

FIRST SOURCE EMPLOYMENT AGREEMENT

Contract Number: _____

Contract Amount: _____

Project Name: Skyland Town Center

Project Address: Alabama Avenue & Naylor Road SE Ward: 7

Nonprofit Organization with 50 Employees or Less: (Yes) _____ (No) X

This First Source Employment Agreement (the “**Employment Agreement**” or “**Agreement**”), in accordance with D.C. Law 14-24, D.C. Law 5-93, as amended, 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 Skyland Holdings, LLC, a District of Columbia corporation, 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 the development of real property located at the intersection of Alabama Avenue & Naylor Road SE, (consisting of Parcels 213/52, 213/60, 213/61, 214/62, 214/88, 214/104, 214/182, 214/187, 214/189, 214/190, and 214/196; Square 5632 Lots 1, 3-5 and 802; Square 5633 Lots 800 and 801; Square 5641 Lots 10-13, and 819; Square 5641-N Lots 12-31, and 33) in Washington, D.C., consisting of a town center mixed-use retail and residential project (the “**Project**”) and will hire 51% District of Columbia residents for all new jobs created as well as 51% of apprentices, if any, employed in connection with the Project shall be District residents registered in programs approved by the District of Columbia Apprenticeship Council.

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 performing work on the Project, with contracts totaling \$100,000 or more, to enter into a First Source Employment Agreement with DOES relating to such contracted work.
- 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 (collectively, the “**Contract Officer**”).

- E. This Agreement shall take effect when signed by the parties below and shall be fully effective until thirty (30) days after the issuance of the final Certificate of Occupancy by the District of Columbia for EMPLOYER’S initial use of the Project. Any First Source Agreement entered into by any contractor as the result of this Agreement shall be fully effective for the duration of the relevant contract with EMPLOYER and any extensions or modifications to that contract.
- 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 the 2009 Industrial Revenue Bonds related to the Project, including loans, lease agreements, zoning applications, bonds, bids, and contracts, subject to the exemptions listed in Section VII of this Agreement.
- H. For purposes of this Agreement, apprentices as defined in D.C. Law 2-156, as amended, are included.
- I. The EMPLOYER shall register an apprenticeship program with the D.C. Apprenticeship Council for construction or renovation contracts or subcontracts totaling \$500,000 or more. This includes any construction or renovation contract or subcontract signed as the result of, but is not limited to, a loan, bond, grant, Exclusive Right Agreement, street or alley closing, or a leasing agreement of real property for one (1) year or more.
- J. All contractors who contract with the Government of the District of Columbia to perform information technology work with a single contract or cumulative contracts of at least \$500,000, within any twelve (12) month period shall be required to register an apprenticeship program with the District of Columbia Apprenticeship Council.
- K. The term “information technology work” shall include, but is not limited to, the occupations of computer programmer, programmer analyst, desktop specialist, technical support specialist, database specialist, network support specialist, and any other related occupations as the District of Columbia Apprenticeship Council may designate by regulation.

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, to the extent such information is known. 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 three (3) 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 addresses of all current employees, including apprentices, trainees, and laid-off workers who will be employed on the Project, if such information is known.

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 three (3) 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 foregoing, the EMPLOYER will still be required to hire, consistent with D.C. law, 51% District residents for the new jobs created by the development and construction of the Project.
- D. After the EMPLOYER has selected its employees, DOES will not be responsible for the referred 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 the referred employees' actions.

V. TRAINING

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

VI. 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.

VII. EXEMPTIONS

- A. Contracts, subcontracts or other forms of government-assistance less than \$100,000.
- B. Employment openings EMPLOYER or a 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.

VIII. 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 the Project affected by this Agreement to any other party by 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 days of the transfer. This advice will include the name of the party taking possession and the name and telephone number 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 Contract Compliance Form to DOES, the EMPLOYER shall:
1. Document in a report to the Contracting Officer its compliance with the requirement that 51% of the new employees hired in connection with the development and construction of 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 documentation:
 - 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 goal 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 EMPLOYER (or 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 contract.
- G. Willful breach of this Agreement by EMPLOYER, or failure to submit the Contract Compliance Report within fifteen (15) business days after notice of such failure has been given to EMPLOYER, or deliberate submission of falsified data, may be enforced by the Contracting Officer through imposition of penalties, calculated as 5% of the total amount of the direct and indirect labor costs of the contract.
- H. Nonprofit organizations with 50 or less employees 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. This Agreement shall not create third party rights in any party not a signatory to this Agreement.
- J. The Project may be terminated because of the EMPLOYER'S non-compliance with the provisions of this Agreement.
- K. EMPLOYER reserves the right to mark certain information provided to DOES as "confidential" or "proprietary". If information is provided by EMPLOYER to DOES with such a label, DOES shall maintain the confidentiality of such information and shall not release or convey the information to any other party unless such information is specifically requested under D.C. Code Section 2-531, et. seq., and not exempted from disclosure under D.C. Code Section 2-534.
- IX. Is your firm a certified Local, Small, Disadvantaged Business Enterprise (LSDBE)?
 YES NO ☒ X
 If yes, certification number: _____
- X. Do you have a registered Apprenticeship program with the D.C. Apprenticeship Council?
 YES NO ☒ X
 If yes, D.C. Apprenticeship Council Registration Number: _____
- XI. Indicate whether your firm is a subcontractor on this project: YES NO ☒ X
 If yes, name of prime contractor: _____

Dated this _____ day of _____ 2009

Signature Dept. of Employment Services

Signature of Employer

Skyland Holdings LLC.

Name of Company

Address

Telephone

E-mail

EMPLOYMENT PLANNAME OF FIRM Skyland Holdings, LLC.

ADDRESS _____

TELEPHONE NUMBER _____ FEDERAL IDENTIFICATION NO. _____

CONTACT PERSON _____ TITLE _____

E-mail: _____ TYPE OF BUSINESS: _____

ORIGINATING DISTRICT AGENCY Office of the Deputy Mayor for Planning and Economic
DevelopmentCONTRACTING OFFICER: Neil Albert TELEPHONE NUMBER: (202)727-6365TYPE OF PROJECT Historic Renovation/Construction FUNDING AMOUNT _____

PROJECTED START DATE _____ PROJECT DURATION _____

NEW JOB CREATION PROJECTIONS (Attach additional sheets, as needed.) Please indicate the new position(s) your firm will create as a result of this project.

	JOB TITLE	# OF JOBS F/T P/T	SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE DATE
A	SEE <u>EXHIBIT A</u>				
B					
C					
D					
E					
F					
G					
H					
I					
J					
K					

Exhibit A**NEW JOB CREATION PROJECTIONS****GENERAL CONTRACTOR**

The hiring needs of the general contractor have not yet been determined for the Project. All contractors involved in contracts equal to or greater than \$100,000 will be required to comply with the requirements of this Employment Agreement.

SUB-CONTRACTORS

All sub-contractors involved in contracts equal to or greater than \$100,000 will be required to comply with the requirements of this Employment Agreement.

CURRENT EMPLOYEES: Please list the names and social security numbers of all current employees including apprentices and trainees who will be employed on the project. Attach additional sheets as needed.

[illegible]

¹ The general contractor has not yet determined the staffing requirements for this Project. All contractors and sub-contractors will be required to comply with the Employment Agreement.