released from prison within the last 10 years;
2. A participant of the Temporary Assistance for Needy Families program;
3. A participant of the Supplemental Nutrition Assistance Program;
4. Living with a permanent disability verified by the Social Security Administration or District vocational rehabilitation program;
5. Unemployed for six (6) months or more in the last 12-month period;
6. Homeless;
7. A participant or graduate of the Transitional Employment Program established by § 32-1331; or
8. An individual who qualified for inclusion in the Work Opportunity Tax Credit Program as certified by DOES.

K. **Indirect labor costs** means all costs, including wages and benefits, that are part of operating expenses and are associated with the hiring and employment of personnel assigned to tasks other than producing products.

L. **Jobs** means any union and non-union managerial, non-managerial, professional, nonprofessional, technical or nontechnical position, including: clerical and sales occupations; service occupations; processing occupations; machine trade occupations; bench work occupations; structural work occupations; agricultural, fishery, forestry, and related occupations; and any other occupations as DOES may identify in the Dictionary of Occupational Titles, United States Department of Labor.

M. **New Hire:** New employee hired by EMPLOYER to work on the government assisted Contract or Project for the new job created.

N. **Transfer:** Existing employees EMPLOYER who has already worked for company and has been moved from one contract to another contract.

O. **Revised Employment Plan** means a document prepared and submitted by the EMPLOYER that includes the following:

1. A projection of the total number of new positions that will be created as a result of the contract, including the job title, number of positions available, indication of part-time or full-time status, salary range, union affiliation (if applicable), and the contracted hire dates;

2. A roster of all current employees to include the name, affirmation of DC residence (check mark), and Ward, including apprentices, trainees, and transfers from other projects or contracts, who will be employed on the Contract;

3. A projection of the total number of full-time and part-time salaried employees on an annual basis that will be utilized on the Contract and the total number of full-time and part-time salaried employees that will be District residents;

4. A projection of the total number of hours to be worked on the Contract by full-time and part-time hourly wage employees on an annual basis and a projection of the total number of hours to be worked on the Contract by full-time and part-time hourly wage employees who are District residents;

5. A timetable outlining the total number of hours to be worked on the Contract by full-time and part-time hourly wage employees by job category and the total number of full-time and part-time salaried employees by job category over the duration of the life of the hiring requirements set forth by DOES and an associated hiring schedule which predicts when specific job openings will be available;

6. Descriptions of the skill requirements by job title or position, including industry-recognized certifications required for the different positions;

7. A strategy to fulfill DC resident hiring percentage pursuant to this Agreement, including a component on communicating these requirements to contractors and subcontractors and a component on potential community outreach partnerships with the University of the District of Columbia, the University of the District of Columbia Community College, DOES, Jointly Funded Apprenticeship Programs, the District of Columbia Workforce Intermediary, or other government-approved, community-based job training providers;

8. A remediation strategy to ameliorate any problems associated with meeting these hiring requirements, including any problems encountered with contractors and subcontractors;

9. The designation of a senior official from the EMPLOYER who will be responsible for implementing the hiring and reporting requirements;

10. Descriptions of the health and retirement benefits that will be provided to DC residents working on the Contract or Project;

11. A strategy to ensure that DC residents who work on the Contract or Project receive ongoing employment and training opportunities after they complete work on the job for which they were initially hired and a review of past practices in continuing to employ DC residents from one Contract or Project to the next;

12. A strategy to hire graduates of District of Columbia Public Schools, District of Columbia Public Charter Schools, and community-based job training providers, and hard-to-employ DC residents; and

13. A disclosure of past compliance with the Workforce Act and the Davis-Bacon Act, where applicable, and the EMPLOYER'S general DC resident hiring practices on projects or contracts completed within the last 2 years.

P. **Tier Subcontractor** means any contractor selected by the primary subcontractor to perform portion(s) or all work related to the trade or occupation area(s) on a contract or project subject to this First Source Agreement.

Q. **Washington Metropolitan Statistical Area** means the District of Columbia; Virginia Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas, and Manassas Park; the Virginia Counties of Arlington, Clarke, Fairfax, Fauquier, Loudon, Prince William, Spotsylvania, Stafford, and Warren; the Maryland Counties of Calvert, Charles, Frederick, Montgomery, and Prince Georges; and the West Virginia County of Jefferson.

