

# The DC Project WeatherizeDC Community Workforce Agreement

**Date**

## **INTRODUCTION**

The mission of The DC Project is to advance economic and environmental justice by creating clean energy career opportunities for people who need them most. Founded in January 2009 by former leaders of the Obama for America campaign, The DC Project applies the proven power of community organizing to the emerging green economy, positioning communities to capture the benefits of sustainability sectors.

The DC Project's anchor program, WeatherizeDC (WxDC), launched as a pilot in September 2009 in the District of Columbia, and has since expanded into a citywide program. WxDC mobilizes community leaders to drive demand for energy efficiency in their own networks—volunteer and community teams canvass neighborhoods, make phone calls, and hold energy meetings to engage homeowners and mobilize them to retrofit their homes. Homeowners are passed along to contractors for service and re-engaged as volunteers and program validators

WXDC is about to embark on an expansion phase during which it is anticipated that over 300 District area homes will be audited and retrofitted in 2011. After this goal is accomplished in the 2011, the DC Project (DCP) will significantly scale up WXDC in an effort to create market demand to retrofit the more than 150,000 qualifying homes in the metro DC area over the next several years.

The DCP has assembled a group of diverse stakeholders to work through a process to create the below community workforce agreement (CWA) and the community and workforce standards and benefits to be included in this program. The CWA will ensure that The DC Project achieves its mission of ensuring equity for women, people of color, and other historically disadvantaged or underrepresented groups by creating equal and environmentally balanced opportunity in the execution of this initiative.

## **The Agreement**

Whereas, The DC Project is a leading national organization developing market demand and models for saving energy, creating jobs, improving homes, reducing carbon emissions and promoting equity while creating economic opportunities and career pathways for historically disadvantaged or underrepresented people, including people of color and women,

and Whereas, the District metro area is committed to growing green businesses and a green economy that puts people back to work and provides new employment opportunities to disadvantaged communities, as reflected in The Clean and Affordable Energy Act of 2008, The Green Buildings Act of 2006, and other groundbreaking legislation and policies,

and whereas, the Metropolitan Washington Council of Governments (COG) calls for equity while The Workforce Investment Act (WIA) of 1998 demonstrates the need for ongoing advancement of equity for poor people, people of color, and women as a key component of the region's development,

and whereas, the DC Workforce Investment Council (WIC) also recognizes that well-trained

workers earning decent wages and benefits produce quality work as they contribute to the good of the community,

and whereas WxDC, the signature program of The DC Project, calls for creating contracting, subcontracting, training and employment policies that will strive to:

- Provide pathways to prosperity for *all* workers;
- Offer competitive wages that lead to a lasting career-track;
- Involve stakeholders and community members in developing and enacting policies and processes;
- Drive accountability and continuously evaluate performance towards goals,

and whereas, the development of WXDC has been marked by an impressive degree of collaboration among and contributions from private, nonprofit, community, and labor institutions,

and whereas, numerous stakeholders have identified the ways in which the WXDC can be successful while setting high standards for inclusive economic development and broad community benefits,

Now, therefore, it is the recommendation of the undersigned parties that the following standards and community benefits be incorporated into the implementation of the 2011 Weatherize DC Project:

## **I. GOALS AND TARGETS**

Partner contractors and The DCP shall work closely together to achieve the following goals and targets in this program:

**Goal 1: Local Hires** Partner contractors will utilize the DC Project Business and Workforce Development program as the “First Source” for all new hires. Contractors will post all new job opportunities through the DC Project, and commit to hire 100% of non-supervisory weatherization installers/technicians from a DC Project-designated training program. These hiring requirements will help The DC Project reach its target of goal to ensure that at least 40 percent of hours worked on projects in the WXDC program are performed by local area residents hired from the local work force.

**Goal 2: Family-Supporting Jobs:** Workers participating in WXDC retrofits will earn not less than 180% of the DC minimum wage.

**Goal 3: Diverse Workforce:** Partner contractors will make every effort to form a diverse workforce comprised of historically disadvantaged workers or underrepresented people, including people of color, women, and low-income residents of the city.

“Disadvantaged Worker” is defined as an individual whose primary place of residence is within the metro DC area and who, prior to commencing work on WXDC jobs, either (a) has a household income of less than 50% of the AMI (see attachment A) or (b) faces a least one of the following barriers to employment: being homeless; being a custodial single parent; receiving public assistance; lacking a GED or high school diploma; having a criminal record or other involvement with the criminal justice system; or suffering from chronic unemployment.

**Goal 4: Providing Adequate and Affordable Benefits:** Strive to ensure that employees on WXDC jobs have access to adequate and affordable health insurance, and work to mitigate the burdens on small contractors associated with providing health insurance.

**Goal 5: Developing a Highly-skilled Workforce:** Partner contractors make resources for continuing education and certification available for those coming into the industry as well as those wanting to increase their opportunities for upward mobility within the industry through registered apprenticeship and other career pathways trainings in the region.

## **II. INDIVIDUAL CONTRACTOR QUALIFICATIONS AND REQUIREMENTS**

To ensure that WXDC meets the goals and targets for creating good jobs, social equity and quality work described above, individual contractors must meet the following minimum criteria to be considered for a WXDC pool of participating contractors (see Appendix A, The DC Project Request for Qualifications for Partner Contractors), and abide by the requirements of all attached Addenda:

- A. *Contractors and their sub-contractors will pay wages that are at least 180% of the District minimum wage, unless federal prevailing wages for residential weatherization and energy efficiency retrofit work is higher, in which case the higher wage requirement will apply.*
- B. *Contractors will have sufficient skills to conduct energy efficiency retrofits and weatherization projects with a high degree of quality and customer satisfaction, such as the skills demonstrated by approval as a Department of Energy Home Performance with ENERGY STAR and/or Building Performance Institute (BPI) Certified organization.*
- C. *Contractors and sub-contractors will hire 100% of new worker/installer weatherization employees from a designated training program, as described Addendum 2, until 40% of contractor's total non-supervisory worker/installer weatherization employee monthly work hours on covered projects are performed by DC area residents hired through this program.*

This provision is waived if no training program has yet qualified under Addendum 2; if all graduates of designated training programs are currently employed in weatherization work or have waived their priority employment status; if the contractor can demonstrate that no suitable graduates of designated training programs are available; if no candidates for vacancies are available according to the terms of this agreement; or if no training program has the capacity and ability to train experienced new hires to USDOE standards within a reasonable time and at reasonable cost, as determined by The DCP.

