

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into between and among the following through their authorized representatives: (1) The City of Philadelphia (the "City"), by and through its Office of Inspector General ("OIG"); (2) Philadelphia Housing Development Corporation ("PHDC"); and (3) UGI HVAC Enterprise Inc., d.b.a. ServiceMark ("SERVICEMARK"). The City, PHDC, and SERVICEMARK are hereinafter collectively referred to as "the Parties."

PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. UGI HVAC Enterprises Inc. d.b.a. ServiceMark is a business corporation that is organized under the laws of the State of Delaware, with its principal place of business in Pennsylvania located at 180 Sheree Boulevard, Suite 3050, Exton, Pennsylvania 19341. PHDC and SERVICEMARK entered into an agreement dated June 21, 2010 (the "Weatherization Year 36 Contract") for SERVICEMARK to provide weatherization services funded under the Weatherization Assistance for Low-Income Persons Program (ARRA) Grant Contract (the "Grant Contract") entered into by PHDC with the Commonwealth of Pennsylvania's Department of Economic and Community Development.

B. The OIG is an office that was created by the Mayor of Philadelphia to enhance the public confidence in the integrity of the City government by investigating corruption, fraud, misconduct, waste, and mismanagement of City employees and those doing business with the City or City-related agencies.

C. PHDC is a nonprofit corporation organized by the City and existing under the laws of the Commonwealth of Pennsylvania. Under its charter, major purposes of PHDC

include, among others, the provision of services and activities that would develop new housing employment opportunities, improve living conditions for the elderly and improve housing and living facilities and home management skills in the City in general. Toward this end, PHDC is empowered by its charter to acquire and rehabilitate derelict properties so that they may be returned to the housing market for lower income residents of the City, help to make homeownership possible for families of modest financial means through growth and development in the City, and provide technical assistance and repair grants to individuals and other organizations that also seek to improve housing in the City. PHDC is a City-related agency with offices located at 1234 Market Street, Philadelphia, Pennsylvania 19107.

D. On or about December 15, 2010, the OIG received an allegation that SERVICEMARK was providing false documentation to PHDC relative to SERVICEMARK's contractual obligation to comply with the requirements of City of Philadelphia Mayoral Executive Order 02-05 with respect to the Weatherization Year 36 Contract. The OIG subsequently investigated the allegation.

E. The OIG contends that SERVICEMARK engaged in the following conduct ("the Covered Conduct") under the Weatherization Year 36 Contract, including negotiations leading up to entry into the contract:

During the period April 1, 2010 to May 1, 2011, SERVICEMARK made and/or disseminated incorrect representations, directly or by implication, about its fulfillment of minority, woman, or disabled business enterprise ("M/W/DSBE") contractual commitments to PHDC.

F. The City and PHDC believe that they have certain civil and administrative claims against SERVICEMARK for engaging in the Covered Conduct.

G. SERVICEMARK expressly denies that it engaged in any wrongful conduct in connection with the Covered Conduct.

H. This Agreement is made in compromise of disputed claims relating to the Covered Conduct. This Agreement is not an admission of facts or liability by SERVICEMARK. This Agreement is not a concession by the City or PHDC that their claims are not well founded. Neither this agreement, its execution, nor the performance of any obligation under it, including payment, nor the fact of any settlement, is intended to be, or shall be understood, as an admission of liability or wrongdoing, or other expression reflecting on the merits of the dispute by SERVICEMARK.

I. To avoid delay, uncertainty, risk, inconvenience, and potential expense of protracted litigation of the above claims, the Parties reach a full and final settlement pursuant to the Terms and Conditions below.

TERMS AND CONDITIONS

NOW, THEREFORE, in reliance on the representations contained herein, and in consideration of the mutual promises, covenants, and obligations set forth in this Agreement, and for good and valuable consideration as stated herein, the Parties, intending to be legally bound, agree as follows:

1. SERVICEMARK agrees to remit to the City the sum of One Hundred Thousand Dollars (\$100,000) (the "Settlement Amount") by electronic funds transfer no later than fourteen (14) business days after this Agreement is fully executed by the Parties and delivered to counsel for SERVICEMARK.