R. **Workforce Intermediary Pilot Program** means the intermediary between employers and training providers to provide employers with qualified DC resident job applicants. See DC Official Code § 2-219.04b.

II. GENERAL TERMS

A. Subject to the terms and conditions set forth herein, DOES will receive the Agreement from the Contracting Agency no less than seven (7) calendar days in advance of the Contract start date. No work associated with the relevant Contract can begin until the Agreement has been accepted by DOES.

B. The EMPLOYER shall require all contract Employers with contracts or subcontracts, under a contract receiving government assistance or benefits valued at $300,000 or more, to enter into an Agreement with DOES.

C. DOES will provide recruitment, referral, and placement services to the EMPLOYER, subject to the limitations in this Agreement.

D. Agreement will take affect once beneficiary/Employer been awarded a contract and has started work on the government assisted contract and no work can begin prior to execution of the Agreement and will be fully effective through the duration, any extension or modifications of the contract and until such as construction is complete and a certificate of occupancy is issued.

E. If an EMPLOYER began work prior to the execution of a First Source Employment Agreement, the EMPLOYER shall cease work on the contract and sign a revised First Source Employment Agreement to be bound by the applicable First Source Employment Agreement requirements, retroactively, from the start of work throughout the duration of the contract.

F. DOES and the EMPLOYER agree that, for purposes of this Agreement, new hires and jobs created for the Contract (both union and nonunion) include all of EMPLOYER'S job openings and vacancies in the Washington Metropolitan Statistical Area created for the Contract as a result of internal promotions, terminations, and expansions of the EMPLOYER'S workforce.

G. This Agreement includes apprentices as defined in D.C. Official Code §§ 32-1401- 1431.

H. DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party. The EMPLOYER will provide DOES with written documentation that the EMPLOYER has provided the representative of any collective bargaining unit involved with this Contract a copy of this Agreement and has requested comments or objections. If the representative has any comments or objections, the EMPLOYER will promptly provide them to DOES.

I. EMPLOYER with a contract with the District of Columbia government to perform construction, renovation work, or information technology work with a single contract, or cumulative contracts, of at least $500,000, within a 12-month period will be required to register an apprenticeship program with the District of Columbia Apprenticeship Council as required by DC Code 32-1431.

J. If, during the term of this Agreement, the EMPLOYER should transfer possession of all or a portion of its business concerns affected by this Agreement to any other party by lease, sale, assignment, merger, or otherwise this First Source Agreement shall remain in full force and effect and transferee shall remain subject to all provisions herein. In addition, the EMPLOYER as a condition of transfer shall:

1. Notify the party taking possession of the existence of this EMPLOYER'S First Source Employment Agreement.

2. Notify DOES within seven (7) business days of the transfer. This notice will include the name of the party taking possession and the name and telephone of that party's representative.

K. The EMPLOYER and DOES may mutually agree to modify this Agreement. Any modification shall be in writing, signed by the EMPLOYER and DOES, and attached to the original Agreement.

L. To the extent that this Agreement is in conflict with any federal labor laws or governmental regulations, the federal laws or regulations shall prevail.

III. TRAINING

A. DOES and the EMPLOYER may agree to develop skills training and on-the-job training programs as approved by DOES; the training specifications and cost for such training will be mutually agreed upon by the EMPLOYER and DOES and will be set forth in a separate Training Agreement.

IV. RECRUITMENT

A. The Employer shall complete a Revised Employment Plan that will include the information outlined in Section I.O.

B. The EMPLOYER shall register and post all job vacancies with the Job Bank Services of DOES at www.dcnetworks.org for a minimum of 10 calendar days. Should Employer need assistance posting job vacancies, Employer may contact Job Bank Services at (202) 698-6001.

C. The EMPLOYER shall notify DOES of all new jobs created for the Contract within at least seven (7) business days (Monday - Friday) of the EMPLOYER'S identification/creation of the new jobs. The Notice of New Job Creation shall include the number of employees needed by job title, qualifications and specific skills required to perform the job, hiring date, rate of pay, hours of work, duration of employment, and a description of the work to be performed. This must be done before using any other referral source.

D. Job openings to be filled by internal promotion from the EMPLOYER'S current workforce shall be reported to DOES for placement and referral, if the job is newly created. EMPLOYER shall provide DOES a Notice of New Job Creation that details such promotions in accordance with Section IV.C.

