



## **Program Services Agreement**

### **Built to Last Program**

This Program Services Agreement (**Agreement**) is entered into by and between Philadelphia Green Capital Corp. (**PGCC**) and [company name] (the **Contractor**), as of \_\_\_\_\_, 2022.

### **Background**

A. PGCC is an affiliate of the Philadelphia Energy Authority (PEA) and is a Pennsylvania nonprofit corporation that is qualified as a 501(c)(3) charitable organization to make and facilitate program-related investments for environmental action, lessening the burdens of government and promoting social welfare purposes under section 501(c)3 of the Internal Revenue Code, or corresponding section of any future federal tax code.

B. PEA has worked with a group of organizations serving Philadelphia to establish the Built to Last Program (the **Program**) to provide coordinated home repairs and services to low-income households aimed at improving the quality, energy performance, and/or health of the home. PEA has worked with these organizations since 2019 to develop and test a model for streamlined client intake, holistic home evaluation, and construction of home improvements with the goal of integrating these services and making homes safe, healthy, and affordable places to live.

C. The group of collaborating organizations includes Energy Coordinating Agency, CMC Energy Services, Pennsylvania Horticultural Society, Philadelphia Corporation for Aging, Philadelphia Department of Public Health, PGW, Philadelphia Housing Development Corporation (**PHDC**), Habitat for Humanity (**Habitat**), PGCC and UESF (together with other organizations that may enter into agreements with PEA with respect to the program the **BTL Team Members**, and each a **BTL Team Member**). Each of the BTL Team Members currently funds, delivers, and/or facilitates delivery of building services to low-income single family residential properties.

D. The Program allows the BTL Team Members to provide unified and coordinated outreach, intake, home and eligibility evaluation, project management, and financial assistance to permit low-income homeowners to reduce their energy bills and stabilize their homes to support continued home ownership.

E. The Program allows the Built to Last model for collaborative interventions provided by BTL Team Members' individual programs to deliver comprehensive services to 50 homes in Fiscal Year 2023, 150 homes in Fiscal Year 2024, and 250 homes in Fiscal Year 2025. PGCC's fiscal

year runs from July 1 - June 30. The Program will primarily serve households which qualify to receive assistance through the Basic Systems Repair (**BSR**) program offered by PHDC.

F. Potentially eligible referrals (**Applicants**) are referred to the Program to be screened for their interest in and eligibility to participate in the Program and in the respective BTL Team Member services. If an Applicant is eligible and elects to participate (a **Participant**), the case manager collects all required enrollment information and documentation. The case manager serves as the main point of contact for Participants throughout the Program and assists with scheduling for key Program activities. Eligibility for BTL may not necessarily mean that an applicant is eligible for BTL Team Member services.

G. PEA will engage a Housing Retrofit Services contractor to act as a coordinating agency for all BTL team Members' services. The coordinating agency will perform the following services for the Program: (a) support BTL participant intake by collecting participant application information and necessary documentation to provide to the BTL case manager for final review and processing, (b) conduct a comprehensive home basic systems, energy, and health assessment of each Participant home, (c) in consultation with other BTL Team Members, compile a comprehensive scope of work for home improvement based on Contractor's comprehensive home assessment and which incorporates services supplied by BTL Team Members, (d) coordinate with BTL Team Members to determine which BTL Team Members will complete which scope elements and the optimal sequence for completing repairs and improvements, (e) provide scheduling services to assure coordination of BTL Team Member services, and (f) provide progress inspections, final inspection, and homeowner walk-through.

H. To achieve the goals of making Participants' homes safe, healthy, and affordable places to live, PEA and PGCC will determine if a Participant's home requires work outside the regular scope and funding availability of the BTL Team Members. PGCC will determine whether the additional scope of work is accepted for funding by PGCC. The Contractor will be responsible for completing the additional scope of work accepted for funding by PGCC.

## **Agreements**

In consideration of the background and the mutual promises made herein, the parties, intending to be legally bound, agree as follows:

### **1. Term of Agreement**

This Agreement is effective as of the date in the first paragraph of the Agreement and will continue through December 31, 2024, and delivery of all final deliverables unless earlier terminated in accordance with its terms.