2. SERVICEMARK will pay the Settlement Amount set forth in paragraph 1 to support the City's efforts to expand awareness of, ensure compliance with, and enforce the City's

and PHDC's policies concerning participation and nondiscrimination with respect to M/W/DSBEs in public contracting.

3. SERVICEMARK will pay the Settlement Amount from its own funds and not from any grant funds or proceeds.

4. SERVICEMARK also agrees that, if PHDC renews its current weatherization contract, SERVICEMARK will raise its contracted M/W/DSBE participation goals from 25% to 50% of the total contract value for the Weatherization Year 36 Contract and any renewal or replacement contract. M/W/DSBE firms selected to participate as subcontractors on the current and any future contracts must perform a commercially acceptable function. This requirement applies to all subcontracted functions, including but not limited to installation and supply functions. Where SERVICEMARK employs one or more M/W/DSBE firms as vendors of supplies, SERVICEMARK shall execute a written agreement with each such firm to ensure appropriate documentation of the contractual relationship. Nothing in this Agreement obligates PHDC to offer or SERVICEMARK to undertake to accept any contract or perform any amount of additional weatherization work, except insofar as SERVICEMARK may already be bound to accept a renewal term or terms if offered by PHDC.

5. SERVICEMARK further agrees to undertake and implement, no later than January 1, 2012, an Equal Opportunity Procedures Policy ("EOPP") acceptable to the City for all work performed directly or indirectly for the City or any City-related agency. For purposes of this agreement, "City-related agency" shall include any corporation or authority of which the chief executive or the majority of board members is a City official or employee or appointed by a City official or employee. SERVICEMARK's compliance with its EOPP shall be evidence of good-faith effort to comply with the City's policies relating to M/W/DSBE participation;

notwithstanding the foregoing, the appropriate City agency shall in all instances determine on a contract-by-contract basis whether SERVICEMARK has complied with any participation or other economic opportunity requirements applicable to any individual contract.

6. In consideration of the obligations of SERVICEMARK in the EOPP and this Agreement, conditioned upon SERVICEMARK's full payment of the Settlement Amount and commitment to increase M/W/DSBE participation, the City and PHDC agree, except as stated in paragraph 7 hereof, to fully and finally release SERVICEMARK, any and all of its subsidiary, affiliate or parent companies, and their directors, officers, and employees from any and all claims (including attorney's fees, costs, and expense of every kind and however denominated) related to the Covered Conduct and the City's and PHDC's investigation and prosecution thereof. Moreover, except as federal or state law or directives or the Grant Contract or other grant agreements may otherwise require, the City will not seek and PHDC shall refrain from instituting, directing, or maintaining any civil or administrative action, including any action seeking debarment from entering into contracts with the City or PHDC, resulting from the Covered Conduct. The OIG agrees that it will confirm that SERVICEMARK has at all times been fully cooperative with the City's investigation.

7. Notwithstanding the release in Paragraph 6 of this Agreement, or any other term of this Agreement, the following rights of the City and PHDC are specifically reserved and not released:

(a) Pursuit of any matter, other than a claim by the City or PHDC relating in any way to the Covered Conduct, arising under the City of Philadelphia Mayoral Executive Order 02-05 or arising under any other provision of law or contract; and

(b) Referral for criminal prosecution; and

(c) Imposition and enforcement of any liability based upon obligations created by this Agreement or SERVICEMARK's obligation to defend, hold harmless and indemnify the City and PHDC under any contract, including the Weatherization Year 36 Contract.

8. SERVICEMARK fully and finally releases the City, PHDC, and each of their officials, directors, officers, employees, servants, and agents from any claims (including attorney's fees, costs, and expense of every kind and however denominated) that SERVICEMARK has asserted, could assert, or may assert in the future against the City, PHDC, and each of their officials, directors, officers, employees, servants, and agents, related to the Covered Conduct and the investigation and prosecution thereof.

9. Nothing in this Agreement shall be deemed to adversely affect, in an any manner whatsoever, SERVICEMARK's good standing to do business with and within the City of Philadelphia or with PHDC.

10. SERVICEMARK, the City, and PHDC each represent that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion whatsoever.