E. The EMPLOYER shall submit to DOES, prior to commencing work on the Contract, a list of current employees that includes the name, Social Security Number, and residency status of all current employees, including apprentices, trainees, and laid-off workers who will be employed on the Contract. All EMPLOYER information reviewed or gathered, including Social Security Numbers, as a result of DOES' monitoring and enforcement activities will be held confidential in accordance with all District and federal confidentiality and privacy laws and used only for the purposes that it was reviewed or gathered.

V. REFERRAL

A. DOES will screen applicants through carefully planned recruitment and training events and provide the EMPLOYER with a list of qualified applicants according to the number of employees needed by job title, qualifications and specific skills required to perform the job, hiring date, rate of pay, hours of work, duration of employment, and a description of the work to be performed as supplied by the EMPLOYER in its Notice of New Job Creation set forth above in Section IV.C.

B. DOES will notify the EMPLOYER of the number of applicants DOES will refer, prior to the anticipated hiring dates.

VI. PLACEMENT

A. The EMPLOYER shall in good faith, use reasonable efforts to select its new hires or employees from among the qualified applicants referred by DOES. All hiring decisions are made by the EMPLOYER.

B. In the event that DOES is unable to refer qualified applicants meeting the EMPLOYER'S established qualifications, within seven (7) business days (Monday - Friday) from the date of notification from the EMPLOYER, the EMPLOYER will be free to directly fill remaining positions for which no qualified applicants have been referred. However, EMPLOYER shall still be required to meet the First Source hiring requirements for all new jobs created by the Contract.

C. After the EMPLOYER has selected its employees, DOES is not responsible for the employees' actions and the EMPLOYER hereby releases DOES, and the Government of the District of Columbia, the District of Columbia Municipal Corporation, and the officers and employees of the District of Columbia from any liability for employees' actions.

VII. REPORTING REQUIREMENTS

A. EMPLOYER with Contracts receiving government assistance valued at $300,000 or more shall hire DC residents for at least 51% of all new jobs created by the contract and 35% of all apprenticeship hours worked in connection with the Contract shall be worked by DC residents registered in programs approved by the District of Columbia Apprenticeship Council.

B. EMPLOYER shall register in the First Source Online Registration and Reporting System for electronic submission of all monthly Contract Compliance data, payroll records and any other

documents required by DOES for reporting and monitoring.

C. EMPLOYER shall submit to the Department of Employment Services each month from the start of the contract a hiring compliance report for the contract that includes the following Contract Compliance data:

1. Number of new job openings created/available;
2. Number of new job openings listed with DOES, or any other District Agency;
3. Number of DC residents hired for new jobs;
4. Number of employees transferred to the Contract;
5. Number of DC residents transferred to the Contract;
6. Direct or indirect labor cost associated with the Contract;
7. Each employee's name, job title, Social Security Number, hire date, residence, and referral source;
8. Number of apprenticeship hours worked;
9. Number of apprenticeship hours worked by DC residents; and
10. Workforce statistics throughout the entire Contract tenure.

D. Monthly, EMPLOYER must electronically submit the Contract Compliance data to DOES. EMPLOYER is also required to make payroll and employment records available to DOES as a part of compliance monitoring, upon request.

VIII. FINAL REPORT AND GOOD FAITH EFFORTS

A. With the submission of the final request for payment from the Contracting Agency, the EMPLOYER shall:

1. Document in a report to DOES its compliance with the hiring percentage requirements for all new jobs created by the Contract and the percentages of DC residents employed in all Job Classifications, for each area of the Contract; or

2. Submit to DOES a request for a waiver of the hiring percentage requirements for all new jobs created by the Contract that will include the following documentation:

   a. Documentation supporting EMPLOYER'S good faith effort to comply;
   b. Referrals provided by DOES and other referral sources; and
   c. Advertisement of job openings listed with DOES and other referral sources.

B. DOES may waive the hiring percentage requirements for all new jobs created by the Contract, and/or the required percentages of DC residents in all Job Classifications areas on the Contract, if DOES finds that:

1. DOES certified that Beneficiary or EMPLOYER demonstrated a good faith effort to comply, as set forth in Section VIII.C.; or

2. EMPLOYER is located outside the Washington Metropolitan Statistical Area and none of the contract work is performed inside the Washington Metropolitan Statistical Area; or

3. The beneficiary published each job opening or part-time work needed for 7 calendar days in a District newspaper of city-wide circulation; and

4. DOES certified that there are insufficient numbers of DC residents in the labor market

possessing the skills required by the EMPLOYER for the positions created as a result of the Contract.

