

PUBLIC BUILDING COMMISSION OF CHICAGO



AGREEMENT
CONTRACT NUMBER PS1620
WITH
TERRACON CONSULTANTS, INC.
TO PROVIDE
PHASE II ENVIRONMENTAL SERVICES AND
ENVIRONMENTAL DESIGN SERVICES
FOR
VALLEY FORGE FIELDHOUSE
VICINITY OF 7001 WEST 59TH STREET
CHICAGO, ILLINOIS
PROJECT NUMBER: 11050

Mayor Richard M. Daley
Chairman

Erin Lavin Cabonargi
Executive Director

Richard J. Daley Center, Room 200
50 West Washington Street
Chicago, Illinois 60602
www.pbcchicago.com

EXECUTION PAGE

**PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620
PROJECT NUMBER: 11050**

THIS AGREEMENT effective as of June 10, 2009, but actually executed on the date witnessed, is entered into by and between the **Public Building Commission of Chicago**, a municipal corporation of the State of Illinois, having its principal office at Room 200, Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602, (the "**Commission**"), and **Terracon Consultants, Inc.** with offices at 650 West Lake Street, Suite 420, Chicago, Illinois 60661 (the "**Consultant**").

Background Information – Recitals:

Whereas, **The Commission** on behalf of the Chicago Park District and the City of Chicago (referred to in this Agreement as the "**User Agency**"), intends to undertake the construction and/or improvement of the following facility or facilities in Chicago, Illinois described in Schedule A attached to the Agreement (the "**Project**");

Whereas, the Commission requires certain professional services described in the Agreement, in connection with the Project and desires to retain the Consultant on the terms and conditions set forth in the Agreement to perform such Services. The Consultant desires to be so retained by the Commission and has represented to the Commission that the Consultant has the knowledge, skill, experience and other resources necessary to perform the Services in the manner provided by the Agreement.

Whereas, the Consultant has consulted with the Commission and the User Agency, made site inspections, and taken such other actions as the Consultant deemed necessary or advisable to make itself fully acquainted with the scope and requirements of the Project and the Services. The Consultant represents that it is qualified and competent by education, training and experience to prepare drawings, specifications and construction documents necessary to complete the Project in accordance with standards of reasonable professional skill and diligence.

Whereas, the Commission has relied upon the Consultant's representations in selecting the Consultant.

NOW THEREFORE, the parties agree on the terms and conditions that follow:

PUBLIC BUILDING COMMISSION OF CHICAGO

Erin Lavin Cabonargi
Executive Director

[Handwritten Signature]

Date: 6/18/09

ATTEST:

[Handwritten Signature]
Edgwick Johnson - Secretary

Date: 6/19/09

TERRACON CONSULTANTS, INC.:

[Handwritten Signature]
EX. VICE President

Date: 6-15-2009

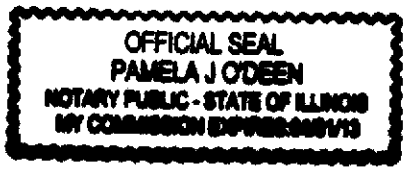
AFFIX CORPORATE
SEAL, IF ANY, HERE

County of: Will

State of: Illinois

Subscribed and sworn to before me by Karen M. Jeffries and _____
on behalf of Consultant this 15th day of June, 2009.

[Handwritten Signature]
Notary Public



My Commission expires:
(SEAL OF NOTARY)

Approved as to form and legality
[Handwritten Signature]
Neal & Leroy, LLC

MY COMMISSION EXPIRES 06/30/2015
NOTARY PUBLIC - STATE OF ILLINOIS
PAMELA J ODEEN
OFFICIAL SEAL

Terracon

Consulting Engineers & Scientists
18001 W. 106th Street, Suite 300
Olathe, KS 66061
Phone 913-599-8886
Fax 913-599-0574
www.terracon.com

CERTIFICATE OF AUTHORITY

Please be advised that Keven M. Jefferis is a Principal for the Naperville, Illinois office of Terracon Consultants, Inc. Mr. Jefferis is authorized to execute contracts on behalf of Terracon Consultants, Inc. for services to be provided by Terracon Consultants, Inc.



M. Gayle Packer
Secretary

12/9/08

Date

TERMS AND CONDITIONS – ENVIRONMENTAL CONSULTING

1. **Definitions.** The following phrases have the same meanings for purposes of this Agreement.
 - a. **Agreement** means this professional services agreement for environmental consulting services, including all exhibits or documents attached hereto and/or incorporated by reference herein, and all amendments, modifications, or revisions made in accordance with the terms hereof.
 - b. **Commission** as herein referred to shall include the Public Building Commission of Chicago, the Commission's Chairman, Secretary, Assistant Secretary, Executive Director, Director of Construction, Managing Architect, Project Manager, or designated consultant or consultants, acting on behalf thereof, as designated by the Commission in writing, for the purpose of giving authorizations, instructions, and/or approval pursuant to this Agreement.
 - c. **Contract Documents** consists of all of the component parts of the Contract between the Commission and the General Contractor for the construction and improvement of the Project including, without limitation, the general and special conditions, technical specifications, drawings, addenda, bulletins and modifications thereto.
 - d. **Consultant** means the company or other entity identified in this agreement, and such successors or assigns, if any, as may be authorized by the terms and conditions of this Agreement.
 - e. **Key Personnel** means those job titles and persons as identified in those positions as identified in Consultant's proposal and accepted by the Commission.
 - f. **Project** means the construction and/or improvement of the facility or facilities specified in this Agreement.
 - g. **Services** means, collectively, the services, duties and responsibilities that are necessary to allow the Consultant to provide the Services required by the Commission under this agreement.
 - h. **Sub-consultant** means a firm hired by the Consultant to perform professional services related to the construction and/or improvement of the Project.
 - i. **Technical Personnel** as herein referred to include partners, officers and all other personnel of the Consultant, including technical typists assigned to the Project, exclusive of general office employees.
 - j. **User Agency** means the municipal corporation that requested the Commission to undertake the construction and/or improvement of the Project.

2. **Incorporation of Documents.** The documents identified below in this paragraph are hereby incorporated in and made a part of this Agreement. By executing this Agreement, Consultant acknowledges and agrees that Consultant is familiar with the contents of each of such documents and will comply fully with all applicable portions thereof in performing the Services.

- a. **Project Documents.** The plans and specifications for the Project, to the extent that plans and specifications for the Project have been prepared, as set forth and described in this Agreement (the "Project Documents").
- b. **Policies Concerning MBE and WBE.** The Commission's policies concerning utilization of minority business enterprises ("MBE") and women business enterprises ("WBE"), as the same may be revised from time to time.

3. **Engagement and Standards for Performing Services.**

- a. **Engagement.** The Commission hereby engages the Consultant, and the Consultant hereby accepts such engagement, to provide the Services described in this agreement, as the same may be amended, in writing, from time to time by mutual agreement of the Commission and the Consultant.
- b. **Performance Standard.** The Consultant represents and agrees that the Services performed under this Agreement will proceed with efficiency, promptness and diligence and will be executed in a competent and thorough manner, in accordance with reasonable professional standards in the field consistent with that degree of skill and care ordinarily exercised by practicing environmental consulting professionals performing services of a scope, purpose, and magnitude comparable with the Services to be provided under this Agreement. If in the course of performing the Services, Consultant identifies any environmental condition, situation, issue or problem that may impact the performance of the Services or the Project, Consultant shall promptly provide notice to the Commission. The Consultant further promises that it will assign at all times during the term of the Agreement the number of experienced, appropriately trained employees necessary for the Consultant to perform the Services in the manner required by the Agreement.

In as much as Consultant will be performing design services, Consultant acknowledges and agrees that Consultant is liable for any and all of its errors and omissions that may be found in the construction documents that are issued to bid for the construction of the Project.

c. Consultant's Personnel. Consultant must ensure that all Services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law. Consultant must maintain current copies of any such licenses and provide these copies upon request by the Commission. Consultant remains responsible for the professional and technical accuracy of all Services furnished, whether by the Consultant or others on its behalf. All deliverables will be prepared in a form and content satisfactory to the Commission and delivered in a timely manner consistent with the requirements of the Agreement.

d. Confidentiality. Consultant acknowledges that it is entrusted with or has access to valuable and confidential information and records of the Commission and User Agency. Consultant must at all times use its best efforts on behalf of the Commission to assure timely and satisfactory rendering and completion of its Services. Consultant must at all times act in the best interests of the Commission and User Agency consistent with Consultant's professional obligations assumed by Consultant in entering into this Agreement. Consultant promises to cooperate with the officials, employees and agents of the Commission and User Agency in furthering the Commission's and User Agency's interests. Consultant must perform all Services in accordance with the terms and conditions of this Agreement, to the reasonable satisfaction of the Commission.

e. Independent Contractor. In performing the Services under this Agreement, Consultant shall at all times be an independent contractor, and does not and must not act or represent itself as an agent or employee of the Commission or the User Agency. As an independent contractor, Consultant is solely and wholly responsible for determining the means and methods for performing the Services. The Agreement will not be construed as an agreement of partnership, joint venture, or agency.

f. Limitations on Sub-Consultants. Consultant must not use any business or individual who is disqualified by the Commission or debarred under any other governmental agency's procedures to provide the Services under the Agreement.

g. Failure to Meet Performance Standard. If the Consultant fails to comply with its obligations under the standards of the Agreement, the Consultant must perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure. Any review, approval, acceptance or payment for any of the Services by the Commission does not relieve Consultant of its responsibility to render the Services and deliverables with the professional skill and care and technical accuracy required by the Agreement. This provision in no way limits the Commission's rights against the Consultant, either under the Agreement, at law or in equity.

h. Changes to the Services. The Commission may from time to time, request changes to the terms of the Agreement or in the Scope of Services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of compensation and revisions to the duration of the Services, which are mutually agreed upon by and between the Commission and Consultant, shall be incorporated in a written amendment to this Agreement. The Commission shall not be liable for any changes absent such written amendment.

4. Duties and Obligations of Consultant

a. Nondiscrimination. The Consultant agrees that in performing this Agreement it shall not discriminate against any worker, employee or applicant for employment, or any member of the public, because of race, creed, gender, color, national origin or disability, or otherwise commit an unfair labor practice. Attention is called to applicable provisions of the Civil Rights Act of 1964, 88-352, July 2, 1964, 78 Stat. 241 et. Seq. the Americans with Disabilities Act of 1990, 42 U.S.C. 12010 et. Seq. the Illinois Human Rights Act 775 ILCS 5/1-101 et. Seq. and the Public Works Employment Discrimination Act 775 ILCS 10/0.0 1 through 10/20, inclusive and a Resolution passed by the Board of Commissioners of the Public Building Commission of Chicago on October 1, 2004, concerning participation of Minority Business Enterprises and Women Business Enterprises on contracts awarded by the Commission. The Consultant will furnish such reports and information as requested by the Commission and the Illinois Department of Human Relations or any other administrative or governmental entity overseeing the enforcement, administration or compliance with the above referenced laws and regulations.

b. Employment Procedures, Preferences and Compliances. Salaries of employees of Consultant performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory or permitted by the applicable law or regulations. Attention is called to Illinois Compiled Statutes, 1992 relating to Wages and Hours including 820 ILCS 130/0.01 through 130/12 thereof (Prevailing Wage Act), 30 ILCS 570/1 through 570/7 (Employment of Illinois Workers on Public Works Act) and 30 ILCS 560/0.01 through 560/7 (Public Works Preference Act). The Consultant shall comply with all applicable "Anti-Kickback" laws and regulations, including the "Anti-Kickback" Act of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874; 40 U.S.C. § 276c) and the Illinois Criminal Code of 1961 720 ILCS 5/33E-1 et. seq. If, in the performance of this Agreement, there is any direct or indirect kickback, the Commission shall withhold from the Consultant, out of payments due to it, an amount sufficient to pay employees underpaid the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by the Commission for and on account of the Consultant to the respective employees to whom they are due.

c. Compliance with Policies Concerning MBE and WBE. Without limiting the generality of the requirements of the policies of the Commission referred to in paragraph 2 above, the Consultant agrees to use best efforts to utilize minority business enterprises for not less than twenty five percent (25%) for MBE and five percent (5%) for WBE of the value of the Services, in accordance with the Resolution passed by the Board of Commissioners of the Commission on October 1, 2004, concerning participation of minority business enterprises and women business enterprises on contracts awarded by the Commission and to furnish to the Commission, such reports and other information concerning compliance with such Resolution as may be requested by the Commission from time to time.

d. Delays. The Consultant agrees that no charges for damages or claims for damages shall be asserted by it against the Commission for any delays or hindrances from any cause whatsoever during the progress of any portion of the Services. Such delays or hindrances, if any, shall be compensated for by an extension of time to complete the Services, for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the agreement of the Commission to allow the Consultant to complete the Services or any part of them after the time provided for the completion thereof herein shall in no way operate as a waiver on the part of the Commission of any of its rights hereunder.

e. Records. The Consultant shall maintain accurate and complete records of expenditures, costs and time incurred by Consultant in connection with the Project and the Services. Such records shall be maintained in accordance with recognized commercial accounting practices. The Commission may examine such records at Consultant's offices upon reasonable notice during normal business hours. Consultant shall retain all such records for a period of not less than five calendar years after the termination of this Agreement.

f. Time of Essence. The Consultant acknowledges and agrees that time is of the essence in the performance of this Agreement and that timely completion of the Services is vital to the completion of the Project by the Commission. Consultant agrees to use its best efforts to expedite performance of the Services and performance of all other obligations of the Consultant under this Agreement and any other agreements entered into by the Commission which are managed or administered by the Consultant as a result of the Consultant's engagement hereunder.

g. Compliance with Laws. In performing its engagement under this Agreement, the Consultant shall comply with all applicable federal, state and local laws, including but not limited to, those referenced in subparagraphs (a) and (b) above and in the documents referred to in paragraph 2 of this Agreement.

h. Progress Meetings. Meetings to discuss the progress of the Project and/or to review the performance of the Consultant may be scheduled upon the Commission's request, at mutually agreeable times and locations, and the Consultant agrees to cause such meetings to be attended by appropriate personnel of the Consultant engaged in performing or knowledgeable of the Services.

i. Defects in Project. The Consultant shall notify the Commission immediately in the event the Consultant obtains knowledge of a defect in the Project or circumstances which could result in a Project delay or cost overrun.

