

**SOUTHWEST WATERFRONT  
FIRST SOURCE AND WORKFORCE DEVELOPMENT  
EMPLOYMENT AGREEMENT**

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

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

Project Name: Southwest Waterfront Redevelopment (the "Project")

Project Address: 600 – 1100 Water St. SW Ward: 6

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

This First Source and Workforce Development Employment Agreement (this "Agreement") is entered into between and among the District of Columbia Department of Employment Services, hereinafter referred to as "DOES" and Hoffman-Struever Waterfront, L.L.C., a District of Columbia limited liability company, hereinafter referred to as "EMPLOYER".

This Agreement has been promulgated 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.

All capitalized terms used herein and not otherwise defined shall have the meaning given such terms in that certain Land Disposition Agreement dated July 8, 2008 between the Office of the Deputy Mayor for Planning and Economic Development for the District of Columbia and EMPLOYER.

This Agreement applies to each phase of the Project including, without limitation, pre-development, construction and Operations (as defined in Section I.J below). Under this Agreement, EMPLOYER will use the following as its sources for recruitment, referral, and placement of new hires or employees for all new jobs created by the development, construction and Operations of the Project:

- A. DOES First Source hiring process; and
- B. The Workforce Intermediary Program ("WIP"), to be funded in part by EMPLOYER's contribution of One Million Dollars (\$1,000,000) toward its formation, creation and operation, whose responsibility it is to assure that District residents are trained, qualified and ready to be hired for new jobs generated by the Project, if and to the extent WIP is operational during the term of this Agreement. DOES and EMPLOYER will negotiate in good faith with respect to WIP's specific obligations in this regard after the date of this Agreement.

A and B are hereinafter referred to jointly as the "**Sources.**" Employer must follow all requirements set forth herein for recruitment, referral and placement from the Sources.

Subject to the terms of this Agreement, EMPLOYER shall:

- A. cause at least fifty-one percent (51%) of all new jobs created in connection with the Project to be filled by District of Columbia residents with at least twenty percent (20%) of those jobs filled by residents of Ward 8 of the District of Columbia (collectively, the "**Minimum Workforce Requirement**"), and shall use good faith diligent efforts to hire residents of Southwest Washington, D.C. for such new jobs; and
- B. cause its general contractor(s) with respect to the Project, and through its general contractor(s), any subcontractor(s), having one or more contracts applicable to the Project in an aggregate amount of \$500,000 or more to (i) register an apprenticeship program with the DC Apprenticeship Council and (ii) cause 51% of apprentices that participate in such program to be District of Columbia residents, with 30% of such apprenticeship opportunities filled by District residents residing east of the Anacostia River.

## **FIRST SOURCE**

### **I. GENERAL TERMS**

- A. EMPLOYER will use the Sources as its first source for the recruitment, referral and placement of employees for the Project, which shall include Operations (as hereinafter defined) of the Project (the "**Operations Contracts**") during the Operations Period (as hereinafter defined) where 51% of the new jobs created will go to District residents.
- B. EMPLOYER shall require all contractors and subcontractors having one or more contracts with respect to the Project (including all Operations Contracts) with an aggregate value of \$100,000 or more, to enter into a First Source Employment and Workforce Development Agreement with DOES, which agreement shall be substantially similar to this Agreement and shall be effective for the entire term of such contract(s).
- C. DOES, directly and through WIP, will provide recruitment, referral and placement services to EMPLOYER subject to the limitations set out in this Agreement.
- D. DOES' obligations under the terms of this Agreement will be carried out by the Office of the Director, 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 not be construed as an approval of any submission, agreement or other document by or with EMPLOYER or any other person or

entity, including, without limitation, any bond application, lease agreement, zoning application, loan, contract or subcontract.

- F. DOES and EMPLOYER agree that for purposes of this Agreement, new hires and jobs created for the Project (both union and nonunion) include all EMPLOYER's job openings and vacancies in the Washington Standard Metropolitan Statistical Area (as defined in Section VII. D., below), created as a result of this Project.
- G. For the purposes of this Agreement, the term "apprentice," as used herein, shall mean a person at least 18 years of age who has entered into a written agreement, hereinafter called an apprenticeship agreement, with an employer, an association of employers, or an organization of employees, which apprenticeship agreement provides for not less than 2,000 hours of reasonably continuous employment for such person and for his/her participation in an approved program of training through employment and through education in related and supplemental subjects (as defined in D.C. Code 32-1407).
- H. EMPLOYER shall require all contractors and subcontractors having one or more construction or renovation contracts applicable to the Project in an aggregate amount of \$500,000 or more to register an apprenticeship program with the D.C. Apprenticeship Council. This includes, without limitation, any construction or renovation contract or subcontract signed by reason of a loan, bond, grant, Exclusive Rights Agreement, Land Disposition Agreement, street or alley closing, or of real property for a term of one (1) year or more. The apprenticeship program will apply to apprenticeable trades as defined by the U.S. Department of Labor.
- I. This Agreement shall take effect when signed by each of DOES and EMPLOYER and shall be fully effective during all stages of the Project (from pre-development through the lien free completion of the Project (including the close-out of all Project related construction contracts)). This Agreement shall apply to the operation of the Project during the Operations Period if and to the extent EMPLOYER manages or otherwise provides services in connection with the operation or management of the Improvements (as hereinafter defined) that constitute the Project. EMPLOYER shall assist DOES in negotiating the terms of a First Source Agreement between DOES, any third party operator or manager of the Improvements and DOES, which agreement shall be in form and substance reasonably acceptable to DOES, and shall be effective throughout the Operations Period, and shall deliver to DOES contact information for any retail tenants to which EMPLOYER leases space at the Project. The term "**Operations**" means any of the following: (i) the property management (including any hotel management) of any portion of the completed improvements comprising the Project (the "**Improvements**"); (ii) the activities of any parking operator/lessee and/or security company operating at the Improvements, and (iii) any construction or renovation contracts governing or arising out of tenant construction at the Improvements. The term "**Operations Period**" means, with respect to each

