

DIVISION H GENERAL REQUIREMENTS

STANDARD SPECIFICATIONS

These provisions are modifications of the Standard Specifications for Public Works Construction, 2015 Edition, called the Standard Specifications. The Standard Specifications are a part of the Work's Specifications.

The Standard Specifications are written and promulgated by Public Works Standards, Incorporated. Copies of the Standard Specifications are available from the publisher, Building News, Incorporated, 1612 South Clementine Street, Anaheim, California 92802, telephone (714) 517-0970.

JOC GENERAL PROVISIONS

1. DEFINITIONS, ABBREVIATIONS AND ACRONYMS:

ADJUSTMENT FACTOR is the Contractor's price adjustment to the unit prices published in the Construction Task Catalog®. Bidders must bid one Adjustment Factor. The Adjustment Factor is expressed as an increase or decrease from the prices in the Construction Task Catalog®, with the Catalog prices being factored at 1.0000.

ARCHITECT/ENGINEER (A/E) OF RECORD means the individual/firm designated by the City for the preparation of plans and specifications for a specific Job Order.

BASE JOB ORDER is the initial Job Order for any individual project and shall include all information as defined under Job Order. Additional Job Orders related to the individual project will be issued after the Base Job Order as Supplemental Job Orders.

BID DOCUMENTS mean the Notice Inviting Bids, Instructions to Bidders, the Bid, Specifications (including all Addenda issued prior to receipt of bids).

BRIEF SCOPE OF WORK means the preliminary general description of services to be provided by the Contractor under an individual Job Order. The Brief Scope of Work is prepared by the CITY PM and provided to the Contractor prior to the Joint Scope Meeting.

CITY means the City of Long Beach, its officials, and employees.

CITY PROJECT MANAGER (CITY PM) means the individual designated by the City as being responsible for preparation and verification of individual Job Orders as well as the observation and acceptance of all Work authorized by that specific Job Order. This Project Manager will be the City of Long Beach point of contact for the Work.

CONSTRUCTION TASK CATALOG (CTC) means a comprehensive listing of specific repair or refurbishment tasks together with a specific unit of measurement and a unit price.

CONTRACT TERM means the period of the Contract and does not include any Option Terms.

CONTRACTOR PROJECT MANAGER (CONTRACTOR PM) means the individual designated by the City as being responsible for preparation and verification of individual Job Orders as well as the observation and acceptance of all Work authorized by that specific Job Order. This Project Manager will be the City of Long Beach point of contact for the Work.

DAY means a calendar day of 24 hours measured from midnight to the next 11:59 p.m., unless specifically stated otherwise. If a stated deadline should fall on a nonworking day, the due date shall be the following business day.

DEPARTMENT means the user department within the City of Long Beach, such as Public Works, Airport, Police, etc.

DETAILED SCOPE OF WORK is the complete description of services to be provided by the Contractor under an individual Job Order for a specific project. The Detailed Scope of Work shall be approved by the City prior to the issuance of a Request for Proposal (RFP).

DIRECTOR means the Director of Public Works Department or authorized representative.

EVALUATION CRITERIA FIGURE means the amount determined in the Evaluation Criteria Figure Calculation section of the Bid Form, which is used for the purpose of determining the lowest Bid.

INSPECTOR means any representative of the City authorized to perform inspections for various aspects of the Work.

HOLIDAYS:

New Years Day – January 1
Martin Luther King Day – Third Monday in January
President’s Day – Third Monday in February
Memorial Day – Last Monday in May
Juneteenth – June 19
Independence Day – July 4
Labor Day – First Monday in September
Election Day – First Monday in November
Thanksgiving Day – Fourth Thursday in November
Day after Thanksgiving
Christmas Day – December 25

If any holiday listed above falls on a Saturday, then Saturday and the Preceding Friday are both legal holidays. If the Holiday falls on a Sunday, the Sunday and the following Monday are both legal Holidays.

JOB ORDER means a written order issued by the Owner, such as a Work/Purchase/Task Order, requiring the Contractor to complete the Detailed Scope of Work within the Job Order Completion Time for the Job Order Price. A project may consist of a Base Job Order and any number of related Supplemental Job Orders. A Job Order consists of a Detailed Scope of Work, a firm fixed price, the project time duration, and any special conditions that might apply to that specific Job Order. It includes all supporting documentation, such as shop drawings and sketches, permits, and specifications. The Project Manager will create the Job Order as well as observe and accept the Work contained within the Job Order.

JOB ORDER COMPLETION TIME means the time within which the Contractor must complete the Detailed Scope of Work.

JOB ORDER CONTRACT CONSULTANT (JOC Consultant) means the consultant on contract with the City of Long Beach that will provide JOC software and support services. This information will be provided to awarded contractors.

JOB ORDER PRICE means the value of the approved Job Order Price Proposal and the amount the Contractor will be paid for completing a Job Order.

JOB ORDER PRICE PROPOSAL means a price proposal prepared by the Contractor that includes the Pre-priced Tasks, Non Pre-priced Tasks, quantities and appropriate Adjustment Factors required to complete the Detailed Scope of Work.

JOB ORDER PROPOSAL means a set of documents including at least: (a) Job Order Price Proposal; (b) required drawings or sketches; (c) list of anticipated Subcontractors and Materialmen; (d) construction schedule; and (e) other requested documents.

JOINT SCOPE MEETING means a site meeting to discuss the work before the Detailed Scope of Work is finalized.

LAWS AND REGULATIONS means any and all applicable laws and regulations, rules, ordinances, codes and orders of all governmental bodies, agencies, authorities, and courts having jurisdiction over the Work and the Work Site.

KEY PERSONNEL mean the Contractor's Project staff, which will be designated to accomplish work as outlined in Article 41.

NON-PRE-PRICED (NPP) WORK REQUIREMENTS means those units of Work that are not included in the Construction Task Catalog but are within the general scope and intent of this Contract and, may be incorporated into and made a part of this Contract as needs arise. NPP items shall not exceed ten percent (10%) of the Job Order total. Such Work requirements shall be incorporated into and made a part of this contract for the Job Order to which they pertain, and may be incorporated into the Construction Task Catalog, if determined appropriate by the City, at the base price determined in this Contract. NPP Work Requirements shall be separately identified and submitted in the Job Order Proposal.

NON-COMPLIANCE NOTICE means a written notice that defines material, installations, and/or substitutions that do not comply with codes or Contract documents and for which payment cannot be made.

NORMAL WORKING HOURS means standard shifts during the period of 7:00 a.m. to 6:59 pm, Monday through Friday, except for City holidays and Federal holidays.

NOTICE OF COMPLETION means written acceptance of the Work by the City as evidenced by the Director's signature or designee on the notice. All warranties and guarantees for completed Work shall commence upon receipt of Notice of Completion of the project.

NOTICE OF SUBSTANTIAL COMPLETION means that Work on an individual Job Order is substantially complete in accordance with the Detailed Scope of Work, as modified by any Supplemental Job Order(s) agreed to by the parties, so that the remaining Work consists of such minor alterations and patching as the final inspection shall disclose.

NOTICE TO PROCEED means a written document issued by the Project Manager, authorizing the Contractor to proceed with the Work in the Job Order.

OTHER CONTRACTORS mean any person, firm, or corporation with whom a contract has been made by the City for the performance of any work, which is not a portion of work covered under this Contract.

OTHER THAN NORMAL WORKING HOURS means the hours of 7:00 p.m. to 6:59 a.m. Monday through Friday. Saturday work hours shall be 9:00 a.m. to 6:00 p.m., work is prohibited outside of this time period unless determined necessary and advanced written approval is given by the City prior to beginning work.

Work is prohibited on Sundays unless determined necessary and advanced written approval is given by the City prior to beginning work.

PRE-PRICED TASK means a task described in, and for which a Unit Price is set forth in, the UPB.

PROJECT means the collective improvements to be constructed by the Contractor pursuant to a Job Order, or a series of related Job Orders.

PUNCH LIST is a compilation of items which have not been completed in accordance with an individual Job Order at the time of Completion, and which will not interfere with the beneficial use and/or beneficial occupancy of the premises as intended by the City.

REQUEST FOR PROPOSAL (RFP) refers to an official request made by the City for the Contractor to provide a Job Order Price Proposal for an identified project.

SUPERINTENDENT means the executive representative of the Contractor who is present on the Work site at all times during progress, authorized to receive and fulfill instructions from and communicate with the City Project Manager, and capable of superintending the Work efficiently. The Superintendent shall be a direct employee of the Prime Contractor. The Superintendent shall not actually perform the physical tasks involved unless otherwise waived in writing by the City.

SUPPLEMENTAL JOB ORDER means any additional Job Orders developed after the Base Job Order has been issued for the purpose of changing, deleting, or adding work to the Detailed Scope of Work, or changing the Job Order Completion Time.

UNIT PRICE means the price in the Construction Task Catalog for a specific repair or refurbishment task. The unit prices are fixed for the duration of the Contract. Each unit price is comprised of the local labor, and equipment and materials costs to accomplish that specific task.

WORK means all labor, materials, equipment, transportation, and services necessary to complete the repair or refurbishment tasks as required by the Detailed Scope of Work for an individual Job Order.

Any term defined in the Standard Specifications for Public Works Construction (latest edition) used in these Contract Documents shall be incorporated herein by reference.

METRIC UNIT OF MEASURE	DESCRIPTION	ENGLISH UNIT OF MEASURE	DESCRIPTION
<u>DISTANCE</u>			
MM	MILLIMETER	IN	INCH
CM	CENTIMETER	FT	FOOT
M	METER	LF	LINEAR FOOT
		VLF	VERTICAL
		LFT	LINEAR FEET
		YD	YARD
		CLF	100 LINEAR FEET
		MLF	1000 LINEAR
		FT	FEET
		MI	MILE (STATUTE)
<u>AREA</u>			
CM2	SQUARE CENTIMETER	SI	SQUARE INCH
M2	SQUARE METER	SF	SQUARE FOOT
HE	HECTARE	SY	SQUARE YARD
KM2	SQUARE KILOMETER	CSF	100 SQUARE
		FT	FEET
		CSY	100 SQUARE YARDS
		ACR	ACRE
		MI2	SQUARE MILE
<u>VOLUME</u>			
CC	CUBIC CENTIMETER	CI	CUBIC INCH
M3	CUBIC METERS	CF	CUBIC FEET
		CY	CUBIC YARD
		BF	BOARD FEET
		CBF	100 BOARD FEET
<u>FLOW</u>			
CCS	CUBIC CENTIMETER/ SECOND	CFM	CUBIC FT/MINUTE
CMM	CUBIC METER/MINUTE	MCF	1000 CUBIC FT/MINUTE

METRIC UNIT OF MEASURE	DESCRIPTION	ENGLISH UNIT OF MEASURE	DESCRIPTION
<u>LIQUID</u>			
LIT	LITER	GAL	GALLON (US).
<u>WEIGHT</u>			
G	GRAM	OZ	OUNCE
KG	KILOGRAM	LB	POUND
MT METRIC TON		TON	TON (SHORT)
<u>MISCELLANEOUS</u>			
BBL	BARREL		
EA	EACH		
FLR	FLOOR		
<u>DISTANCE</u>			
LAN	LANE		
LS	LUMP SUM		
OPN	OPENING		
PCT	PERCENT		
PR	PAIR		
RSR	RISER		
SEA	SEAT		
SET	SET		
SQUARE	(ROOFING)		
SQ	SQUARE(ROOFING)		

