

# FIRST SOURCE EMPLOYMENT AGREEMENT



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

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

Project Name: Waterfront

Project Address: 401 M Street, SW, Washington, DC 20024 Ward: 6

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

This First Source Employment Agreement (the "Agreement"), is made this  7  day of  Dec. , 2007, 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 ("D.C. Law"), is between (i) the District of Columbia Department of Employment Services ("DOES") and (ii) Waterfront Associates LLC (together with its successors and assigns, the "Employer"). Under this Employment Agreement, the Employer will use DOES as its first source for recruitment, referral, and placement of its new hires or employees for all new jobs created by the construction of the Project and will hire, in accordance with D.C. Law, 51% qualified District of Columbia residents for all new jobs created by the construction of the Project. In addition, 51% of apprentices employed by the Employer in connection with the construction of the Project shall be District residents registered in programs approved by the District of Columbia Apprenticeship Council.

This Agreement is also being entered into in compliance with the terms of the Land Disposition and Development Agreement between Waterfront Associates and the RLA Revitalization Corporation dated November 21, 2006 and the First Stage Planned Unit Development (PUD) order of the D.C. Zoning Commission (Zoning Commission Order No. 02-38)

The Project, as used in this Agreement, means the construction of the improvements described on  Exhibit A  attached hereto. Any subset of the project ("Phase"), shall be defined in the Phase Start Date Certificate as defined below.

## I. GENERAL TERMS

- A. The Employer will use DOES as its first source for the recruitment, referral, and placement of employees for the construction of the Project.
- B. During the construction of the Project, the Employer shall require all of its contractors and subcontractors for the construction of the Project with contracts with the Employer which have a contract price of \$100,000 or more (each such contract, a "Covered Contract" and the contractor or subcontractor under each such Covered Contract, a "Covered Contractor") to enter into a First Source Employment Agreement with DOES relating to the construction of the Project.

- 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 of DOES, 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 fully executed by the Employer and a duly authorized officer of the District of Columbia. Any construction work performed prior to the effective date of this agreement shall be exempt from the requirements herein. The start of each Phase (“Phase Start Date”) of the Project will be memorialized by a certificate executed by both parties attached hereto as Exhibit B. At the completion of a Phase (“Phase Completion”), meaning 90% of the building has received a certificate of occupancy issued by the District of Columbia, the Employer will provide written notice to the DOES and this Agreement shall terminate as to such portion of the Project. However, this Agreement shall be fully effective for the duration of the construction of the remaining Project Phases. This Agreement shall terminate when the Phase Completion notices have been issued for all of the Project Phases.
- F. The Employer agrees to encourage retail tenants located at the Project to list employment opportunities connected to the opening of the business with DOES. In addition, the Employer will provide to DOES the name, address, contact person and telephone number of all retail tenants. The Employer will provide DOES with the information on the initial Project retail tenants no later than five (5) days from the date the lease is signed.
- G. This Agreement shall not be construed as an approval of any action or activity within or required for the construction of the Project, including any land use approval, requirements for the provision of public utilities or services or any administrative, judicial, quasi-judicial or legislative action.
- H. DOES and the Employer agree that for purposes of this Agreement, new hires and jobs created (both union and nonunion) relating to the construction of the Project include all Employer’s job openings and vacancies in jobs relating to the construction of the Project in the Washington Standard Metropolitan Statistical Area, including internal promotions, terminations, and expansions of the Employer’s workforce, to the extent such workforce is comprised of jobs created by the construction of the Project.
- I. For purposes of this Agreement, apprentices as defined in D.C. Law 2-156 are included.
- J. The Employer shall register an apprenticeship program with the D.C. Apprenticeship Council for construction contracts or subcontracts totaling \$500,000 or more relating to the Project. Employer shall ensure that 51% of all

new apprentices will be District residents employed in programs registered with the D.C. Apprenticeship Council as defined in D.C. Law 2-156. Monthly reports shall be submitted to DOES indicating the total number of apprenticeship hours worked. Pursuant to D.C. Law 12-295, 35% of the total number of apprenticeship hours shall have been worked by District of Columbia residents.