- D. *Contractors and subcontractors will commit to list ALL their new job openings, not just those related to weatherization work, through The DCP's Business & Workforce Development staff when there is a need for an external hire. Contractors are not obligated to hire ALL workers through The DCP's Business & Workforce Development staff, and a commitment to list new jobs through The DCP's Business & Workforce Development staff would not apply to any pre-negotiated hiring agreements employers have established with the Trades.*
- E. *Contractors will demonstrate a history of compliance with federal and state wage and hour laws.*
- F. *Contractors will utilize a safety-trained workforce in which all on-site workers have completed an OSHA 10-hour safety course and an Environmental Hazard Awareness Course (i.e. lead safe practices) through a qualified training program.*
- G. *Contractors, when required by DCP, will sign a labor peace agreement that would include*

provisions that an employer will not take any action nor make any statement that directly or indirectly states or implies any opposition by the employer to the selection by its employees of a collective bargaining representative; that a labor organization can obtain recognition as the exclusive collective bargaining representative by demonstrating to an agreed upon neutral third-party provider that a majority of the employees in a bargaining unit have shown their preference to have the labor organization be their representative by signing authorization cards indicating that preference; that prohibits the labor organization from engaging in any picketing, work stoppages, boycotts or any other economic interference with the construction conditions or negotiation thereof to final and binding arbitration; and that any dispute over what constitutes an appropriate bargaining unit will be determined by a third party.

- H. *Contractors will report quarterly, or some other recurring period defined by The DCP, on workforce diversity, subcontracting, health care and other issues relevant to this agreement. Regarding health care, contractors will report what kind of health care, if any, they offer to employees who conduct work on covered projects and whether employees are using it. These reports will be made available to members of the public upon request and home-owners as they are selecting contractors.*
- I. *Contractors shall agree to maintain and provide access to records to verify compliance with all provisions contained within this CWA. At any time during normal business hours and as often as The DCP may deem necessary, there shall be made available to The DCP for examination all of the contractor's or subcontractor's records with respect to the matters covered by this CWA and the contractor or subcontractor shall permit The DCP to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, purchase orders, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this CWA.*
- J. Contractor must agree to the fee structure outlined in Addendum 5.

### **III. Scope of Agreement**

This Agreement pertains only to the activities of the Program during the Service Term. Notwithstanding the foregoing, the Parties agree that any Services Agreements to perform Weatherization Services for a Program Participant that are entered into prior to the expiration or termination of the Service Term will remain in effect following such expiration or termination. This Agreement does not impede signatories or their respective organizations from participating in other partnerships or ventures separate from the Program. The following outline the terms and definitions of the scope of this agreement:

**Program:** the DCP's Weatherize DC Program

**Territory neighborhood:** associations, individual homeowners, and students in the metro Washington D.C. area.

**Weatherization Services:** work which includes home energy audits, home improvement consultations/cost and work estimates and Weatherization Services.

**Project:** a home weatherization project.

**Program Participants:** Contractor prospective Program participants.

**Services Agreement:** a written agreement with each Program Participant that desires to procure Weatherization Services from Contractor.

**Program Participant Data:** homeowner leads as lists of homeowners ready to be audited and /or weatherized, their contact information and home addresses.

**Service Providers:** sub-contractors or third-party service providers that Contractor may engage or refer to.

**Home Performance Data:** home energy performance data in connection with the performance of Weatherization Services under this Agreement on behalf of Program Participants.

**Modifications:** any derivative works or other modifications to the Home Performance Data.

**Work Product:** any materials, products, reports, or other deliverables developed or prepared by a Party while furnishing services under this Agreement.

**Pre-Existing Materials:** any trademark or copyrights, service marks, trade names, logos, and any other pre-existing materials.

**Service Term:** Term Details (**Begin Date to End of Year**), this contract shall automatically extend for a successive "Renewal Service Term" for additional six months (6 months) unless thirty days (30 days) prior to the end of the service term both parties meet to assess program performance in relation to and in consideration of unsatisfactory performance of either party determine the Service Agreement shall not be renewed.

**Contractor Relationship:** In accordance with the mutual intentions of the Parties, this Agreement establishes among them a contractor relationship, and all of the terms and conditions of this Agreement shall be interpreted in light of that relationship. Each of the Contractors and UNION and training organizations agrees to furnish its services as provided in this Agreement as an independent contractor using its own means and methods. There is no intention to create by this Agreement an employer-employee or agency relationship among any of the Parties, and no Party shall have any right or authority to assume or create any obligation or responsibility, express or implied, for or on behalf of or in the name of any other Party, or to bind any other Party in any way or manner whatsoever.

#### **IV. ACCOUNTABILITY**

The DCP shall be accountable for progress toward, and enforcement of, the CWA standards as follows:

- Help set standards and community benefits
- Help set accountability strategies for non-compliance and recognition of excellence in complying with or going beyond standards.
- Evaluate progress toward standards and community benefits
- Help develop and maintain a list of qualified training providers
- Request and evaluate data related to all job classifications in WXDC
- Identify ongoing resources needed for data collection and dissemination, assistance to contractors and training providers, and other activities necessary to the work of The DCP
- Identify, collect and analyze data on disparity and other measures that could inform recommendations for the scale-up
- Take actions to improve progress toward standards and community benefits, including but not limited to:
  - a. Identifying additional contractors to be brought into the pool
  - b. Recommending additional training and business support

## **V. Enforcement**

### **Dispute Resolution**

#### **Arbitration**

Except any claims arising out of the indemnity obligations contained herein, any dispute between DCP, on the one hand, and the Contractor and/or UNION, on the other hand, that arises out of or related to the performance, breach or interpretation of this Agreement will be submitted to binding arbitration conducted in accordance with the rules of the American Arbitration Association (“AAA”) as in effect on the Effective Date of this Agreement (the “AAA Rules”). Such disputes will be resolved by decision of a single arbitrator as determined herein under the AAA Rules. The arbitration will be held in Washington, D.C. Each party will bear its own expenses in the arbitration and will share equally the costs of the arbitration. Arbitration will be final and binding upon the parties. Judgment upon the award may be entered in any court having jurisdiction over the award or over the applicable party or its assets.