Acronyms

AASHTO American Association of State Highway and Transportation Officials
 ACI American Concrete Institute
 AI The Asphalt Institute
 AIA American Institute of Architects
 ANSI American National Standards Institute
 APWA American Public Works Association
 AREA American Railway Engineering Association
 AQL Acceptable Quality Level
 ARI Air-Conditioning and Refrigeration Institute
 ARD Automatic Release Date
 ASAE American Society of Agriculture Engineers
 ASCE American Society of Civil Engineers
 ASHRAE American Society of Heating, Refrigerating and Air-Conditioning Engineers
 ASLA American Society of Landscape Architects
 ASME American Society of Mechanical Engineers
 ASSE American Society of Sanitary Engineers

ASTM American Society for Testing and Materials
AWWA American Water Works Association
CSI Construction Specification Institute
FOB Free on Board
GVW Gross Vehicular Weight
IAW In Accordance With
IJO Individual Job Order
LIN Line Item Number
NEC National Electrical Code
NEMA National Electrical Manufacturers Association
NRPA National Fire Protection Association
SSPWC Standard Specifications for Public Works Construction, a/k/a "Greenbook"
POL Petroleum, oil, and Lubricants
PM Project Manager
QA Quality Assurance
QASP Quality Assurance and Surveillance Plan
QC Quality Control
QCP Quality Control Program
RWD Required Work Date
UPC Unit Price Contract

2. CONTRACT PERFORMANCE PERIOD

Each JOC awarded will have a one-year term with an option to renew, at the City's discretion, for two additional one-year terms. Work under any Job Order issued prior to the ending date of the term of the contract shall be continued to completion regardless of such date; however, no Base Job Order shall be issued, and Contractor shall not accept such, subsequent to the ending date of the term of the contract.

3. CONTRACT SCOPE

- A. The Contract scope shall be determined by individual Job Orders. On receipt of a Job Order, the Contractor shall provide all management, work, all new materials, supplies, and parts (including system components), transportation, plant, supervision, labor, and equipment (except when specified as City furnished or re-use of materials) needed to repair or refurbish facilities at designated City locations. The Contractor shall provide quality assurance as specified, in strict accordance with all terms, conditions, special Contract requirements, specifications, attachments, and exhibits contained in Contract Documents or incorporated by reference, as well as Job Orders. The Contractor shall also be responsible for site safety as well as site preparation and cleanup.
- B. The Contractor's work and responsibility shall include all programming, administration, and management necessary to provide repair, refurbishment and minor construction, and related services as ordered. The Contractor shall

conduct the Work in strict accordance with the Contract Documents and all applicable Laws and Regulations. The Contractor shall ensure that all Work meets, or exceeds, critical reliability rates or tolerances specified or included in applicable referenced documents.

The Contractor shall provide quality control, financial control, and maintain accurate and complete records of documents necessary to the Work to be performed, including manufacturers' instructions and recommendations.

The Contractor shall also provide related services such as required reports, and the maintenance of record drawings in current form. The Contractor shall provide: materials lists to include trade names and brand names, and model materials lists to include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary to complete a job.

- C. All Work will be ordered when needed in accordance with the ordering clause and procedures contained in Article 10, Ordering Procedures.
- D. The Contractor may be required to work anywhere in City of Long Beach.
- E. The following documents and standards shall be used in the execution of Work and are considered to be part of the Contract Documents:
 - 1. Construction Task Catalog (CTC) in electronic format.
 - 2. Job Order Contract Technical Specifications
 - a. The Technical Specifications will be provided in electronic format.
 - b. The Technical Specifications are numbered and organized in the CSI master format.
 - c. The intent of these specifications is to furnish concise industry and commercial standards for refurbishment or repair of City facilities. If, however, there is a conflict between Federal, State, and Local Codes and Technical Specifications, Federal, State and Local codes shall control.
 - 3. If there is a conflict between the Section number contained in the CTC and the Section number contained in the Technical Specifications, the written description of the Section shall control.

4. INDEFINITE QUANTITY CONTRACT

- A. This is an indefinite quantity contract for supplies and services.
- B. Work shall be performed as authorized by Job Orders issued in accordance

with Article 10, Ordering Procedures. The Contractor shall furnish to the City, when and if ordered, the supplies or services specified in the Job Order.

5. BID FORM

Copies of the Bid Forms are included in Division C. All bids must be submitted electronically via the bidder database. The Contractor may complete and sign the bid form/adjustment form and upload with the bid documents, but all formal adjustment factor bids shall be submitted and input directly into the City's online portal as directed in Division B.

6. APPROVED EQUALS

Whenever material or equipment is specified using a brand name or the name of a particular supplier, the specification is intended to establish the type, function and quality required. The phrase "or approved equal" shall be deemed to be added to the brand name or name of the particular supplier, unless the name is followed by the words "no approved equal or substitute items will be accepted" or similar words.

Materials and equipment shall either comply with all provisions of the Specifications or shall be considered under the following circumstances:

If, in the sole opinion of the City, material or equipment offered by the Contractor is equivalent to or better than the material or equipment named in the Specifications in form, function, performance, reliability, quality, features, materials of construction, cost of operation and maintenance, static and dynamic loads, general dimensional configuration, size, weight, and appearance to that named and sufficiently similar so that no change in related Work is required, the City may in the City's sole discretion accept it as an "approved equal."

The Contractor shall submit all data for equipment and materials for "approved equal" status to the City at the time Contractor submits a Job Order Price Proposal. All information provided by the Contractor in support of the use of an "approved equal" shall be at Contractor's sole cost and expense.

The City shall have a reasonable time to evaluate the submission of an "approved equal". The Contractor shall not order, install, or utilize an "approved equal" without the prior written acceptance of the City. The City may require that the Contractor furnish, at Contractor's sole expense, a special performance guarantee or other surety with respect to any "approved equal". The City will record the time spent in evaluating submissions for an "approved equal" and in making changes to the Contract Documents related thereto. The City reserves the right to charge the Contractor for the City's costs in such evaluation and required changes. The Contractor acknowledges and agrees that submission of an "approved equal" creates a risk that the material or equipment submitted may not meet the functional and performance requirements in the Specifications and also creates a risk associated with potentially unproven products and further acknowledges and agrees that the City's acceptance of an "approved equal" not relieve the Contractor from the obligation to meet the functional and performance requirements of the Specifications.

7. POST AWARD CONFERENCE

Before the issuance of the first Job Order under the Contract, a conference will be conducted by the City to acquaint the Contractor with City policies and procedures that are to be observed during the performance of the Work and to develop mutual understanding relative to the administration of the Contract.

8. GENERAL REQUIREMENTS

- A. Management: The Contractor shall provide the estimators, contractor project managers, and Superintendents required in performing the Work and adhering to the Contract Documents.
- B. Safety: The Contractor shall conduct regular safety meetings with its subcontractors, and both the Contractor and subcontractors shall familiarize themselves with all provisions of Article 58, Safety Plan.
- C. Indefinite Work: The City will issue to the Contractor requests for Job Order Price Proposals for firm-fixed-prices for Work within the scope of the Contract. The Contractor shall prepare all Job Order Price Proposals in accordance with Article 10, Ordering Procedures.
- D. Site Visits: The Contractor shall visit all work sites prior to the development of any Detailed Scope of Work. All site visits must be coordinated through the City Project Manager.
- E. Scope of Work Requirements: The Contractor shall provide all documentation required to fully establish a Detailed Scope of Work including, but not limited to, shop drawings, sketches and/or specifications related to the proposed project. This documentation will be provided for the purpose of defining the Detailed Scope of Work, obtaining permits, and assisting the City in determining the best possible solution for repair and refurbishment issues.

The Contractor shall prepare all documents, shop drawings, and "as-built" drawings to meet all the Laws and Regulations. The Contractor shall also provide as necessary the permits, forms, studies, and other documentation required by codes and agencies.

- F. NPP Work Requirements: In addition to the Work unit requirements in the Construction Task Catalog® (CTC) and Technical Specifications, the City may require NPP Work Requirements. Such requirements shall be incorporated into the Job Order in accordance with the Contract Documents. NPP items shall not exceed ten percent (10%) of the work order total.
- G. Contractor Inspections: The Contractor shall inspect all repairs and refurbishments to ensure that all Work is accomplished as specified. The Contractor shall prepare and maintain inspection files that reflect past and

current inspection dates, results of all inspections made, corrections required, and corrections made.

- H. Compliance with all Applicable Laws and Regulations: The Contractor shall, as part of its factor, prepare and review as necessary the documentation noted in Article 8(E) above, to ensure compliance with all applicable laws and regulations.
- I. Performance Evaluation Meetings: The Contractor shall meet with the City Project Manager as requested, and in any event, not less than once a month, during Contract performance. Mutual effort will be made to resolve any problems identified.
 - a) JOC Consultant will conduct audits of the Contractor's performance and report back to the City. The City reserves the right to remedy any deficiencies related to the Contractor performance resulting including but not limited to termination of contract.
- J. Documentation and Information: The Contractor shall, when required by the City, produce for inspection at the Contractor's office any and all documentation or information concerning the Contractor's financial status, including without limitation, books, accounts, records financial statements, vouchers and cancelled checks. The Contractor shall permit the City to copy any such documentation or information.

9. WORK REQUIREMENTS

- A. Standards: The Contractor shall meet the standards set forth by the Technical Specifications, directives, equipment specifications, manufacturers' instructions, and recommendations inclusive of equipment or vehicles, supplies, parts, or materials utilized to provide the Work. In case of uncertainty of detail or procedure, the Contractor shall request additional instruction from the City Project Manager.
- B. Material Acquisition: The Contractor shall determine all materials required for each Job Order from shop drawings and sketches, specifications, Detailed Scope of Work, instructions, and any other available resources. The Contractor shall acquire all necessary materials and use them to produce the desired finished products.
- C. Material Storage: All materials stored at Work sites shall be stored in a manner that precludes any safety or health risk to the public. Hazardous materials or waste as defined by Federal Government shall be handled in accordance with Environmental Protection Agency Federal Regulations, State Department of Health, Department of Transportation, and South Coast Air Quality Management District (AQMD) procedures. Cost for the storage of materials shall be the sole responsibility of the Contractor.

