

**PUBLIC BUILDING COMMISSION OF CHICAGO
FOURTH AMENDMENT
CONTRACT NUMBER PS 1398**

THIS FOURTH AMENDMENT AGREEMENT is made and entered into as of the 8th day of March, 2011, and shall be deemed and taken as forming a part of the Agreement for Program Management Services ("Agreement") by and between the **PUBLIC BUILDING COMMISSION OF CHICAGO**, a municipal corporation of the State of Illinois ("Commission") and **THE RISE GROUP, LLC.**, ("Consultant") dated September 9, 2008, with the like operation and effect as if the same were incorporated therein.

WITNESSETH:

WHEREAS, the Commission and Consultant have heretofore entered into an Agreement dated the 9th day of September 2008, wherein the Consultant is to provide Program Management Services for the Public Building Commission of Chicago; and

WHEREAS, the Consultant shall now provide Program Management Services for Projects financed in whole or in part with Federal funds; and

WHEREAS, the Commission and Consultant now desire to amend the Agreement to include additional federal laws and regulations the Consultant must comply with for Projects financed in whole or in part with Federal funds;

NOW THEREFORE, in consideration of the provisions and conditions set forth in the Agreement and herein, the parties hereto mutually agree to amend the Agreement as hereinafter set forth.

It is agreed by and between the parties hereto that the sole modification of, changes in, and amendments to the Agreement pursuant to this Amendment are as follows:

TERMS

1. **Recitals**
THE ABOVE RECITALS ARE EXPRESSLY INCORPORATED IN AND MADE A PART OF THE AMENDMENT AGREEMENT AS THOUGH FULLY SET FORTH HEREIN.
2. **Special Terms and Conditions**

The Consultant shall comply with the Special Terms and Conditions set forth in Attachment A to this Fourth Amendment.

Execution of this Amendment by the Consultant is duly authorized by the Consultant, and the signature(s) of each person signing on behalf of the Consultant have been made with the complete and full authority to commit the Consultant to all terms and conditions of this Amendment.

CONTRACT NUMBER PS 1398 – AMENDMENT 4

All capitalized terms not defined herein shall have the meaning ascribed to them in the Agreement. Except as and to the extent that the terms of the Agreement are amended and modified herein, all terms of the Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the parties hereto have agreed and executed this Fourth Amendment

Ral Emanuel PUBLIC BUILDING COMMISSION OF CHICAGO
BY: _____ Date: _____
Chairman

[Signature]
BY: _____ Date: 7/18/11
Secretary

THE RISE GROUP LLC
By: [Signature] Date: 6-6-11
President
CONSULTANT

Subscribed and sworn to me this
6th day of June 20 11.
[Signature]
Notary Public



My Commission expires: 10/09/13

(Seal of Notary)

Approved as to form and legality
[Signature] Date: 6/28/11
Neal & Leroy, LLC

PUBLIC BUILDING COMMISSION OF CHICAGO
FOURTH AMENDMENT
PS 1398

ATTACHMENT A
SPECIAL TERMS AND CONDITIONS

1. Equipment. The Consultant acknowledges that any equipment purchased for this Contract must comply with the DHS FEMA requirements, and appear on the DHS Authorized Equipment List ("AEL") on the Responder Knowledge Base (RKB) at <https://www.rkb.us/lists.cfm>.

Unless otherwise noted, the equipment must be certified that it meets required regulatory and/or DHS-adopted standards to be eligible for purchase using the grant funds. Equipment must comply with the OSHA requirement for certification of electrical equipment of a nationally recognized testing laboratory, and demonstrate compliance with appropriate supporting data and documentation per ISO/IEC 17050, parts one and two.

When practicable, any equipment purchased under this Contract shall be prominently marked as follows:
"Purchased with funds provided by the U.S. Department of Homeland Security."

2. Fly America. The Consultant agrees to comply with the Fly America Act in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and sub recipients of Federal funds and their consultants are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Consultant shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Consultant agrees to include the requirements of this section in all subcontracts that may involve international air transportation.
3. Clean Water Requirements. The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Consultants agree to report each violation to the Commission and understands and agrees that the Commission will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Consultant also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.
4. Energy Conservation Requirements. The Consultant agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
5. Clean Air. The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Consultant agrees to report each violation to the Commission and understands and agrees that the Commission will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Consultant also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in

part with Federal assistance provided by FTA.