phase of Required Improvements, the period beginning upon Completion of that set of Required Improvements and ending on the fifth anniversary of such completion date.

## II. RECRUITMENT

- A. EMPLOYER will complete and submit to DOES the attached Employment Plan, which will indicate the number of new jobs projected, salary range, hiring dates, and union requirements. EMPLOYER will notify DOES and WIP, if WIP is operational, of its specific need for new employees as soon as that need is identified.
- B. Written notification of specific employee needs ("**Employee Notification**"), as set forth in Section II.A, must be given to DOES and WIP, if WIP is operational, at least five (5) business days (Monday – Friday, excluding legal holidays observed by the District of Columbia) ("**Business Days**") before using any other employee referral source or directly hiring employees. The Employee Notification 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. EMPLOYER will provide job referral contact information on all Project signage.
- D. Job openings to be filled by internal promotion or transfer from EMPLOYER'S current workforce need not be referred to DOES or WIP for placement and referral.
- E. EMPLOYER will submit to DOES the names and a unique identification number for all current employees, including apprentices, trainees, and laid-off workers who will be employed on the Project.

## III. REFERRALS

- A. DOES and WIP, if WIP is operational, shall screen and refer applicants according to the qualifications supplied by EMPLOYER in the applicable Employee Notification.

## IV. PLACEMENT

- A. DOES and WIP, if operational, within five (5) Business Days after receiving the applicable Employee Notification, shall notify EMPLOYER of the number of applicants DOES and WIP, if WIP is operational, will refer to EMPLOYER in response to such Employee Notification. DOES and WIP, if WIP is operational, will use reasonable efforts to refer at least two (2) Qualified Applicants for each job opening listed in an Employee Notification. Qualified Applicant shall mean applicants who have the necessary skills to perform the jobs to be filled in accordance with the qualifications supplied by EMPLOYER per provision III.A.

- B. 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 Applicants referred by DOES and/or WIP, if operational.
- C. In the event neither DOES nor WIP is able to refer the qualified personnel requested by EMPLOYER within five (5) Business Days following the date the applicable Employee Notification is delivered to DOES and WIP, if applicable, EMPLOYER will be free to directly fill remaining positions for which no Qualified Applicants have been referred. Notwithstanding the foregoing, EMPLOYER will still be required to use good faith efforts to satisfy the Minimum Workforce Requirement, which EMPLOYER may do, without limitation, either through WIP, or by identifying, training (at EMPLOYER'S cost) and hiring residents through EMPLOYER'S own means.
- D. In no event shall DOES and WIP, if WIP is operational, be responsible for the actions or inaction of any employee (regardless of whether such employee was referred by DOES or WIP) and EMPLOYER hereby releases DOES, WIP, the Government of the District of Columbia, the District of Columbia Municipal Corporation, and their respective officers, directors and employees from any and all liability for any employee's actions or failures to act.

#### V. TRAINING

- A. DOES, WIP, if operational, and EMPLOYER 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 EMPLOYER, DOES and WIP, if operational, 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, such laws or regulations shall control to the extent of such conflict.
- B. DOES and WIP, if operational, will use reasonable efforts to work within the terms of any collective bargaining agreements applicable to the Project to which EMPLOYER is a party.
- C. EMPLOYER will provide DOES and WIP, if operational, written documentation evidencing that EMPLOYER has provided the representative of any applicable collective bargaining unit with a copy of this Agreement and has requested in writing comments or objections from such representative. If such representative has any comments or objections, EMPLOYER will promptly provide them to DOES and WIP, if operational.