#### **Union Grievance Procedure**

Any dispute between Contractor and UNION arising out of UNION’s performance of its obligations under their Agreement shall be resolved in accordance with the procedures set forth herein. No grievance shall be recognized unless called to the attention of the Contractor by UNION, or to UNION by the Contractor, within five (5) calendar days after which the alleged violation was committed.

- i. The dispute shall be referred for resolution to the business representative of UNION or his/her designated representative and the Project superintendent and/or the Contractor's representative at the construction Project. In the event the dispute is not resolved within seven (7) calendar days, it shall be reduced to writing and referred for resolution within five (5) calendar days in accordance with Section V above.
- ii. The Business Manager of UNION's District Council and the Contractor's representative, or their respective designated representatives, upon receipt of the grievance, shall attempt to resolve the grievance. In the event that the dispute is not resolved within seven (7) calendar days, it shall be referred for resolution within ten (10) calendar days in accordance with Section V above, which shall be conducted by an arbitrator mutually agreed upon between UNION and the Contractor for final and binding arbitration.
- iii. The impartial arbitrator shall be selected from a panel of arbitrators submitted by and in accordance with the rules and regulations of the AAA. The decision of the arbitrator shall be binding upon Contractor and UNION. The arbitrator shall have no authority to change, amend, add to, or detract from any of the provisions of this Agreement. The expense of the impartial Arbitrator shall be borne equally by the Contractor and UNION. The time limits specified in the grievance procedure may be extended by mutual agreement between the Contractor and UNION.

## **VI. Miscellaneous**

### **1. Representations and Warranties**

Each Party represents and warrants that: (i) it is a legal entity duly organized, validly existing and in good standing; (ii) it has all requisite corporate power and authority to execute, deliver and perform its obligations hereunder; (iv) it will comply with all laws and regulations applicable to the performance of its obligations hereunder and will obtain all applicable permits and licenses required of it in connection with its obligations hereunder; (v) it will avoid deceptive, misleading or unethical practices that could adversely affect the performance of any other Party's obligations under this Agreement or damage the reputation of the other Party; (vi) it is not a party to any agreement with a third party, the performance of which is reasonably likely to affect adversely its ability or the ability of the other party to perform fully its respective obligations hereunder; (vii) its performance of its obligations under this Agreement will not violate any other agreement between

such party and any third party; (viii) it will perform all services required to be performed by such Party in a good and workmanlike manner and in accordance with the industry standards in the applicable area or areas of expertise required to perform such services.

## **2.a Indemnification**

Each Party (the "Indemnifying Party") will indemnify, defend and hold harmless the other Party, its parents, affiliates, successors and assigns, and all of their respective officers, directors, employees and agents (collectively, the "Indemnified Parties") from and against any claim, loss, demand, cause of action, debt or liability, including reasonable attorneys' fees, arising out of any third-party claim related to (i) any personal injury or property damage caused by the fault or negligence of the Indemnifying Party (including its employees, agents and representatives), (ii) any breach or alleged breach by the Indemnifying Party of any of its representations, warranties or obligations set forth herein, and (iii) any actual or alleged patent or copyright infringement (including any contributory infringement claims), misappropriation of confidential information or violation of other intellectual or proprietary rights or licenses, including, without limitation, patent, copyright, trademark or trade secret rights related to any services performed by, or Work Product or Pre-Existing Materials provided by, the Indemnifying Party under this Agreement.

## **2.b Indemnification Process**

The Indemnified Party will give prompt written notice to the Indemnifying Party of the claim against which it seeks to be indemnified; provided, however, that failure to give prompt notice will not relieve the Indemnifying Party of any liability hereunder (except to the extent the indemnifying party has suffered actual material prejudice by such failure). The Indemnified Party will allow the Indemnifying Party to direct the defense and settlement of any such claim, with counsel of the Indemnifying Party's choosing, and will provide the Indemnifying Party, at the Indemnifying Party's expense, with information and assistance that are reasonably necessary for the defense and settlement of the claim. The Indemnified Party will have the right, at its sole expense, to retain separate counsel and to participate in (but not control) any such action. In no event may the Indemnifying Party make any admission or agree to the entry of any judgment for money on behalf of any Indemnified Party without such Indemnified Party's prior written consent, which will not be unreasonably withheld, delayed or conditioned.

## **2.c Limitation of Liability**

EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS AS SET FORTH IN THIS SECTION, IN NO EVENT WILL ANY PARTY BE LIABLE TO ANY OTHER PARTY OR ANY THIRD PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER IN AN ACTION OR ARISING OUT OF BREACH OF CONTRACT, TORT OR ANY OTHER CAUSE OF ACTION, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **3. Termination**

Any Party may terminate this Agreement in the event of a material breach by any other Party that remains uncured for a period of thirty (30) days following receipt of written notice of such breach from a non-breaching Party. The Parties acknowledge that the services to be performed by each Party are necessary to effectuate the purposes described in this Agreement. Accordingly, the Parties agree in the event that any Party exercises its rights to terminate this Agreement against any other Party as set forth herein, then this Agreement will terminate in its entirety and, except as otherwise set forth herein (e.g., the terms of Section I (2) and/or as mutually agreed to in writing by any non-breaching Parties, the non-breaching Parties will be immediately relieved of their obligations hereunder.

## **4. Successors and Assigns**

The rights and obligations of the DCP and the Contractor and UNION under this Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of the DCP, Contractor and UNION. Notwithstanding the foregoing, no Party may assign or transfer this Agreement or any rights set forth herein without the prior written consent of the other Parties,

which consent may not be unreasonably withheld.

**5. Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall, when executed, be deemed to be an original and all of which shall be deemed to be one and the same instrument.