6. Environmental and Historic Preservation (EHP) Compliance. The Consultant shall not undertake and Project having the potential to impact environmental or historical preservation (EHP) resources without the prior approval of DHS FEMA GPD, including but not limited to communication towers, physical security enhancements, new construction, and modifications to buildings, structures and objects that are fifty years old or greater. The Consultant must comply with all conditions placed on the Project as the result of the EHP review. Any change to the approved Project scope of work will require reevaluation for compliance with these EHP requirements. If ground disturbing activities occur during Project implementation, the Consultant must ensure monitoring ground disturbance, and if any potential archeological resources are discovered, the Consultant will immediately cease performing Services in that area and notify DHS FEMA GPD and the appropriate state historic preservation office. Any construction activities that have been initiated without the necessary EHP review and approval will result in noncompliance finding and will not be eligible for DHS FEMA GPD funding.
7. EPA Regulations. The Consultant shall comply with the with the Environmental Protection Agency regulations set forth in 40 CFR Part 15 for any sub-contract it enters into in excess of \$100,000.
8. Non-Discrimination. The Consultant may not discriminate against any employee or applicant for employment because of race, color, age, creed, sex, or national origin. The Consultant shall take affirmative action to ensure that the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, ancestry, physical or mental handicap unrelated to ability, marital status, disability, or unfavorable discharge from military service. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this non-discrimination clause.
9. Equal Employment Opportunity. The Consultant shall comply with all antidiscrimination, civil rights and equal opportunity laws including (but not limited to) the following: Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d) which prohibits discrimination on the basis of race, color, or nation origin in programs and activities receiving federal financial assistance; Title IX of the Education Amendments of 1972, (20 U.S.C. §§ 1681-1688), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; the Age Discrimination Act of 1975 as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; the Drug Abuse Office and Treatment Act of 1972, 41 U.S.C. §701, which requires the employer to publish a statement about its drug free work place program and prohibits discrimination on the basis of drug use.; Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et. seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; the Public Health Service Act of 1912, 42 U.S.C. §290dd-3 and §290ee-3, related to confidentiality of alcohol and drug abuse patient records; the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91-616, Dec. 31, 1970, and amendments there to, 42 U.S.C. 4581 et seq., relating to nondiscrimination on the basis of alcohol abuse or alcoholism; the Americans With Disabilities Act, 42 U.S.C. §§ 12101 et seq.; Title VII of the Civil Rights Act of 1964, (42 U.S.C. 2000e et seq.), relating to employment rights and preventing employment discrimination; any other nondiscrimination provisions in the specific statutes under which Federal assistance for the project may be provided including, but not limited to, 49 U.S.C. §5332, and Section 1101(b) of the Transportation Equity Act for the 21st Century, 23 U.S.C. 101 note, which provides for participation of disadvantaged business enterprises in FTA programs.

10. Davis-Bacon and Copeland Anti-Kickback Acts

The Consultant shall comply with the provisions of the Davis-Bacon Act, 18 USC 874, and its related regulations which applies to all construction contracts in excess of \$2000. The Davis-Bacon Act provides that all laborers and mechanics employed by it or any sub-contractors on projects funded directly by or assisted in whole or in part by and through the Federal Government shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. The Consultant certifies that it any sub-contractors shall comply with all requirements of the Davis-Bacon Act, specifically including, but not limited to, the provisions set forth in 29 CFR 5.5 which are set forth in Exhibit A.

The Consultant certifies that it and any subcontractors shall comply with the Copeland "Anti-Kickback" Act, 18 USC 847, and its related regulation at 29 CFR 3, which are incorporated herein by reference, and prohibits intimidating, forcing or otherwise inducing any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both.