#### VII. EXEMPTIONS

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

#### VIII. AGREEMENT MODIFICATIONS, RENEWAL, MONITORING, AND PENALTIES

- A. If, during the term of this Agreement, EMPLOYER should transfer possession of all or a portion of the Project (including any Improvements) to any other party by lease, sale, assignment, merger, or otherwise, EMPLOYER as a condition of transfer shall:
  - 1. notify the party taking possession of the existence of this Agreement;
  - 2. notify the party taking possession that it will be required to execute a First Source and Workforce Development Agreement in substantially similar form to this Agreement as a condition to the effectiveness of such lease, sale, assignment, merger or other transfer; and
  - 3. EMPLOYER shall provide DOES and WIP, if WIP is operational, not later than seven (7) calendar days prior to any such transfer, with the name of the transferee and the name, address and telephone of that transferee's representative.
- B. DOES shall monitor EMPLOYER's performance under this Agreement. EMPLOYER will cooperate in such monitoring efforts and will submit a report in the form attached hereto to DOES no later than the tenth (10th) day of each calendar month showing EMPLOYER'S compliance with the requirements of this Agreement. In addition, no later than thirty (30) days after the last day of the first calendar year after the date of this Agreement and the last day of each calendar year thereafter during the term of this Agreement (as described in paragraph I.J.

hereof), EMPLOYER shall deliver to DOES a report showing each new job created in connection with the Project during such calendar year, the number of those jobs filled by District residents and by residents of Ward 8, and otherwise in form and substance reasonably satisfactory to DOES.

- C. EMPLOYER will make available to DOES payroll and employment records throughout the term of this Agreement.
- D. EMPLOYER shall also make available to DOES such other and further information as may be reasonably requested by DOES.
- E. The terms and conditions of this Agreement shall inure to the benefit of any successor entity to DOES, including, without limitation, any successor agency or entity which is tasked with the management, monitoring, and reporting of compliance with D.C. Law 14-24, D.C. Law 5-93, and Mayor's Order 83-265 in lieu of DOES.
- F. Within thirty (30) days after issuance by the District of the Final Completion Certificate for the Project The EMPLOYER shall:
  - 1. Document in a report to DOES its compliance with the Minimum Workforce Requirement; or
  - 2. Submit a request to DOES and to the Office of the Deputy Mayor for Planning and Economic Development ("ODMPED") for a waiver of compliance with the Minimum Workforce Requirement, which waiver must include the following minimum documentation:
    - a. Material supporting a good faith effort to comply;
    - b. Referrals provided by DOES and other referral sources;
    - c. Advertisement of job openings listed with DOES and other referral sources; and
    - d. Documents showing EMPLOYER'S efforts to identify, train and hire residents through EMPLOYER'S own means.
- G. DOES , in its sole and absolute discretion, may waive the satisfaction of the Minimum Workforce Requirement, if DOES finds that:
  - 1. a good faith effort to comply is demonstrated by EMPLOYER;
  - 2. 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;
  - 3. EMPLOYER enters into a special workforce development training or placement arrangement with DOES or WIP, if operational; 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.
- H. DOES may impose reasonable penalties for a willful breach of this Agreement by EMPLOYER, or submission of false data by EMPLOYER, which may include a monetary penalty of 5% of the total amount of the direct and indirect labor costs of the Project.
- I. 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.
- J. EMPLOYER and DOES may modify this Agreement by a writing signed by each of EMPLOYER and DOES.
- K. EMPLOYER may be declared ineligible for further contracts with DOES and/or the District of Columbia because of EMPLOYER's 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: L07200715912 (Certification No. for Managing Member of EMPLOYER)
- 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: \_\_\_\_\_
- XII. This Agreement constitutes the entire agreement and understanding between the parties and supersedes all prior agreements and understandings related to the subject matter hereof, including, without limitation, the Exclusive Rights Agreement dated as of November 10, 2006 between Developer and the Anacostia Waterfront Corporation. All Schedules and Exhibits are incorporated herein by reference regardless of whether so stated.

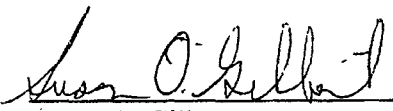
*[Signatures on Following Page]*



Dated this 8<sup>th</sup> day of July, 2008.

**DOES:**

**Department of Employment Services**

By:   
Susan O. Gilbert  
Associate Director

Dept. of Employment Services  
Office of Employer Services

**EMPLOYER:**

**Hoffman-Struever Waterfront L.L.C.**

By: PN Hoffman & Associates, Inc.  
Managing Member

By:   
Lamont Hoffman  
Chief Executive Officer

4725 Wisconsin Avenue, N.W.  
Suite 200  
Washington, DC 20016  
Telephone: 202-686-0010  
Email: [mhoffman@pnhoffman.com](mailto:mhoffman@pnhoffman.com)

## EMPLOYMENT PLAN

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

ADDRESS \_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_ FEDERAL IDENTIFICATION NO. \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_ TITLE \_\_\_\_\_

E-mail: \_\_\_\_\_ TYPE OF BUSINESS: \_\_\_\_\_

ORIGINATING DISTRICT AGENCY \_\_\_\_\_

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

TYPE OF PROJECT \_\_\_\_\_ 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					
B					
C					
D					
E					
F					
G					
H					
I					
J					
K					

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

[illegible]

Revised 07/05