- D. Electrical Equipment: All Contractor equipment utilizing City electrical sources must meet UL standards and be compatible with existing circuits. The Contractor shall prevent operation, or attempted operation, of equipment that requires electrical power exceeding the capacity of existing circuits. This section does not guarantee that the City will allow the Contractor to use onsite electrical sources. The Contractor shall be responsible for all equipment-related operating expenses, such as fuel and electricity, to complete the Work.
- E. Recoverable Resources: Recovery items to which the City does not claim valuable interest, such as metal scrap, scrap lumber, crating materials, empty barrels, boxes, textiles and bags, waste paper, cartons, and similar materials that retain useful, recycling, salvage, or saleable value, shall become the property of the Contractor and Contractor shall dispose of them off site at properly licensed disposal facilities in accordance with the City of Long Beach Construction and Demolition Recycling Program, <https://www.longbeach.gov/lbcd/building/cd/>.
- F. Work in Progress: The Contractor shall consult with the City to resolve all scope problems, disseminate project information, and maintain close coordination on all matters relating to Work in progress.
- G. Laboratory and Field Tests: The Contractor shall perform, at its sole cost, all laboratory and field tests, as directed by the City, to demonstrate compliance with Work specifications.
- H. Walk-through Inspections: The Contractor shall perform preliminary walkthrough inspections with the City and inspectors to identify punch list items and discrepancies prior to final inspection.

10. ORDERING PROCEDURES

A. Joint Scope Meeting and Job Development:

The City will develop a Brief Scope of Work for each individual project which will be included with the Joint Scope Meeting invitation requesting the Contractor's Project Manager and Superintendent, and the City's Project Manager and other City representatives and/or consultants as deemed necessary, to meet at the project site.

Upon receipt of the Joint Scope Meeting invitation, the Contractor shall respond to the City within **two (2) working days** by establishing contact with the City PM and coordinating the details of the Joint Scope Meeting. Unless otherwise approved by the City in writing, the Joint Scope Meeting shall occur within **five (5) working days after contact has been established**. The City PM, Contractor PM and other necessary parties will visit the work site and participate in a Joint Scope Meeting, which will include discussion and establishment of the following responsibilities of each party:

Contractor Responsibilities:

1. Develop Detailed Scope of Work in coordination with City PM
2. Obtain Job Order specific insurance (if applicable)
3. Subcontracting goals (if applicable)
4. Methods and alternatives for accomplishing Work
5. Requirements for permits, plans, sketches, shop drawing(s), submittals, etc.
6. Tentative Work Duration Schedule and work hours with critical milestones and any phasing requirements submitted with each proposal submittal
7. Verify quantity assumptions/estimates at Joint Scope Meeting, including field measurements and any other methods required to verify quantities provided on plan sets, Brief Scope of Work, and any other Contract Documents in order to determine final measured quantities in Detailed Scope of Work; also, provide estimates for lead time for materials, especially long-lead items
8. Staging areas and site access, including times/days when any access will be restricted to the public, City staff or other occupants
9. Locate all utility shutoff locations, such as electrical panels, main water shutoff valves, and main gas shutoff valves, and operate them in the event of an emergency as needed and directed by the City and allowable by applicable Laws and Regulations
10. Identifying special conditions regarding unique facility operations/access
11. Site safety, controlled inspections and testing requirements
12. Identifying and properly abating and/or disposing of hazardous materials or site conditions
13. Providing value engineering suggestions
14. Submitting Detailed Scope of Work, Job Order Price Proposal and any other required documents by the required due date determined by the City PM.
15. Ensuring that key staff/personnel resources are adequate to provide all services requested through these JOC contracts; in general, the Contractor should ensure that staff that work under this JOC contract are not assigned responsibility for more than ten (10) active job orders at any time

City Responsibilities:

1. Attend the Joint Scope Meeting and facilitate access to the Contractor/subcontractors and provide relevant information needed so that the Contractor can fully develop a complete Detailed Scope of Work to submit for approval; this may include helping to perform and/or confirm field measurements in order to determine final measured quantities in the Detailed Scope of Work.

Note: The above items are not an exhaustive list of responsibilities by either party, and that other related responsibilities shall apply as necessary

As part of the required Joint Scope Meeting, the Contractor and the City will agree on a sequence of Work; means of access to the premises and building; possible space for storage of materials and equipment; use of corridors, stairways, elevators, and means of communications and the location of partitions.

Together, the project representatives will discuss the Brief Scope of Work and all related project documents, such as design plans and technical specifications. The Contractor shall take these factors into account and develop a Detailed Scope of Work. The Detailed Scope of Work shall be documented by the Contractor in writing and submitted to the City PM for approval **within two (2) working days** or a mutually agreed upon time determined at the Joint Scope Meeting. If consultant's services are required to clarify project requirements, they will be submitted with the Detailed Scope of Work for City approval before a Request for Proposal is issued.

The Contractor **does not** have the right to refuse to perform any Project, Pre-priced Task, or Non Pre-priced Task or any other Work requested by the City.

Unless waived in writing, the Contractor shall provide all documentation to fully establish the Detailed Scope of Work including, but not limited to, drawings, sketches and/or specifications that comply with the Contract Documents and relate to the proposed project. This documentation will be provided for the purpose of defining scope, obtaining permits, and assisting the City in determining the best possible solution for repair and refurbishment issues.

If the City requests a change in the Detailed Scope of Work, the Contractor shall submit a revised Detailed Scope of Work reflecting all requested changes **within two (2) working days**.

B. Emergency Response:

In the event that immediate emergency response is necessary, the Contractor shall be required to follow alternative procedures as established by the City. The Contractor shall begin work as directed notwithstanding the absence of a fully developed Request for Proposal, Detailed Scope of Work, or Job Order. The Contractor shall be compensated for such work as if the work had been ordered under the standard procedures. Contractor must submit to the City's Project Manager, their emergency procedure/safety plan prior to starting work. Contractor must be responsible for quality assurance and quality control.

C. Request for Proposal:

Once the Joint Scope Meeting has produced a City-approved Detailed Scope of Work, the City PM will issue a Request for Proposal (RFP) to the Contractor. The RFP will include the Detailed Scope of Work approved by the City and other pertinent information with regards to scheduling, submittals, shop drawings and sketch requirements. The Contractor shall prepare and submit a Job Order Price Proposal in accordance with Article 10(C) below.

D. Proposal Development:

The Job Order Price Proposal shall, at a minimum, include all of the following elements:

1. Price Proposal

a. Pre-Priced Work Requirements

- i. Pre-priced Work requirements will identify the type and number of work tasks required from the CTC. The price per unit set forth in the CTC shall serve as the base price for the purpose of this Section. The Proposal shall include supporting documentation and notes (such as user notes) to justify the work task selected from the CTC and quantities specified, indicate that adequate engineering and planning for the requirement has been done, and that the work tasks proposed are reasonable for the Scope of Work. Documentation to be submitted with the Proposal shall include, but not be limited to, drawings, calculations, catalog cuts, and specifications.
- ii. The total extended price for pre-priced work requirements will be determined by multiplying the price per unit by the quantity required. The price offered in the Proposal shall be determined by multiplying the total extended price by the appropriate adjustment factor.

2. Non Pre-Priced (NPP) Work Requirements

- iii. Units of work not included in the CTC, but within the general scope and intent of this Contract, may be negotiated into this Contract as needs arise **but in no instance shall NPP items exceed ten percent (10%) of the total Job Order amount.** Such work requirements shall be incorporated into and made a part of this Contract for the Job Order to which they pertain and may be incorporated into the CTC if determined appropriate by the City of Long Beach at the negotiated price. NPP Tasks shall be separately identified and submitted in the Proposal. The Contractor is responsible for supervision on all Project Job Orders including NPP Job Orders.

The Contractor shall break down any NPP item if the labor, material, or equipment required to accomplish the NPP task can be used out of the Construction Task Catalog® at a pre-priced rate times the Bidder's Adjustment Factor. The City will make a final determination on whether a Work requirement is pre-priced or NPP, which shall be binding and conclusive on the Contractor.

Adjustment Factor. The City will make a final determination on whether a Work requirement is pre-priced or NPP, which shall be binding and conclusive on the Contractor.

- iv. Information submitted in support of NPP work shall include, but not be limited to, the following: Complete specifications and technical data, including work unit content, work unit costs data, schedule requirements; quality control and inspection requirements.

Pricing data submitted in support of NPP Tasks shall include a cost or price analysis report, establishing the basis for selecting the approach proposed to accomplish the requirements. Unless otherwise directed by the City, cost data shall be submitted demonstrating that the Contractor solicited and received a minimum of three bids. The Contractor shall provide an installed unit price (or demolition price if appropriate), which shall include all costs required to accomplish the NPP Task.

- v. The final price submitted for NPP Tasks shall be calculated according to the following formula:

Contractor Performed Duties:

A= The number of hours for each labor classification and hourly rates

B= Equipment costs (other than small tools)

C= Three independent quotes for all materials

Total Cost for self-performed work = (A+B+C) x Award Adjustment Factor

Subcontracted Performed Duties:

If the work is to be subcontracted, the Contractor must submit three independent bids from Subcontractors. If three quotes or bids cannot be obtained, the Contractor will provide the reason in writing for City approval as to why three quotes cannot be submitted.

D = Subcontractor Costs (supported by three quotes)

Total Costs of NPP Task = D x Award Adjustment Factor.

3. Total Fixed Cost of the Proposal

The total fixed cost of the Proposal shall be determined by adding the total Proposal price offered for pre-priced and non-pre-priced work units.

4. Reimbursables Fees

Reimbursable fees include but are not limited to permits, special inspections, special insurance, additional warranties, tolls, expedited shipping costs, etc, which are not included in a task or an Adjustment Factor as explained in the Contract or UPB.

To compensate the Contractor for any reimbursable fees as defined in UPB, the adjustment factor applied to reimbursable fees/tasks shall be equal to 1.0000.

To compensate the Contractor for the JOC System License on reimbursable work, the adjustment applied to reimbursable tasks shall be equal to 1.0100.

A copy of each receipt, invoice, or proof of payment shall be submitted with the Price Proposal. These fees shall be paid by the Contractor and then the Contractor will be reimbursed by the City once all required documentation is provided.

5. Submittals

All documents, shop drawings, and "as-built" drawings shall be prepared such that the drawings meet all the Laws and Regulations. The Contractor shall also provide, as necessary, the forms, studies, and other documentation required by Laws and Regulations.

The Contractor shall ensure that all engineering solutions conform strictly to the guides and criteria outlined in Contract Documents. In case of uncertainty of detail or procedure, the Contractor shall request additional instruction from the City. The Contractor shall produce complete, competent, properly coordinated, and thoroughly checked documents.

At the Contractor's sole expense, as part of the adjustment factors, the documentation noted above shall be prepared and reviewed as necessary to ensure its compliance with all Laws and Regulations.

6. Work Duration Schedule

The Contractor shall furnish a Schedule in accordance with Article 19, Time of Performance and Work Schedule, Section B, with each Proposal.

Contractors shall provide and upload schedule into the software solution with each proposal submitted. If Contractor fails to include schedule with proposal, the proposal will be deemed incomplete, and the City has the right to take appropriate actions to remedy lack of contract compliance by Contractor.

7. Subcontractor's List

The Contractor shall use the List of Subcontractors form in Division F of the Specification to list each subcontractor to be used on the Work on a Job Order by Job Order basis. The Contractor shall provide all the information required on the form at the time of submittal.

Contractors are strongly cautioned that subcontractors may not be replaced or substituted except by strict adherence to the requirements and procedures of Public Contract Code Section 4100 *et seq.*

8. Electronic Proposal

The Contractor shall furnish an electronic copy of the Proposal, using the City furnished software, with each Proposal and all supporting documents. Electronic copies must be transmitted through the City supplied Software.