5. Term.

a. The term of this Agreement shall begin upon the final execution of this Agreement, and, subject to the provisions of subparagraph (b) below, shall expire upon completion of the Services and acceptance thereof by the Commission or, if the Services are of an ongoing nature, on the completion date specified in such Request for Services. The Commission and the Consultant may, from time to time, by mutual agreement, extend the term of this Agreement by amending this Agreement.

b. The Commission shall have the right, at any time, to terminate the term of this Agreement, with or without cause, by written notice given to the Consultant at least thirty (30) days prior to the effective date of termination. In addition, the Commission shall have the right, at any time and from time to time, with or without cause, to suspend the performance of the Consultant hereunder with respect to all or any part of the Services, by written notice given to the Consultant at least five (5) days prior to the effective date of suspension. Termination or suspension of this Agreement shall not relieve the Consultant from liability for the performance of any obligation of the Consultant under this Agreement performed or to have been performed by the Consultant on or before the effective date of termination or suspension. Provided the Consultant is not in default under this Agreement at the time of termination or suspension, the Commission agrees to pay to the Consultant, in accordance with the terms of this Agreement, all compensation and reimbursements due to the Consultant for periods up to the effective date of termination or suspension. In no event shall the Commission be liable to the Consultant for any loss, cost or damage which the Consultant or any other party may sustain by reason of the Commission terminating or suspending this Agreement as provided herein; provided, however, that the Commission may, in its sole discretion, reimburse the Consultant for actual expenses approved by the Commission.

c. If the Project, in whole or substantial part, is stopped for a period longer than thirty (30) days under an order of any court or other governmental authority having jurisdiction of the Project, or as a result of an act of

government, such as a declaration of national emergency making materials unavailable, through no act or fault of the Consultant, or if the Commission fails to make any payment or perform any other obligation hereunder, the Consultant shall have the right to terminate this agreement, by written notice given to the Commission at least seven (7) days prior to the effective date of termination, and shall have the right to recover from the Commission all compensation and reimbursements due to the Consultant for periods up to the effective date of termination.

6. Compensation of Consultant; Reimbursement for Expenses. The Commission shall compensate the Consultant for the Services in the manner set forth Schedule C of this Agreement. In addition, the Commission shall, upon submission of detailed invoices by the Consultant, no more frequently than once every 30 days, and approval by the Commission of those invoices, reimburse the Consultant for all Reimbursable Expenses. As used in this paragraph, the term "Reimbursable Expenses" shall mean those expenses identified as such in this Agreement.

7. Rights and Obligations of Commission. In connection with the administration of the Project by the Commission and the performance of this Agreement by the Consultant, the Commission shall have the following rights and obligations, in addition to those provided elsewhere in this Agreement:

a. Information. The Commission shall provide the Consultant all reasonably requested information concerning the Commission's requirements for the Project and the Services.

b. Review of Documents. Subject to the provisions of subparagraph 4 (d) above, the Commission agrees to make a reasonable effort to examine documents submitted by the Consultant and render decisions pertaining thereto with reasonable promptness.

c. Site Data. To the extent the Commission determines to be necessary for the Consultant to perform the Services, the Commission may furnish, or may authorize the Consultant to obtain from a company or companies approved by the Commission as Reimbursable Expenses: (i) a certified survey of the site or sites; (ii) information concerning locations, dimensions and data pertaining to existing buildings and other improvements; (iii) title information; (iv) information concerning available service and utility lines; and (v) results of test borings and other information concerning subsoil conditions.

d. Tests and Reports. To the extent required for the Consultant to perform the Services, the Commission may furnish structural, civil, chemical, mechanical, soil mechanical and/or other tests and reports; however, the Commission may authorize the Consultant to procure such tests and reports from Sub-Consultants, which must be approved by the Commission. The costs of such Sub-Consultants shall be payable as Reimbursable Expenses.

e. Legal, Auditing and other Services. The Commission shall arrange and pay for such legal, auditing, insurance counseling and other services as the Commission, in its sole discretion, may determine to be required for the Project. Such payments shall not include legal or auditing expenses arising out of or relating to any errors or omissions, or claimed errors or omissions, of Consultant.

f. Designated Representatives. The Commission may designate, at its sole discretion, one or more representatives authorized to act in its behalf.

g. Ownership of Documents. All documents, data, studies and reports prepared by the Consultant or any party engaged by the Consultant, pertaining to the Project and/or the Services shall be the property of the Commission including copyrights.

h. Audits. The Commission shall have the right to audit the books of the Consultant on all subjects relating to the Project and/or the Services.

8. Indemnification of Commission. The Consultant hereby agrees to indemnify, keep and save harmless the Commission and the User Agency 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.

9. Insurance to be Maintained by Consultant. The Consultant shall purchase and maintain at all times during the performance of Services hereunder, for the benefit of the Commission, the User Agency and the Consultant, insurance coverage as set forth in Schedule D of this agreement.

10. Default.

a. Events of Default. Any one or more of the following occurrences shall constitute an Event of Default under this Agreement:

i. Failure or refusal on the part of the Consultant duly to observe or perform any obligation or agreement on the part of the Consultant contained in this Agreement, which failure or refusal continues for a period of ten (10) days (or such longer period as the Commission, in its sole discretion, may determine if such failure is not capable of being cured within such ten (10) day period) after the date on which written notice thereof shall have been given to the Consultant by the Commission;

ii. Failure of Consultant to perform the Services to the standard of performance set forth in this Agreement;

iii. Any representation or warranty of the Consultant set forth herein or otherwise delivered pursuant to this Agreement shall have been false in any material respect when so made or furnished;

iv. The Consultant becomes insolvent or ceases doing business as a going concern, or makes an assignment for the benefit of creditors, or generally fails to pay, or admits in writing its inability to pay, its debts as they become due, or files a voluntary petition in bankruptcy, or is adjudicated a bankrupt or an insolvent, or files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar arrangement under any present or future statute, law or regulation relating to bankruptcy or insolvency, or files an answer admitting the material allegations of a petition filed against it in any such proceeding, or applies for, consents to or acquiesces in the appointment of a trustee, receiver, liquidator or other custodian of it or of all or any substantial part of its assets or properties, or if it or its principals shall take any action in furtherance of any of the foregoing; or

v. There shall be commenced any proceeding against the Consultant seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation relating to bankruptcy which is not vacated, stayed, discharged, bonded or dismissed within sixty (60) days thereof, or there shall be appointed, without the Consultant's consent or acquiescence, any trustee, receiver, liquidator or other custodian of Custodian or of all or any substantial part of the Consultant's assets and properties, and such appointment shall not have been vacated, stayed, discharged, bonded or otherwise dismissed within sixty (60) days thereof.

b. Remedies. If an Event of Default shall occur and be continuing, then the Commission may exercise any right, power or remedy permitted to it by law or in equity and shall have, in particular, without limiting the generality of the foregoing, the right to terminate this Agreement upon written notice to the Consultant, in which event the Commission shall have no further obligations hereunder or liability to the Consultant except as to payment for Services actually received and accepted by the Commission through the effective date of termination. No course of dealing on the part of the Commission or delay or failure on the part of the Commission to exercise any right shall operate as a waiver of such right or otherwise prejudice the Commission's rights, powers or remedies.

c. Remedies not Exclusive. No right or remedy herein conferred upon or reserved to the Commission is exclusive of any right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

11. Disputes.

a. General. All disputes arising under, related to or in connection with the terms of this Agreement or its interpretation, whether involving law or fact or both, including without limitation questions concerning permissibility of compensation, and all claims for alleged breach of contract, shall be presented in writing to the Executive Director for final determination.

b. Procedure. Requests for determination of disputes will be made by the Consultant in writing specifically referencing this Section, and will include: 1) the issue(s) presented for resolution; 2) a statement of the respective positions of the Consultant and the Project Manager; 3) the facts underlying the dispute; 4) reference to the applicable provisions of the Agreement by page and section; 5) identify any other parties believed to be necessary to the resolution; and 6) all documentation which describes and relates to the dispute. Consultant will promptly provide the Executive Director with a copy of the request for determination of the dispute. The Project Manager will have thirty (30) business days to respond in writing to the dispute by supplementing the submission or providing its own submission to the Executive Director. Failure by the Project Manager to respond will not be deemed to be an admission of any allegations made in the request for dispute resolution, but will be deemed to constitute a waiver of the opportunity to respond to such allegation(s), if any. The Executive Director's decision may thereafter be reached in accordance with such other information or assistance as she or he may deem reasonable, necessary or desirable.

c. Effect. The Executive Director's final decision will be rendered in writing no more than forty-five (45) business days after receipt of the response by the Project Manager was filed or was due unless the Executive Director notifies the Consultant that additional time for the decision is necessary. The Executive Director's decision will be conclusive, final, and binding on all parties. Consultant must follow the procedures set out in this Section and receive the Executive Director's final decision as a condition precedent to filing a complaint in the Circuit Court of Cook County or any other court.

The Consultant will not withhold performance of any Services required by the Commission under this Agreement during the dispute

resolution period. The Executive Director's written determination will be complied with pending final resolution of the dispute.

12. Confidentiality. All of the reports, information, or data prepared or assembled by the Consultant under this Agreement are confidential, and the Consultant agrees that such reports, information or data shall not be made available to any party without the prior written approval of the Commission. In addition, the Consultant shall not, without the prior written consent of the Commission, prepare or distribute any news releases, articles, brochures, advertisements or other materials concerning this Agreement, the Project or the Services.

13. Assignment. The Consultant acknowledges that the Commission is induced to enter into this Agreement by the personal qualifications of the principals, staff and employees of the Consultant and agrees, therefore, that neither this Agreement nor any right or obligation hereunder may be assigned by the Consultant, in whole or in part, without the prior written approval of the Commission. The Commission expressly reserves the right to assign or otherwise transfer all or any part of its interests hereunder without the consent or approval of the Consultant.

14. Personnel. The Consultant further acknowledges that the Consultant has represented to the Commission the availability of certain members of the Consultant's staff who will be assigned to the Project, and agrees, therefore, that in the event of the unavailability of such members, the Consultant shall so notify the Commission in writing, and, upon the approval of the Executive Director, shall assign other qualified members of the Consultant's staff, to the Project.

15. Relationship of Parties. The relationship of the Consultant to the Commission hereunder is that of an independent contractor, and the Consultant, except to the extent expressly provided to the contrary in this agreement, shall have no right or authority to make contracts or commitments for or on behalf of the Commission, to sign or endorse on behalf of the Commission any instruments of any nature or to enter into any obligation binding upon the Commission. This Agreement shall not be construed as an agreement of partnership, joint venture, or agency.