**6. Choice of Law;**

Venue: This Agreement, including any disputes hereunder, and the interpretation, validity and/or enforcement of any provision thereof, shall be governed, construed and enforced in accordance with the laws of the District of Columbia, without regard to its conflicts of law rules. The Parties hereby submit to the jurisdiction and venue of any local or federal court located with in the District of Columbia for resolution of any and all claims, causes of action or disputes arising out of, related to or concerning this Agreement that are not subject to the dispute resolution provisions set forth above and the Parties agree to waive any claim relating to forum non conveniens.

**7. Entire Agreement; Amendments**

This Agreement contains all understanding of the Parties relating to the subject matter of this Agreement and supersedes all other prior written or oral agreements, understandings or arrangements between the Parties relating to the subject matter hereof. The Parties acknowledge that, in entering into this Agreement, it and he do not rely and have not relied on any statements or representations not contained in this Agreement. This Agreement may not be modified or altered except by written instrument duly executed by all Parties.

**8. Severability**

Any term or provision of this Agreement that is determined to be invalid or unenforceable by any court of competent jurisdiction in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction and such invalid or unenforceable provision shall be modified by such court so that it is enforceable to the extent permitted by applicable law.

**9. Notices**

All notices and other communications required or permitted to be given under this Agreement shall be in writing and delivery shall be deemed to have been made (i) three business days following the date on which such notice is deposited in first-class mail, postage prepaid, return receipt requested; or (ii) the business day following the date when such notice is deposited with any overnight air courier service to the party entitled to receive the same, at the address indicated below or at such other address as such party shall have specified by written notice to the other party given in accordance with the terms of this Paragraph:

If to DCP:	If to Contractor:
The DC Project	Attn:
1850 M St NW	
Suite 1150	
Washington, DC 20036	
Attn: Executive Director	
with a copy to:	
Attn:	

**10. Headings**

The headings of any paragraphs in this Agreement are for reference only and shall not be used in construing the terms of this Agreement.

**11. Survival**

Any and all provisions in this Agreement that would reasonably be expected to be performed after the termination or expiration of this Agreement will survive and be enforceable after such termination, including without limitation, Sections I, II, III, IV, V and Addenda 1-4.

**12. Waiver**

The waiver or failure of any Party to exercise any right provided for herein will not be deemed a waiver of any further right hereunder. The rights and remedies of the parties set forth in this Agreement are in addition to any rights or remedies the Parties may otherwise have at law or equity.

**13. Contract Interpretation**

Ambiguities, inconsistencies or conflicts in this Agreement will not be strictly construed against any Party, but will be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the Parties' intentions at the time this Agreement is entered into and common practice in the industry.

**VII. AUTHORITY AND EFFECTIVE DATE**

Each of the individuals signing below represents that he or she is properly authorized by the party for whom the individual is signing to execute this Community Workforce Agreement which is effective as of **Beginning Date \_\_, YEAR.**

EXECUTED BY:

\_\_\_\_\_  
The DC Project

\_\_\_\_\_  
Contractor Executive or Director

Addenda:

1. Labor Standards
  2. Workforce Development/Training Programs
  3. Right and Duties
  4. Pricing schedule
  5. Software Agreement and WXDC fee structure
  6. Service Provider Requirements from DCP
- Appendix A Contractor Qualifications (RFQ)
- Appendix B Weatherization Career Pathway (Job Descriptions)

**Attachment A**

**Results of 2010-11 Area Median Income Search (AMI)**

State	County	MSA	HUD Income
DC	DISTRICT OF COLUMBIA, DC	Washington-Arlington-Alexandria, DC-VA-MD-WV	103,500

**Addendum 1**  
**Labor Standards**

**A. Resident Preference (RP)** On WXDC program energy efficiency retrofit work, contractors shall agree to utilize UNEMPLOYED or UNDEREMPLOYED RESIDENTS of the District of Columbia in a minimum amount equal to the percentage of WORKER HOURS set forth in the succeeding paragraph. To reach this goal, contractors will utilize the DC Project Business and Workforce Development program as the "First Source" for all new hires. Contractors will post all new job opportunities through the DC Project, and commit to hire 100% of non-supervisory weatherization installers/technicians from a DC Project-designated training program.

As a result of the measures outlined above, contractors are expected to meet the target goal of forty percent (40%) of the sum total of WORKER HOURS performed on WXDC program work by each contractor in a six-month period performed by UNEMPLOYED or UNDEREMPLOYED RESIDENTS of the District of Columbia, except where DCP, after consulting with a participating training program identified pursuant to Addendum 2 of this CWA, determines that there is sufficient reason to impose a lesser requirement.

The contractor, prior to commencing work as a qualified WXDC program contractor, shall submit an affidavit with proof of residency for all employees utilized by the contractor and subcontractors to meet the Resident Preference requirements, stating that each employee is either UNEMPLOYED or UNDEREMPLOYED and is a RESIDENT of Washington DC and/or a plan to recruit and employ workers under the RP program requirements in the ensuing six-month period. The contractor shall prepare and submit accurate and timely resident utilization forms and reports to DCP. Time Reports shall be submitted weekly as the work progresses and within ten (10) days following completion of work. The reports shall identify the name, address, work classification, and hours worked of all employees utilized on the contract by the contractor and all subcontractors. Failure to submit the required forms and reports to DCP may result in de-qualification of the contractor.

The contractor shall maintain, and shall ensure that all subcontractors maintain, personnel records listing the name and address of all employees utilized for each WXDC program contract and any records demonstrating that the employees utilized by the contractor to meet the Resident Preference are RESIDENTS. These records shall be maintained for one (1) year after completion of work and shall be made available to DCP upon reasonable notice.

**Definitions**

- **RESIDENT** – A person who maintains his or her place of permanent abode in the District of Columbia. Domiciliary intent is required to establish that a person is maintaining his or her place of permanent abode in the city. Mere ownership of real property is not sufficient to establish domiciliary intent. Evidence of domiciliary intent includes, without limitations, the location where a person votes, pays personal income taxes, or obtains a driver's license. Residents from the surrounding areas of Virginia and Maryland may qualify as RESIDENTS under this agreement with written approval of The DCP.
  