9. Complete Proposal

By submitting a signed Proposal, the Contractor agrees to accomplish the Work outlined in the RFP and the Final Scope of Work for that particular Job Order. Contractor shall include the necessary line items in the Proposal prior to submitting it to the Project Manager. Errors and omissions in the Proposal shall be the responsibility of the Contractor.

All costs associated with preparing Proposals shall be the responsibility of the Contractor. The City makes no commitment as to the award of individual Job Orders. All Proposals will be valid for the duration of the Contract.

E. Proposal Review

Each Proposal received from the Contractor will be independently reviewed in detail for appropriateness of quantities and tasks selected. Submittals will be reviewed, as well as the Work Duration Schedule and list of subcontractors.

The City will evaluate the proposed work units and may compare them with the independent City estimate of the same tasks to determine the reasonableness of approach, including the nature and number of work units proposed. The City will determine whether the Contractor's Proposal is acceptable.

F. Project Approval

If it so chooses, the City may issue a Job Order to include the firm-fixed price of the Job Order and the Project duration. All Contract Documents shall be applicable to all Job Orders.

The City reserves the right to reject a Proposal based on unjustifiable quantities and/or methods, performance periods, inadequate documentation, subcontractor listing, or other inconsistencies or deficiencies on the Contractor's part in the sole opinion of the City.

The City also reserves the right not to issue a Job Order if the City's requirement is no longer valid or the Project is not funded. In these instances, the Contractor has no right to recoup expenses connected to the Proposal. The City may pursue continuing valid requirements by other means where agreement was not reached with the Contractor.

G. Proposal Time Requirements

1. Proposal Submittal

The Contractor shall acknowledge receipt of the Request for Proposal (RFP) within two (2) working days after it has been sent by the City PM. The RFP shall indicate the due date by which the Contractor is required to submit the Job Order Price Proposal. The due date of the Job Order Price Proposal shall be **no more than ten (10) working days** from the date the RFP was issued, unless otherwise determined in writing by the City PM.

Contractor's response shall confirm receipt of the Request for Proposal and understanding of the due date for submittal of Contractor's Job Order Price Proposal. The Contractor shall make a thorough analysis of each RFP and submit all Requests for Information (RFIs) within five (5) working days after receipt of the RFP. The RFI shall not extend the Job Order Price Proposal due date unless agreed to by the City PM.

2. Job Order Price Proposal Review and Modification

The City will review the Job Order Price Proposal. If there are no revisions required by the City to the Job Order Price Proposal, the City will proceed to the Approval Processes detailed in Section 11.

If there are revisions required by the City to be made to the Job Order Price Proposal, the City will return the Job Order Price Proposal with comments to the Contractor for review and revision. Within one (1) working day, the Contractor's project manager or agent shall be available to review the City's review comments after being notified by the City PM (via fax, e-mail, telephone, etc.)

The Contractor shall make the necessary revisions to finalize the Job Order Price Proposal as directed by the City PM. The Contractor shall resubmit the Job Order Price Proposal within two (2) working days. In the case that the Contractor inadvertently missed items within their first Job Order Price Proposal, the Contractor will be granted only one opportunity to add new,

valid line items that may have been omitted from its first proposal by submitting these with their revised Job Order Price Proposal.

No Job Order Price Proposal revisions such as new line items may be added to the revised Job Order Price Proposal, nor may quantities be increased/decreased, nor modifiers added unless specifically agreed to in writing by the City during subsequent review of the Job Order Price Proposal.

The City will not allow multiple Job Order Price Proposal submissions by the Contractor. Time is of the essence to complete the Work being requested.

3. Enforcement of Time Requirements for Delivery of Job Order Price Proposals.

The Job Order Price Proposal Time Requirements contained herein will be strictly enforced by the City. Failure to comply may result in the Contractor being deemed non-responsive to the RFP and/or non-compliant with their contractual obligations.

- a. The City PM may cancel the RFP from the Contractor and solicit another contractor.
- b. The City reserves the right to assess Liquidated Damages if Contractor fails to submit Job Order Price Proposal as required. The amount of Liquidated Damages shall be:

Days Delinquent	Liquidated Damages Per Business Day
1 to 3	\$250.00
Over 3	\$500.00

- c. Failure to reach an agreement on the Job Order Price Proposal and/or the Job Order Completion Time shall be a dispute under the clause entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the Work requested/ordered. The City may issue a direct Job Order.
- d. The purpose of the direct Job Order is to provide the City with a flexible procedure by which it may respond expeditiously to its needs. By virtue of this clause, the City is entitled to order work and to bind the Contractor to performance of the work as needed for the term of their contract.

11. APPROVAL AND CONSTRUCTION PROCEDURES

A. Scope of Work

Once the City approves the Job Order Price Proposal, the necessary documents will be approved and signed by the City and Contractor. The Job Order Price Proposal should accurately reflect any and all changes to scope of work and schedule, which occurred during the ordering procedures.

B. Job Order Authorization

Upon approval of the Detailed Scope of Work and the Job Order Price Proposal, the City will issue a Job Order to the Contractor. The Job Order Authorization will include the firm fixed price and the Project duration. Once the Job Order Authorization has been issued, the Contractor shall:

1. Identify the Superintendent and Site Health and Safety officer (SHSO);
2. Initiate submission of required shop drawings and submittals to the City PM for review and approval;
3. Prepare a detailed Work Duration Schedule in accordance with Article 19, Time of Performance and Work Schedule for distribution at the Preconstruction Meeting.

The Contractor shall not begin construction prior to the construction start date identified in the Notice to Proceed (NTP).

C. Interim Job Order Authorization

In the event that "immediate response" is necessary prior to approval of the Contractor's Job Order Price Proposal, the City will issue an Interim Job Order Authorization to the Contractor. Upon receipt of the authorization the Contractor shall immediately coordinate with the City PM and begin the Work. Compensation for the Work shall be in accordance with the Construction Task Catalog® and the Contract Documents.

The Interim Job Order Authorization will contain at a minimum the following:

D. Pre-Construction Meeting

Within no more than five (5) work days after the issuance of the Job Order, unless the City grants additional time, the City PM will conduct a pre-construction meeting with the Contractor's Superintendent, sub-contractors, and the end-user to determine the actual project schedule, project access requirements and to address and resolve any concerns of the end-user.

At the Pre-Construction Meeting the Contractor shall:

1. Prepare a detailed final construction schedule and submit it to the City PM for approval prior to the issuance of the Notice to Proceed;

2. Designate in writing, pursuant to Article 58 herein, the name of one or more persons who shall act as a field safety representative who shall be responsible at all times for the work and who shall be thoroughly familiar with the Contractor's Site Safety and Health Plan (SSHP) and Code of Safe Practices (CSP);
3. Sign and submit to the City PM the "Job Site Safety Affidavit" specifying CALOSHA safety regulations with which the Contractor is required to comply.
4. The Contractor may choose the means and methods of construction, subject to the City's right to reject any proposed means and/or methods that will constitute or create a hazard to the work or to persons or property; will not produce finished Work in accordance with the terms of the Contract; or unnecessarily increase the price of the Job Order when alternative means and/or methods are available.

E. Notice to Proceed (NTP)

Following the Pre-construction Meeting, the City will issue an NTP which will provide the construction start date, the work duration period, and the completion date. The Contractor shall begin and complete construction within the dates specified on the Notice to Proceed. The City PM must approve all extensions of time in writing.

F. Project Construction

The Contractor shall provide continuous on-site supervision on each Job Order, using the Contractor's Superintendent while progress on the project is being accomplished. The Contractor's Superintendent shall be able to receive and comprehend instructions in English and shall be responsible for:

1. Coordination and providing supervision to all subcontractors and workers;
2. Posting of the prevailing wage scale or Davis-Bacon wage rates;
3. Maintaining a copy of the Contractor's Safety program manual made available to all construction personnel;
4. Conducting weekly on-site safety meetings;
5. Completing the Daily Labor and Construction Progress Log on a daily basis and submitting it to the City.
 - a. Daily Labor Log shall include a listing of Subcontractor(s) and a count of workers by trade providing services for the day and will be submitted weekly.

- b. Construction Progress Log shall include a narrative of the work provided by trade(s). Narrative shall include the various areas of the jobsite where work was performed and any problems or conditions that were encountered.

6. Contractors shall be responsible for being in compliance with Division F – Web Based Project Management Software.

City may suspend Contractor's operations if no Contractor Superintendent is observed. All delays caused by the suspension will be the responsibility of and charged to the Contractor. No time extension or claims for cost(s) associated with the suspension or delay will be granted by the City or can be claimed by Contractor.

G. Project Completion

Prior to requesting to schedule the final job walk, the Contractor shall perform their own final inspection to ensure that Work complies with all Contract Documents, including all requirements of the Job Order and Detailed Scope of Work. The Contractor shall schedule a final job walk with the City. If required, the City will prepare a list of incomplete items. The Contractor shall complete the "punch list" corrections and schedule a final project completion job walk. The City PM will sign the project "punch list" as completed when it is determined the project is finished. The Contractor shall submit the following along with its final payment request:

1. "Punch list" signed by the City;
2. Completed Building Inspection Card;
3. All required Warranties and Maintenance Requirements;
4. All record or as built drawings,
5. All required Operation and Maintenance Manuals;
6. All keys and security entry cards;
7. Any other closeout items as required by the City.

12. MEASUREMENTS TO BE VERIFIED

Before ordering any material or doing any Work, the Contractor shall verify all measurements at the site of a specific Job Order and shall verify the correctness of same. No extra charge or compensation will be allowed for differences between actual dimensions and the measurements indicated in the RFP. Any difference which may be found shall be submitted to the City PM for a determination of the dimension/measurement to be used before proceeding with the Work.

13. CAUTION TO CONTRACTORS

The Contractor is cautioned that when the word "approximate" is used in conjunction with measurements, quantities, dimensions, etc., it is the Contractor's responsibility to verify

all such items prior to submission of the Proposal. Contractor is also cautioned that any Work Order is for all services or Work, as necessary, to repair and refurbish the facilities covered by the Job Order. It shall also be the duty and responsibility of the Contractor to manage and conduct the Work in the most effective and efficient manner possible and meet or exceed minimum critical rates or standards. In addition, the Contractor is cautioned that no claims for additional monies will be paid when such claim is based upon a contention that the Contract Documents fail to mention a specific item or component of facility covered by the Contract Documents and the Work is required in the normal course of operations.

14. SCHEDULING WORK

As part of the required scope validation site visit and conference, the Contractor and the City will agree on a sequence of procedures; means of access to premises and building; possible space for storage of materials and equipment; work of materials and use of approaches; use of corridors, stairways, elevators, and means of communications and the location of partitions. The Contractor shall take these factors into consideration when developing its Proposal and Schedule.

15. COMPUTER SUPPORT REQUIREMENTS

The Contractor shall have a computer system capable of operating the City supplied software, and all software referenced herein.

16. SPECIFICATIONS

Specifications are intended to establish the minimum standards for quality, performance and technical requirements for all labor, workmanship, material, methods and equipment necessary to complete the Work.