## 2. Contractor Obligations

Contractor will provide all services, supervision, labor, materials and equipment, supplies, miscellaneous materials, and machinery necessary to provide the services, complete the deliverables, and perform all other obligations in this agreement (the **Services**) as described below. The Contractor will also be responsible for obtaining and paying for, or requiring all subcontractors to obtain and pay for, all permits and licenses necessary for the completion and execution of the Work (as defined below), including, if required, any permits or licenses required in connection with the Work pertaining to or in connection with any hazardous material, lead, asbestos or other regulated substance,

- a. **Scope of Work Addendum.** The parties intend to add multiple scope of work addenda to this Agreement to document the scope of work, budget and schedule for each individual Participant project (“Individual Project Addendum” or the “Work”). **Exhibit A** will comprise the collected Individual Project Addenda, which will be added from time to time.

The parties agree that Contractor will provide certain labor, materials, equipment and services for each Individual Project Addendum, in accordance with good, safe and sound construction practices, **for the term of this contract**, and that Contractor will maintain all insurance requirements outlined in this contract.

The process for attaching an Individual Project Addendum shall include, but is not limited to:

- i. Contractor and PGCC, or its assigned designee, shall discuss the desired projects or work.
  - ii. Contractor will prepare the Individual Project Addendum. An authorized Contractor staff member will send the Individual Project Addendum to PGCC for review. Contractor is encouraged to present value engineering options when pricing the Individual Project Addendum. PGCC will accept the terms of the Individual Project Addendum by sending written agreement to the terms of the Addendum to an authorized Contractor staff member. The parties agree and understand that the exchange of confirming emails is sufficient acceptance of the terms of the Individual Project Addendum.
  - iii. Change Orders may also be approved and agreed to by the process set out in paragraph 2(a)(iv)(c) below.
  - iv. In the event that there are any inconsistencies between the terms and conditions of the Individual Project Addendum and the terms and conditions of the Agreement, the terms and conditions of the Agreement shall control.
- b. **Participant Project Agreement.** Contractor will enter into an agreement with each Participant prior to commencing work on an Individual Project in a form approved by

PGCC. The Participant Agreement will include basic information about the BTL program and will describe the scope of work to the Participant as shown in the Individual Project Addendum. The Participant Agreement will also include language releasing Contractor and PGCC from claims, damages, losses and expenses excepting those caused in whole or in part by acts or omissions of Contractor or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable (the “Contractor Parties”) except in the case of gross negligence or willful misconduct on the part of the Contractor Party.

- c. **Change Order:** Any material changes to any Individual Project Addendum must be authorized by written Change Order signed by Contractor and PGCC. By agreeing to a Change Order, PGCC agrees to reimburse Contractor for any additional sums or agrees to extensions of time included in the Change Orders for each Individual Project Addendum. By prior written notice to PGCC at least one business day in advance of making changes, Contractor may make minor changes in the Work without a Change Order, provided that the changes do not constitute an increase of more than \$1,000 of the total Scope of Work or add/subtract a line item to the Scope of Work. Contractor has the ability to address emergency situations as they arise; Contractor will use its best effort to notify PGCC in writing forthwith.
- d. **Time Frame:** The Contractor must commence work on each Individual Project as set forth in each Individual Project Addendum. Time limits stated herein are of the essence of the Agreement.
- e. **Compensation:** The compensation for each Individual Project will be set forth in each Individual Project Addendum.
  - i. **Progress Payments:** Based upon a completed Application for Payment submitted to PGCC by the Contractor, PGCC shall make progress payments on account of each Individual Project Addendum sum to Contractor as provided below:
    - (a) Contractor may submit Applications for Payment not more than two (2) times per month.
    - (b) Applications for Payment may only invoice PGCC for work completed and materials in place on each Individual Project Addendum.
    - (c) Each Application for Payment including all supporting documentation shall be based on the schedule of values submitted by Contractor in accordance with each Individual Project Addendum. The schedule of values shall allocate the entire sum from the Individual Project Addendum to specific verifiable milestones that together cover the entire scope of work. The schedule of values shall be submitted using the Close-Out Inspection Report form in Exhibit B and supported by such data to

substantiate its accuracy as PGCC may require. This Close-Out Inspection Report, unless objected to by PGCC, shall be used as a basis for reviewing Contractor's Applications for Payment.