16. Miscellaneous.

a. Counterparts. This Agreement may be executed in any number of counterparts, any of which shall be deemed an original.

b. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties hereto and supersedes any and all prior or contemporaneous oral or written representations or communications with respect to the subject matter hereof, all of which communications are merged herein. This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by both of the parties hereto.

c. Force Majeure. Neither of the parties shall be liable to the other for any delay or failure in performance hereunder due to causes which are beyond the control of the party unable to perform. If a force majeure occurs, the party delayed or unable to perform shall give prompt notice to the other party, and the Commission may, at any time during the continuation of the force majeure event, elect to suspend the performance of the Consultant under this Agreement for the duration of the force majeure. The Commission shall not be obligated to pay for Services to the extent and for the duration that performance thereof is delayed or prevented by force majeure, but, provided the Consultant is not in default of any obligation of the Consultant hereunder, the Commission shall pay to the Consultant, according to the terms hereof, all compensation and reimbursements due to the Consultant for periods up to the effective date of suspension.

d. Governing Law. This Agreement has been negotiated and executed in the State of Illinois and shall be construed under and in accordance with the internal laws of the State of Illinois.

e. No Waiver. The waiver by either party of any breach of this Agreement shall not constitute a waiver as to any succeeding breach.

f. Notices. All notices required to be given hereunder shall be given in writing and shall be hand delivered or sent by United States certified or registered mail, postage prepaid, addressed to Commission and to the Consultant at their respective addresses set forth above. If given as herein provided, such notice shall be deemed to have been given on the date of delivery, if delivered by hand, and on the second business day after mailing, if given by mail. The Commission or the Consultant may, from time to time, change the address to which notices hereunder shall be sent by giving notice to the other party in the manner provided in this subparagraph.

g. Reimbursable Expenses. Reimbursable expenses includes those actual expenditures, as identified in Schedule C to this Agreement, which are made by the Consultant and payable by the Commission.

h. Severability. In the event that any provisions of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

i. Successors and Assigns. Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

j. Consultant's Authority. Execution of this Agreement by the Consultant is authorized by a resolution of its Board of Directors, if a corporation, or similar governing document if a partnership or a joint venture, and the signatures(s) of each person signing on behalf of the Consultant have been made with complete and full authority to commit the Consultant to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained or incorporated by reference in it.

SCHEDULES FOLLOW.

**SCHEDULE A
SCOPE OF SERVICES**

**PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620
PROJECT NUMBER: 11050**

SCOPE OF WORK

Site Number	PBC Project Number	Site Name	Site Address
1	11050	Valley Forge Fieldhouse	7001 West 59 th Street

- A. Phase II Services Category: Waste Characterization Sampling and Construction Oversight Services**
B. Environmental Design Category: Design Project Management and Specification Preparation

The environmental consultant (EC) shall perform environmental consulting and engineering services for the Valley Forge Fieldhouse project located at 7001 W. 59th Chicago, IL. The EC will perform waste characterization sampling, design project management, specification preparation and construction oversight services for this site. As part of the design project management, the EC shall be responsible for preparing and reviewing bid documents for exporting and importing soil and structural fill material. The EC will provide environmental oversight during excavation activities and soil/fill material export/import during building construction and landscape installation.

Site Layout

The new Valley Forge Fieldhouse is bordered on the north by 59th Street, the east by a private property line, to the south by the Indiana Harbor Rail Road and to the west by portion of N. Sayre Street South of 59th Street. The current project site is approximately 50,000 sq. ft. in size and is an open grass area with a playground and temporary trailers developed on the west half of the site.

The new proposed fieldhouse will be one story and approximately 10,000 sq. ft. The fieldhouse will have a new parking lot, sidewalks and small green space areas surrounding the building. The proposed fieldhouse layout diagram shall be provided to the awarded Consultant.

Documents

The PBC currently has the following documents/reports available for review for the Consultant to familiarize themselves with the site. (A site visit is also encouraged):

- a. Geotechnical Report prepared by GSG dated April 14, 2009
- b. Aerial photograph of the parcel
- c. Plat of Survey by Bollinger and Lach
- d. Environmental Records from the Chicago Park District

A. Phase II General Scope Requirements

TASK I: WASTE CHARACTERIZATION SAMPLING

Run a composite sample from the top three feet of material on site where the construction activities will warrant soil excavation to be sent off to a landfill for the RCRA Green Sheet Analysis and the Polynuclear Aromatic Hydrocarbon Analysis 8270 SIM.

TASK II. CONSTRUCTION OVERSIGHT

1. Provide oversight during Construction phase of work and document remedial activities to ensure conformance with local, state and federal requirements. *Assume four (2) weeks of daily construction oversight for the purposes of this*

- proposal.*
2. *Attend weekly site construction meetings will be attended; assume ten (5) two hour meetings will take place for the purposes of this proposal.*
 3. Obtain copies of all waste disposal permits or waste acceptance documentation including the waste characterization and profile from Contractor prior to commencement of earthwork activities. Send this profile to the PBC's Deputy Director for Environment representative for signature approval.
 4. Obtain copies of all backfill analyses from Contractor prior to commencement of backfill activities to ensure that the backfill materials meet Illinois Environmental Protection Agency TACO Residential Tier 1 Objectives. Develop timely responses the PBC, the Job Order Contract team, contractors, and Client as requested.
 5. Prepare daily field logs and create a site log of all trucks being directed to landfills including but not limited to the following: date, time, truck number, license plate number and landfill destination. Reconcile the log to the signed tickets/manifests received from the landfill weekly. Identify any missing manifests for the PBC on a weekly basis.
 6. Obtain copies and maintain on-site records of waste manifests and or trip tickets of all liquids, sludge, and surface water removed or discharged from the property.
 7. Request MWRDGC Wastewater Discharge Permit(s) from the Contractor and assist them with the permitting process to prevent project delays.
 8. Prepare field log summaries noting volumes of wastes removed from the site for submittal to PBC and Deputy Director for Environment.
 9. Provide immediate notification (within 4 hours) of unexpected site conditions such as the discovery of underground tanks, petroleum containing soils, soils containing unusual odors or stains, free product or accidental spills to the PBC and the PBC's Representative.
 10. Prepare project closeout summary documents that include environmental consultant costs (including analytical costs), volumes of soils removed from the property and volumes of backfill received. Include copies of all signed permits, approvals, ect. related to environmental or wastewater discharging. Also include the waste characterization and waste profiles, imported fill environmental analysis, summary of weekly volumes of material exported and imported from/to the site, summary of waste removal tickets or landfill signed manifests.

B. Environmental Design General Scope Requirements¹

TASK I. DESIGN PROJECT MANAGEMENT

Participate in monthly (or as requested) status meetings with the PBC, Architect of Record, project team and Chicago Public Library. Communicate environmental conditions on the site clearly to the project team and work collaboratively to minimize off-site disposal of materials wherever possible. *Assume two hours per meeting and four (4) design meetings and two (2) Job Order Contract construction meetings for the purposes of this proposal.*

TASK II. BID SPECIFICATIONS AND BID DOCUMENTS

1. Review bid documents with the Architect of Record and their project team including those prepared by but not limited to: the landscape, geotechnical, structural and civil engineering professionals. The goal is to make sure all specifications regarding disposing and importing soil/fill materials are cohesive in language.
2. Identify and analyze all sub-surface conditions and types of materials required for specialized soil management, handling, and disposal. Using this information and the future design of the site, advise the project Civil Engineer of any notes or details that should be in the bid set or drawings.
3. Ensure that the earthwork plans and specifications provide a clear line of responsibility and work procedures for the construction and landscape phases.
4. Ensure that the earthwork specifications and plans anticipate potential challenges such as discovery of additional underground storage tanks, hydraulic lifts, ect. in order to minimize delays during construction.
5. Review all specifications related to earthwork, utilities and landscaping for language continuity among all specification sets especially where the language relates to dealing with areas having environmental conditions.
6. Expect to revise bid specifications as requested by the PBC.
7. Revise/develop specifications for the following:
 - Soil management (non-hazardous special waste and hazardous waste)²
 - 1) SECTION 02316: SOIL, FILL, BACKFILL, CU STRUCTURAL SOIL & CONSTRUCTION & DEMOLITION DEBRIS REMOVAL

¹ B will be performed prior to Task A.2.

² The PBC has template specifications that can be modified for this task

2) SECTION 02318: ACCEPTANCE OF BACKFILL, TOP SOIL & CU
STRUCTURAL SOIL

- stockpiling reuse
- health and safety and dust control
- underground storage tank removal

8. *Attend two (2) bid document related meetings.*

9. Answer any and all bid related questions pertaining to the environmental specifications, drawings, remediation or MWRDGC permitting.

Time: The scope of work shall be completed and shall be delivered to the PBC PM within the schedule provided by the PBC.

Use of Reports: The Public Building Commission of Chicago may reproduce reports without modifications and distribute the reports in connection with the use or disposition of the property without incurring obligation for additional compensation to the Consultant.

The Project Manager's review and approval will address Consultant's compliance with the requirements of the Scope of Work; the Consultant is and will remain wholly liable for the accuracy and validity of the report.

Qualifications/Personnel: All work shall be performed by qualified personnel with at least ten years of experience in the construction industry. The individuals assigned to the site shall have at least ten years experience with the preparation of construction and landscape specifications and understand how to read architectural, civil, and structural and landscape drawings.

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**SCHEDULE B
PROJECT DOCUMENTS**

**PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620
PROJECT NUMBER: 11050**

NO ATTACHMENTS

**SCHEDULE C
COMPENSATION OF THE CONSULTANT**

**PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620
PROJECT NUMBER: 11050**

C.1 CONSULTANT'S FEE

- C.1.1 The Commission shall pay the Consultant for the satisfactory performance of the Services a Fixed Fee ("Fee") of **(\$25,002.00 Phase II Environmental Services & 4,480.00 Environmental Design Services)** for all work included in Schedule A. The Fee will, in the absence of a change in scope of the Project by the Commission or the issuance of Commission-originated additive change orders constitutes the Consultant's full fee for Basic Services.
- C.1.2 Consultant's Fee will include profit, overhead, general conditions, materials, equipment, computers, vehicles, office labor, field labor, insurance, deliverables, and any other costs incurred in preparation and submittal of deliverables.

C.2 HOURLY RATES FOR CONSULTANT AND SUBCONSULTANT PERSONNEL

- C.2.1 **Hourly Rates for Consultant and Subconsultant Personnel.** All Consultant and Subconsultant personnel and the hourly rate billable for each are subject to the prior approval of the Commission.
- C.2.2 **Hourly Rates for Consultant and Subconsultant personnel** are provided in Consultant's proposal, which follows Schedule C. The hourly rates provided by the Consultant will be used to determine the costs for any work related to the Project yet not included in Schedule A.

C.3 METHOD OF PAYMENT

- C.3.1 **Invoices.** Once each month, the Consultant will submit an invoice to the Commission for Services performed during the preceding month. Each invoice must include the Contract Number and be supported with such reasonable detail and data as the Commission may require, including detail and data related to Subconsultant costs.

Each invoice must reference the contract number and be supported with such reasonable detail and data as the Commission may require, including detail and data related to Subconsultant costs. In accordance with the terms of the Agreement, the Consultant must maintain complete documentation of all costs incurred for review and audit by the Commission or its designated audit representative(s). Each invoice must be submitted in the format directed by the Commission. Invoices must be accompanied by a progress report in a format acceptable to the Commission. Such progress report must identify any variances from budget or schedule and explain and the reasons for such variances.

The Consultant must attach MBE and WBE utilization reports on the form entitled "Status Report of MBE and WBE Sub-Contract Payments", at the time of submitting each monthly invoice. The report should indicate the current and cumulative payments to the MBE and WBE sub-contractors.

- C.3.2 **Payment.** Payment will be processed within 30 days after Commission receives an acceptable invoice from the Consultant.
- C.3.3 **Invoice Disputes.** If the Commission disputes certain items in the Consultant's invoices, the amount not disputed will be paid in full. The amount in question must be resolved in accordance with the Disputes provisions of this Agreement

ATTACHMENT B

Schedule of Cost

**Phase II Services and Environmental Design
Various School Sites - PS1620**

Complete the following table for scope of work costs. Pricing shall include all materials, equipment, computers, vehicles, office labor, field labor, insurance, deliverables, and any other costs incurred in preparation and submittal of deliverables.

<u>Task Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Subtotal</u>	<u>Total</u>
A.I. Waste Characterization Sampling	1	Per Sample	\$ 1,285.00	\$ 1,285.00	
Total of Task A.I.					\$ 1,285.00
A.II. Construction Oversight (Phase II Service)					
Oversight	4	Weeks	\$ 4,300.00	\$ 17,200.00	
Drawings	1	L/S	\$ 500.00	\$ 500.00	
Meetings	5	Per Day	\$ 170.00	\$ 850.00	
General Project Management	1	L/S	\$ 500.00	\$ 500.00	
Reporting and Bi-Weekly Site Plans	1	L/S	\$ 500.00	\$ 500.00	
Total of Task A.II.					\$ 19,550.00
Sub-Total (Sum of Total Tasks A.I and A.II)					\$ 20,835.00
Contingency (20% of Sub-Total Costs)					\$ 4,167.00
Total Project Cost (Sub-total plus contingency)					\$ 25,002.00
B.I. Design Project Management (Design Service)	1	L/S	\$ 1,500.00	\$ 1,500.00	
Design Project Management Meetings	4	Per Day	\$ 170.00	\$ 680.00	
Job Order Contract Meetings	2	Per Day	\$ 170.00	\$ 340.00	
Total of Task B.I.					\$ 2,520.00
B.II. Bid Specifications and Bid Documents (Design Service)					
Bid Specifications	1	L/S	\$ 1,000.00	\$ 1,000.00	
Drawings (7 Sets)	1	L/S	\$ 1,000.00	\$ 1,000.00	
Meetings	2	Per Day	\$ 170.00	\$ 340.00	
Bid Assistance	2	Per Day	\$ 170.00	\$ 340.00	
QA/QC	1	L/S	\$ 750.00	\$ 750.00	
Total of Task B.II.					\$ 680.00
Sub-Total (Sum of Total Tasks B.I and B.II)					\$ 3,200.00
Contingency (20% of Sub-Total Costs)					\$ 640.00
Total Project Cost (Sub-total plus contingency)					\$ 4,480.00

Terracon Consultants, Inc. agrees to provide Phase II Environmental Services and Environmental Design as detailed in the Scope of Work (Attachment A) for the Valley Forge Fieldhouse for the amounts indicated above.