When specifications and drawings are provided on individual Job Orders, specifications take precedence over drawings.

17. REFERENCE SPECIFICATIONS

- A. Except as otherwise noted or specified, the work shall be done in accordance with the (Technical Specifications).
- B. Where specifications or the Building Code stipulate that a material shall conform to the American Society for Testing Materials (A.S.T.M.) specifications or other recognized standards, the Contractor shall, when so required, deliver to the City an affidavit or certificate in triplicate, signed by the manufacturer or supplier that the material furnished conforms to specifications or standards mentioned. When special deputy inspection or materials testing is required, the Public Works inspector will contact dispatch using a city-approved vendor. The contractor shall notify the Public Works inspector 72 hours prior to needing such services.

- C. References to the "Building Code" are to the edition of the applicable Building Code listed in the Technical Specifications, including any amendments thereto.
- D. Additional reference specifications, codes and standards shall be the latest edition, including all approved City of Long Beach supplements and amendments, unless a specific code issue date edition or adoption date is specified. The order of precedence shall be as defined in the Contract Documents.
 - 1. Codes and Safety Regulations: All equipment, products, materials and their installation shall be as specified and shall be in accordance with the applicable parts of the following codes and safety regulations.
 - a. Current California Building Standards Code, including but not limited to, Parts 1(Administrative Code), 2 (Building Code), 3 (Electrical Code), 4 (Mechanical Code), 5 (Plumbing Code), and 9 (Fire Code) of Title 24, CCR
 - b. Current International Building Code
 - c. 2015 Standard Specifications for Public Works Construction ("Greenbook").
 - d. Standard Plans for Public Works Construction, latest edition
 - e. City of Long Beach Standard Plans, latest edition
 - f. National Electrical Code.
 - g. Americans with Disabilities Act of 1990, as amended.
 - h. City of Long Beach Best Management Practices (BMPs)
 - i. State of California. Department of Health Services (DHS), Office of Drinking Water publication titled, "Approved for the Service Isolation in, California Public Water Systems.
 - j. State of California, Department of Transportation (CALTRANS), Standard Specification and Plans.
 - k. National Fire Protection Association (NFPA)

18. RECORD DRAWINGS (AS-BUILT RECORDS)

- A. The Contractor shall maintain a set of Contract Documents, when applicable, on the Project Site for record documents. Contractor shall promptly advise the City of any observations during performance of any Job Order or deficiencies in

record drawings. In the event subsurface utility lines are located in other than locations indicated in record drawings, the Contractor shall promptly advise the City of the observation. For subsurface utility lines placed or moved by the Contractor, actual locations shall be included in a revised record drawing, and the revised drawing will include, by offset dimensions to two permanently fixed surface features, the end of each run, including each change in direction. Valve, splice boxes, and similar appurtenances shall be located by dimensioning along the utility run from a reference point. The average depth below the surface of each run shall also be recorded. For structures or facilities affected by any Job Order, the Contractor, at the time of Completion, shall submit to the City "as-built prints" showing the aforementioned data. For structures or facilities where the City may take temporary possession or use prior to Completion of the Work, the City may request, and the Contractor shall furnish, the "as-built prints" at the time of such temporary possession or use. In the event the Contractor fails to maintain the record drawings as required herein, it shall be deemed that Contractor has not made satisfactory progress under the Job Order.

- B. Payments to Contractor are contingent upon the record drawings being maintained in a current status, in as much as the City PM will not approve full payment unless record drawings are current.
- C. As a condition precedent to the certifying of the final payment for each Job Order, the Contractor shall submit complete record documents to the City.

19. TIME OF PERFORMANCE AND WORK SCHEDULE

- A. Time is of the essence in the performance of the Contractor's obligations for and each Job Order. The Contractor shall perform the Work at such time and in such manner that completion of the Work shall occur in accordance with the Work Duration Schedule, including authorized adjustments thereto. Failure to complete the Work on a timely basis will subject the Contractor to liquidated damages as outlined in Article 44 below.
- B. With the electronic submittal of each Proposal, the Contractor shall furnish a Microsoft Project work duration schedule through the City supplied Software, showing the order in which the Contractor proposes to perform the work, the durations in which the Contractor proposes to perform the work, and the relative time periods in which the Contractor contemplates starting and completing Project tasks, including the acquisition of materials, fabrication, and equipment. The City may determine the level of detail and number of tasks required to be included on the schedule. Unless otherwise specified, the schedule shall be in the form of a Microsoft Project work duration schedule of suitable scale to indicate appropriately the percentage of work scheduled for completion. At the discretion of the City, the Contractor may be required to furnish a Critical Path Method (CPM) Schedule.

- C. Contractor's Detailed Work Duration Schedule

The schedule shall indicate the dates for starting and completing various aspects of the Work including, but not limited to, on-site construction activities as well as the submittal, approval, procurement, fabrication, and delivery of major items, materials and equipment. The schedule shall indicate phasing of work activities as required. The schedule shall provide the Contractor's initial plan for the Work based on its understanding of the scope of work.

D. Schedule Approval

All Project schedules are subject to the City PM's review and approval. The use of any particular scheduling system other than Microsoft Project shall be subject to the approval of the City PM.

E. Schedule Updates

The Contractor shall maintain the schedule updates on an ongoing basis and, when the City PM requests it, include the updates in its payment requests. The Contractor may be required to submit a project and schedule summary with each monthly update which shall include a description of current and anticipated problem areas, delaying factors and their impact, and an explanation of corrective action taken or proposed. Failure to do so may be considered a material breach of the Contract. Any additional or unanticipated costs or expenses required to maintain the schedules shall be solely the Contractor's obligation and shall not be charged to the City.

F. Adjustment of Schedule

The Contractor agrees that, whenever it becomes apparent to the City PM from the current monthly status review meeting or the schedule, phasing or Job Order milestone dates will not be met, Contractor shall take some or all of the following actions at no additional cost to the City:

1. Increase construction manpower in such quantities and crafts as will eliminate the backlog of Work.
2. Increase the number of working hours per shift, shifts per working day, working days per week, the amount of construction equipment, or any combination of the foregoing to eliminate the backlog of Work.
3. Reschedule the Work under the Job Order in conformance with all other requirements. The Contractor shall be liable for any additional cost incurred by the City for the adjustment of Project schedules.
4. Contractor shall submit a request for a Supplemental Job Order to increase or decrease the work duration indicated on the NTP. This Supplemental Job Order must be approved by the City prior to proceeding with any Work.

Prior to proceeding with any of the above actions, the Contractor shall notify and obtain approval from the PM for the proposed schedule changes. If such actions are approved, the Contractor shall incorporate the revisions into the schedule.

20. CITY'S RIGHT TO DELAY COMMENCEMENT OF THE WORK

The PM, on behalf of the City, shall have the right to direct the Contractor to withhold actual commencement of the Work, in part or whole, and the Contractor shall comply with such instructions. The Contractor may be granted an extension of the completion time of the Job Order equal to the number of working days delay caused to the Contractor pursuant to the Contractor's compliance with such instructions.

21. OBSERVATION

- A. All Work shall meet with the approval of the City and shall be completed in conformity with the Contract Documents.
- B. The City shall have access to the Work at all times. The Contractor shall furnish all facilities for inspection at the site, and at shops or yards, and shall not cover up any Work requiring inspection until the same has been approved by the City.

If Work is covered up before being inspected, the Contractor shall remove such portions of the Work as may be necessary to disclose the part in question and recover, at no cost to the City.

- C. City's access shall not be subject to restrictions which are not directly related to the provision and maintenance of health and safety.
- D. A notice may be issued by the City if the Work has not been executed in full compliance with the Job Order and specifications. The Contractor shall then bring all Work into full compliance with the Job Order and specifications at no additional cost to the City.
- E. Technical Reports may be generated for the purpose of evaluating the quality, correctness, functionality, etc., of the Contractor's Work or performance under this Contract in accordance with the requirements of the Job Order and specifications.
- F. A notice may be issued by the City if the Contract Work has not been corrected. No payment will be made by the City on the non-compliant work until correction has been completed.

22. PERMITS, LICENSES AND INSPECTIONS

- A. The Contractor shall coordinate with the City PM to obtain the necessary building permits for each Job Order. The City PM will provide the necessary

paperwork for the payment of the building permits issued by the Community Development Department. The Contractor will be responsible for all construction and demolition program requirements, including administration fees and deposits, as detailed in Division F – Construction and Demolition Ordinance Requirements.

- B. Except as provided in paragraphs (D) and (E) below, the Contractor shall obtain and pay for all other permits and inspections required for the Work. Further, the Contractor shall obtain and pay for all permits and inspections incidental to the Work or made necessary by the Contractor's operation. The Contractor shall obtain all building permits through the City of Long Beach, Development Services Department, 411 W. Ocean Blvd., 2nd floor, Long Beach, CA 90802.

The Contractor will be reimbursed for all direct costs of permits and inspections without mark-up. The Contractor must submit the direct cost of all permits and inspections in the Proposal as a NPP line item. The City will not reimburse any permit and/or inspection fees not included in the Proposal. The City is not responsible and will not pay for any re-inspection(s) required due to the Contractor's failure to pass initial inspection(s).

- C. The Contractor shall obtain a City business license prior to beginning any work.
- D. To comply with Section 3800 of the Labor Code of the State of California, the Contractor and all subcontractors requiring a permit (building, plumbing, grading, electrical, etc.) shall file a Workers' Compensation Certificate with Department of Public Works.
- E. Exclusive of off-site inspection identified in the specifications as the City's responsibility, the Contractor shall arrange and pay for all off-site required inspections of the Work, including certification thereof.
- F. The City will provide on-site inspection of the Work and will arrange for offsite inspection when specified in the various technical sections of the specifications as the responsibility of the City. All other required inspection(s) will be the responsibility of the Contractor.
- G. The City will not pay any costs for licenses required in the performance of the Work. The Contractor shall assume this responsibility and pay all costs associated with the licenses.

23. TESTS

- A. City's Responsibilities
 - 1. Called Tests - Tests of any materials or performance that is above and beyond "required tests" as defined in paragraph (B)(1) below.
 - 2. Provided such "called tests" show the Work meets the specifications, the City will pay for the cost of the tests. If the Contractor was required to

obtain the test from a third party, the City will reimburse the Contractor on the basis of the Contractor's certified statement of the results and costs, with appropriate supporting documentation.

B. Contractor's Responsibilities

1. The Contractor shall arrange and pay for all tests of materials or performance as required by the specifications or Laws and Regulations. These are defined as "required tests".
2. The Contractor shall pay for all "called tests," as defined in subparagraph (A) (1) above, when the test results show the materials or performance fails to meet the specifications. Immediately thereafter, the Contractor, at the Contractor's sole expense, shall remove the improper Work and replace same with materials or performance meeting the specifications. The Contractor shall also pay the expenses of any tests for the replaced Work, and of any subsequent removal, replacement and testing as may be necessary to obtain materials or performance meeting the specifications.