- K. If, at any time, DOES ceases to exist, or terminates the First Source Program, this Agreement shall automatically terminate unless the Employer is notified in writing by the District within 60 days of a successor department to fulfill DOES' responsibilities described hereunder.

## **II. RECRUITMENT**

- A. Not later than thirty (30) days after the Phase Start Date, the Employer will complete the Employment Plan attached as Exhibit C, 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 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. In the event labor is needed urgently, the Employer may hire immediately; however, DOES must be notified as soon as practical.
- 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 within thirty (30) days after the Phase Start Date the names of all current employees of the Employer, including apprentices, trainees, and laid-off workers, who will be employed for work in connection with 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 in its sole discretion, but will use Commercially Reasonable Efforts (defined herein shall mean those efforts a reasonable and prudent person would undertake in a business context) 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 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 construction of 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, such laws or regulations shall prevail.
- B. DOES will comply with the terms of all collective bargaining agreements to which the Employer and/or its contractors or subcontractors are a party.
- C. The Employer will provide DOES with written documentation that the Employer has provided the representative of any applicable collective bargaining unit with a copy of this Agreement and has requested comments or objections. If the representative of any such collective bargaining unit has any comments or objections, the Employer will promptly provide them to DOES.

**VI. EXEMPTIONS**

None of the following shall be Covered Contracts for the purposes of this Agreement or subject to the requirements of this Agreement:

- A. Contracts, subcontracts or other forms of government-assistance with respect to the construction of the Project which are in an amount less than \$100,000.
- B. Employment openings the Employer will fill with individuals already employed by the Employer.
- C. Job openings to be filled by laid-off workers according to formally established recall procedures and rosters of the Employer.

- D. Contracts with suppliers which are located outside of the Washington Standard Metropolitan Statistical Area and which perform no work in the Washington Standard Metropolitan Statistical Area.

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

- A. DOES hereby consents to the assignment of all or a portion of the rights and obligations of the Employer under this Agreement to any assignee to which the Employer may delegate to construct the Project, provided any such assignee agrees in writing to undertake all obligations and liabilities of Employer set forth under this Agreement, as the same may be amended in the future. Upon an assignment (or assignments), the Employer shall be released from all obligations and liabilities that are imposed upon the Employer under this Agreement or would accrue at any time after the date on which such permitted assignment occurs.
- B. Subject to Section VIII.A, if, during the term of this Agreement, the Employer should transfer ownership 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(ies) taking ownership of the existence of this Agreement.
  - 2. Notify the party(ies) taking ownership that full compliance with this Agreement is required pursuant to D.C. Law to avoid potential monetary penalties.
  - 3. Employer shall, additionally, advise DOES within ten (10) business days of the transfer. This advice will include the name of the party(ies) taking ownership and the name and telephone of that party's representative(s).
- C. DOES shall monitor the Employer's performance under this Agreement. The Employer will cooperate in DOES' monitoring effort, and from the Phase Start Date to Phase Completion, will submit a Contract Compliance Form for each Phase to DOES monthly in the form attached hereto as Exhibit D.
- E. To assist DOES in the conduct of the monitoring review, upon the request of DOES, the Employer will make its payroll and employment records for the review period indicated available for DOES review at the Employer's offices located in the District of Columbia or Washington Metropolitan Area, during Employer's business hours.
- F. If additional relevant information is reasonably needed by DOES during the monitoring review, the Employer will make Commercially Reasonable Efforts to

provide the requested information to DOES within thirty (30) days after the Employer receives a written request from DOES for such information.

G. With the submission of the final Contract Compliance Form to the District for each Phase, the Employer shall:

1. Document in a report to the Contracting Officer (as identified in Exhibit D) its compliance with the requirement, in accordance with D.C. Law, that 51% of the new employees hired by the Employer in connection with the construction of the Project were District residents; or
2. Submit a request to the Contracting Officer for a waiver of compliance with the requirement, in accordance with D.C. Law, that 51% of the new employees hired by the Employer in connection with the construction of the Project were District residents. Any such request for a waiver shall be accompanied by the following documentation:
  - a. Material demonstrating the Employer's Commercially Reasonable Efforts to comply with such requirement;
  - b. Referrals provided by DOES and other referral sources; and
  - c. Advertisements of job openings listed with DOES and other referral sources.