May 26, 2009

Matthew K. Otto, Program Manager

**SCHEDULE D
INSURANCE REQUIREMENTS
PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620**

The Consultant must provide and maintain at Consultant's own expense, until expiration or termination of the Agreement and during the time period following expiration if Consultant is required to return and perform any additional work, the minimum insurance coverage and requirements specified below, insuring all operations related to the Agreement.

D.1. INSURANCE TO BE PROVIDED

D.1.1. Workers' Compensation and Employers Liability

Workers' Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under the Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident, illness or disease.

D.1.2. Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverage must include the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability (with no limitation endorsement). The Public Building Commission, Chicago Park District and City of Chicago must be named as additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

If tank removal or excavation is to be performed, the contractor must include the following additional coverage: All premises and operations, products/completed operations (for minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability.

Subcontractors performing work for Consultant must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein

D.1.3. Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Consultant must provide Automobile Liability Insurance, with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage. The Public Building Commission, Chicago Park District and the City of Chicago must be named as additional insureds on a primary, non-contributory basis.

D.1.4. Professional Liability

When any professional Consultant performs work in connection with the Agreement, Professional Liability Insurance will be maintained with limits of not less than \$2,000,000 covering acts, errors, or omissions. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede the, start of work on the Agreement. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years.

Subcontractors performing work for Consultant must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein

D.1.5 Property

The Consultant is responsible for all loss or damage to Commission, City of Chicago and/or Chicago Park District property at full replacement or repair cost. The Consultant is responsible for all loss or damage to personal property (including but not limited to materials, equipment, tools, and supplies) owned, rented, or used by Consultant.

D.1.6 Valuable Papers

When any plans, designs, drawings, data, media, or other documents are produced or used under this Agreement, Valuable Papers insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the re-creation and reconstruction of such records.

D.1.7 Contractors Pollution Liability

Contractors Pollution coverage is required with limits of not less than \$2,000,000 per occurrence for any portion of the services, which may entail, exposure to any pollutants, whether in the course of sampling, remedial work or any other activity under this contract. Coverage must include bodily injury, property damage and other losses caused by pollution conditions that arise from the Contract scope of services, completed operations, contractual liability, defense, excavation, environmental cleanup,

remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work on the Contract. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years. The Public Building Commission, the City of Chicago, and Chicago Park District are to be named as additional insureds on a primary, non-contributory basis.

Subcontractors performing work for Consultant must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein

D.1.8 Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Contractor must provide, with respect to the operations that Contractor or subcontractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than the requirement of the operating railroad/transit entity for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

D.2. ADDITIONAL REQUIREMENTS

The Consultant must furnish the Public Building Commission Procurement Department, Richard J. Daley Center, Room 200, Chicago, IL 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if any insurance coverage has an expiration or renewal date occurring during the term of this Agreement. The Consultant must submit evidence of insurance to the Commission before award of Agreement. The receipt of any certificate does not constitute agreement by the Commission that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the Commission to obtain certificates or other insurance evidence from Consultant is not a waiver by the Commission of any requirements for the Consultant to obtain and maintain the specified coverage. The Consultant will advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Consultant of the obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute a breach of the Agreement, and the Commission retains the right to stop work until proper evidence of insurance is provided, or the Agreement may be terminated.

The Commission reserves the right to obtain copies of insurance policies and records from the Consultant and/or its subcontractors at any time upon written request.

The insurance must provide for 60 days prior written notice to be given to the Commission if any policies are canceled, substantially changed, or non-renewed.

Any deductibles or self-insured retentions on referenced insurance must be borne by Consultant.

The Consultant hereby waives and agrees to require their insurers to waive their rights of subrogation against the Commission, Chicago Park District and City of Chicago, their respective Board members, employees, elected and appointed officials, and representatives.

The insurance coverage and limits furnished by Consultant in no way limit the Consultant's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self-insurance programs maintained by the Commission, Chicago Park District and the City of Chicago do not contribute with insurance provided by the Consultant under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in the Agreement given as a matter of law.

If Consultant is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured

The Consultant must require all its subcontractors to provide the insurance required in this Agreement, or Consultant may provide the coverage for its subcontractors. All subcontractors are subject to the same insurance requirements of Consultant unless otherwise specified in this Agreement.

If Consultant or its subcontractors desire additional coverage, the party desiring the additional coverage is responsible for the acquisition and cost.

The Commission's Risk Management Department maintains the rights to modify, delete, alter or change these requirements.

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**SCHEDULE E
KEY PERSONNEL**

**PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620
PROJECT NUMBER: 11050**

NAME	FIRM	TITLE
Matthew Otto	Terracon Consultants, Inc.	Program Manager
John Nardoizzi, PE	Terracon Consultants, Inc.	QA/QC Lead
Timothy Norris, PG	Terracon Consultants, Inc.	Project Manager
Thomas Tucker	Terracon Consultants, Inc.	Project Manager
Grace Kim	Grace Analytical (MBE Sub)	Analytical Lab Manager

**SCHEDULE E
KEY PERSONNEL**

**PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620
PROJECT NUMBER: 11050**

NAME	FIRM	TITLE
Matthew Otto	Terracon Consultants, Inc.	Program Manager
John Nardozi, PE	Terracon Consultants, Inc.	QA/QC Lead
Timothy Norris, PG	Terracon Consultants, Inc.	Project Manager
Thomas Tucker	Terracon Consultants, Inc.	Project Manager
Grace Kim	Grace Analytical (MBE Sub)	Analytical Lab Manager

EXHIBIT A
PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620
PROJECT NUMBER: 11050

(COMMISSION'S DISCLOSURE OF RETAINED PARTY FORM EXECUTED BY CONSULTANT FOLLOWS THIS PAGE.)

ATTACHMENT F

DISCLOSURE OF RETAINED PARTIES

A. Definitions and Disclosure Requirements

1. As used herein, "Consultant" means a person or entity who has any contract or lease with the Public Building Commission of Chicago ("Commission").
2. Commission bids, leases, contracts, and/or qualification submittals must be accompanied by a disclosure statement providing certain information about lobbyists whom the Consultant has retained or expects to retain with respect to the contract or lease. In particular, the Consultant must disclose the name of each such person, his or her business address, the name of the relationship, and the amount of fees paid or estimated to be paid. The Consultant is not required to disclose employees who are paid solely through the Consultant's regular payroll.
3. "Lobbyists" means any person (a) who for compensation or on behalf of any person other than himself undertake to influence any legislative or administrative action, or (b) any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

B. Certification

Consultant hereby certifies as follows:

1. This Disclosure relates to the following transaction: PS1620 - Valley Forge Fieldhouse
Description of goods or services to be provided under Contract: Environmental Consulting
2. Name of Consultant: Terracon Consultants, Inc.
3. EACH AND EVERY lobbyist retained or anticipated to be retained by the Consultant with respect to or in connection with the contract or lease is listed below. Attach additional pages if necessary.

Retained Parties:

Name	Business Address	Relationship (Attorney, Lobbyist, etc.)	Fees (indicate whether paid or estimated)
n/a			

Check Here If No Such Persons Have been Retained or Are Anticipated To Be Retained: _____

4. The Consultant understands and agrees as follows:

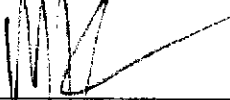
Phase II Services & Environmental Design
Valley Forge Fieldhouse - PS1620
Project No.: 11050

Page 38 of 39

QAField Houses 2007\Valley Forge\Phase II ESA & Construction Oversight\RFP_PBC_GSB_Price Request - Valley Forge Phase II ESA & Design PS1620_20090520.doc

- a. The information provided herein is a material inducement to the Commission execution of the contract or other action with respect to which this Disclosure of Retained Parties form is being executed, and the Commission may rely on the information provided herein. Furthermore, if the Commission determines that any information provided herein is false, incomplete, or inaccurate, the Commission may terminate the contract or other transaction, terminate the Consultant's participation in the contract or other transactions with the Commission.
- b. If the Consultant is uncertain whether a disclosure is required, the Consultant must either ask the Commission's Representative or his or her manager whether disclosure is required or make the disclosure.
- c. This Disclosure of Retained Parties form, some or all of the information provided herein, and any attachments may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. The Consultant waives and releases any possible rights or claims it may have against the Commission in connection with the public release of information contained in the completed Disclosure of Retained Parties form and any attachments.

Under penalty of perjury, I certify that I am authorized to execute this Disclosure of Retained Parties on behalf of the Consultant and that the information disclosed herein is true and complete.



 Signature

May 26, 2009

 Date

Matthew K. Otto

 Name (Type or Print)

Program Manager

 Title

Subscribed and sworn to before me

this 26th day of May 2009

Betsy LaSalle

 Notary Public

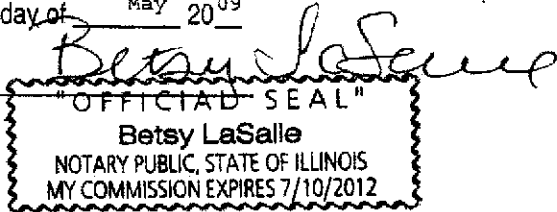


EXHIBIT B
PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620
PROJECT NUMBER: 11050
DISCLOSURE AFFIDAVIT

(COMMISSION'S DISCLOSURE AFFIDAVIT FORM EXECUTED BY CONSULTANT FOLLOWS THIS PAGE.)

PUBLIC BUILDING COMMISSION OF CHICAGO

EXHIBIT B
DISCLOSURE AFFIDAVIT

Name: Terracon Consultants, Inc.

Address: 650 W. Lake Street, Suite 420, Chicago, Illinois

Telephone No.: (312) 575-0014

Federal Employer I.D. #: 42-1249917 Social Security #: N/A

Nature of Transaction:

- Sale or purchase of land
- Construction Contract
- Professional Services Agreement
- Other

Instructions: FOR USE WITH ANY OF THE ABOVE TRANSACTIONS. Any firm proposing one of the above transactions with the Public Building Commission of Chicago must complete this Disclosure Affidavit. Please note that in the event the Contractor is a joint venture, the joint venture and each of the joint venture partners must submit a completed Disclosure Affidavit.

The undersigned Matthew K. Otto, ES Office Manager
(Name) (Title)

and on behalf of Terracon Consultants, Inc.
("Bidder/ Proposer" or "Contractor") having been duly sworn under oath certifies that:

I. DISCLOSURE OF OWNERSHIP INTERESTS

Pursuant to Resolution No. 5371 of the Board of Commissioners of the Public Building Commission of Chicago, all bidders/proposers shall provide the following information with their bid/proposal. If the question is not applicable, answer "NA". If the answer is none, please answer "none".

Bidder/Proposer/Contractor is a:

<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> LLC
<input type="checkbox"/> Partnership	<input type="checkbox"/> LLP
<input type="checkbox"/> Joint Venture	<input type="checkbox"/> Not-for-Profit Corporation
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Other

PUBLIC BUILDING COMMISSION OF CHICAGO

SECTION 1. FOR PROFIT CORPORATION OR LIMITED LIABILITY COMPANY (LLC)

a. State of Incorporation or organization Delaware

b. Authorized to do business in the State of Illinois: Yes No

c. Names of all officers of corporation or LLC (or attach list): Names of all directors of corporation or LLC (or attach list):

Name (Print or Type)	Title (Print or Type)	Name (Print or Type)	Title (Print or Type)
<u>See Attached List of Officers and Directors</u>			
_____	_____	_____	_____
_____	_____	_____	_____

d. Indicate here or attach a list of names and addresses of all shareholders owning shares equal to or in excess of seven and one-half percent (7.5%) of the proportionate ownership of the corporation and indicate the percentage interest of each.