24. SUPPLEMENTAL JOB ORDER

- A. The City, without invalidating the Job Order, may order changes in the Detailed Scope of Work by adding to, changing, or deleting from the Detailed Scope of Work, and Work Duration by issuing a Supplemental Job Order.
- B. The Contractor may request a Supplemental Job Order for additional work tasks not previously contemplated to complete the Work ordered or Work Duration changes. The City shall approve the request for a Supplemental Job Order prior to work beginning. Except as described in Article 11.
- C. All Supplemental Job Orders shall be developed and priced in accordance with Article 10 – Ordering Procedures contained in these General Requirements.

25. COMPLETION

- A. The Date of Completion of the Work, or designated portion thereof as set forth in the Contract Documents, is the date certified by the City when the Work is complete in accordance with the Contract Documents so the City may take possession of or use any completed or partially completed part of the Contractor's Work as the City may deem necessary, for the purpose for which it is intended.
- B. When the Contractor considers that the Work, or designated portion thereof as set forth in the Contract Documents, is complete as defined above, the Contractor shall prepare for submission to the City a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance

with the Contract Documents. When the City determines that the Work or designated portion thereof is complete, it will issue a Notice of Substantial Completion which will formally establish the date of Completion. The Notice will state the responsibilities of the City and the Contractor with respect to security, maintenance, heat, utilities, damage to the Work, and insurance, and will list remaining items to be corrected or completed. Work not fully completed or corrected shall be completed to the satisfaction of the City within thirty (30) calendar days, or a period equivalent to the original Job Order duration, whichever is less, after Completion, or within a period of time mutually agreed upon between the Contractor and the City. In the event the Contractor fails to complete or correct the remaining items within the allotted time, the City may complete or correct the items and deduct the cost thereof from the Job Order Amount.

- C. Warranties required by the Contract Documents, as discussed in Article 43, shall commence on the date of the Notice of Completion of the Work.
- D. Accordingly, the City reserves the right to occupy completed portions of the Work as it deems necessary.

26. OCCUPANCY BY CITY

- A. The Contractor, Contractor's employees and representatives will be admitted by the City to the premises for the purpose of executing the Work to be performed under this Contract, but they shall have no tenancy.
- B. It is further understood that the City shall have the right to take temporary possession of, or use any portion of, any completed or partially completed part of the Contractor's Work as the City may deem necessary for its operations upon notice to the Contractor. Before taking possession of any Work, the City may furnish to the Contractor a list of outstanding or deficient work. During City's occupancy, the City will exercise all reasonable efforts to avoid interference with the Contractor's continuance of the Work. Such occupancy shall not constitute acceptance of the Contractor's Work so occupied or used until Notice of Completion is given under the terms of the Contract Documents, and thereafter pursuant to the warranty provisions of the Contract provided, however, that the Contractor will not be responsible for any damage or loss to the Work in place caused by the City's possession or use.
- C. If prior possession or use by the City delays the progress of the Work or causes additional expense to the Contractor, an adjustment may be made in the Contract Amount or the Contract Time, under the applicable scheduling and cost provisions of the Contract Documents.

27. WORKERS / WORKER CERTIFICATION

Only workers skilled in the various trades required by the specifications shall be employed upon the Work. Any mechanic or laborer employed upon the Work who, in the opinion of

the City, is non-cooperative or who shall prove careless or incompetent, shall be immediately removed from the Work by the Contractor, when notified to do so, and shall not be re-employed upon the Work.

28. EXTENDED HOURS OF WORK

As long as the Contractor complies with Section 1815 of the California Labor Code, the City may allow the Contractor's employees to work in excess of eight hours per day subject to approval by the City.

29. SATURDAY, SUNDAY, HOLIDAY, AND OVERTIME WORK

- A. No Work shall be done on Saturdays, Sundays or holidays recognized by the City and no Work shall be performed outside of Normal Working Hours without the consent of the City, unless required under these specifications. In any event, all Work shall be subject to approval of the City. Prior to the start of such Work, the Contractor shall arrange with the City for the continuous or periodic inspection of the Work and tests of materials, when necessary. If a request is made by the Contractor for permission to Work overtime, nights, Saturdays, Sundays or holidays, and the request is granted, the Contractor shall bear all extra expense to the City for inspection and other incidental expenses caused by such overtime Work. If the Contractor is requested, in the interest of the City, to Work overtime by the City, or if overtime Work is specifically required by these specifications, all extra expense of inspection will be paid by the City. Should the Contractor find it necessary, in order to complete the Work according to schedule, to perform certain of Contractor's operations on Saturdays, Sundays, holidays or overtime, these operations shall be performed as part of the Work included in the firm fixed price and shall not constitute a basis for additional payments. Contractor shall adhere to the City's Construction Noise Regulations which can be found at: <https://www.longbeach.gov/globalassets/lbcd/media-library/documents/building--safety/information-bulletins/ib-027>.
- B. Refer to Article 22 for the obligations for the Contractor to assume the cost of inspections.
- C. The City reserves the right to order in writing Work outside of Normal Working Hours to avoid inconvenience of occupants of existing facilities or to perform special operations that in the judgment of the City best serve the intent of the Contract Documents and the orderly performance of the Work. If the City elects to order Work outside of Normal Working Hours, the Contractor shall make all arrangements to supply an adequate Work force for the task to be accomplished, where applicable. The Adjustment Factor for Other than Normal Working Hours will be used for this Work.

30. PREVAILING WAGE RATES

- A. The Contractor shall comply with all provisions of the Labor Code of the State

of California.

- B. The State Department of Industrial Relations will ascertain the prevailing hourly wage rates for each craft, classification or type of workers needed to perform any Job Order.
- C. Particulars of the current prevailing wage rates at the time of Notice to Proceed of the Contract, which are applicable to that Job Order, are filed with the City, and must be posted at the Project site or made available to all employees.
- D. If the Job Order is federally funded by, including but not limited to, Community Development Block Grant Funding, the Contractor will be provided with current federal prevailing and/or Davis Bacon wage rates at the time a Request for Proposal for the specific project is issued. The rates must be posted at the Project site or made available to all employees. The Contractor shall pay the higher of the Federal Wage Rate or the California Prevailing Wage Rate.

31. EMPLOYMENT OF INDENTURED APPRENTICES

- A. The Contractor shall comply with Labor Code Section 1777.5 and Section 1777.7.
- B. The Contractor shall employ registered apprentices at a ratio of not more than one hour of apprentice work to every five hours of journeyman work in a particular craft or trade for the Job Order.
- C. Prior to commencement of the Job Order, Contractor shall provide to the PM a proposed ratio of work performed by apprentices to journeymen employed.
- D. The Contractor shall be responsible for the compliance of all subcontractors. Contractor and subcontractors shall keep an accurate record showing the name of the craft and wage rate of each apprentice and journeyman employed by each entity. The subcontractor shall provide, weekly, such records to the Contractor. Records shall be made available to the Division of Apprenticeship Standards and the City of Long Beach or the City, for the purpose of determining compliance. Failure to comply may result in withheld payments and other penalties as provided in Labor Code.

32. FEDERAL REQUIREMENTS

The Contractor shall comply with the federal requirements set forth in Divisions C and E. Contractor shall comply with 2 CFR 200.

33. PAYROLL RECORDS

The Contractor shall comply with Labor Code Section 1776 including maintaining payroll records as enumerated in Subdivision (a) of that Code Section. The Contractor and the subcontractors shall submit to the City upon request a copy of all certified payrolls,

indicating that the wage rates are not less than those determined by the State Division of Industrial Relations, and that the classifications set forth for each laborer or mechanic conform with the Work he/she performed. The Contractor shall submit copies of payrolls for all subcontractors with the submission of its payment request.

Certified Payroll records may be required with each payment request and shall include:

- A. Original Document
- B. Company Name & Address
- C. Account Number/Project Number
- D. Project Name and Address
- E. Period of Time in Which Work is Being Performed
- F. Employee Name, Address and Social Security Number
- G. Work Classification, Including Sub-classification
- H. Hours Paid
- I. Rate of Pay
- J. Deductions
- K. Payroll Check Number
- L. Benefits
- M. Signature of Employee Authorized to Certify Payroll.

34. QUALITY OF WORK AND MATERIAL

- A. All materials, parts and equipment furnished by the Contractor shall be new, first quality and free from defects and imperfections. Workmanship shall be in accordance with minimum standards as stated in these specifications or best standard industry practices if not stated herein.
- B. Upon written request from the City, the Contractor shall remove, at its sole expense, any item or Work installed by the Contractor that does not conform to the Detailed Scope of Work.
- C. If such items or Work are not removed, or if the City does not obtain compliance within 20 work days after such request, then the City may have such items or Work removed, and have the Work completed to conform to the Detailed Scope of Work, at the Contractor's sole expense.

35. RESPONSIBILITY OF CONTRACTOR AND ITS REPRESENTATIVES

- A. The Contractor shall give personal attention to and manage each Job Order, until it is entirely complete. The Contractor must have a Project Manager in charge who shall be competent to manage and administer the Work and oversee the progress of all Job Orders. The Contractor shall send by letter to the City immediately after Contract award the name of its representative.
- B. Contractor shall perform at least 15 percent of the Maximum Contract Amount with the Contractor's own employees, including, at a minimum, all work in the

trade designated by the Contractor.

- C. The Contractor must have a competent, full-time, on-site Superintendent in charge of overseeing the progress of Work performed on each Job Order and authorized to receive instructions and to act for the Contractor on all matters related to the Work. The Contractor shall submit the name of its Superintendent for each Job Order by email to the City PM prior to Work beginning. City may suspend the Contractor's Work if Contractor's Superintendent is not present during the prosecution of the Work.

36. REPAIRING DAMAGED WORK

- A. All portions of the Work that may be damaged by accident or in the course of or on account of building operations, or by reason of any other cause whatsoever during the progress of the Work, shall be carefully and neatly repaired or refurbished at the Contractor's sole expense and the whole left in first-class condition and turned over to the City ready for use.
- B. Should any part of the Work be cut into or damaged by other contractors, the Contractor and party causing such damage shall make adjustments among themselves relative to repairs and payment for same, at no cost to the City.

37. SUBLETTING WORK

- A. No part of the Work shall be done as piece Work, nor shall it be left to a subcontractor after the execution of the Notice to Proceed of each Job Order except as provided by law. In case part of the Work is subcontracted, these General Provisions shall govern each trade insofar as they may apply to the Work of that trade.
- B. Where more than one contractor, or where subcontractors are engaged upon the Work, they shall coordinate their efforts in accordance with Articles 39 & 40 of these General Provisions regarding other contractors, and shall be responsible, one to the other, for any damage or injury to the Work.
- C. No subcontract shall be assigned or transferred except as provided in the California Public Contract Code. Any request for subcontractor substitution on any Job Order shall be provided in writing to the City, and follow the City's established procedures for subcontractor substitution, in accordance with the California Public Contract Code.
- D. In case any Work is given to a subcontractor, the Contractor shall be at all times responsible for the Work so done to the same extent as if the Contractor were doing or had done the Work.

38. ADVERTISING

No advertising matter shall be attached to or painted on surfaces of buildings, fences or canopies, except that names of Contractor and subcontractors, with their addresses and the designation of their particular branch may be shown on signs of a removable type. Size and location of such signs shall be subject to approval of the City. The Contractor shall provide a Project identification signboard for approval prior to starting any Work.