11. Contract Work Hours and Safety Standards Act

If applicable according to their terms, the Consultant must comply and assure compliance with the Contract Work Hours and Safety Standards Act, as amended, 40 USC §§ 3701 through 3708, and implementing U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable Act)," 29 CFR Part 5; and U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 CFR Part 1926. In addition to other requirements that may apply:

a. In accordance with sections of the Contract Work Hours and Safety Standards Act, the Consultant must assure that, for the Contract, the wages of every mechanic and laborer will be computed on the basis of a standard work week of 40 hours, and that each worker will be compensated for Work exceeding the standard work week at a rate of not less than 1.5 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Determinations pertaining to these requirements will be made in accordance with applicable U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-Construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR Part 5.

b. In accordance with the Contract Work Hours and Safety Standards Act, the Consultant must assure that no laborer or mechanic working on a construction contract is required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to his or her health and safety, as determined in accordance with US DOL regulations "Safety and Health Regulations for Construction" 29 CFR Part 1926.

12. Executive Order 11246. The Consultant, and its sub-consultants and sub-contractors shall comply with Executive Order 11246 of September 25, 1965, entitled "Equal Employment Opportunity" and as its related regulations, which applies to all construction contracts awarded in excess of \$10,000. The requirements of Executive Order 11246 are attached hereto as Exhibit B.

13. Lobbying Disclosure Affidavit. The Consultant acknowledges that 31 U.S.C. 1352 places certain restrictions on lobbying activities. The Consultant certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress

in connection with obtaining any Federal contract, grant, cooperative agreement, loan or any other award covered by 31 U.S.C. 1352. The Consultant shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant, cooperative agreement, loan or award covered by 31 U.S.C. 1352. This Affidavit must be completed and returned with your Proposal.

14. Suspension and Debarment.

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Consultant is required to verify that none of the Consultants, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Consultant is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

15. Program Fraud and False or Fraudulent Statements or Related Acts.

a. The Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the Federal Government deems appropriate.

b. The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance reserves the right to impose the penalties of 18 U.S.C. § 1001 on the Consultant, to the extent the Federal Government deems appropriate.

c. The Consultant agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clauses shall not be modified, except to identify the sub-consultant who will be subject to the provisions.

16. Retention of Records. The Consultant shall retain all records pertaining to the contract for a minimum of three years. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

17. Access to Records and Reports. The Consultant shall permit the IEMA, the CTA, the RTA, the Commission, the Auditor General, or the Attorney General to inspect and audit any books, records, or paper related to the program, project, or use for which grant funds were provided.

18. Reporting. The Consultant shall cooperate with the Commission, and provide any information required for the Commission, the CTA, or the IEMA to complete reports to be submitted to the Federal Government, including, but not limited to, reports which are required under the Government Performance and Results Act

of 1993, the Department of Homeland Security Quarterly Federal Financial Reports or the Semi-Annual Assistance Progress Report.

19. Funding. The Consultant acknowledges that the Commission shall have the right to terminate this Contract if the General Assembly fails to make an appropriation, or if the Federal Government fails to provide funds.
20. Work Product. The Consultant acknowledges DHS FEMA, and the State of Illinois reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorizes others to use, for Federal and State purposes: (1) the copyright in any work developed under an award or sub-award to the Commission, or contract to the Consultant; and (2) any rights to copyright to which a recipient or sub-recipient purchases ownership with Federal support. The Consultant shall consult with DHS FEMA GPD, through the Commission, regarding the allocation of any patent rights that arise from, or are purchased with, funding the Commission receives.
21. Federal Changes. Consultant shall at all times comply with all applicable Federal regulations, policies, procedures and directives, as they may be amended or promulgated from time to time during the term of this Contract. Consultant's failure to so comply shall constitute a material breach of this Contract.
22. No Obligations. The Commission and Consultant acknowledge and agree that, notwithstanding any concurrence by the Federal Government, the Illinois Emergency Management Agency or the RTA in or approval of the solicitation or award of the underlying contract, absent the express written consent by the previously-mentioned governmental entities, they are not a party to this Contract and shall not be subject to any obligations or liabilities to the Commission, Consultant, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. The Consultant agrees to include the above clause into each subcontract.
23. Boycott. The Commission shall include provisions that neither the consultant nor its affiliates will participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act.
24. Termination for Convenience. The Commission may terminate this Contract, in whole or in part, at any time by written notice to the Consultant when it is in the IEMA, RTA's or Government's best interest. The Consultant shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Consultant shall promptly submit its termination claim to the Commission to be paid the Consultant. If the Consultant has any property in its possession belonging to the Commission, the Consultant will account for the same, and dispose of it in the manner the Commission directs.
25. Illinois Laborers. The Consultant acknowledges that any public works project supported with IEMA grant funds shall employ at least 90% Illinois' laborers on such project during periods of excessive unemployment in Illinois. "Public works" is defined as any fixed work construction or improvement for the State of Illinois, or any political subdivision of the State funded or financed in whole or in part with State funds or funds administered by the State of Illinois. "Period of excessive unemployment" is defined as any month immediately following two consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded five percent.
26. Indemnification. The Consultant hereby agrees to indemnify, keep and save harmless the Commission, the CTA, the RTA, and the IEMA and their respective commissioners, board members, officers, agents, officials and employees from and against all claims, demands, suits, losses, costs and expenses, including but not limited to, the fees and expenses of attorneys, that may arise out of or be based on any injury to persons or