Applications for Payment shall show the completed milestones for which payment is requested as of the end of the period covered by the Application for Payment. The Contractor shall provide copies of each invoice to PEA, which will advise PGCC on the completeness and correctness of the invoices.

(d) Provided that Contractor submits an Application for Payment, including all supporting documentation in a form acceptable to PGCC, PGCC shall make payment to the Contractor not later than the 30<sup>th</sup> day after PGCC receives each approvable Application for Payment.

ii. Final Payment: PGCC shall pay Contractor the final payment for each Individual Project upon fulfillment of the following requirements: (i) Contractor has completed all Work required by the Individual Project Addendum, subject to Contractor's obligation to correct Work and fulfill any other post-payment requirements, and (ii) upon final written approval of the Work by the Participant. If the Contractor submits an Application for Final Payment without receiving final written approval of the Work by the Participant, PGCC will withhold ten percent (10%) of the total amount of the Individual Project Addendum until such written approval is received by PGCC or PGCC otherwise determines to its satisfaction that the work is complete.

- f. **Participant Referral.** So long as space is available for additional Participants for the Program, Contractor may provide Applicant referrals from individuals or households.
- g. **Staff Commitment.** Contractor will designate a qualified staff member to serve as the point of contact for PGCC and to serve as Contractor's representative in regularly scheduled project review meetings with BTL Team Members.
- h. **Data Management.** Contractor must track key data and documentation about each Participant in the customer relationship management (CRM) software used by PEA and PGCC for the Built to Last program. Contractor must keep the CRM up to date with any documentation and project status changes. Documentation and project status changes must be updated within 3 business days of new activities.

### 3. PGCC Obligations

PGCC shall pay Contractor for its Services upon submission of invoices.

Invoices should be submitted based upon satisfactory completion of services and submission of deliverables as indicated in Section 2 herein.

Contractor must provide PGCC with a signed IRS Form W-9 and PGCC shall issue an IRS Form 1099 in connection with the payments which Contractor receives hereunder.

PGCC's aggregate payment for all Services across all invoices for all Individual Project Addenda will not exceed [ \$\_\_\_\_\_ ]. Any costs in excess of this amount are at the Contractor's risk.

#### **4. Job Posting and Reporting**

- a. One of the goals of the Built to Last program is to support the growth of a diverse, local workforce. As such:
  - i. Contractor must share all job postings with PEA so that PEA can help identify diverse candidates from the City of Philadelphia.
  - ii. Contractor shall inquire with PEA when hiring regionally for entry level positions in order to consider applicants from Philadelphia-based Green Retrofit Immersive Training program.
  - iii. Contractor shall provide to PEA a quarterly Jobs Report outlining the percentage of Contractor's current workforce that can be classified as residents of the City of Philadelphia, minority, woman, disabled, returning citizens, veterans, and/or who have completed Philadelphia-based training programs, including specific metrics for new hires.
  - iv. PEA intends to protect the confidentiality of all materials provided by the Contractor in the Jobs Report to the fullest extent of the law and will not voluntarily share these materials, except in aggregate form or as required by law.

#### **5. Cooperation with BTL Team Members**

Contractor will provide the Services in cooperation with the BTL Team Members and their contractors and subcontractors.

#### **6. Work Product**

Contractor acknowledges that the deliverables specified herein and in Program Basic Procedures Manual (Attachment A) are "work for hire" and hereby transfers and assigns to PGCC the ownership of all deliverables including all copyrights to works of authorship created by Contractor on behalf of PGCC. Contractor represents and warrants that it has good title to all deliverables and that they do not infringe the intellectual property rights of others.

All non-proprietary data related to Participant engagement, intake service expansion, staff training materials, and research and pilot evaluation gathered or produced by Contractor as part of this Project will be made available to the PGCC.