39. COORDINATION WITH OTHERS AND OTHER CONTRACTS

- A. The City reserves the right to award other contracts for any Work on any portion of the Project not included in a Job Order.
- B. Where coordination with other contractors or City forces is required, the Contractor shall make the appropriate provisions in Contractor's schedule for access to the site by those contractors or City forces, the schedules of Work developed by them, and any coordination required between any of those contractors or City forces, and between any of them and this Contractor.
- C. The Contractor shall perform the Work so that it will properly coordinate and fit the Work performed by other contractors or City forces. The Contractor shall give the other contractors and City forces every reasonable opportunity to perform their Work, store materials and properly place equipment, and fit their Work to the Work of other contractors and City forces. The Contractor shall furnish to the other contractors and City forces all information necessary in order that they may properly connect and fit their Work to Contractor's with sufficient time and opportunity to prepare their Work. The Contractor shall complete its Work in time to receive the Work of the other contractors and City forces at the time specified and shall fit this Work to that of the other Contractors or City forces at the specified time.
- D. The Contractor shall cooperate with others in the performance of all Work and shall not interfere with material, equipment or City forces or other contractors engaged by the City at the site of the Work.
- E. All contractors engaged in Work at the site, shall have, insofar as practical, equal use of the premises and facilities. In case of disagreement regarding such use, the matter shall be referred to the City, whose decision relative to use shall be final.
- F. If any part of the Contractor's Work depends for proper execution or results upon the Work of any other separate contractor, the Contractor shall inspect and promptly report to the City PM any apparent discrepancies or defects in such Work that render it unsuitable for such proper execution and results. Failure of the Contractor to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper to receive the Contractor's Work, except as to defects that may develop in the other separate contractor's work after the execution of the Contractor's Work.

- G. Should the Contractor cause damage to the Work or property of any separate contractor or City forces on the Project, the Contractor shall, upon due notice, settle with such other contractor by agreement. If such separate contractor sues the City on account of any damage alleged to have been so sustained, the City will notify the Contractor who shall defend such proceedings at the Contractor's sole expense, and if any judgment, settlement or award against the City arises there from, the Contractor shall pay or satisfy it and shall reimburse the City for all attorney's fees and court costs which the City has incurred.

40. CONTRACTOR'S EQUIPMENT

The Contractor shall furnish and maintain all equipment such as stairs, ramps, runways, scaffolds, hoists, etc., required for the proper execution of the Work. All such equipment and Work shall meet all requirements of all ordinances and laws thereto applicable.

41. CONTRACTOR PERSONNEL

- A. The Contractor shall employ only orderly and competent workers, skillful in the performance of the type of Work required and agrees that, whenever the City informs the Contractor in writing that any workers on the site are incompetent or disorderly, such worker shall be discharged from the Work and shall not again be employed on the Work without the City's written consent. Contractor must submit for approval a new representative within 5 work days.
- B. The Contractor shall give adequate attention to the faithful performance and completion of each Job Order and shall keep on the Site at all times during the Project's progress, competent personnel, superintendent and any necessary assistants to supervise and direct the Work. Grounds for removal of Contractor's personnel specifically include, but are not limited to, the failure or refusal of such personnel to adhere to the Contractor's planned Work Schedule as approved with the Proposal.

42. CONTRACT KEY PERSONNEL

- A. The Contractor shall submit a list of Key Personnel within ten (10) work days after the date the Contract is awarded, which shall contain a Project staff organizational chart including the names and resumes of employees in key positions who will work on this Contract. All employees in key positions must be approved by the City.
- B. If any Key Personnel furnished by the Contractor for the Project in accordance with the Key Personnel provisions of this Article should be unable to continue in the performance of assigned duties for reasons due to death, disability or termination, the Contractor shall promptly notify the City explaining the circumstances. Changes in assignment of Key Personnel due to commitments not related to this Contract are prohibited without City approval.
- C. On request by the City, the Contractor shall furnish to the City within seven (7)

work days the name of the person substituting for the individual unable to continue, together with any information the City may require to judge the experience and competence of the substitute. Upon approval by the City, such substitute shall be assigned to this Contract and if the City rejects the substitute, the Contractor shall have seven (7) work days thereafter to submit a second substitute. Such process shall be repeated for a reasonable period until the City approves the proposed replacement.

- D. In the event that, in the opinion of the City, the performance of personnel of the Contractor assigned to this Contract is at an unacceptable level, such personnel shall cease to be assigned to this Contract and shall return to the Contractor, and the Contractor shall furnish to the City, the name of a substitute person or persons in accordance with the previous paragraph. Absence of acceptable Key Personnel for the Work shall constitute an event of default.
- E. The Contractor is obligated to staff the Work so that Key Personnel are not assigned responsibility for more than ten (10) active Job Orders at any time. A Job Order is considered to be active from the time that a joint scope invitation has been given to the Contractor until a Notice of Completion is issued by the City. Key Personnel may not work on any other contracts for the City if the cumulative total number of active Job Orders exceeds ten.
- F. Superintendence
 - 1. The Contractor shall personally superintend the Work or shall have a competent person at the site at all times to act for Contractor.
 - 2. The Contractor shall have a full time experienced and qualified Superintendent assigned to each Job Order.
 - 3. Failure to staff a project with a superintendent may result in Liquidated Damages of \$400.00 per day without the appropriate staffing.

43. AUDITS AND RECORDS

The Contractor shall maintain all data and records pertinent to each Job Order, in accordance with generally accepted accounting principles, and shall preserve and make available all data and records until the expiration of seven (7) years after the date of final payment under this Contract, or for such longer period, if any, as is required by applicable statute or by other Articles. The authorized representatives of the City shall have access to all such data and records for such time period to inspect, audit and make copies thereof during normal business hours. The Contractor covenants and agrees that it shall require that any Subcontractor utilized in the performance of a Job Order shall permit the authorized representatives of the City, to similarly inspect and audit all data and records of said subcontractors relating to the performance of said Subcontractors under this Contract for the same time period.

44. WARRANTY AND CORRECTIONS TO WORK

- A. In addition to any other warranties, the Contractor warrants, except as provided in Section (J) of this Article, that Work conforms to the Contract Documents and

is free of any defect in equipment, or material furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

- B. Corrections to Work may be required during the Work or the warranty period. The City is expressly authorized at the City's option to perform corrections to the Work, perform cleaning services, and apply any sums withheld from progress payments toward the cost of such corrections. City may perform corrective actions in part or whole to allow the Contractor to conform to schedule, maintain City services and/or operations, or maintain clean and orderly working conditions.
- C. The warranty described in Paragraph A of this Article shall continue for a period of one (1) year after the date of the Notice of Completion of the Work. If the City takes occupancy of any part of the Work prior to receipt of the Notice of Completion, the warranty covering that specific portion of the Work shall begin for a period of one (1) year after the date the City takes occupancy. The City will notify the Contractor in writing of the scope of any partial occupancy and the specific items under warranty.
- D. The Contractor shall remedy, at the Contractor's sole expense, any failure to conform, or any defect. In addition, the Contractor shall remedy, at the Contractor's sole expense, any damage to City-owned or controlled real or personal property, when that damage is the result of:
 - 1. The Contractor's failure to conform to or comply with the Contract Documents; or
 - 2. Any defect of equipment, material, workmanship, or services furnished.
- E. The Contractor shall restore any Work damaged in fulfilling the terms and conditions of this Article. The Contractor's warranty with respect to Work repaired or replaced shall run for one (1) year after the date of repair or replacement as accepted in writing by the City. This warranty extension shall be formally documented in writing by the City and acknowledged in writing by the Contractor.
- F. The City will notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.
- G. If the Contractor fails to remedy any failure, defect, or damage within five (5) work days, or immediately in the case of an emergency where delay would cause serious risk of loss or damage, after receipt of notice, the City shall have the right to remove, replace, repair, or otherwise remedy the failure, defect, or damage, and all direct and indirect costs of such removal, replacement, repair and correction, and compensation for additional professional services shall be paid solely by the Contractor.

- H. With respect to all warranties, express or implied, from subcontractors,

manufacturers, or suppliers for Work performed and materials furnished under any Job Order, the Contractor shall:

1. Obtain all warranties that would be given in normal commercial practice or as specified in each Job Order; and
 2. Require all warranties to be executed, in writing, for the benefit of the City; and
 3. Enforce all warranties for the benefit of the City.
- I. In the event the Contractor's warranty under Section (C) of this Article has expired, the City may bring suit at the City's expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.
- J. The Contractor shall not be liable for the repair of any defects of material or design furnished by the City, nor for the repair of any damage that results from any defect in City-furnished material or design.
- K. The warranty described in Section A of this Article shall not limit the City's rights under other Articles with respect to latent defects, gross mistakes, or fraud.
- L. The terms of this Article do not relieve the Contractor of any legal liability for defects discovered after one (1) year beginning on the date of occupancy. The obligation imposed by this Article shall survive expiration or termination of the Contract.

45. LIQUIDATED DAMAGES RELATED TO WORK PERFORMANCE

- A. Time is of the essence in completion of Job Orders. Notwithstanding anything to the contrary in the Standard Specifications, if the Contractor fails to complete the Work specified in the Job Order and provided Contractor has not previously obtained a written extension of time from the City according to the General Provisions, a sum appropriate with the following schedule may be deducted from each succeeding payment request or retention release request as liquidated damages on each Job Order, if applicable. Liquidated damages are based on the estimated cost of field construction engineering. In special cases, liquidated damages greater than the estimated field construction engineering cost may be specified provided that detailed reasons, such as project related costs for delays and public inconvenience, are given to support the greater amount. In all cases, calculations should support the recommended rate.

SCHEDULE FOR CALCULATING LIQUIDATED DAMAGES

Job Order Price	Liquidated Damages Per Day
Up to \$100,000	\$250

\$100,001 to \$500,000	\$500
\$500,001 to \$750,000	\$750

- B. The applicability of liquidated damages shall be clearly noted on the RFP for each Job Order. No liquidated damages shall apply if not noted on the RFP.
- C. If the Contractor fails to complete any part of the Work in accordance with the Work Duration Schedule, the City shall have the right to complete that part of the Work it deems necessary in order to maintain the Work Duration Schedule as detailed in Article 19. All direct and indirect costs of such work shall be paid solely by the Contractor.
- D. Failure of the Contractor to comply with the work requirements shall be grounds for a determination that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the Job Order. Upon making this determination, the City may terminate the Contractor's right to proceed with the Work, or any separable part of it, in accordance with the default terms of this Contract.

46. DISRUPTION OF CITY-SCHEDULED ACTIVITIES

The Contractor shall not cause any disruption to a City-scheduled activity. The Work shall be coordinated with the City and shall be accomplished in accordance with the requirements set forth in Article 19. Requests for revisions to the schedule shall be made known to the City on a timely basis, and all extensions of time must be in writing and approved by the City PM.

47. COVERING OF LOOSE MATERIALS DURING TRANSPORTATION

The Contractor shall require that all trucks entering or leaving the Project sites with loose materials be loaded and covered in a manner that will prevent dropping of materials on streets while in transit. Suitable tarpaulins shall be placed over the loads when transporting materials which may blow away.