property that is or is claimed to be the result of an error, omission or act of the Consultant or any person employed by the Consultant to the maximum extent permitted by applicable law.

27. Non-Liability. No Commission, CTA, RTA or IEMA Board member, employee, agent, officer, or official is personally liable to the Consultant or its sub-consultants or sub-contractors and its sub-consultant or sub-contractor are not entitled to, and must not attempt to, charge any of them with liability or expense or hold them personally liable to Consultant or its sub-consultants or sub-contractors under this Contract.
28. CTA's Ethics Ordinance. The Consultant acknowledges that the CTA's Ethics Ordinance, is hereby incorporated in and made a part of this Contract. By executing this Contract, the Consultant acknowledges and agrees that it is familiar with the contents of the Ordinance and will fully comply with all applicable portions in performing its Services.
29. Applicability to Sub-Consultants. The Consultant shall incorporate the terms and conditions set forth in this Attachment A into any subcontracts it enters into with a sub-consultant. The Consultant acknowledges that the Commission shall hold the Consultant responsible for any sub-consultant's failure to comply with these terms and conditions, and to the extent it is damaged, may seek to recover from the Consultant all remedies available to it available in equity and law.

PUBLIC BUILDING COMMISSION OF CHICAGO
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ATTACHMENT
LOBBYING DISCLOSURE AFFIDAVIT

The undersigned Consultant certifies, to the best of its knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)].

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant, THE RISE GROUP, LLC., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

Signature

Date

Name (Type or Print)

Title

Subscribed and sworn to before me

this _____ day of _____ 20__

Notary Public

PUBLIC BUILDING COMMISSION OF CHICAGO
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ATTACHMENT
DRUG FREE CERTIFICATION

This certification is required by the Drug Free Workplace Act (30 ILCS 580). The Drug Free Workplace Act, effective January 1, 1992, requires that no Consultant shall be considered for being awarded a contract for the procurement of Services from the State unless the Consultant has certified to the State that it will provide a drug free workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of contract payments, termination of the Consultant, and debarment of contracting opportunities with the State for at least one (1) year but not more than five (5) years.

For purposes of this certification, Consultant means a corporation, partnership, or other entity with 25 or more employees at the time of letting the contract, or a department, division, or unit thereof, directly responsible for the specific performance under a contract of \$5,000 or more from the State.

The Consultant certifies and agrees that it will provide a drug free workplace by:

a) Publishing a statement:

(1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the contractor's workplace.

(2) Specifying the actions that will be taken against employees for violations of such prohibition.

(3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will:

(A) abide by the terms of the statement; and

(B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

(b) Establishing a drug free awareness program to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the contractor's policy of maintaining a drug free workplace;

(3) any available drug counselling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug violations.

(c) Making it a requirement to give a copy of the statement required by subsection (a) to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.