11. The OIG represents and warrants that 1) it is not engaged in any ongoing or pending investigation of SERVICEMARK related to matters involving contracts with the City or any City agency; and 2) it has not authorized any other investigation of SERVICEMARK related to matters involving contracts with the City or any City agency. Nothing herein precludes the OIG from conducting future investigations of past or future conduct of SERVICEMARK unrelated to the Covered Conduct.

12. SERVICEMARK represents and warrants that to the best of its information, knowledge and belief it is not the subject of any ongoing or pending investigation related to

matters involving contracts with the City, PHDC, the federal or any state government or any federal, state, City or local agency, board or commission.

13. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania, without regard to the principles of conflicts of laws. Each Party irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in Philadelphia, Pennsylvania, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein; and irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court.

14. For purposes of construction, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

15. This Agreement constitutes the complete agreement among the Parties with respect to the issues that the Agreement covers. This Agreement may not be amended except by written consent of all the Parties.

16. Each Party, and each individual executing this Agreement on behalf of a Party, represents and warrants that the individual is authorized by the Party to execute this Agreement in his or her official capacity.

17. If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

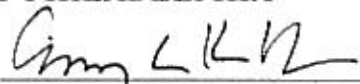
18. This Agreement is binding upon the successors, transferees, heirs, and assigns of **SERVICEMARK**.

19. **SERVICEMARK** consents to disclosure to the public by the City and PHDC of the Agreement and of information about this Agreement, after it has been fully executed.

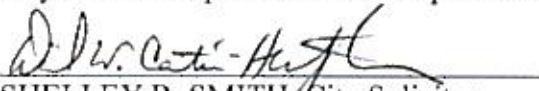
20. This Agreement is effective on the date of signature and delivery of the last signatory to the Agreement. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement, it being understood that the Parties need not sign the same counterpart. Facsimile signature(s) on complete copies of the Agreement shall constitute acceptable, binding signature(s) for purposes of this Agreement.

[The remainder of this page has been left blank intentionally. Signature page follows.]

THE CITY OF PHILADELPHIA

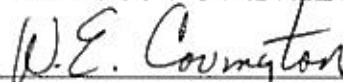
By: 
AMY L. KURLAND, Inspector General
City of Philadelphia Office of Inspector General

Dated: 12/7/2011

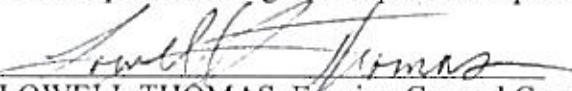
Approved: 
SHELLEY R. SMITH, City Solicitor
Daniel W. Cantú-Hertzler, Chair, Corporate and Tax Group
City of Philadelphia Law Department

Dated: 12/7/2011

PHILADELPHIA HOUSING DEVELOPMENT CORPORATION

By: 
W. EDWARD COVINGTON, President
Philadelphia Housing Development Corporation

Dated: _____

Approved: 
LOWELL THOMAS, Esquire, General Counsel
Philadelphia Housing Development Corporation

Dated: 12/6/11

UGI HVAC ENTERPRISE INC. d.b.a. SERVICEMARK

By: _____
Name: _____
Title: _____

Dated: _____

Approved: _____
Name: _____
Title: _____

Dated: _____

THE CITY OF PHILADELPHIA

By: _____ Dated: _____
AMY L. KURLAND, Inspector General
City of Philadelphia Office of Inspector General

Approved: _____ Dated: _____
SHELLEY R. SMITH, City Solicitor
Daniel W. Cantú-Hertzler, Chair, Corporate and Tax Group
City of Philadelphia Law Department

PHILADELPHIA HOUSING DEVELOPMENT CORPORATION

By: _____ Dated: _____
W. EDWARD COVINGTON, President
Philadelphia Housing Development Corporation

Approved: _____ Dated: _____
LOWELL THOMAS, Esquire, General Counsel
Philadelphia Housing Development Corporation

UGI HVAC ENTERPRISE INC. d.b.a. SERVICEMARK

By: Robert L. Pistor Dated: 12/30/11
Name: Robert L. Pistor
Title: Vice President

Approved: Robert L. Pistor Dated: 12/30/11
Name: Robert L. Pistor
Title: Vice President