- **UNEMPLOYED or UNDEREMPLOYED** – a RESIDENT who has worked less than 1,200 hours in the preceding 12 months or has not worked in the preceding 30 days or, regardless of employment status, has household income at or below the federal poverty guidelines as adjusted by the Department of Employment Services to define eligibility for reduced lunch in public schools. A RESIDENT will continue to qualify as unemployed or underemployed for five (5) years from the date he or she first participates on a WXDC program project. If a RESIDENT becomes an apprentice for a contractor or becomes a participant in an on-the-job training program immediately after or in the course of performing on a particular construction contract, he or she shall continue to qualify as unemployed or

underemployed for a period not exceeding 5 years from the date the person became an apprentice or participant in such on-the-job training program.

- **WORKER HOURS** – means the total hours worked on a WXDC program contract by skilled and unskilled trade workers, whether those workers are employed by the contractor or any subcontractor. “Worker hours” includes work performed by persons filling apprenticeships and participating in on-the-job training programs and excludes the number of hours of work performed by all non-DC residents.

**B. Proper Classification of Employees** Contractors shall utilize only employees to perform work on a WXDC program energy efficiency retrofit project, rather than independent contractors, temporary workers, or any other individuals holding non-employee status. Contractors shall classify all workers performing work on the WXDC program as employees of the company and pay appropriate taxes, unemployment insurance, workers compensation, and other benefits as required by law. General contractors may contract with subcontractors to perform work on the WXDC program, provided that those subcontractors have a registered business license number and provided that the general contractor require all subcontractors to comply with the provisions of this CWA and provided that contractor has received approval of subcontractor from DCP (see Addendum 3 Contractor Rights clause e. and DCP Duties clause c.).

**C. Minimum of Davis-Bacon Wage Rate Requirement** Contractors shall pay wages to their employees performing work on a WXDC program project at rates not less than those prevailing on projects of a character similar in the locality as determined by subchapter IV of Chapter 31 of Title 40, United States Code (“Davis-Bacon Act”). DCP shall be responsible for monitoring contractor compliance with this requirement and shall agree to the wage table outlined in paragraph j.

**D. Safety-Trained Workforce** Contractors shall utilize a safety-trained workforce in which all on-site workers have completed an OSHA 10-hour safety course and an Environmental Hazard Awareness Course (i.e. lead safe training).

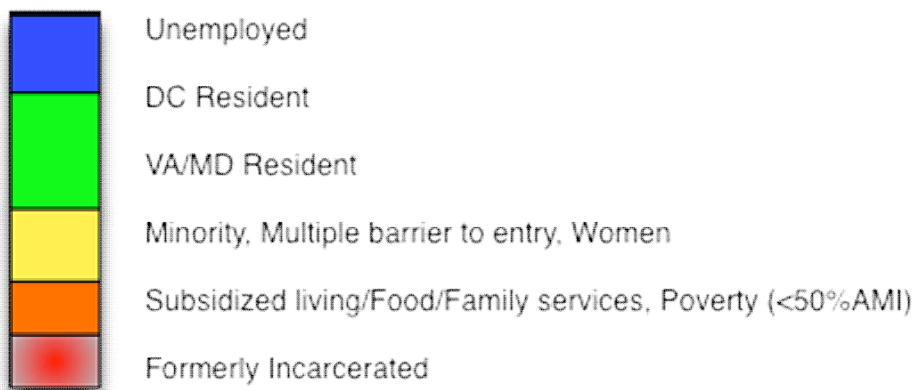
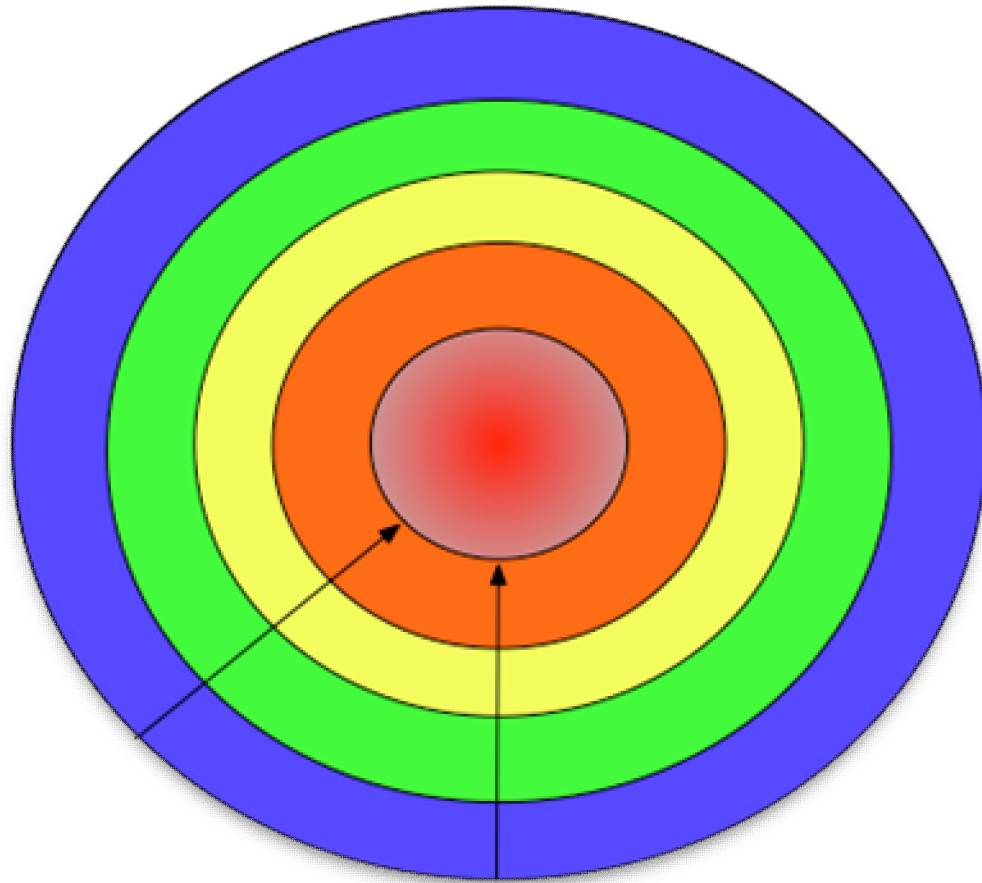
E. Contractor must agree to develop in collaboration with DCP a well described plan on establishing “Mentor/sub” relationships with businesses owned by historically disadvantaged or underrepresented people, including people of color and women-owned businesses who have been in business for a minimum of 6 months and shall receive a significant amount of work on jobs while they are seeking necessary training and experience toward BPI certification to be considered in subsequent contractor pools as “Primes”.