(d) Notifying the contracting or granting agency within 10 days after receiving notice under part (B) of paragraph (3) of subsection (a) from an employee or otherwise receiving actual notice of such conviction.

(e) Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by Section 5.

(f) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.

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**PUBLIC BUILDING COMMISSION OF CHICAGO
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**ATTACHMENT H
Certification Regarding Debarment and Suspension**

DEBARMENT: The Consultant shall comply with Debarment provisions as contained in 49 Code of Federal Regulations, Part 29, including Appendices A and B as amended. The Consultant certifies that to the best of its knowledge and belief, Consultant and Consultant's principals: a) are not presently debarred, suspended, proposed, for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal Agency or agency; b) within a three-year period preceding this Contract have not been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records making false statements receiving stolen property; c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in subsection (b), above; d) have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The inability of the Consultant to certify to the certification in this section will not necessarily result in denial of participation in the Contract. The Consultant shall submit an explanation of why it cannot provide the certification in this section. This certification is a material representation of fact upon which reliance was placed when the Grantor determined whether to enter into this transaction. If it is later determined that Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Grantor may terminate this Contract for cause. The Consultant shall provide immediate written notice to the Grantor if at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reasons of changed circumstances. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this section shall have the meaning set out in the Definitions and Coverage sections of the rules Implementing Executive Order 12549.

The Consultant agrees that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized, in writing, by the Grantor. The Consultant agrees that it will include the clause titled "Certification Regarding, Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Grantor, without modification, in a lower tier covered transactions and in all solicitations for lower tier covered transactions. The Consultant may rely upon a certification of a prospective participant in a lower tier covered transactions unless Consultant knows the certification is erroneous. Consultant may decide the method and frequency by which it determines the eligibility of its principals. The Consultant may, but is not required to, check the Non-procurement List. If a Consultant knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation, in addition to other remedies available to the federal government, the Grantor may terminate this Contract for cause or default.

Signature of Authorized Official

Name and Title of Authorized Official

Date

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EXHIBIT A
DAVIS-BACON REQUIREMENTS

(iii) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(iii) Minimum wages.

(iii) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(iii) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

I In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(iii) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment

to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(iii) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

I The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further

payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees—

(iii) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which

are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(iii) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

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**PUBLIC BUILDING COMMISSION OF CHICAGO
FOURTH AMENDMENT
PS1398**

**EXHIBIT B
EXECUTIVE ORDER 11246**

1. Notice Requirements for Affirmative Action To Ensure Equal Employment Opportunity (Executive Order 11246)

a. The Contractor's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth in the Contract.

b. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Minority Group Employment for each trade19.6%
Female Group Employment for each trade6.9%

c. These goals are applicable to all the Contractor's Work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs Work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the Work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

d. The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

e. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (U.S. Department of Labor, Office of Federal Contract Compliance, Programs, 230 South Dearborn Street - Room 434, Chicago, IL 60604) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the Contract resulting from the solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

f. As used in this Notice, and in the Contract resulting from this solicitation, the "covered area" includes the City of Chicago, Cook, DuPage, Kane, Lake, McHenry and Will Counties (Standard Metropolitan Statistical Area).

2. Equal Opportunity Clause

During the performance of the Contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f. In the event of the Contractor's noncompliance with the nondiscrimination clauses of the Contract or with any of the said rules, regulations, or orders, the Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The Contractor will include provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

3. Standard Federal Equal Employment Opportunity Construction Specifications (Executive Order 11246)

a. As used in these specifications:

(1) "Covered area" means the geographical area described in the solicitation from which this Contract resulted;

(2) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

(3) "Employer Identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

(4) "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

b. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the Work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which the Contract resulted.

c. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

d. The Contractor shall implement the specific affirmative action standards provided in paragraphs g (1) through (16) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

e. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the

Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

f. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

g. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

(1) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

(2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

(4) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under g (2) above.

(6) Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

- (7) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (8) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- (9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- (10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
- (11) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- (12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- (13) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
- (14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- (15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- (16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

h. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (g (1) through (16)). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under g(1) through (16) of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the

program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

i. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

j. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

k. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

l. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

m. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

n. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

o. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).