Name (Print or Type)	Address	Ownership Interest
<u>N/A</u>	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %

e. For LLC's, state whether member-managed or identify managing member:

N/A

f. Is the corporation or LLC owned partially or completely by one or more other corporations or legal entities? Yes No

If "yes" provide the above information, as applicable, for each such corporation or entity such that any person with a beneficial ownership interest of 7.5% or more in the corporation contracting in the PBC is disclosed. For example, if Corporation B owns 15% of Corporation A, and Corporation A is contracting with the PBC, then Corporation B must complete a Disclosure Affidavit. If Corporation B is owned by Corporations C and D, each of which owns 50% of Corporation B, then both Corporations C and D must complete Disclosure Affidavits.

Terracon Consultants, Inc. (TCI)

Board of Directors

David R. Gaboury (CORP), Director, Chair
Gerald W. Finn (OKC), Director
Roger R. Herting (CORP), Director
Dennis E. Whited (CORP), Director

Corporate Officers

David R. Gaboury (CORP), President
Dennis E. Whited (CORP), Executive Vice President
Roger R. Herting (CORP), Executive Vice President, Secretary/Treasurer
Douglas D. Loveridge (CORP), Vice President, Assistant Secretary/Treasurer
George D. Cozart (AUS), Senior Vice President
L. Daniel Israel (DEN), Senior Vice President
Keven M. Jefferis (NAP), Senior Vice President
Jamal Najm (ATL), Senior Vice President
Michael J. O'Grady (CORP), Senior Vice President
Sam D. Palmer (LV), Senior Vice President
Donald R. Barkley (NAP), Vice President
Ralph B. Barnes (DAL), Vice President
Robert M. Berg (CORP), Vice President
Sean D. Brown (DES), Vice President
James P. Cahill (CIN), Vice President
C. Harold Cobb (HOU), Vice President
Michael E. Covert (DAL), Vice President
Chester J. Drash (SA), Vice President
Lawrence J. Dwyer (MAN), Vice President
Gerald W. Finn (OKC), Vice President
Andre M. Gallet (CDR), Vice President
Michael H. Homan (TUL), Vice President
Douglas J. Jobe (FTC), Vice President
Timothy G. LaGrow (NAS), Vice President
Kevin F. Langwell (CORP), Vice President
Joseph W. Marsh (LEN), Vice President
Frank K. Milano (CORP), Vice President
Maroun Moussallam (DEN), Vice President
Robert W. Pavlicek (STL), Vice President
Richard A. Pearce (CHAR), Vice President
R. Jackson Scott (CIN), Vice President
David M. Svingen (OMA), Vice President
William B. Thayer (NAP), Vice President
Stan E. Turney (TUC), Vice President
Thomas E. Wam (CORP), Vice President
John E. Zipper (SEA), Vice President
M. Gayle Packer (CORP), Vice President, General Counsel
Michael J. Yost (CORP), Vice President, General Counsel

PUBLIC BUILDING COMMISSION OF CHICAGO

SECTION 2. PARTNERSHIPS

- a. If the bidder/proposer or Contractor is a partnership, indicate the name of each partner and the percentage of interest of each therein. Also indicate, if applicable, whether general partner (GP) or limited partner (LP)

Name of Partners (Print or Type)	Percentage Interest
N/A	_____ %
_____	_____ %
_____	_____ %

SECTION 3. SOLE PROPRIETORSHIP

- a. The bidder/proposer or Contractor is a sole proprietorship and is not acting in any representative capacity on behalf of any beneficiary. Yes [] No [x]
If NO, complete items b. and c. of this Section 3.

- b. If the sole proprietorship is held by an agent(s) or a nominee(s), indicate the principal(s) for whom the agent or nominee holds such interest.

Name(s) of Principal(s). (Print or Type)

N/A

- c. If the interest of a spouse or any other party is constructively controlled by another person or legal entity, state the name and address of such person or entity possessing such control and the relationship under which such control is being or may exercised.

Name(s)	Address(es)
N/A	_____
_____	_____
_____	_____

SECTION 4. LAND TRUSTS, BUSINESS TRUSTS, ESTATES & OTHER ENTITIES

If the bidder/proposer or Contractor is a land trust, business trust, estate or other similar commercial or legal entity, identify any representative, person or entity holding legal title as well as each beneficiary in whose behalf title is held including the name, address and percentage of interest of each beneficiary.

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Name(s)	Address(es)
<u>N/A</u>	

SECTION 5. NOT-FOR-PROFIT CORPORATIONS

a. State of incorporation N/A

b. Name of all officers and directors of corporation (or attach list):

Name (Print or Type)	Title (Print or Type)	Name (Print or Type)	Title (Print or Type)

NOTE: The Public Building Commission of Chicago may require additional information from any entity or individual to achieve full disclosure relevant to the transaction. Further, any material change in the information required above must be provided by supplementing this statement at any time up to the time the Public Building Commission of Chicago takes action on the contract or other action requested of the Public Building Commission.

II. CONTRACTOR CERTIFICATION

A. CONTRACTOR

1. The Contractor, or any affiliated entities of the Contractor, or any responsible official thereof, or any other official, agent or employee of the Contractor, any such affiliated entity, acting pursuant to the direction or authorization of a responsible official thereof has not, during a period of three years prior to the date of execution of this certification:
 - a. Bribe or attempted to bribe, or been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States (if an officer or employee, in that officer's or employee's official capacity); or

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- b. Agreed or colluded, or been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
 - c. Made an admission of such conduct described in 1(a) or (b) above which is a matter of record but has not been prosecuted for such conduct.
2. The Contractor or agent, partner, employee or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rigging² in violation of Section 3 of Article 33E of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/33E-3), or any similar offense of any state or the United States which contains the same elements as the offense of bid-rigging during a period of five years prior to the date of submittal of this bid, proposal or response.³
 3. The Contractor or any agent, partner, employee, or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rotating⁴ in violation of Section 4 of Article 33E of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/33E-4), or any similar offense of any state or the United States which contains the same elements as the offense of bid-rotating.
 4. The Contractor understands and will abide by all provisions of Chapter 2-56 of the Municipal Code entitled "Office of the Inspector General" and all provisions of the Public Building Commission Code of Ethics Resolution No.5339, as amended by Resolution No. 5371.
 5. The Contractor certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal, state or local department or agency.
 - b. Have not within a three-year period preceding this bid or proposal been convicted of or had a civil judgement rendered against them 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; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements; or 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 paragraph (5)(b) above; and
 - d. Have not within a three-year period preceding this bid or proposal had one or more public transactions (federal, state or local) terminated for cause or default.

B. SUBCONTRACTORS

1. The Contractor has obtained from all subcontractors being used in the performance of this contract or agreement, known by the Contractor at this time, disclosures substantially in the form of Section 1, and certifications substantially in the form of Section 2, of this Disclosure Affidavit. Based on such disclosures and certification(s), and any other information known or obtained by the Contractor, is not aware of any such subcontractor or subcontractor's affiliated entity or any agent, partner, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct describe in Section II(A) (1)(a) or (b) of this certification; (b) bid-rigging, bid-

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rotating, or any similar offense of any state or the United States which contains the same elements as bid-rigging or bid-rotating, or having made an admission of guilt of the conduct described in Section II(A)(1)(a) or (b) which is matter of record but has/have not been prosecuted for such conduct.

2. The Contractor will, prior to using them as subcontractors, obtain from all subcontractors to be used in the performance of this contract or agreement, but not yet known by the Contractor at this time, certifications substantially in the form of this certification. The Contractor shall not, without the prior written permission of the Commission, use any of such subcontractors in the performance of this contract if the Contractor, based on such certifications or any other information known or obtained by Contractor, became aware of such subcontractor, subcontractor's affiliated entity or any agent, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct describe in Section II(A)(1)(a) or (b) of this certification or (b) bid-rigging, bid-rotating or any similar offenses of any state or the United States which contains the same elements as bid-rigging or bid-rotating or having made an admission of guilt of the conduct described in Section II(A)(1)(a) or (b) which is a matter of record but has/have not been prosecuted for such conduct. The Contractor shall cause such subcontractors to certify as to Section II(A)(5). In the event any subcontractor is unable to certify to Section II(A)(5), such subcontractor shall attach an explanation to the certification.
3. For all subcontractors to be used in the performance of this contract or agreement, the Contractor shall maintain for the duration of the contract all subcontractors' certifications required by Section II(B)(1) and (2) above, and Contractor shall make such certifications promptly available to the Public Building Commission of Chicago upon request.
4. The Contractor will not, without the prior written consent of the Public Building Commission of Chicago, use as subcontractors any Individual, firm, partnership, corporation, joint venture or other entity from whom the Contractor is unable to obtain a certification substantially in the form of this certification.
5. The Contractor hereby agrees, if the Public Building Commission of Chicago so demands, to terminate its subcontractor with any subcontract if such subcontractor was ineligible at the time that the subcontract was entered into for award of such subcontract. The Contractor shall insert adequate provisions in all subcontracts to allow it to terminate such subcontract as required by this certification.

C. STATE TAX DELINQUENCIES

1. The Contractor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue or, if delinquent, the Contractor is contesting, in accordance with the procedures established by the appropriate Revenue Act, its liability for the tax or amount of the tax.
2. Alternatively, the Contractor has entered into an agreement with the Illinois Department of Revenue for the payment of all such taxes that are due and is in compliance with such agreement.
3. If the Contractor is unable to certify to any of the above statements [(Section II.(C))], the Contractor shall explain below. Attach additional pages if necessary.

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

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4. If any subcontractors are to be used in the performance of this contract or agreement, the Contractor shall cause such subcontractors to certify as to paragraph (C)(1) or (C)(2) of this certification. In the event that any subcontractor is unable to certify to any of the statements in this certification, such subcontractor shall attach an explanation to this certification.

D. OTHER TAXES/FEEES

1. The Contractor is not delinquent in paying any fine, fee, tax or other charge owed to the City of Chicago.
2. If Contractor is unable to certify to the above statement, Contractor shall explain below and attach additional sheets if necessary.

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

E. PUNISHMENT

A Contractor who makes a false statement material to Section II(A)(2) of this certification commits a Class 3 felony. 720 ILCS 5/33E-11(b).

F. JUDICIAL OR ADMINISTRATIVE PROCEEDINGS

1. The Contractor is not a party to any pending lawsuits against the City of Chicago or the Public Building Commission of Chicago nor has Contractor been sued by the City of Chicago or the Public Building Commission of Chicago in any judicial or administrative proceeding.
2. If the Contractor cannot certify to the above, provide the (1) case name; (2) docket number; (3) court in which the action is or was pending; and (4) a brief description of each such judicial or administrative proceeding. Attach additional sheets if necessary.

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

III. CERTIFICATION OF ENVIRONMENTAL COMPLIANCE

- A. Neither the Contractor nor any affiliated entity of the Contractor has, during a period of five years prior to the date of execution of this Affidavit: (1) violated or engaged in any conduct which violated federal, state or local Environmental Restrictions; (2) received notice of any claim, demand or action, including but not limited to citations and warrants, from any federal, state or local agency exercising executive, legislative, judicial, regulatory or administrative functions relating to a violation or alleged violation of any federal, state or local statute, regulation or other Environmental Restriction; or (3) been subject to any fine or penalty of any nature for failure to comply with any federal, state or local statute, regulation or other Environmental Restriction.

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If the Contractor cannot make the certification contained in Paragraph A of Section III, identify any exceptions:

(Attach additional pages of explanation to this Disclosure Affidavit, if necessary.)

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

- B. Without the prior written consent of the Public Building Commission of Chicago, Contractor will not employ any subcontractor in connection with the contract or proposal to which this Affidavit pertains without obtaining from such subcontractor a certification similar in form and substance to the certification contained in Paragraph A of this Section III prior to such subcontractor's performance of any work or services or furnishing any goods, supplies or materials of any kind under the proposal or the contract to which this Affidavit pertains.
- C. Until completion of the Contract's performance under the proposal or contract to which this Affidavit pertains, the Contractor will not violate any federal, state or local statute, regulation or other Environmental Restriction, whether in the performance of such contract or otherwise.

IV. INCORPORATION INTO CONTRACT AND COMPLIANCE

The above certification shall become part of any contract awarded to the Contractor set forth on page 1 of this Disclosure Affidavit and are a material inducement to the Public Building Commission of Chicago's execution of the contract, contract modification or contract amendment with respect to which this Disclosure Affidavit is being executed and delivered on behalf of the Contractor. Furthermore, Contractor shall comply with these certifications during the term and/or performance of the contract.

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V. VERIFICATION

Under penalty or perjury, I certify that I am authorized to execute this Disclosure Affidavit on behalf of the Contractor set forth on page 1, that I have personal knowledge of all the certifications made herein and that the same are true.