H. The Contracting Officer may waive the requirement, in accordance with D.C. Law, that 51% of the new employees hired by the Project be District residents, if the Contracting Officer finds that:

1. The Employer used Commercially Reasonable Efforts to comply with such requirement;
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, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince George's, 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 construction of the Project.
- I. Willful, material breach of this Agreement by the Employer, or the Employer's failure to submit the Contract Compliance Reports, or deliberate submission of falsified data by the Employer during the term of this Agreement may be enforced by the Contracting Officer through imposition of penalties, including monetary fines of up to 5% of the total amount of the direct and indirect labor costs of any contract of the Employer found to be in violation of this Agreement; provided, however, that the Contracting Officer may not impose any such penalty unless (i) DOES has given the Employer at least sixty (60) days written notice that DOES believes that the Employer has breached this Agreement, which notice must described in detail the nature of the alleged breach; (ii) the Employer has had an opportunity to cure the alleged breach during such sixty (60) day period and has failed to do so; and, (iii) the Contracting Officer has held a hearing at which the Employer may dispute any claim by DOES that the Employer has breached any provision of this Agreement and any proposed penalty or fine and after such hearing has concluded in good faith that the Employer has breached its obligations under this Agreement. The Employer may be represented by counsel at any hearing held pursuant to the preceding clause (iii). Except as otherwise required under this section, any such penalty or monetary fine shall be calculated pursuant to established procedures customarily followed by DOES or the District in similar circumstances. Any notice to the Employer under this section, must be given in writing addressed to the addresses set forth below the signature of the Employer on this Agreement and delivered by registered or certified mail, postage prepaid, or a recognized overnight delivery service.
- J. Nonprofit organizations with 50 or fewer employees are exempted from the requirement, in accordance with D.C. Law, that 51% of the new employees hired on the project be District residents.
- K. The Employer and DOES, or such other agent as DOES may designate, may mutually agree to modify this Agreement; provided that any such modification shall be in writing and signed by both parties to this Agreement, as the same may be amended from time to time.
- L. The Employer agrees to put the following enforcement mechanisms in place during the construction of the Project:
  1. The Employer shall initiate an educational program to advise its Covered Contractors of the requirements of this Agreement and proper methods and means of compliance.
  2. Each of the Employer's Covered Contracts shall contain a provision that require the applicable Covered Contractor to

execute a First Source Agreement with DOES, which First Source Agreement shall be in the form attached hereto as Exhibit E, with only such changes as may be agreed upon by the applicable Covered Contractor, the Employer and DOES.

3. The Employer shall require all of its Covered Contractors to submit monthly Compliance Forms (in the form required by the First Source Agreement attached hereto as Exhibit E, as such form may be modified with the consent of the Covered Contractor, DOES, and the Employer) to the Employer at the same time that they submit their payment requisitions to the Employer in connection with the construction of the Project, each of which monthly Compliance Forms shall cover the same period of time as is covered by the related payment requisition.
4. The Employer shall employ and maintain a tracking and monitoring program with respect to the monthly Compliance Forms required under the Employer's Covered Contracts, and develop a means of dealing with inconsistent, incorrect and/or tardy monthly Compliance Forms.
5. All of the Employer's Covered Contracts shall contain a provision granting the Employer the right to have additional retainage withheld from the applicable Covered Contractor in the event such Covered Contractor fails to submit all required monthly Compliance Forms on a timely basis or DOES advises the Employer in writing that the applicable Covered Contractor is failing or has failed to comply with its First Source Agreement, after giving effect to all applicable notice and cure periods under such First Source Agreement.
6. The Employer shall ensure that all Covered Contractors under the Employer's Covered Contracts shall enter into a First Source Agreement with DOES. The Employer shall also advise each such Covered Contractor of the resources available at DOES.