5. EMPLOYER entered into a special workforce development training or placement arrangement with DOES or with the District of Columbia Workforce Intermediary.

C. DOES shall consider documentation of the following when making a determination of a good-faith effort to comply:

1. DOES has certified that there are insufficient number of District residents in the labor market possessing the skills required by the Employer for the positions created as a result of the Project;

2. Whether the EMPLOYER posted the jobs on the DOES job website for a minimum of ten (10) calendar days;

3. Whether the EMPLOYER advertised each job opening in a District newspaper with city-wide circulation for a minimum of seven (7) calendar days;

4. Whether the EMPLOYER advertised each job opening in special interest publications and on special interest media for a minimum of seven (7) calendar days;

5. Whether the EMPLOYER hosted informational/recruiting or hiring fairs;

6. Whether the EMPLOYER contacted churches, unions, and/or additional Workforce Development Organizations;

7. Whether the EMPLOYER interviewed employable candidates;

8. Whether the EMPLOYER created or participated in a workforce development program approved by DOES;

9. Whether the EMPLOYER created or participated in a workforce development program approved by the District of Columbia Workforce Intermediary;

10. Whether the EMPLOYER substantially complied with the relevant monthly reporting requirements set forth in this section;

11. Whether the EMPLOYER has submitted and substantially complied with its most recent employment plan that has been approved by DOES; and

12. Any additional documented efforts.

IX. MONITORING

A. DOES is the District agency authorized to monitor and enforce the requirements of the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Official Code §§ 2-219.01 – 2.219.), and relevant provisions of the Apprenticeship Requirements Amendment Act of 2004 (D.C. Official Code § 2-219.03 and § 32-1431). As a part of monitoring and enforcement, DOES may require and EMPLOYER shall grant access to Contract sites, employees, and documents.

B. EMPLOYER'S noncompliance with the provisions of this Agreement may result in the imposition of penalties.

C. All EMPLOYER information reviewed or gathered, including Social Security Numbers, as a result of DOES' monitoring and enforcement activities will be held confidential in accordance with all District and federal confidentiality and privacy laws and used only for the purposes that it was reviewed or gathered.

D. DOES shall monitor all Contracts as authorized by law. DOES will:

1. Review all contract controls to determine if the Beneficiary or EMPLOYER, including any Contractors or Subcontractors, are subject to the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011.

2. Notify stakeholders and company officials and establish meetings to provide technical assistance involving the First Source process.

3. Make regular site visits to determine if the EMPLOYER or Subcontractor's workforce is in concurrence with the submitted Agreement and Monthly Compliance Reports.

4. Inspect and copy payroll, personnel records and any other records or information necessary to ensure the required workforce utilization is in compliance with the First Source Law.

5. Conduct desk reviews of *Monthly Compliance Reports*.

6. Educate EMPLOYERS about additional services offered by DOES, such as On-the-Job Training programs and tax incentives for EMPLOYERS who hire from certain categories.

7. Monitor and complete statistical reports that identify the overall Contract, Employer, contractor, and subcontractors' hiring.

8. Provide formal notification of non-compliance with the required hiring or any alleged breach of the First Source Law to all contracting agencies, and stakeholders.

X. PENALTIES

A. Willful Breach of the Agreement by the EMPLOYER, failure to submit the contract compliance reports, deliberate submission of falsified data may result in DOES imposing a fine of 5% of the total amount of the direct and indirect labor costs of the contract, in addition to other penalties provided by law. Failure to meet the required hiring requirements or failure to receive good faith waiver may result in the Department of Employment Services imposing a penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the beneficiary fail to meet the hiring requirements.

B. EMPLOYERS who have been found in violation two (2) times or more over a 10-year period may be debarred and/or deemed ineligible for consideration for Contracts for a period of five (5) years.

C. Appeals of violations or fines will be filed with the Contract Appeals Board.

I hereby certify that I have the authority to bind the EMPLOYER to this Agreement from the start of work on the Contract throughout the duration of the Contract.

By:

_____ _____

EMPLOYER Senior Official (Print) Date

_____

EMPLOYER Senior Official (Signature)

_____

Name of Company

_____

_____

Address

_____

Telephone

_____

Email

_____ _____

Signature Department of Employment Services Date