F. Contractor must agree to have a well described plan for establishing subcontracting relationships with businesses owned by historically disadvantaged or underrepresented people, including people of color and women-owned businesses who have been in business for a minimum of 6 months.

G. Contractors will demonstrate efforts to strive to provide employment opportunities to formerly incarcerated individuals who are seeking self-sufficient career pathways in weatherization and construction.

F. The graph below illustrates the target population that The DC Project and its partner contractors strive to employ:

Target Population to Create Employment Opportunity for



**H. DC Project Pre- Screening Criteria**

The DC Project will screen prospective job candidates for the following characteristics before sending applicants to partner contractors to interview:

- 1. DC Resident
- 2. Acceptable work history or resume
- 3. Acceptable criminal background check
- 4. Passed drug test
- 5. Clean driving record (where applicable)
- 6. Construction experience a plus
- 7. Safety training certification a plus

**I. Program Selection Criteria/ Hiring Provisions**

All applicants who are hired through this program will meet the following criteria:

- 1. DC Driver’s License or ID: Candidate US Resident
- 2. Acceptable work history or resume
- 3. Criminal background check: no convictions related to the following: violence, sexual assault or other related crimes, or theft. No felony convictions in the past 7 number of years.
- 4. Drug test: taken, results presented and acceptable

**J. Wage Table Example (This is a minimum requirement, but contractor can use higher wages if currently paying wages higher than this to present employees):**

Weatherization Installer I

Starting Wage (On-job Trainee)	\$ _____ 14.85_____per hour
@30 Days	\$ _____ 15.25_____per hour

Weatherization Installer II

Starting Wage (On-job Trainee)	\$ _____ 15.50_____per hour
@30 Days	\$ _____ 16.00_____per hour

Weatherization Install Crew Chief

Starting Wage (On-job Trainee)	\$ _____ 18.00_____per hour
@30 Day	\$ _____ 18.50_____per hour

Weatherization Specialist

Starting Wage (On-job Trainee)	\$ _____ 15.00_____per hour
@30 Day	\$ _____ 16.00_____per hour

Auditor

@30 Day (Trainee)	\$ _____ 20.00_____per hour
@60 Day	\$ _____ 22.00_____per hour

Window and Door

Starting Wage (On-job Trainee) \$ \_\_\_\_\_ 18.00 \_\_\_\_\_ per hour

@30 Days \$ \_\_\_\_\_ 19.00 \_\_\_\_\_ per hour

**K. Fringe and Medical Benefits**

Contractor agrees that if no current Medical Benefit and Retirement Plan are in effect that they will develop and initiate one within the year. This is not limited to Medical and Retirement, but at a minimum will provide employees hired through this program with access to a full Medical Benefit plan and a Retirement Plan.

**I. Termination Policy**

**Termination** – Employee may be terminated either for performance or for violation of the Contractor code of employee conduct.

All performance-related deficiencies will be addressed with a three-step process to allow the employee to improve on the specific area of concern. This process includes:

- First offense, verbal warning and improvement feedback.
- Second offense, written warning and improvement feedback.
- Third offense will result in termination.

Employees may be terminated immediately for violation of the Employee Code of Conduct. This code of conduct prohibits:

- Failing to report injuries, damage or an accident involving company-owned equipment.
- Failing to report injuries, damage or an accident involving homeowner or client property.
- Flagrant violation of work safety rules and regulations.
- Engaging in vulgar or abusive behavior towards others.
- Violation of company drug and substance abuse policies.
- Theft of company or homeowner property.
- Any other behavior deemed dangerous and un-lawful.

\_\_\_\_\_  
The DC Project

\_\_\_\_\_  
Contractor Executive or Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Addendum 2**  
**Workforce Development Program**

**I. Workforce Development Program**

The DC Project will link partner contractors with training programs and relationships with local workforce development initiatives that will provide suitable candidates for employment. The DCP has identified training programs to aid in the development of a pool of workers that will supply contractors with a trained workforce. The DCP shall coordinate staff assistance to the identified training programs to prepare them to provide energy efficient retrofits training based on BPI Standards. Participating training programs will also provide training that includes health & safety, as well as hazardous material recognition (asbestos, mold, lead). Contractor shall agree not to hire staff from the identified training providers outside of this agreement without express written permission from the DC Project.

In addition to their capacity to execute the training functions described above, to be identified as a participating training program, a training program will:

- a.** Have defined partnerships with pre-apprenticeship programs or community organizations that serve historically disadvantaged or underrepresented populations, including women, and people of color;
- b.** In conjunction with those partner organizations, endeavor to promote participation in the training program among individuals who are unemployed or underemployed, women, people of color, residents of low-income communities, or other disadvantaged or underrepresented people;
- c.** Offer mentoring, follow-up monitoring and/or other support to assure retention of participants in the program and in weatherization careers; and
- d.** Demonstrate a track record of graduating and placing trainees from underrepresented communities in career-track construction jobs.

The types of support that training programs will receive or have already received from their own efforts includes but are not limited to:

- 1. Funding for qualified training programs that focus on training for weatherization.
- 2. Funding for Pre-Apprenticeship programs and other programs that focus on connecting disadvantaged populations to jobs and careers in weatherization and construction.
- 3. Scholarships to provide opportunities for individual weatherization workers to participate in an advanced occupational training as part of an articulated Green Job Pathway.

**II. Assistance to contractors**

DCP shall work together with the identified training programs and partner contractors to develop and refine their training programs to be best aligned with the staffing needs of our partner contractors. DCP shall also encourage training partners to provide support to contractors that are participating in the WXDC expansion program, recognizing that while all contractors will benefit from support, businesses owned by historically disadvantaged or underrepresented people, including people of color and women-owned businesses, should have targeted support to increase their participation in the project.