Reports, materials, books, databases, maps, audio/videotapes and other forms of intellectual property created using grants obtained for the Project may be copyrighted or otherwise legally protected by Contractor or by the author, according to Contractor's intellectual property policies. Contractor will provide to PGCC a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to use, publish, distribute, copy, summarize or excerpt Contractor's intellectual property created using grants obtained for the Project for non-commercial purposes in any media—

whether now known or later devised—including by posting such intellectual property on PGCC’s website or featuring it in PGCC publications. Provided, however, that the foregoing shall not require Contractor to provide such a license to Contractor’s proprietary software. This Section shall survive the termination of this Agreement.

## **7. Program Information**

The parties agree that they will share Participant Information with each other and with other BTL Team Members to the extent necessary to carry out the Program. Each party will hold all Participant Information in strictest confidence and will not provide Participant Information to persons other than BTL Team Members without Applicant or Participant consent.

The parties will inform Applicants and Participants that Participant Information may be shared with other BTL Team Members in confidence and that aggregate information about the Program and its Participants will be compiled and may be made public to assist in assessing Program impact, informing funders and potential funders of the Program or successor programs, and educating potential future participants and the public.

## **8. Confidentiality**

Both parties agree to keep confidential for the benefit of each party any and all of their trade secrets or confidential or proprietary information, knowledge or data disclosed to it or obtained by it during the term of this Agreement and will not thereafter disclose any such trade secrets, information, knowledge or data to any other person, firm or corporation.

Confidential Information does not include (a) information already known or independently developed by the Recipient; (b) information in the public domain through no wrongful act of Recipient; or (c) information received by the Recipient from a third party who was free to disclose it (d) information required to be disclosed by a court or other governmental body having jurisdiction.

## **9. Standard of Care**

If Contractor provides professional services under this Agreement, Contractor shall perform the Work in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care, skill, and diligence ordinarily exercised by members of the profession currently practicing under similar conditions.

Contractor shall perform, or cause to be performed, all Services in accordance with the specific standards, methods and requirements set forth in this Agreement and all applicable laws rules and regulations applicable to the Services. Contractor shall maintain all licenses required to perform the Services.

## **10. Insurance**

At all times during the term of this Agreement, Contractor and its subcontractors, shall maintain in full force and effect, at its expense, a commonly available commercial general liability

policy of insurance through a company or companies rated A- or above by A. M. Best providing coverages for the insurances required below. . In addition, a Contractor providing professional services shall maintain all required professional liability insurance.

The Contractor shall procure and maintain in full force and effect, the types and minimum limits of insurance specified herein for all claims based on events occurring during the term of this Agreement. In no event shall work be performed until the required evidence of insurance has been furnished. The insurance shall provide for at least thirty (30) days prior written notice to be given to PGCC in the event coverage is canceled or non-renewed; however, ten (10) days written notice will be provided if the insurance is canceled due to non-payment of the premium. Contractor shall provide notice to PGCC within thirty (30) days in the event that there is a material change in the coverage. Also, except for workers' compensation and professional liability insurance, PGCC, its officers, employees, and agents shall be named as additional insureds in connection with this Agreement. In addition, an endorsement is required stating that the coverage afforded PGCC and its officers, employees, and agents, as additional insureds, will be primary to any other coverage available to them.

**a. Coverage Requirements:**

- i. Business Liability Insurance
  1. Limit of Liability: \$1,000,000 per occurrence
- ii. General Liability Insurance
  1. Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability: \$1,000,000 advertising injury; \$2,000,000 general aggregate and \$2,000,000 aggregate for products and completed operations. PGCC may require higher limits of liability if, in PGCC's sole discretion, the potential risk warrants.
  2. Coverage: premises operations; personal injury and property damage liability; products and completed operations; independent Contractors, employees and volunteers as additional insureds; cross liability; broad form property damage (including completed operations), explosion, collapse, underground ("XCU") coverage.
- iii. Pollution Liability Insurance.
  1. Limit of Liability: \$1,000,000 per occurrence
- iv. Workers' Compensation and Employers' Liability
  1. Limit of Liability: Workers' Compensation Statutory Limits
  2. Employers' Liability: \$500,000 Each Accident – Bodily Injury by Accident; \$500,000 Each Employee- Bodily Injury by Disease; and \$500,000 Policy Limit – Bodily Injury by Disease.
- v. Automobile Liability Insurance



1. Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability.
  2. Coverage: Owned, non-owned, and hired vehicles.
- vi. Professional Liability Insurance.
1. Limit of Liability: \$1,000,000 with a deductible not to exceed \$100,000.
  2. Coverage: Errors and omissions.
  3. Professional Liability Insurance may be written on a claims-made basis provided that coverage for occurrences arising out of the performance of the services required under this Agreement shall be maintained in full force and effect under the Policy or “tail” coverage for a period of at least two (2) years after expiration of this Agreement.
- b. Excess Insurance. Umbrella Liability with limits of liability totaling \$4,000,000 per occurrence and \$4,000,000 aggregate when combined with insurance required under Insurance Sections 10(a)(ii) and 10(a)(v) above.
  - c. Changes to Insurance Requirements. From time to time, and in any event not more frequently than once per year, PGCC may reasonably adjust the amounts, types and deductibles of the insurance coverage required.
  - d. Additional Insureds. Contractor shall require that all of its Subcontractors and consultants obtain and maintain, at their respective cost and expense, the appropriate types and amounts of insurance covering the work and their performance of services.
  - e. Certificates of Insurance. Certificates of insurance evidencing the required coverages must specifically reference this Agreement and shall be submitted to PGCC at least ten (10) days before initiation of any work and promptly, upon binding of the renewal, after each insurance renewal date. The ten (10) day requirement for advance documentation of coverage may be waived in situations where such waiver benefits PGCC, but under no circumstances shall the Contractor actually commence services or begin work (or continue work, in the case of insurance renewal) without providing the required evidence of insurance. Contractor shall furnish certified copies of the original policies required hereunder at any time within ten (10) days after a written request by PGCC.

No Limitation Liability. The insurance requirements set forth herein shall in no way be intended to limit, modify or reduce Contractor’s indemnification obligations or limit Contractor’s liability to the limits of the policies of insurance required hereunder.

## **11. Indemnity**

Contractor agrees to unconditionally indemnify and hold harmless PGCC, its affiliates, and their respective agents, employees, offices, directors, and owners, from and against all liabilities, costs, expenses, claims, disputes, damages, lawsuits, losses, or assessments (including attorney’s fees) suffered or incurred in connection with any claim asserted by any party (regardless of the

form of or forum in which such claim may be asserted) whether (1) based upon Contractor's negligent or willful act or omission, or that of anyone employed, retained, or utilized by Contractor, (2) based upon events or activities of Contractor during the rendering or performance of, or attempts to render or perform, the services of Contractor for PGCC in accordance with this Agreement, or (3) based on failure to deliver clear, non-infringing title to any deliverables.

Any amount reasonably required to be paid pursuant to the above shall be paid to PGCC on demand and may, at PGCC's option, be deducted from or offset against any debt, obligation or liability of PGCC to Contractor in such order as PGCC deems advisable.

## **12. Force Majeure**

Notwithstanding any provision of this Agreement, neither party shall have any responsibility or liability for any failure, error, malfunction, or delay resulting from events due to any cause beyond its reasonable control, including, but not limited to sabotage, fire, flood, explosion, acts of God, epidemics, civil commotion, strikes, stoppages or labor or industrial action of any kind, riots, insurrections, war or acts of government power or equipment failure (including that of any common carrier, or transmission line), emergency condition or cause. Further, neither party shall be liable for any failure to perform any of its obligations under this Agreement if such performance would result in it being in breach of any law, regulation, requirement or provision of any government or government agency in accordance with which it is required to act, as it shall determine.