The Contractor must report any change in any of the facts stated in this Affidavit to the Public Building Commission of Chicago within 14 days of the effective date of such change by completing and submitting a new Disclosure Affidavit. Failure to comply with this requirement is grounds for your firm to be deemed non-qualified to do business with the PBCC. Deliver any such new Disclosure Affidavit to: Public Building Commission of Chicago, Director of Procurement, 60 W. Washington, Room 200, Chicago, IL 60602.

[Handwritten Signature]
Signature of Authorized Officer

Matthew K. Otto
Name of Authorized Officer (Print or Type)
Office Manager
Title

(312) 575-0014
Telephone Number

State of Illinois
County of Cook

Signed and sworn to before me on this 18 day of August, 2008 by
Matthew K. Otto (Name) as Office Manager (Title) of
Terracini Consultants, Inc. (Bidder/Proposer or Contractor)

[Handwritten Signature]
Notary Public Signature and Seal





Consulting Engineers & Scientists

650 West Lake Street, Suite 420

Chicago, Illinois 60661

P: 312.575.0014 F: 312.575.0111

www.terracon.com

June 18, 2009

Public Building Commission of Chicago
50 West Washington Street Room 200
Chicago, Illinois 60602

Attention: Mr. Gary S. Bell – Contract Officer

**RE: Exhibit B – Disclosure Affidavit
Phase II ESA
Valley Forge Fieldhouse
7001 West 59th Street
Chicago, Cook County, Illinois
PBC Project No.: 11050
Contract No.: PS1620
Terracon Project No.: A2097021**

Dear Mr. Bell:

Pursuant to our phone conversation, the Exhibit B – Disclosure Affidavit included in the above-referenced contract sent by the PBC to Terracon represents current information. If you have any questions or would like to further discuss, please do not hesitate to contact me.

Sincerely,
Terracon Consultants, Inc.

A handwritten signature in black ink, appearing to read "MK" followed by a horizontal flourish.

Matthew K. Otto, CHMM
Program Manager

Notes 1-5 Disclosure Affidavit

1. Business entities are affiliated if, directly or indirectly, one controls or has the power to control the other, or if a third person controls or has the power to control both entities. Indicia of control include without limitation: interlocking management or ownership; identity of interests among family members; shared facilities and equipment; common use of employees; or organization of another business entity using substantially the same management, ownership or principals as the first entity.
2. For purposes of Section II (A) (2) of this certification, a person commits the offense of and engages in bid-rigging when he knowingly agrees with any person who is, or but for such agreement should be, a competitor of such person concerning any bid submitted or not submitted by such person or another to a unit of state or local government when with the intent that the bid submitted or not submitted will result in the award of a contract to such person or another and he either (1) provides such person or receives from another information concerning the price or other material term or terms of the bid which would otherwise not be disclosed to a competitor in an independent non-collusive submission of bids or (2) submits a bid that is of such a price or other material term or terms that he does not intend the bid to be accepted. see 720 ILCS 5/33-E-3.
3. No corporation shall be barred from contracting with any unit of state or local government as a result of a conviction, under either Section 33E-3 or Section 33E-4 of Article 33 of the State of Illinois Criminal Code of 1961, as amended, of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent on behalf of the corporation as provided in paragraph (2) of subsection (a) of Section 5-4 of the State of Illinois Criminal Code.
4. For purposes of Section II(A) of this certification, a person commits the offense of and engages in bid rotating when, pursuant to any collusive scheme or agreement with another, he engages in a pattern over time (which, for the purposes hereof, shall include at least three contract bids within a period of ten years, the most recent of which occurs after January 1, 1989) of submitting sealed bids to units of state or local government with the intent that the award of such bids rotates, or is distributed among, persons or business entities which submit bids on a substantial number of the same contracts. See 720 ILCS 5/33E-4.
5. "Environmental Restriction" means any statute, ordinance, rule, regulation, permit, permit condition, order or directive relating to or imposing liability or standards of conduct concerning the release or threatened release of hazardous materials, special wastes or other contaminants into the environment, and to the generation, use, storage, transportation, or disposal of construction debris, bulk waste, refuse, garbage, solid wastes, hazardous materials, special wastes or other contaminants including but not limited to (1) Section 7-28-440 or 11-4-1500 or Article XIV of Chapter 11-4 or Chapter 7-28 or 11-4 of the Municipal Code of Chicago; (2) Comprehensive Environment Response and Compensation and Liability Act (42 U.S.C. § 9601 *et seq.*) the Hazardous Material Transportation Act (49 U.S.C. § 1801 *et seq.*); (4) the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 7401 *et seq.*); (5) the Clean Water Act (33 U.S.C. § 1251 *et seq.*); (6) the Clean Air Act (42 U.S.C. § 7401 *et seq.*); (7) the Toxic Substances Control Act of 1976 (15 U.S.C. § 2601 *et seq.*); (8) the Safe Drinking Water Act (42 U.S.C. § 300f); (9) the Occupational Health and Safety Act of 1970 (29 U.S.C. § 651 *et seq.*); (10) the Emergency Planning and Community Right to Know Act (42 U.S.C. § 11001 *et seq.*); and (10) the Illinois Environmental Protection Act (415 ILCS 5/1 through 5/56.6).

EXHIBIT C

SPECIAL CONDITIONS REGARDING THE UTILIZATION OF MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES FOR PROFESSIONAL SERVICES

1. Policy Statement

- a. It is the policy of the Public Building Commission of Chicago ("PBC") to ensure competitive business opportunities for MBE and WBE firms in the performance of Contracts, to prohibit discrimination in the award of or participation in Contracts, and to abolish arbitrary barriers to full participation in Contracts by all persons, regardless of race, sex or ethnicity. Therefore, during the performance of this Contract, the Professional Service Provider must agree that it will not discriminate against any person or business on the basis of race, color, religion, ancestry, age, marital status, physical or mental handicap, unfavorable discharge from military service, parental status, sexual orientation, national origin or sex, in the solicitation or the purchase of goods and services or the subcontracting of work in the performance in this Contract.
- b. The Commission requires the Professional Service Provider also agree to take affirmative action to ensure that MBE and WBE firms have the maximum opportunity to compete for and perform subcontracts with respect to this Contract.
- c. The Commission requires the Professional Service Provider to notify MBE and WBE firms, utilized on this contract, about opportunities on contracts without affirmative action goals.

2. Aspirational Goals

- a. Upon the effective date of these Special Conditions, the bi-annual aspirational goals are to award 25% of the annual dollar value of all Commission Construction Contracts to certified MBEs and 5% of the annual dollar value of all Commission Construction Contracts to qualified WBEs.
- b. Further, the Professional Service Provider must agree to use its best efforts to include MBE and WBE firms in any Contract modification work that increases the Contract value. Where the proposed contract modification involves work which can be performed by MBEs and WBEs already performing work on the contract such MBEs and WBEs will participate in such work specified in the contract modification.
- c. Failure to carry out the commitments and policies set forth in this Program constitute a material breach of contract and may result in termination of the Professional Service Provider or such other remedy, as the Commission deems appropriate.

3. Definitions

- a. For purposes of this Special Condition, the following definitions applies:

(1) "Certified Minority Business Enterprise" means a person or entity granted certification by the City of Chicago, County of Cook, Metropolitan Water Reclamation District, Chicago Minority Business Development Council, Central Management Service of the State of Illinois, METRA, and Women's Business Development Center.

(2) "Certified Women's Business Enterprise" means a person or entity granted certification by the City of Chicago, County of Cook, Metropolitan Water Reclamation District, Chicago Minority Business Development Council, Central Management Service of the State of Illinois, METRA, and Women's Business Development Center.

(3) "Professional Service Contract" means a contract for professional services of any type.

(4) "Contract Specific Goals" means the subcontracting goals for MBE and WBE participation established for a particular contract based upon the availability of MBEs and WBEs to perform and anticipated scope of work of the contract and the Commission's progress towards meeting the aspirational goals.

(5) "Professional Service Provider" means any person or business entity that seeks to enter into a Professional

Service Contract with the Commission and includes all partners, affiliates and joint ventures of such person or entity.

(6) "Executive Director" means the Executive Director of the Commission or his duly designated representative as appointed in writing.

(7) "Good faith efforts" means actions undertaken by a Professional Service Provider to achieve a Contract Specific Goal that by their scope, intensity and appropriateness to the objective can reasonably be expected to fulfill the Program's requirements.

(8) "Joint venture" means an association of two or more persons or entities or any combination of two or more business enterprises and persons numbering two or more, proposing to perform a single for-profit business enterprise, in which each joint venture partner contributes property, capital, efforts, skill and knowledge, and in which the MBE or WBE is responsible for a distinct, clearly-defined portion of the work of the contract and whose share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest. Joint ventures must have an agreement in writing specifying the terms and conditions of the relationships between the parties and their relationship and responsibilities to the contract.

(9) "Minority" means:

- a. Any individual in the following racial or ethnic groups, members of which are rebuttably presumed to be socially disadvantaged:
 - i. African-Americans or Blacks, which includes persons having origins in any of the Black racial groups of Africa;
 - ii. Hispanics, which includes persons of Spanish culture with origins in Mexico, South or Central America or the Caribbean Islands, regardless of race; and
- b. Individual members of other groups, including but not limited to Asian-Americans, Arab-Americans and Native-Americans, found by the Commission to be socially disadvantaged by having suffered racial or ethnic prejudice or cultural bias within American society, without regard to individual qualities, resulting in decreased opportunities to compete in Chicago area markets or to do business with the Commission.

(10) "Minority-owned business enterprise" or "MBE" means a small local business enterprise which is at least 51% owned by one or more economically disadvantaged minority persons, or in the case of a publicly held corporation at least 51% of all classes of the stock of which is owned by one or more economically disadvantaged minority persons whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more economically disadvantaged minority persons.

(11) "Program" means the minority- and women-owned business enterprise construction procurement program established in this special condition.

(12) "Women-owned business enterprise" or "WBE" means a small local business enterprise which is at least 51% owned by one or more economically disadvantaged women or in the case of a publicly owned business, at least 51% of all classes of the stock of which is owned by one or more economically disadvantaged women, whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more economically disadvantaged women.

4. Determining MBE/WBE Utilization

The methodology for determining MBE and WBE utilization will be determined for purposes of analysis with respect to this contract as follows:

- a. The total dollar value of the contract awarded to the certified MBE or WBE firm will be credited to such participation. Only minority business participation may be counted toward MBE participation and only women business participation may be counted toward WBE participation.
- b. The total dollar value of a contract with a firm owned and controlled by minority women is counted toward either the MBE or WBE goal, but not both. The Professional Service Provider employing the firm may choose the goal to

which the contract value is applied. Various work done by one and the same sub-consultant will be considered, for the purpose of this principle, as work effectively done under one subcontract only, which sub-consultant may be counted toward only one of the goals, not toward both.

- c. A Professional Service Provider may count toward its MBE or WBE goal the portion of the total dollar value of a contract with an eligible joint venture equal to the percentage of the ownership and control of the MBE or WBE partner in the joint venture. A joint venture seeking to be credited for MBE participation may be formed among certified MBE and WBE firms, or between certified MBE and WBE firms and a non-MBE/WBE firm. A joint venture satisfies the eligibility standards of this Program if the certified MBE or WBE participant of the joint venture:
 - (1) Shares in the ownership, control, management responsibilities, risks and profits of the joint venture; and
 - (2) Is responsible for a clearly defined portion of work to be performed in proportion to the MBE or WBE ownership percentage.
 - d. A Professional Service Provider may count toward its MBE and WBE goals only expenditures to firms that perform a commercially useful function in the work of a contract. A firm is considered to perform a commercially-useful function when it is responsible for execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a firm is performing a commercially useful function, the Commission will evaluate the amount of work subcontracted, industry practices and other relevant factors.
 - e. Consistent with normal industry practices, a MBE or WBE firm may enter into subcontracts. If a MBE or WBE Professional Service Provider subcontracts a significantly greater portion of the work of a contract than would be expected on the basis of normal industry practices, the MBE or WBE will be rebuttably presumed not to be performing a commercially-useful function.
 - f. A Professional Service Provider may count toward its goals expenditures to MBE or WBE manufacturers (i.e., suppliers that produce goods from raw materials or substantially alters them before resale).
 - g. A Professional Service Provider may count toward its goals expenditures to MBE or WBE suppliers provided that the supplier performs a commercially useful function in the supply process.
5. Submission of Proposals
- a. The following schedules and documents constitute the Proposer's MBE/WBE compliance proposal and must be submitted at the time of the proposal.
 - (1) Evidence of Certification: Affidavit of MBE/WBE: A copy of each proposed MBE and WBE firm's Letter of Certification from the City of Chicago, Department of Procurement Services or any other entity accepted by the Public Building Commission of Chicago must be submitted. The PBC certification by the City of Chicago, County of Cook, Metropolitan Water Reclamation District, Chicago Minority Business Development Council, Central Management Service of the State of Illinois, METRA, and Women's Business Development Center.
 - (2) Schedule B: Affidavit of MBE/Non-MBE or WBE/Non-WBE Joint Ventures. Where the Proposer's MBE/WBE compliance proposal includes participation of any MBE or WBE as a joint venture participant, the Proposer must submit a "Schedule B: Affidavit of MBE/Non-MBE or WBE/Non-WBE Joint Venture" with an attached copy of the joint venture agreement proposed among the parties. The Schedule B and the joint venture agreement must clearly evidence that the MBE or WBE participant will be responsible for a clearly defined portion of the work to be performed and that the MBE or WBE firm's responsibilities are in proportion with its ownership percentage.
 - (3) Schedule C: Letter of Intent to Perform as a sub-consultant, Subconsultant, or Material Supplier, Schedule C, executed by the MBE/WBE firm (or Joint Venture sub-consultant) must be submitted by the Proposer for each MBE/WBE included on the Schedule D. Schedule C must accurately detail the work to be performed by the MBE or WBE firm and the agreed rates and prices to be paid.
 - (4) Schedule D: Affidavit of Prime Professional Service Provider Regarding MBE or WBE Utilization. A completed Schedule D committing to the utilization of each listed MBE or WBE firm. Unless the Proposer has submitted a completed request for a waiver of participation by MBE/WBE firms (See Request for Waiver procedures in Section 7), the Proposer must include the specific dollar amount or percentage of participation of

each MBE/WBE firm listed on its Schedule D. The total dollar commitment to proposed MBE firms must at least equal the MBE goal, and the total dollar commitment to proposed WBE firms must at least equal the WBE goal. Proposers are responsible for calculating the dollar equivalent of MBE or WBE utilization as percentages of their total proposal.