### **VIII. Notices**

Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to either party shall be deemed to have been received when personally delivered or transmitted by telecopy or facsimile transmission (which shall be immediately confirmed by telephone and shall be followed by mailing an original of the same within 24 hours after such transmission) or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:



To DOES: Office of Employer Services  
609 H Street, N.E., Suite 416  
Washington, DC 20002  
Attention: Susan O. Gilbert  
Associate Director  
Tel: (202) 698-3495  
Fax: (202) 698-5717

To Employer: FOREST CITY WATERSIDE, LLC  
c/o Forest City Washington  
1615 L Street, N.W., Suite 400  
Washington, D.C. 20036  
Attention: Tom Henneberry  
Tel: (202) 496-6600  
Fax: (202) 496-6666

And NEW KAEMPFER WATERFRONT LLC  
c/o Vornado/Charles E. Smith  
2345 Crystal Drive, Suite 1000  
Arlington, VA 22202  
Attention: Mitchell N. Schear  
Tel: 703-769-8200  
Fax: 703-769-1396

With copies to: Forest City Washington, LLC  
c/o Forest City Enterprises, Inc.  
50 Public Square  
Terminal Tower, Suite 1170  
Cleveland, Ohio 44113  
Attention: General Counsel  
Tel: (216) 416-3281  
Fax: (216) 416-3275

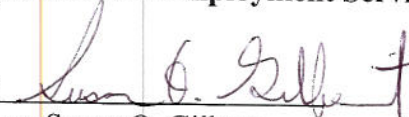
And Nixon Peabody LLP  
Attention: ElChino Martin  
401 9<sup>th</sup> Street, N.W., Suite 900  
Washington, DC 20004  
Tel: (202) 585-8834  
Fax: (202) 585-8080

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Dated this 7 day of Dec., 2007.


Signed:

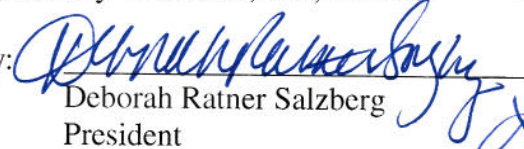
**District of Columbia  
Department of Employment Services**

By:   
Name: Susan O. Gilbert  
Title: Associate Director  
Office of Employer Services