Where a force majeure event has occurred that prevents to any extent a party in the performance of its obligations under this Agreement, the party that is unable to perform shall promptly notify the other party and shall be excused from further performance or observance of the obligations(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance as soon as possible and to whatever extent possible without delay. The parties shall negotiate in good faith to adopt amendments to deadlines or other provisions included herein and in the Program Basic Procedures Manual that give effect to excused delays in performance.

## **13. Termination for Cause**

Either party (the **Non-defaulting Party**) may terminate the Agreement immediately upon notice to the other party (the **Defaulting Party**), or at such later date as the Non-defaulting Party may establish in its notice to Defaulting Party, upon occurrence of any of the following events:

- a. The Defaulting Party fails to perform any material covenant or obligation set forth in this Agreement if that failure is not cured within fifteen days after receipt of written notice from the Non-defaulting Party.
- b. Any representation or warranty made by the Defaulting Party is false or misleading in any material respect when made.
- c. The insolvency, liquidation, or bankruptcy of the Defaulting Party.

#### **14. Remedies**

In the event of termination for cause by either party, the non-defaulting party shall have any remedy available to it in law or equity.

#### **15. Post-termination Procedures**

Upon expiration or earlier termination of this Agreement for any reason, all rights and obligations of the parties shall cease, except:

- a. Obligations for the payment of money that accrue prior to the date of termination shall survive termination.
- b. Contractor shall deliver to PGCC all materials or deliverables prepared for PGCC during the term of this Agreement.
- c. Contractor shall report to PGCC the status and detailed description of any ongoing work associated with Individual Project Addenda.
- d. Contractor's obligation to indemnify PGCC shall survive termination.
- e. The parties' obligations under Section 8 (Confidentiality) shall survive Termination.

#### **16. Representations of Contractor**

Contractor represents and warrants that:

- a. it is duly organized and in good standing in the jurisdiction of its organization and, if not organized in the Commonwealth, is licensed to do business as a foreign corporation in the Commonwealth;
- b. it has the power, authority and legal right to enter into and perform this Agreement and Contractor's execution and delivery of, and its performance under, this Agreement will not violate Contractor's organizational documents or any judgment, order, law or regulation;
- c. no consent, permission or approval is required for the valid execution and delivery by Contractor of this Agreement or for Contractor's performance hereunder, except those that have been obtained; and
- d. this Agreement has been duly authorized, executed and delivered by Contractor and constitutes a legal, valid and binding obligation of Contractor, enforceable in accordance with its terms, except to the extent limited by bankruptcy or similar laws or by general equitable principles concerning remedies.
- e. Contractor is not subject to backup withholding because Contractor is exempt from backup withholding, Contractor has not been notified by the Internal Revenue Service (IRS) that Contractor is subject to backup withholding, or the IRS has notified Contractor that Contractor is no longer subject to backup withholding.

#### **17. Assignment**

Neither this Agreement nor any duties or obligations under this Agreement may be assigned by PGCC or Contractor without the prior written consent of Contractor and PGCC; provided that Contractor may engage subcontractors to assist with its performance so long as it remains liable for its obligations.

### **18. Subcontracting**

Contractor may employ subcontractors to complete its obligations under this Agreement but shall remain fully liable for the supervision of such subcontractors and the completion of all of Contractor's obligations. Contractor shall ensure that all subcontractors comply with Philadelphia City taxes and licensing requirements and may be required to submit compliance documents to PGCC from time to time. Contractor shall track whether subcontractors are designated Minority, Women or Disabled-Owned Business Enterprises and provide that information and supporting documentation to PGCC for work undertaken as part of the Program. Contractor shall procure its subcontractors in compliance with [2 CFR § 200.318-326](#).

### **19. Relationship of the Parties**

Contractor is an independent contractor. Nothing in this agreement shall be interpreted to create a partnership or make Contractor a coventurer or an agent of PGCC except as specifically provided in the Program Basic Procedures Manual (Attachment A). Employees, subcontractors or agents of Contractor shall not be deemed to be employees of PGCC for any purpose. Except as specifically set forth in the Program Basic Procedures Manual, Contractor will determine the method, details, and means of performing the Services, and Contractor will supply all tools, equipment, and supplies required to perform the Services.

