

## FIRST SOURCE EMPLOYMENT AGREEMENT

Contract Number: \_\_\_\_\_

Contract Amount: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: 1143 New Hampshire Avenue, N.W., Washington, D.C. Ward: 2

Nonprofit Organization: (Yes) \_\_\_\_\_ (No) X

This First Source Employment Agreement, in accordance with D.C. Law 14-24, D.C. Law 5-93, and Mayor's Order 83-265 for recruitment, referral, and placement of District of Columbia residents, is between the District of Columbia Department of Employment Services, hereinafter referred to as DOES, and **WBNV City Center Hotel Holdings, LLC**, hereinafter referred to as EMPLOYER. Under this Employment Agreement, the EMPLOYER will use DOES as its first source for recruitment, referral, and placement of new hires or employees for the new jobs created by construction of this project and will hire 51% District of Columbia residents for all new jobs created in connection with the project's construction.

### I. GENERAL TERMS

- A. The EMPLOYER will use DOES as its first source for the recruitment, referral and placement of employees.
- B. The EMPLOYER shall require all contractors and subcontractors, with contracts totaling \$100,000 or more, to enter into a First Source Employment Agreement with DOES.
- C. DOES will provide recruitment, referral and placement services to the EMPLOYER subject to the limitations set out in this Agreement.
- D. DOES participation in this Agreement will be carried out by the Office of the Director, with the Office of Employer Services, which is responsible for referral and placement of employees, or such other offices or divisions designated by DOES.
- E. This Agreement shall take effect when signed by the parties below and shall be fully effective for the duration of the project construction.
- F. This Agreement shall not be construed as an approval of the EMPLOYER'S bid package, bond application, lease agreement, zoning application, loan, or contract/subcontract.

- G. DOES and the EMPLOYER agree that for purposes of this Agreement, new hires and jobs created (both union and nonunion) include all EMPLOYER'S job openings and vacancies in the Washington Standard Metropolitan Statistical Area created as a result of internal promotions, terminations, and expansions of the EMPLOYER'S workforce, as a result of this project, including loans, lease agreements, zoning applications, bonds, bids, and contracts.
- H. The term "project" refers to the Planned Unit Development in Zoning Commission Case No. \_\_\_\_\_, if approved by the Zoning Commission, and the associated alley closing in S.O. No. \_\_\_\_\_, if approved by the Council for the District of Columbia.

## **II. RECRUITMENT**

- A. The EMPLOYER will complete the attached Employment Plan, which will indicate the number of new jobs projected, salary range, hiring dates, and union requirements. The EMPLOYER will notify DOES of its specific need for new employees as soon as that need is identified.
- B. Notification of specific needs, as set forth in Section II.A. must be given to DOES at least five (5) business days (Monday – Friday) before using any other referral source, and shall include, at a minimum, the number of employees needed by job title, qualification, hiring date, rate of pay, hours of work, duration of employment, and work to be performed.
- C. Job openings to be filled by internal promotion from the EMPLOYER'S current workforce need not be referred to DOES for placement and referral.
- D. The EMPLOYER will submit to DOES, prior to starting work on the project, the names, and social security numbers of all current employees, including trainees, and laid-off workers who will be employed on the project.

## **III. REFERRAL**

DOES will screen and refer applicants according to the qualifications supplied by the EMPLOYER.

## **IV. PLACEMENT**

- A. DOES will notify the EMPLOYER, prior to the anticipated hiring dates, of the number of applicants DOES will refer. DOES will make every reasonable effort to refer at least two qualified applicants for each job opening.
- B. The EMPLOYER will make all decisions on hiring new employees but will in good faith use reasonable efforts to select its new hires or employees from among the qualified persons referred by DOES.

- C. In the event DOES is unable to refer the qualified personnel requested, within five (5) business days (Monday – Friday) from the date of notification, the EMPLOYER will be free to directly fill remaining positions for which no qualified applicants have been referred. Notwithstanding, the EMPLOYER will still be required to hire 51% District residents for the new jobs created by the project.
- D. After the EMPLOYER has selected its employees, DOES will not be 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.

## **V. CONTROLLING REGULATIONS AND LAWS**

- A. To the extent this Agreement is in conflict with any labor laws or governmental regulations, the laws or regulations shall prevail.
- B. DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party.
- C. The EMPLOYER will provide DOES with written documentation that the EMPLOYER has provided the representative of any involved collective bargaining unit with 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.

## **VI. EXEMPTIONS**

- A. Contracts, subcontracts or other forms of government-assistance less than \$100,000.
- B. Employment openings the contractor will fill with individuals already employed by the company.
- C. Job openings to be filled by laid-off workers according to formally established recall procedures and rosters.
- D. Suppliers located outside of the Washington Standard Metropolitan Statistical Area and who will perform no work in the Washington Standard Metropolitan Statistical Area.

## **VII. AGREEMENT MODIFICATIONS, RENEWAL, MONITORING AND PENALTIES**

- A. 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, the EMPLOYER as a condition of transfer shall:

1. Notify the party taking possession of the existence of the EMPLOYER'S Agreement.
2. Notify the party taking possession that full compliance with this Agreement is required in order to avoid termination of the project.
3. EMPLOYER shall, additionally, advise DOES within seven (7) business/calendar days of the transfer. This advice will include the name of the party taking possession and the name and telephone of that party's representative.

B. DOES shall monitor EMPLOYER'S performance under this Agreement. The EMPLOYER will cooperate in DOES' monitoring effort and will submit a Contract Compliance Form to DOES monthly.

C. To assist DOES in the conduct of the monitoring review, the EMPLOYER will make available payroll and employment records for the review period indicated.

D. If additional information is needed during the review, the EMPLOYER will provide the requested information to DOES.

E. With the submission of the final request for payment from the District, the EMPLOYER shall:

1. Document in a report to the Contracting Officer its compliance with the requirement that 51% of the new employees hired by the project be District residents; or
2. Submit a request to the Contracting Officer for a waiver of compliance with the requirement that 51% of the new employees hired by the project be District residents and include the following documentations:
  - a. Material supporting a 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.

F. The Contracting Officer may waive the requirement that 51% of the new employees hired by the project be District residents, if the Contracting Officer finds that:

1. A good faith effort to comply is demonstrated by the contractor;

2. The EMPLOYER is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area; The Washington Standard Metropolitan Statistical Area includes the District of Columbia, the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg; the Virginia Counties of Fairfax, Arlington, Prince William, Loudon, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.
3. The EMPLOYER enters into a special workforce development training or placement arrangement with DOES; or
4. DOES certifies that insufficient numbers of District residents in the labor market possess the skills required by the positions created as a result of the project.

G. Willful breach of the First Source Employment Agreement by the EMPLOYER, or failure to submit the Contract Compliance Report, or deliberate submission of falsified data, may be enforced by the Contracting Officer through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the project.

H. Nonprofit organizations are exempted from the requirement that 51% of the new employees hired on the project be District residents.

I. The EMPLOYER and DOES, or such other agent as DOES may designate, may mutually agree to modify this Agreement.

J. The project may be terminated because of the EMPLOYER'S non-compliance with the provisions of this Agreement.

## **VIII. TERMINATION.**

This Agreement shall terminate upon completion of construction for the entire project, as evidence by a final Certificate of Occupancy issued for the project.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2006

Signed:

WBNV City Center Hotel Holdings, LLC

Department of Employment Services

By: \_\_\_\_\_

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