- b. The submittals must have all blank spaces on the Schedule pages applicable to the contract correctly filled in. Agreements between a Proposer and a MBE/WBE in which the MBE/WBE promises not to provide subcontracting quotations to other Proposers are prohibited.

6. Evaluation of Compliance Proposals

- a. The Proposer's MBE/WBE compliance proposal will be evaluated by the Commission. The Proposer agrees to provide, upon request, earnest and prompt cooperation to the Executive Director or his designee in submitting to interviews that may be necessary, in allowing entry to places of business, in providing further documentation, or in soliciting the cooperation of a proposed MBE or WBE firm in providing such assistance. A proposal may be treated as non-responsive by reason of the determination that the Proposer's proposal did not contain a sufficient level of Certified MBE or WBE participation, that the Proposer was unresponsive or uncooperative when asked for further information relative to the proposal, or that false statements were made in the Schedules.
- b. If the Commission's review of a Proposer's proposal concludes that the MBE or WBE proposal was deficient, the Commission will promptly notify the Proposer of the apparent deficiency and instruct the Proposer to submit (within 3 business days of such notice given by the Commission) a modification of the MBE or WBE Proposal, in proper format, which remedies the deficiencies cited. Failure to correct all deficiencies cited by the Commission will be cause for rejection of the Proposer's proposal as non-responsive.
- c. Proposers will not be permitted to modify their MBE/WBE compliance proposal except insofar as directed to do so by the Commission. Therefore, all terms and conditions stipulated for prospective MBE and WBE consultants or suppliers should be satisfactorily negotiated prior to the submission to the Commission of the Proposer's MBE/WBE compliance proposal. If circumstances should arise, however, where a proposed MBE/WBE is no longer available, the process described in Section 12 should be followed.

7. Request for Waiver

- a. If a Proposer is unable to identify qualified MBE and WBE firms to perform sufficient work to fulfill the MBE or WBE percentage goals for this Contract, the proposal must include a written request for waiver. A request for waiver must be sent to the Executive Director and must set forth the Proposer's inability to obtain sufficient MBE and WBE firms notwithstanding good faith attempts to achieve such participation.
- b. Good Faith efforts to achieve participation include but are not limited to:
 - (1) Attendance at the Pre-proposal conference;
 - (2) The Proposer's general affirmative action policies regarding the utilization of MBE and WBE firms, plus a description of the methods used to carry out those policies;
 - (3) Advertisement in trade association newsletters and minority and woman-oriented and general circulation media for specific sub-consultants;
 - (4) Timely notification of specific sub-consultants to minority and woman assistance agencies and associations;
 - (5) Description of direct negotiations with MBE and WBE firms for specific sub-consultants, including:
 - i. The name, address and telephone number of MBE and WBE firms contacted;
 - ii. A description of the information provided to MBE and WBE firms regarding the portions of the work to be performed; and
 - iii. The reasons why additional MBE and WBE firms were not obtained in spite of negotiations.

- (6) A statement of the efforts made to select portions of the work proposed to be performed by MBE and WBE

firms (such as sub-supplier, transport, engineering, distribution, or any other roles contributing to production and delivery as specified in the contract) in order to increase the likelihood of achieving sub participation.

(7) As to each MBE and WBE contacted which the Proposer considers to be not qualified, a detailed statement of the reasons for the Proposer's conclusion.

(8) Efforts made by the Proposer to expand its search for MBE and/or WBE firms beyond usual geographic boundaries.

(9) General efforts made to assist MBE and WBE firms to overcome participation barriers.

c. The Executive Director, after review and evaluation of the request provided by the Proposer, may grant a waiver request upon the determination that:

(1) Sufficient qualified MBE and/or WBE firms capable of providing the goods or services required by the contract are unavailable despite the good faith efforts of the Proposer;

(2) The price(s) quoted by potential MBE and/or WBE firms for goods or services is above competitive levels to an extent unwarranted by any increased cost of doing business attributable to the present effects of disadvantage or discrimination.

8. Failure To Achieve Goals

a. If the Professional Service Provider cannot achieve the contract specific goals, as the Project proceeds, it must have documented its good faith efforts to do so. In determining whether the Professional Service Provider has made such good faith efforts, the performance of other Professional Service Providers in meeting the goals may be considered. The Executive Director or his designee shall consider, at a minimum, the Professional Service Provider's efforts to do the following:

(1) Soliciting through reasonable and available means the interest of MBEs or WBEs that Provide interested MBEs or WBEs with adequate information about the plans, specifications and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.

(2) Provide interested MBEs or WBEs with adequate information about the plans, specifications and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.

(3) Negotiating in good faith with interested MBEs or WBEs that have submitted proposals. Documentation of negotiation must include the names, addresses and telephone numbers of MBEs or WBEs that were solicited; the date of each such solicitation; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why agreements could not be reached with MBEs or WBEs to perform the work. That there may be some additional costs involved in solicitation and using MBEs and WBEs is not a sufficient reason for a Professional Service Provider's failure to meet the goals, as long as such costs are reasonable.

(4) Not rejecting MBEs or WBEs as being unqualified without sound reasons based on the thorough investigation of a their capabilities. The MBEs' or WBEs' standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate cases for rejecting or not soliciting proposals to meet the goals.

(5) Making a portion of the work available to MBE or WBE sub-consultants and suppliers and to select those portions of the work or material consistent with the available MBE or WBE sub-consultants and suppliers, so as to facilitate meeting the goals.

(6) Making good faith efforts despite the ability or desire of a Professional Service Provider to perform the work of a contract with its own organization. A Professional Service Provider that desires to self-perform the work of a contract must demonstrate good faith efforts unless the goals have been met.

(7) Selecting portions of the work to be performed by MBEs or WBEs in order to increase the likelihood that the goals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE or WBE participation even when the Contract might otherwise prefer to perform these items

with its own forces.

(8) Making efforts to assist interested MBEs or WBEs in obtaining bonding lines of credit or insurance as required by the Commission or Professional Service Provider.

(9) Making efforts to assist interested MBEs or WBEs in obtaining necessary equipment, supplies, materials or related assistance or services, including participation in a mentor-protégée program; and

(10) Effectively using the services of the Commission; minority or women community organizations; minority or women groups; local, state and federal minority or women business assistance offices; and other organizations to provide assistance in the recruitment and placement of MBEs or WBEs.

b. In the event the Public Building Commission Procurement Officer determines that the Professional Service Provider did not make a good faith effort to achieve the goals, the Professional Service Provider may file a Dispute to the Executive Director as provided in Section 18.02. Disputes Book 2.

9. Reporting and Record-Keeping Requirements

a. The Professional Service Provider, within 5 working days of contract award, must execute a formal subcontract or purchase order in compliance with the terms of the Professional Service Provider's proposal and MBE/WBE assurances. Upon request by the PBC, the Professional Service Provider must provide copies of the contracts or purchase orders executed between it and the MBE and WBE firms. During the performance of the contract, the Professional Service Provider will submit partial and final waivers of lien from MBE and WBE sub-consultant and suppliers indicating the current payment amount and the cumulative dollar amount of payments made to date.

b. The Professional Service Provider must maintain records of all relevant data with respect to the utilization of MBE and WBE firms, including without limitation payroll records, tax returns and records, and books of account in such detail as the Commission requires, and retain such records for a period of at least 3 years after final acceptance of the work. Full access to such records will be granted to the Commission and/or its designees, on 5 business days' notice in order for the Commission to determine the Professional Service Provider's compliance with its MBE and WBE commitments and the status of any MBE or WBE firm performing any portion of the contract.

c. The Professional Service Provider will file regular MBE and WBE utilization reports on the form entitled "Status Report of MBE and WBE Sub-Contract Payments", at the time of submitting each monthly invoice. The report should indicate the current and cumulative payments to MBE and WBE sub-contractors.

10. Disqualification of MBE or WBE

a. The Contract may be terminated by the Executive Director upon the disqualification of the Professional Service Provider as an MBE or WBE if the sub-consultant's status as an MBE or WBE was a factor in the award and such status was misrepresented by the Professional Service Provider.

b. The Contract may be terminated by the Executive Director upon the disqualification of any MBE or WBE if the sub-consultant or supplier's status as an MBE or WBE was a factor in the award of the contract and the status of the sub-consultant or supplier was misrepresented by the Professional Service Provider. If the Professional Service Provider is determined not to have been involved in any misrepresentation of the status of the disqualified sub-consultant or supplier, the Professional Service Provider shall make good faith efforts to engage a qualified MBE or WBE replacement.

11. Prohibition On Changes To MBE/WBE Commitments

The Professional Service Provider must not make changes to its contractual MBE and WBE commitments or substitute such MBE or WBE sub-consultants without the prior written approval of the Executive Director. Unauthorized changes or substitutions, including performing the work designated for a sub-consultant with the Professional Service Provider's own forces, is a violation of this section and a breach of the contract with the Commission, and may cause termination of the contract for breach, and/or subject the Professional Service Provider to contract remedies or other sanctions. The facts supporting the request must not have been known nor reasonably should have been known by the parties prior to entering into the subcontract.

12. MBE/WBE Substitution Requirements and Procedures

- a. Arbitrary changes by the Professional Service Provider of the commitments earlier certified in the Schedule D are prohibited. Further, after once entering into each approved MBE and WBE sub-contract agreement, the Professional Service Provider shall thereafter neither terminate the subcontract, nor reduce the scope of the work to be performed by the MBE or WBE, nor decrease the price to the MBE or WBE, without in each instance receiving the prior written approval of the Executive Director. In some cases, however, it may become necessary to substitute a new MBE or WBE in order to actually fulfill the MBE or WBE requirements. In such cases, the Executive Director must be given reasons justifying the release by the Professional Service Provider of prior specific MBE or WBE commitments established in the contract, and will need to review the eligibility of the MBE or WBE presented as a substitute. The substitution procedure will be as follows:

(1) The Professional Service Provider must notify the Executive Director immediately in writing of an apparent necessity to reduce or terminate a MBE or WBE subcontract and to propose a substitute firm for some phase of work, if needed in order to sustain the fulfillment of the MBE/WBE contract requirements.

(2) The Professional Service Provider's notification should include the specific reasons for the proposed substitution. Stated reasons which would be acceptable include any of the following reasons: a) Unavailability after receipt of reasonable notice to proceed; b) failure of performance; c) financial incapacity; d) refusal by the sub-consultant to honor the proposal price or scope; e) mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed; f) failure of the sub-consultant to meet insurance, licensing or bonding requirements; g) the sub-consultant's withdrawal of its proposal; or h) decertification of the sub-consultant as MBE or WBE.

(3) The Professional Service Provider's position must be fully explained and supported with adequate documentation. Stated reasons which will not be acceptable include: replacement firm has been recruited to perform the same work under terms more advantageous to the Professional Service Provider; issues about performance by the committed MBE or WBE were disputed (unless every reasonable effort has already been taken to have the issues resolved or mediated satisfactorily); an MBE or WBE has requested reasonable price escalation which may be justified due to unforeseen circumstances.

The Professional Service Provider's notification should include the names, address and principal official of any proposed substitute MBE or WBE and the dollar value and scope of work of the proposed subcontract. Attached should be all the same MBE/WBE affidavits, documents and Letters of Intent which are required of the proposed MBE or WBE firms.