### **20. Non-Exclusivity; Non-Contravention**

Contractor is under no obligation to work exclusively with PGCC, and may accept engagements, work, and assignments outside of the Project on a regular basis. PGCC has no obligation to work exclusively with Contractor, or to continue this collaboration after the Term of this Agreement.

### **21. Notices**

Unless otherwise specifically provided in this Agreement, all notices, consents, waivers, authorizations and approvals given under this Agreement must be in writing and may be telecopied, delivered by hand, mailed by first class, registered mail (return receipt requested) or sent by FedEx or similar courier service and addressed as follows:

If to Contractor:

[Name]

[email]

With a copy to:

[NAME]

[email]

[mailing address]

If to PGCC:

Maryrose Myrtetus

[mmyrtetus@phillygreencapital.org](mailto:mmyrtetus@phillygreencapital.org)

With a copy to:

Alon Abramson

[aabramson@philaenergy.org](mailto:aabramson@philaenergy.org)

Philadelphia Green Capital Corp.

1400 J.F.K. Blvd

City Hall, Room 576

Philadelphia, PA 19107

Each party may change the address to which its communications are delivered by giving notice to the other party. Any communication given in accordance with this Section will be deemed to have been given to a party upon its receipt thereof.

## **22. Nondiscrimination**

This Agreement is entered into in concert with the terms of the Philadelphia Home Rule Charter and in its performance. Contractor shall not discriminate nor permit discrimination against any person because of race, color, religion, gender identity or expression, national origin or sex. In the event of such discrimination, PGCC may terminate this Agreement forthwith.

In addition, Contractor shall, in performing the Agreement, comply with the provisions of the Fair Practices Ordinance of the Philadelphia Code (Chapter 9-1100) and the Mayor's Executive Order No. 04-86 (prohibiting discrimination on the basis of Human Immunodeficiency Virus infection), as each may be amended from time to time and which, as applicable, prohibit, among other things, discrimination against individuals in employment, housing and real property practices, and/or public accommodation practices whether by direct or indirect practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, differentiation or preference in the treatment of a person on the basis of actual or perceived race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, source of income, familial status, genetic information, or domestic or sexual violence victim status, or other act or practice made unlawful under Chapter 9-1100 or under the nondiscrimination laws of the United States or the Commonwealth of Pennsylvania.

In accordance with Chapter 17-400 of the Philadelphia Code, as it may be amended from time to time, Contractor agrees that its payment or reimbursement of fees or other expenses in association with participation by Contractor or its employees in an exclusionary private

organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment on the basis of race, color, sex, sexual orientation, religion, national origin or ancestry, constitutes without limiting the generality of other provisions of this Contract a substantial breach of this Contract entitling PGCC to all rights and remedies provided in this Contract or otherwise available in law or equity. Contractor agrees to include this subparagraph, with appropriate adjustments for the identity of the Parties, in all subcontracts that are entered into for work to be performed pursuant to the Contract.

In accordance with Act 57 of 1998, 62 Pa.C.S. § 3701, in the hiring of employees for the performance of work under the Agreement or any Subcontract, neither the Contractor nor any of its Subcontractors, nor any person acting on their behalf shall discriminate, by reason of gender, race, creed or color, against any citizen of the Commonwealth who is qualified or available to perform the work to which the employment relates.

Neither the Contractor nor any of its Subcontractors, nor any person acting in their behalf shall in any manner discriminate against or intimidate any employee hired for the performance of work under the Agreement on account of gender, race, creed or color.

Contractor and each Subcontractor shall furnish all necessary employment documents and records to permit access to its books, records and accounts by PGCC for purposes of investigation to ascertain compliance with the provision of this Section.

In the event of any breach of this Section, PGCC may, in addition to any rights and remedies available under this Agreement, or at law or in equity, immediately cancel, terminate or suspend this Agreement, and all payments for Work not yet performed under this Agreement may be forfeited for a violation of the terms and conditions of this Section.

### **23. Entire Agreement; Amendments**

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the performance of services by Contractor for PGCC and contains all of the covenants and agreements between the parties with respect to the rendering of the Services. Any amendment or modification of this Agreement will be effective only if it is in writing and signed by both parties.