**WATERFRONT ASSOCIATES LLC,**  
a District of Columbia Limited Liability Company

By: K/FCE Management LLC, its Managing Member

By: Forest City Waterside, Inc., Member 

By:   
Deborah Ratner Salzberg  
President

By: New Kaempfer Waterfront LLC, Member

By: Vornado Waterfront Holdings LLC  
Managing Member

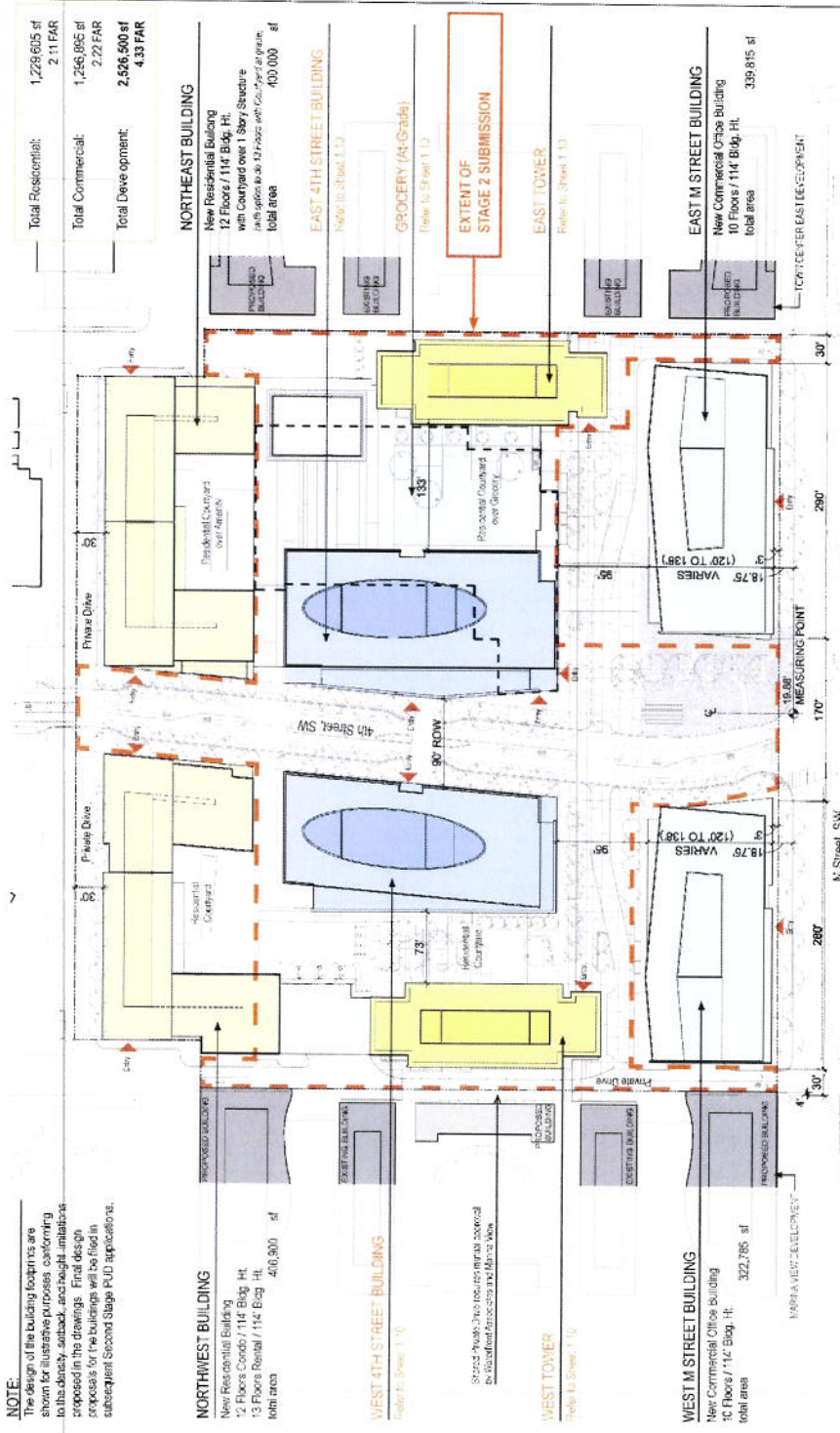
By: Vornado KMS Holdings LLC

By: Vornado Realty L.P.

By: Vornado Realty Trust

By:   
Mitchell N. Schear  
President

# EXHIBIT A PROJECT DESCRIPTION



**EXHIBIT B**

**CERTIFICATE OF PHASE START DATE**

Project Name: Waterfront  
Project Address: 401 M Street, SW, Washington, DC 200024  
DOES Contract No.:  
Project Phase Number:  
Project Phase Description:  
Phase Commencement: \_\_\_\_\_  
Projected Phase Completion: \_\_\_\_\_  
Projected Phase Duration: \_\_\_\_\_ months  
Phase Employment Plan: To be completed within 30 days of Phase Commencement

**ACKNOWLEDGED AND AGREED**

DC Department of Employment Services

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

Waterfront Associates LLC

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

**EXHIBIT C**

**EMPLOYMENT PLAN**

NAME OF FIRM \_\_\_\_\_

ADDRESS \_\_\_\_\_

Attention: \_\_\_\_\_

Tel: \_\_\_\_\_

Fax: \_\_\_\_\_

FEDERAL ID. NO.:

CONTACT PERSON: See above

TYPE OF BUSINESS: Real Estate

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ORIGINATING DISTRICT AGENCY: DISTRICT OF COLUMBIA

CONTRACTING OFFICER: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

TYPE OF PROJECT: \_\_\_\_\_

FUNDING AMOUNT: \_\_\_\_\_

PROJECTED PHASE START DATE: \_\_\_\_\_

PROJECT PHASE DURATION: \_\_\_\_\_

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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 and P/T	SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE DATE
A					
B					
C					
D					
E					
F					
G					

H					
I					
J					
K					

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

<b>NAME OF EMPLOYEE</b>	
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**EXHIBIT D**