(4) The Executive Director will evaluate the submitted documentation, and respond within fifteen (15) working days to the request for approval of a substitution. The response may be in the form of requesting more information, or requesting an interview to clarify or mediate the problem. In the case of an expressed emergency need to receive the necessary decision for the sake of job progress, the Executive Director will instead respond as soon as practicable.

(5) Actual substitution of a replacement MBE or WBE to fulfill contract requirements must not be made before the Executive Director's approval is given of the acceptability of the substitute MBE or WBE. This subcontract must be executed within five (5) working days, and a copy of the MBE/WBE subcontract with signatures of both parties to the agreement should be submitted immediately to the Executive Director.

- b. The Executive Director will not approve extra payment for escalated costs incurred by the Professional Service Provider when a substitution of sub-consultants becomes necessary for the Professional Service Provider in order to comply with MBE/WBE contract requirements.
- c. No relief of the MBE/WBE requirements will be granted by the Executive Director except in exceptional circumstances. Requests for complete or partial waiver of the MBE/WBE requirements of this contract must be made in writing, stating all details of the request, the circumstances, and any additional relevant information. The request must be accompanied by a record of all efforts taken by the Professional Service Provider to locate specific firms, solicit MBE and WBE proposals, seek assistance from technical assistance agencies, and other good faith efforts undertaken to achieve compliance with the MBE/WBE goals.

13. Non-Compliance

- a. The Executive Director has the authority to apply suitable sanctions to the Professional Service Provider if the

Professional Service Provider is found to be in non-compliance with the MBE and WBE requirements. Failure to comply with the MBE or WBE terms of this contract or failure to use MBE or WBE firms as stated in the Professional Service Provider's assurances constitutes a material breach of the contract, and may lead to the suspension or termination of the contract in part or in whole. In some cases, monthly progress payments may be withheld until corrective action is taken.

- b. When the contract is completed, if the Executive Director has determined that the Professional Service Provider did not comply in the fulfillment of the required MBE and/or WBE goals, and a grant of relief of the requirements was not obtained, the Commission will be damaged in the failure to provide the benefit of participation to minority or women business to the degree set forth in this Special Condition. In that case, the Commission may disqualify the Professional Service Provider from entering into future contracts with the Commission.

14. Severability

- a. If any section, subsection, paragraph, clause, provision or application of these Special Conditions is held invalid by any court, the invalidity of such section, paragraph, clause or provision will not affect any of the remaining provisions hereof.

EXHIBIT C
PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620
PROJECT NUMBER: 11050

(COMMISSION'S SCHEDULE C AND D FORM EXECUTED BY CONSULTANT FOLLOWS THIS PAGE.)

May 26, 2009

Terracon

Public Building Commission of Chicago
50 West Washington Street Room 200
Chicago, Illinois 60602

Attention: Mr. Gary S. Bell – Contract Officer

RE: Request for Waiver
Valley Forge Park Fieldhouse – PS1620
7001 West 59th Street
Chicago, Illinois
Terracon Proposal No.: C09149

Dear Mr. Bell:

Terracon Consultants, Inc. (Terracon) respectfully submits this Request for Waiver (Request) for the abovementioned contract. This request has been prepared for the Public Building Commission (PBC) and provides information sought by the PBC regarding Minority and Woman Based Enterprises (MBE/WBE) utilization on this contract.

Terracon is not a MBE/WBE firm, but we are committed to using qualified MBE/WBE subcontractors whenever possible. Terracon has successfully utilized MBE/WBE subcontractors on other projects for the PBC and its sister agencies. Our MBE/WBE utilization for other PBC projects meets the MBE/WBE goals set by the PBC; however, due to the small scale and short duration of this project we are unable to meet the MBE/WBE goals. If the scope/duration of this project expands Terracon will explore the opportunities for utilizing additional MBE/WBE subcontractors at that time.

Terracon appreciates your consideration and we look forward to working with the PBC on this and other projects. If you have any questions or would like to further discuss our scope of service, please do not hesitate to contact us.

Sincerely,
Terracon Consultants, Inc.



Matthew K. Otto, CHMM
Program Manager

Terracon Consultants, Inc. 650 W. Lake Street, Suite 420 Chicago, Illinois 60661
P [312] 575 0014 F [312] 575 0111 www.terracon.com

Geotechnical

Environmental

Construction Materials

Facilities

**SCHEDULE C - Letter of Intent from MBE/WBE
To Perform As
Subcontractor, Subconsultant, and/or Material Supplier (1 of 2)**

SCHEDULE C AND SUPPORTING DOCUMENTS MUST BE SUBMITTED WITH PROPOSAL

Name of Project: Valley Forge Fieldhouse (PS1620)

Project Number: 11050

FROM:
Grace Analytical Labs, Inc.

_____ MBE _____ WBE ^x
(Name of MBE or WBE)

TO:
Terracon Consultants, Inc. and Public Building Commission of Chicago
(Name of Professional Service Provider)

The undersigned intends to perform work in connection with the above-referenced project as (check one):

_____ a Sole Proprietor a Corporation
_____ a Partnership _____ a Joint Venture

The MBE/WBE status of the undersigned is confirmed by the attached Letter of Certification, dated February 13, 2003. In addition, in the case where the undersigned is a Joint Venture with a non-MBE/WBE firm, a Schedule B, Joint Venture Affidavit, is provided.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above-named project.

Laboratory analysis.

The above-described services or goods are offered for the following price, with terms of payment as stipulated in the Contract Documents.

**SCHEDULE C - Letter of Intent from MBE/WBE
To Perform As
Subcontractor, Subconsultant, and/or Material Supplier (2 of 2)**

PARTIAL PAY ITEMS

For any of the above items that are partial pay items, specifically describe the work and subcontract dollar amount:

N/A

If more space is needed to fully describe the MBE/WBE firm's proposed scope of work and/or payment schedule, attach additional sheet(s).

SUB-SUBCONTRACTING LEVELS

0 % of the dollar value of the MBE/WBE subcontract will be sublet to non-MBE/WBE contractors.


0 % of the dollar value of the MBE/WBE subcontract will be sublet to MBE/WBE contractors.

If MBE/WBE subcontractor will not be sub-subcontracting any of the work described in this Schedule, a zero (0) must be filled in each blank above. If more than 10% percent of the value of the MBE/WBE subcontractor's scope of work will be sublet, a brief explanation and description of the work to be sublet must be provided.

The undersigned will enter into a formal agreement for the above work with the General Bidder, conditioned upon its execution of a contract with the Public Building Commission of Chicago, and will do so within five (5) working days of receipt of a notice of Contract award from the Commission.

By:

Grace Analytical Lab, Inc.
Name of MBE/WBE Firm (Print)
5/22/09
Date
(708) 449-9449
Phone


Signature
Grace Kimi
Name (Print)

IF APPLICABLE:

By:

N/A
Joint Venture Partner (Print)

Date

Phone

Signature

Name (Print)
MBE ___ WBE ___ Non-MBE/WBE ___



City of Chicago
Richard M. Daley, Mayor

Department of
Procurement Services

Montel M. Gayles
Chief Procurement Officer

City Hall, Room 403
121 North LaSalle Street
Chicago, Illinois 60602
(312) 744-1900
(312) 744-2949 (TTY)

<http://www.cityofchicago.org>

February 13, 2009

Grace Kim, President
Grace Analytical Laboratory, Inc.
5300-B McDermott Drive
Berkeley, Illinois 60153

Annual Certificate Expires: January 1, 2010
Vendor Number: 1015264

Dear Mrs. Kim:

Congratulations on your continued eligibility for certification as a **MBE/WBE** by the City of Chicago. This **MBE/WBE** certification is valid until **January 1, 2013**; however your firm must be re-validated annually. Your firm's next annual validation is required by **January 1, 2010**.

As a condition of continued certification during this five year period, you must file a No-Change Affidavit **within 60 days** prior to the date of expiration. Failure to file this Affidavit will result in the termination of your certification. **Please note that you must include a copy of your most current Federal Corporate Tax Return.** You must also notify the City of Chicago of any changes in ownership or control of your firm or any other matters or facts affecting your firm's eligibility for certification.

The City may commence action to remove your firm's eligibility if you fail to notify us of any changes of facts affecting your firm's certification or if your firm otherwise fails to cooperate with the City in any inquiry or investigation. Removal of eligibility procedures may also be commenced if your firm is found to be involved in bidding or contractual irregularities.

Your firm's name will be listed in the City's Directory of Minority Business Enterprises and Women Business Enterprises in the specialty area(s) of:

Environmental Laboratories; Chemical Analysis of Environmental Sample; Biological Analysis; Bio-Remediation; Field Sampling

Your firm's participation on City contracts will be credited only toward **MBE/WBE** goals in your area(s) of specialty. While your participation on City contracts is not limited to your specialty, credit toward **MBE/WBE** goals will be given only for work done in the specialty category.

Thank you for your continued interest in the City's Minority and Women Business Enterprise Programs.

Sincerely,

Mark Harids
Managing Deputy Procurement Officer

MH/ds

IL UCP HOST: CTA

NEIGHBORHOODS



**SCHEDULE D - Affidavit of Professional Service Provider Regarding MBE/WBE Participation
(1 of 2)**

Name of Project: Valley Forge Fieldhouse - PS1620

STATE OF ILLINOIS }
 COUNTY OF COOK } SS

In connection with the above-captioned contract, I HEREBY DECLARE AND AFFIRM that I am the Program Manager

Title _____
 and duly authorized representative of Terracon Consultants, Inc.

Name of Professional Service Provider _____
 whose address is 650 West Lake Street, Suite 420

in the City of Chicago, State of Illinois

and that I have personally reviewed the material and facts submitted with the attached Schedules of MBE/WBE participation in the above-referenced Contract, including Schedule C and Schedule B (if applicable), and the following is a statement of the extent to which MBE/WBE firms will participate in this Contract if awarded to this firm as the Contractor for the Project.

Name of MBE/WBE Contractor	Type of Work to be Done in Accordance with Schedule C	Dollar Credit Toward MBE/WBE Goals	
		MBE	WBE
Grace Analytical Lab	Laboratory Analysis	\$ 0	\$ 896
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
Total Net MBE/WBE Credit		\$ 0	\$ 896
Percent of Total Base Bid		0 %	3.04 %

The Professional Service Provider may count toward its MBE/WBE goal a portion of the total dollar value of a contract with a joint venture equal to the percentage of the ownership and control of the MBE/WBE partner.

SCHEDULE D - Affidavit of Professional Service Provider Regarding MBE/WBE Participation
(2 of 2)

SUB-SUBCONTRACTING LEVELS

0 % of the dollar value of the MBE/WBE subcontract will be sublet to non-MBE/WBE contractors.

0 % of the dollar value of the MBE/WBE subcontract will be sublet to MBE/WBE contractors.

If MBE/WBE subcontractor will not be sub-subcontracting any of the work described in this Schedule, a zero (0) must be filled in each blank above.

If more than 10% of the value of the MBE/WBE subcontractor's scope of work will be sublet, a brief explanation and description of the work to be sublet must be provided.

The undersigned will enter into a formal agreement for the above work with the above-referenced MBE/WBE firms, conditioned upon performance as Professional Service Provider of a Contract with the Commission, and will do so within five (5) business days of receipt of a notice of Contract award from the Commission.

By:

Terracon Consultants, Inc.

Name of Professional Service Provider (Print)
May 26, 2009

Date
312.575.0014

Phone

IF APPLICABLE:

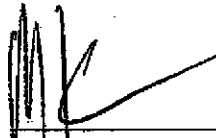
By:

N/A

Joint Venture Partner (Print)

Date

Phone/FAX



Signature
Matthew K. Otto

Name (Print)

Signature

Name (Print)

MBE ___ WBE ___ Non-MBE/WBE ___

EXHIBIT D

W-9 FORM

**PHASE II ENVIRONMENTAL SERVICES AND ENVIRONMENTAL DESIGN SERVICES
VALLEY FORGE FIELDHOUSE - PS 1620
PROJECT NUMBER: 11050**

(COMMISSION'S W-9 FORM EXECUTED BY CONSULTANT FOLLOWS THIS PAGE.)

**Request for Taxpayer
Identification Number and Certification**

Give form to the
requester. Do not
send to the IRS.

Name (as shown on your income tax return)
Taxman Cotton/Lamb, Inc.

Business name, if different from above

Check appropriate box: Individual/sole proprietor Corporation Partnership
 Limited liability company. Enter the tax classification (disregarded entity, C-corporation, Partnership) >

Exempt payee

Address (number, street, and apt. or suite no.)
18001 W. 100th Street, Suite 308

City, state, and ZIP code
Olathe, KS 66061

List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3. Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
OR
Employer identification number
42 1248817

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here: Signature of U.S. person:  Date: >

General Instructions
Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form
A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,