### **24. Partial Invalidity**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

### **25. Governing Law; Jurisdiction**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. Each party consents to jurisdiction and venue in courts in the Commonwealth of Pennsylvania.

## 26. Audits, Inspection Rights, Records

- a. **Audits.** From time to time during the term of this Agreement and for a period of five (5) years after termination of this Agreement, PGCC may audit all aspects of the Contractor's performance under this Agreement, including but not limited to its billings and invoices, at Contractor's office. If so requested, Contractor shall submit to the requesting party all vouchers or invoices presented for payment pursuant to this Agreement, all canceled checks, work papers, books, records, and accounts upon which the vouchers or invoices are based, and any and all documentation and justification in support of expenditures or fees incurred pursuant to this Agreement. All books, invoices, vouchers, records, reports, canceled checks and other materials shall be subject to periodic review and audit. Notwithstanding the foregoing Contractor shall not be required to maintain such documentation in excess of five (5) years from the expiration or termination of this Agreement.
- b. **Independent Reports.** If requested by PGCC, Contractor shall submit an independent report prepared and certified by a Certified Public Accountant (CPA) acceptable to PGCC.
- c. **Inspection.** All services and materials provided under this Agreement shall be subject to inspection and review by PGCC. Contractor shall cooperate with all inspections and reviews conducted in accordance with the provisions of this Agreement. Such inspection and review of Contractor's rendering of services and materials, including without limitation, programs and facilities, shall be in the sole discretion of the inspecting or reviewing entity. Such inspection or review may include, without limitation, meetings with Participants, review of staffing demographics and job descriptions, verification of account accuracy, and meetings with any staff members who are either directly or indirectly involved in providing services and materials under this Agreement.
- d. **Availability of Records.** Contractor shall make available at Contractor's office, during the term of this Agreement, all records pertaining to this Agreement for the purpose of inspection, audit, or reproduction by any authorized PGCC representative, or the Pennsylvania Auditor General, and any other federal, state or City auditors.
- e. **Retention of Records.** Contractor shall retain all records, books of account and documentation pertaining to this Agreement for a period of five (5) years following expiration or termination of this Agreement; however, if any litigation, claim, or audit is commenced prior to expiration of said five (5) year period, then the records shall be retained until all litigation, claims, or audit findings have been completely terminated or resolved, without right of further appeal, or if Applicable Law requires a longer period, then the records shall be retained for such longer period.

## 27. Additional Terms

Contractor agrees to (i) comply with all required terms of the Assistance Agreement dated [ ], between PGCC and the U.S. Department of Energy (Attachment B), (ii) assist PGCC in complying with such requirements, and (iii) perform its obligations in accordance with the standards required in the Assistance Agreement.

**Signatures**

As evidence of their intent to be legally bound, the parties have signed this agreement as of the date set forth in the first paragraph.

**Philadelphia Green Capital Corp.**

**Contractor**

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

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

Maryrose Myrtetus

[Name]

Executive Director

[Title]



**Attachment A**

**Built to Last Program Basic Procedures Manual**

**Attachment B**

**Assistance Agreement between PGCC and the U.S. Department of Energy**

**[not yet available]**

**Exhibit A**

**Individual Project Addenda**

**[To be appended for each Project during the Program]**

**Exhibit B**

**Built to Last Close-Out Inspection Report**

## Built to Last Close-Out Inspection Report

**PROJECT ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_

As part of your participation in the Built to Last program, our team evaluated your home and completed a series of improvements targeted at:

- Structural and safety upgrades
- Energy efficiency
- General renovation and maintenance

The following report lists the work performed and the inspector's evaluation of the status of each item. Please retain this report for your records.

<b>WORK LOCATION</b>	<b>WORK TYPE</b>	<b>WORK SCOPE</b>	<b>WORK COMPLETED INITIAL &amp; DATE</b>

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*Homeowner Name (Print)*

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*Inspector Name (Print)*

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*Homeowner Signature*

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*Inspector Signature*