The types of support that businesses should receive from the DCP and training providers include but are not limited to:

- 1. Assistance for contractors to find subcontractors that are historically disadvantaged or underrepresented, including people of color and women-owned businesses
- 2. Assessment to ensure support is directed as needed to succeed. For example, DCP can assist Primes in assessing Mentor & subs so that Mentor & subs can be prepared to bid as a Prime in

following rounds of contracting.

3. Identification of training programs that provide on the job training support and possibly on the job training pay to trainees.
4. Technical assistance developing mentoring programs for underrepresented employees.
5. Technical assistance providing health insurance to employees.
6. Technical assistance with bonding and allaying homeowner fears while hiring formerly incarcerated individuals.
7. Sales and Customer Service Assistance (for a fee outlined in Addendum 5).

### **III. Masterplan**

Workers that are pre-screened by DCP, together with additional workers selected by DCP in its sole discretion, are trained to be certified upon the successful completion of the training and constitute the Selection Pool. Eligible program workers are selected by DCP from the Selection Pool, in accordance with Program eligibility, and presented to the Contractor. Selected workers by the Contractor are hired and placed in various jobs offering equal opportunity and environmental balance.

DCP will promote the availability of Weatherization Services through the Program, and as a result of such promotional efforts will identify for the Contractor prospective Program Participants for the Contractor to pursue regarding such Weatherization Services and present Program Participation Data.

The Contractor will enter into Services Agreements with Program Participants to perform the Weatherization Services, using the selected workers.

### **IV. Identified Training Providers & Workforce Assistance Providers**

The following is a list of identified training providers that will sign separate agreements with the DC Project outlining the criteria set forth in this agreement around the aforementioned training goals and targets:

#### **Training Programs affiliated and participating in the project**

\_\_\_\_\_  
The DC Project

\_\_\_\_\_  
Contractor Executive or Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Addendum 3**  
**Rights and Duties**

**Rights**

**Intellectual Property**

All Home Performance Data collected by Contractor under the WXDC covered projects will be jointly owned by DCP and Contractor. DCP and Contractor each will have the right to use and exploit all of its respective rights in and to the Home Performance Data as if each were a sole owner of such data. Neither DCP nor Contractor shall owe the other Party any duty of accounting with respect to such Party's use and exploitation of its rights in the Home Performance Data, and DCP and Contractor each shall have the right to develop (and/or to permit a third party to develop) Modifications. DCP and Contractor shall, respectively, retain all right, title and interest in and to any Modifications created by such Party, and the other Party shall have any right to receive from, or any duty to provide to, the other party any Modifications created by such Party. Except as otherwise expressly set forth herein (e.g., with respect to Home Performance Data collected by Contractor, which will be jointly owned by DCP and Contractor as set forth above) Work Product shall remain the sole and exclusive property of the Party that created such Work Product, and no other Party will have any right to use any such Work Product. For avoidance of doubt, all marketing materials created by DCP and all Program Participant Data collected by DCP will be considered Work Product of DCP and will be the sole property of DCP, provided that Contractor will have the right to use such Work Product of DCP for the purpose of consistency and fulfillment of its obligations under this Agreement and for no other purpose.

**Branding/ Co-branding**

All Parties retain sole and complete ownership of all rights, without limitation, Pre-Existing Materials made available to any other Party under this Agreement. Each Party hereby grants the other Parties a non-exclusive, non-transferable, limited license in the Territory to use any of such Party's Pre-Existing Materials that are provided by such Party hereunder solely as necessary to perform such other Parties' obligations hereunder.

At DCP's request, Contractor will work with DCP during the Service Term to develop promotional materials and publications for the Program that will be co-branded with the Parties' respective marks. Any co-branding promotional materials, productions or publications will be developed and agreed upon and exercised on a case-by-case basis. Activation of each co-branded promotional materials, production or publication will require written approval by an authorized agent representing each Party. Purchase and all other procurement decisions will be mutually agreed upon in advance by all Parties whose marks will appear in those promotional materials, productions or publications.

**DCP Rights**

- a. DCP shall have the sole and exclusive right to market and promote the Program and the Weatherization Services contemplated by this Agreement to, and to collect contact information from, prospective Program Participants in the Territory during the Service Term.
  
- b. DCP shall have the right to, in its sole discretion, select additional workers other than the Workforce Developments Team's eligible workforce into the selection pool for any reason deemed necessary for Program success. Reasons this may occur include but are not limited to: Workforce Developments Team's inability to refer a worker with the skill set or qualifications requested by the Contractor (e.g. auditor), poor training performance, reoccurring poor worker quality of Workforce Developments Team's referrals, a lack of training or referral capacity, poor programmatic interaction with other parties.

c. DCP reserves the right to document by means of photo or video, observe, and collect trainee data in relation to the Weatherization Training. DCP also reserves the right to access and review all documents relating to the weatherization training.

### **Contractor Rights**

a. The Contractor retains and shall exercise full and exclusive authority and responsibility for the management of its operations.

b. The Contractor will have the right, in its sole discretion, to determine the competency and qualifications of applicants and employees with the right to hire, reject, or terminate for just cause and will be responsible for determining a fair day's work for employees covered by this Agreement. It is also understood that contractor may have pre-existing pay structures that can be included in Addendum I that outline overtime regulation and other pay rate structures such as time paid while driving to a job site. It is contractors right to have those provisions added to this contract. It is understood and agreed that the Contractor's existing workforce and any employees it directly hires without the assistance or involvement of DCP's Workforce Development staff are not covered by this Agreement and only employees that the DCP's Workforce Development staff refers to the Contractor shall be covered by the provisions set forth in this Agreement.

c. The Contractor reserves the right to pay an employee or employees, rates of pay higher than the rates specified in Addendum 1 in the event that conditions require such payments in order to secure or retain the services of an employee or employees.

d. The Contractor shall have the right to collect home energy performance data in connection with the performance of Weatherization Services under this Agreement on behalf of Program Participants.

e. Subcontractors and Referrals: The Contractor will have the right to engage or refer to Service Providers to a Program Participant to perform certain Weatherization Services preceded by the submission of a list of all possible Program Service Providers and approval of DCP. Such Service Providers may include but are not limited to: HVAC technicians, windows and door installers, duct sealers, air-sealers and insulators, home remodelers, plumbers, electricians, solar installers, geothermal installers, and home inspectors.