**CONTRACT COMPLAINCE FORM**

\*For Office Use Only:  
 Profile No: \_\_\_\_\_

**Contract Compliance Form  
 Reporting Compliance with D.C. Law 14-24, Mayor's Order 83-265, and D.C. Law 5-93  
 First Source Employment Agreement**

**Department of Employment Services (DOES)  
 609 H Street, N.E., Room 416  
 Washington, D.C. 20002**

**Telephone: (202) 698-5772/6001 Fax: (202) 698-5717 TTD: (202) 698-4817  
 Toll Free Number: 1-877-319-7346 Website: [www.does.dc.gov](http://www.does.dc.gov)**

Reporting Period: \_\_\_\_\_, 20

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ E-mail: \_\_\_\_\_

Title: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Employer Federal Identification Number: \_\_\_\_\_

Contract/Loan Number: \_\_\_\_\_

Project Location: \_\_\_\_\_

Project Start Date: \_\_\_\_\_ Project End Date \_\_\_\_\_

Contracting/Lending Agency: \_\_\_\_\_

**I. Vacancies, Referrals and Hires**

Please provide monthly and cumulative statistics for the number of jobs created, referrals made, and hires.

	This Month	Cumulative
Number of Vacancies Currently Available		
Number of Vacancies Listed with DOES		
Total Number of Hires		
Number of District Residents Hired		
Number of DOES Referrals Hired		
Number of Current Employees Transferred to Work on Project		
Referrals Made by Other Sources		
DOES Referrals Made		





**III. Current Workforce This Month**

List the name, social security number, address, job title and hire date of all current employees transferred to work on the project this month.

NAME	SSN	ADDRESS	JOB TITLE	HIRE DATE

**IV. Laid-Off Employees This Month**

List the name, social security number, address, job title, and hire date for all laid-off employees recalled to work on the project this month.

NAME	SSN	ADDRESS	JOB TITLE	HIRE DATE

**V. Terminations This Month**

List the names of all employees employed on the project that were terminated and/or resigned during this reporting period.

NAME	SSN	JOB TITLE	TERMINATION DATE	PLACE OF RESIDENCE

VI. Indicate whether your firm is a subcontractor on this project: YES NO  
If yes, name of prime contractor: \_\_\_\_\_

VII. **Comments:**

Describe any problems you have experienced in meeting your job creation projections in implementing the First Source Employment Agreement.

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**EXHIBIT E**

**FORM OF FIRST SOURCE AGREEMENT FOR COVERED CONTRACTORS**

**FIRST SOURCE EMPLOYMENT AGREEMENT**

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

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

Project Name: Waterfront

Project Address: 401 M Street, SW, Washington, DC 20024 Ward: 6

Nonprofit Organization with 50 Employees or Less: (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

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 \_\_\_\_\_ 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 this project and will hire 51% District of Columbia residents for all new jobs created, as well, as 51% of apprentices employed in connection with the project shall be District residents registered in programs approved by the District of Columbia Apprenticeship Council.

The Employer is a Covered Contractor pursuant to the First Source Employment Agreement between Waterfront Associates, LLC and DOES dated \_\_\_\_\_, 2007. Employer is entering into this Agreement pursuant to the requirements of its contract to perform work on the Project.

**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 contract and any extensions or modifications to the 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 this project, including loans, lease agreements, zoning applications, bonds, bids, and contracts.
- 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, let 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. 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 apprentices, 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. 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 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.

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 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, Loudoun, 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 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 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.
- J. The project may be terminated because of the EMPLOYERS non-compliance with the provisions of this Agreement.

IX. Is your firm a certified Local, Small, Disadvantaged Business Enterprise (LSDBE)?  
 YES NO  
 If yes, certification number: \_\_\_\_\_

X. Do you have a registered Apprenticeship program with the D.C. Apprenticeship Council?  
 YES NO  
 If yes, D.C. Apprenticeship Council Registration Number: \_\_\_\_\_

XI. Indicate whether your firm is a subcontractor on this project:  
 YES NO  
 If yes, name of prime contractor: \_\_\_\_\_

dated this \_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
 Signature Dept. of Employment Services

\_\_\_\_\_  
 Signature of Employer

\_\_\_\_\_  
 Name of Company

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Telephone

\_\_\_\_\_  
 Email