### **Duties**

#### **Communicating and Reporting**

Contractor and DCP will work together in good faith during the Service Term to develop a reporting schedule relating to the Weatherization Services actually performed by Contractor. The form, format, frequency, and exact schedule for such reporting will be determined by DCP.

#### **Additional Trainings**

Contractor and DCP agree to develop additional training programs when deemed appropriate and necessary by both Parties. Additional training will include, but not be limited to, energy auditing, weatherization crew chief, and weatherization specialist. Contents curricula of such training will be collaboratively designed and agreed upon before provided.

### **DCP Duties**

a. The DCP will review Program eligibility based on the information received from the Workforce Development Team and provide Contractor with a list of eligible hiring candidates, in accordance to Program Selection Criteria in Addendum 2.

b. The DCP will identify additional training applicants from select community and workforce development organization and select into the selection pool.

c. When the Contractor presents a list of possible Service Providers, DCP will use commercially reasonable efforts to return within 7 business days a list of approved Service Providers. If the DCP rejects any Service Provider, then Contractor will not use or refer for use by a Program Participant any such Service Provider, and will submit alternate Service Providers for approval in accordance with the same review process. Exceptional cases or alterations to the approved Service Provider list will be handled on a case-by-case basis.

### **Contractor Duties**

a. The Contractor agrees to support DCP in conducting weatherization training on a courtesy or fee basis where applicable.

b. The Contractor will select candidates for consideration of hiring from the eligible candidate pool identified by the DCP in accordance with hiring provisions described in Addendum 1, 2 and Section II of CWA.

c. The Contractor agree that at a minimum, only those wages, fringes and premiums incorporated in the appropriate Davis-Bacon wage determination at the time the Contractor is authorized to perform the work will be paid. The minimum wage provisions for this Service Term are found in Addendum 2. In the event the Davis-Bacon determination does not meet the area minimum rates of the Workforce Development Team then the parties shall meet and establish comparable wages and fringe benefits in order to utilize the trained and certified employees on the project (See Addendum 2.).

d. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or forty (40) hours of work per week. For every workday in excess of six (6) hours there will be a designated one-half hour unpaid period for lunch. All hours worked in excess of ten (10) hours per day, forty (40) hours per week, and all hours worked on Sunday, shall be paid at the rate of time and one-half the regular hourly rate. There shall be no pyramiding of overtime pay.

e. The Contractor will agree that a high road benefits plan will be developed if not already in place. They agree if already in place to contribute to and be bound by bona fide fringe benefit funds, retirement benefits and vacation time covering employees under this Agreement. (See Addendum 1).

f. The Contractor will provide on-job training, free of charge, for the purposes of educating employees of Contractor's procedures, policies, additional work techniques/technical skills and quality assurance. This on-job training will constitute paid work for Program employees at the rates indicated in Addendum 1. Any additional DCP-sponsored training (OJT funding provided by training providers) will not be Contractor-paid training.

g. The Contractor will perform work at their highest level of work quality and customer service. Audits will be conducted in accordance to BPI standards.

h. The Contractor will be responsible for ensuring that all Program Participants that desire to procure Weatherization Services from Contractor in accordance with this Agreement are covered by a Services Agreement. Each Services Agreement will be developed by the Contractor and submitted to the DCP for its review and approval prior to entering into a service and not be subject to any material changes without the approval of DCP.

i. At DCP's request, the Contractor will assist DCP in its community outreach efforts by participating in such activities as house meetings and community meetings, which shall entail no more than three events per month, totaling an estimate of less than seven hours of participation.

The Contractor will also work with DCP in designing and enacting internal organizational home energy/building science trainings. The purpose of these trainings is understood to contribute to overall program efficacy. The commitment will entail no greater than three hours of work / month.

\_\_\_\_\_  
The DC Project

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor Executive or Director

\_\_\_\_\_  
Date

**Addendum 4**  
**Pricing Schedule**

Provided by Contractor

The DC Project \_\_\_\_\_

Contractor Executive or Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Addendum 5**  
**Software Agreement and WXDC fee structure**

The reporting guidelines and contractor requirements set out in this agreement help ensure that the Goals and Targets of this program are achievable and measurable. In collaboration with its partner contractors and their subcontractors, The DC Project is committed to utilizing a reporting and communication system that ensures that the main objectives of this program, generating market demand for partner contractors and job creation for those who need it the most, are achieved. To that end, the DCP has developed an innovative and unique metrics management system under the DCP management platform. Use of this platform ensures that DCP can collect the key metrics we need to ensure compliance to this agreement in a manner that is accessible and affordable to all partner contractors. Contractor training sessions will be made available quarterly to ensure that contractors are kept up to date on data entry requirements, data entry, and the importance of data collection.

Partner contractors that do not utilize the DCP management platform as required will be disqualified from the program, and all leads in their pipeline having not yet executed a Service Agreement will be reassigned. Contractors who are removed from the program for under- utilization of the DCP management platform can be reconsidered for program participation if they agree to pay the DCP a DCP management licensing fee costing no more than \$2800.00 annually. These contractors will be put on probation until they meet the DCP management platform metrics entry requirements outlined in the training sessions.

FEE STRUCTURE

\_\_\_\_\_  
The DC Project

\_\_\_\_\_  
Contractor Executive or Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Addendum 6**  
**Service Provider Requirements from DCP**

Let it be known that all Partner Contractors have the right to hire Service Providers (subcontractors) as defined in Section III Scope of Agreement for all WxDC Covered Projects under the following conditions:

1. Owner or Chief Executive of the Subcontracting Company must agree to talk with the DCP and discuss the objectives of this program.
2. Must agree to discuss becoming a pre-approved subcontractor of the DCP.
3. Must provide a list of current staff and pay grades for the DCP to quantify subcontractor minimum requirements for future considerations of the program.
4. General contractor will adhere to Addendum 3 DCP Duties paragraph c.

\_\_\_\_\_  
The DC Project

\_\_\_\_\_  
Contractor Executive or Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Appendix A**  
**Contractor Qualifications (RFQ)**