48. TOILET AND HAND-WASHING FACILITIES

The Contractor shall provide and maintain enclosed toilets and hand-washing stations for the use of its employees engaged in the Work. These accommodations shall be maintained in a neat and sanitary condition. They shall also comply with all applicable laws, ordinances, and regulations pertaining to public health and sanitation of dwellings and camps. Any costs associated with these facilities will be incidental to the Work and can not be an additional cost to the City.

49. ELEVATORS

- A. Any temporary use of existing elevators shall be by arrangement with the City. Such use shall be of an intermittent nature. The Contractor shall provide and maintain suitable and adequate protection covering for the elevator machinery, the hatchway entrance, and the interior of each elevator during the periods of temporary use. Elevators shall not be loaded in excess of the rated capacity of the elevator.
- B. The City will pay the cost of electrical current for such temporary existing elevator usage. On Notice of Completion, the Contractor shall remove the protective coverings together with any resultant dirt and debris.

50. UTILITIES

The City may provide access to utilities such as electrical, water, and sewage; however, the Contractor shall be required to pay for these services at current rates. The City will identify service tie-in points, but connections to these tie-in points shall be the responsibility of the Contractor unless otherwise identified by the City. The City will not be liable for any claims for costs associated with temporary outages or unavailability of these utilities.

51. REGULATIONS

For all Work being performed on City property, the Contractor, its employees, and subcontractors shall observe all rules and regulations covering fire, safety, sanitation, severe weather conditions, admission to buildings, conduct of operations, etc. In addition to the requirements listed elsewhere in Division H , and any other instructions provided at the Pre-Construction Meeting, the regulations include the following:

- A. Fire Prevention: The Contractor's and subcontractors' employees shall be cognizant of and shall comply with all requirements for handling and storing combustible supplies and materials, daily disposal of combustible waste, trash, etc., in accordance with Laws and Regulations. The Contractor shall require employees to become familiar with methods of activating building fire alarms.
- B. Safety: All rules of safety which are or may be imposed upon the Contractor by Laws and Regulations shall be effectively carried out in the performance of the Work. The Contractor shall take proper safety and health precautions to protect the Work, the Contractor's employees, the public and the property of others.
- C. Sanitation: The Contractor shall maintain all areas used by the Contractor in performance of the Work in a clean, neat, orderly, sanitary, and safe condition. The premises shall always be kept free from accumulation of waste material and rubbish resulting from Work. Combustible materials shall be removed daily.
- D. Conduct: The Contractor, the Contractor's employees and subcontractors shall be subject to the same general rules of conduct while on City property that apply to City employees. The City reserves the right to refuse access to anyone

if the City determines it to be in the best interest of the City.

52. CONTRACTOR LIABLE AND RESPONSIBLE TO THE CITY

- A. The Contractor shall be liable to the City for the performance of all the Work in the Contract Documents. These specifications make no attempt to the Work of the Subcontractors or the responsibility of any such Subcontractors, it being understood that the Contractor shall remedy any issues with the Work and responsibilities of the Subcontractors.
- B. Any disputes which may arise in this connection between the Contractor and any Subcontractor must be settled among the parties concerned. The City and the City PM will not undertake or be in any way responsible for the settlement of such disputes.

53. BEST MANAGEMENT PRACTICES (BMPs)

BMPs are any program, technology, process, operating method, measure or device which controls, prevents, removes, or reduces pollution. Details of the BMPs are included in the Contract Document, in Division G.

At a minimum, the Contractor shall implement the following BMPs in conjunction with its activities and construction practices:

<u>Title</u>	<u>Number</u>
General Site Management	
Water Conservation	NS-1
Vehicle and Equipment Cleaning	NS-8
Vehicle and Equipment Fueling	NS-9
Vehicle and Equipment Maintenance	NS-10
Employee/Subcontractor Training	---
<u>Title</u>	<u>Number</u>
Construction Materials and Waste Management	
Material Delivery and Storage	WM-1
Material Use	WM-2
Spill Prevention and Control	WM-4
Solid Waste Management	WM-5
Hazardous Waste Management	WM-6
Concrete Waste Management	WM-8
Erosion/Sediment Control	
Storm Drain Inlet Protection	SE-10

A description of each BMP is included in these Specifications. The Contractor shall have at least two (2) readily accessible copies of these descriptions at Job Order site at all times. BMPs for Contractor's activities shall be continuously implemented throughout the duration of the Work. BMPs for erosion control and sedimentation shall be implemented during the period from October 1st to April 15th and whenever the National Weather

Service predicts rain within 24 hours.

54. ENVIRONMENTAL PROTECTION

- A. The Contractor shall protect the environment of Work areas. The Contractor shall dispose of all solid, liquid, and gaseous contaminants and refuse in accordance with all federal, state, local codes and regulations, and at disposal facilities properly licensed for such disposal.
- B. All chutes for refuse and the like shall be covered, or shall be of such design to fully confine the material to prevent the dissemination of dust.
- C. National Pollutant Discharge Elimination System (NPDES) Permits: All aspects of the Work must be conducted in accordance with all Laws and Regulations, including but not limited to all environmental Laws and Regulations, Order No. R4-2021-0105 of the California Regional Water Quality Control Board, Los Angeles Region ("Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the City of Long Beach") as amended from time to time, and related BMPs identified in the previous Article 54. The City will deduct from the money due or to become due to Contractor the total amount of any fines levied on the City, plus legal and staff costs, as a result of the Contractor's failure to comply with these provisions or less than complete implementation of the specified BMPs. In addition, the Contractor shall defend, indemnify, and hold the City harmless for any failure to comply with any Laws and Regulations.

55. PROTECTION OF WORK AND PROPERTY

- A. The Contractor shall continuously maintain adequate protection of all the Contractor's Work and equipment from damage and shall protect the City's property from injury or loss arising in connection with any Work. The Contractor shall repair, at its sole expense, any such damage, injury or loss, except as may be directly due to, or caused by, agents or employees of the City.
- B. The Contractor shall adequately protect adjacent property as provided by Laws and Regulations and the Contract Documents.
- C. The Contractor shall provide and maintain all passageways, guard fences, lights and other facilities for protection and security required by public authorities or local conditions.
- D. In an emergency affecting the safety of life, of the Work, or of adjoining property of City, the Contractor, without special instructions or authorization from the City PM or City, is hereby permitted to use its own discretion in acting to prevent such threatened loss or injury.
- E. Any compensation claimed by the Contractor on account of emergency Work as set forth in Paragraph D above shall be determined by agreement of the City

and the Contractor.

- F. The Contractor shall carefully protect all trees, shrubs, and hedges, not specified as being removed, from injury during building Work, and shall pay for damages to same resulting from insufficient or improper protection.
- G. The Contractor shall send proper notice, make all necessary arrangements and perform all other services required for the care, protection and refurbishment of all public utilities, including mailboxes, fire plugs, power and telephone poles and wires, and all other items of this character on or around the building site.
- H. Building materials, Contractor's equipment, and other supplies necessary to the project may be stored on the premises with approval of the City PM. This shall in no manner relieve the Contractor from full responsibility for such materials and their safety.
- I. Where materials are not sold or furnished in packages or containers, the Contractor, when requested by the City PM, shall obtain invoices from the manufacturer or its agents covering such materials showing the name and brand of the materials furnished.
- J. In the event of accidental damage to, or disruption of any of the City's equipment, utilities, or facilities by the Contractor or any of the subcontractors, or when life or property is endangered, the Contractor, at its sole expense, shall immediately take all necessary steps to replace or repair all pieces and parts of any damaged equipment and materials, make all necessary repairs and restore all services to normal. Further, the Contractor shall engage any and all required additional subcontractors, labor, individuals or other outside services, deemed necessary by the City PM, to operate on a continuous, "around-the-clock" basis until all restoration is complete. Also, the Contractor shall provide and install all required materials and equipment.

56. PROJECT SITE STORAGE

The Contractor may be allowed, at the approval of the City PM, to store all supplies and equipment on the Project site(s) so as to preclude mechanical and climatic damage and maintain Project sites in a neat and orderly manner at all times.

57. SITE PROTECTION

- A. The Contractor shall provide adequate climatic protection for the exposed part of buildings wherever Work is performed.
- B. The Contractor shall cover equipment that is to remain in place within the area of operations and protect it against damage or loss. This includes equipment that is removed in the performance of Job Orders where directed for reuse in Work as required by the Scope of Work. Equipment temporarily removed that is in good operating condition at the time of removal shall be protected, cleaned

and replaced equal to or better than its condition prior to its removal. Security for equipment or material that is to be reused and, is removed for temporary storage at the Work site shall be the sole responsibility of the Contractor. If the Contractor considers the equipment to be at risk after removal, arrangements should be made with the City for City storage while removed. The Contractor shall provide transportation to and from the City storage site at its own risk. The Contractor shall remain responsible for continued suitability for reuse of any equipment so stored by the City.

58. NOISE CONTROL / ABATEMENT

- A. The Contractor shall comply with all Laws and Regulations relating to noise control. This information can be found at:
<https://www.longbeach.gov/globalassets/lbcd/media-library/documents/building--safety/information-bulletins/ib-027>.
- B. The Contractor shall comply with all Laws and Regulations regarding environmental pollution. All environmental protection matters shall be coordinated through the City.

59. SAFETY PLAN

Prior to commencement of the Work for each Job Order, the Contractor shall develop and implement a Site Safety and Health Plan (SSHP), which is in compliance with applicable Laws and Regulations. Contractor's SSHP and included health and safety procedures and policies shall be submitted within ten (10) work days after the date of the Notice to Proceed and in no event later than commencement of the Work for each Job Order, whichever occurs first.

The Contractor's SSHP shall be specific to the City of Long Beach and shall be reviewed by the City PM for conformance with SSHP. For the duration of the Work, any changes made to the SSHP must be reviewed by the City PM. In addition, the City PM shall monitor and inspect the Contractor's compliance with its SSHP. The Contractor's SSHP shall identify the need for specially trained safety personnel to address special hazards identified for the Project.

The Contractor shall submit to the City for approval a resume of qualifications of the person(s) proposed as the field safety representative who may be required to appear for a personal interview. The proposed safety representative shall have a minimum of the OSHA 40-hour Construction Safety Course. Additionally, specifically trained personnel shall be submitted to and approved by the City PM for specific hazards identified in the SSHP. Said additional and specifically trained safety personnel shall also be on site to address/oversee those special hazards identified in the SSHP. The safety representative (s) shall be empowered to monitor and enforce the SSHP. No Work shall commence prior to acceptance of the field safety representative by the City PM. The field safety representative(s) shall be on site any time Work is performed by Contractor or a subcontractor. If the Contractor's field safety representative leaves the Work, all Work shall be suspended until such time as the Contractor's field safety representative has

returned. The field safety representative shall participate in regular safety, progress and/or coordination meetings with Contractor's personnel and City's representatives and shall prepare a monthly summary of injuries/illnesses and hours lost due to injuries/illnesses in the field on the appropriate OSHA forms. The Contractor shall prepare a monthly compilation of injury/illness statistics, including incidence rates, and shall provide this information to the City PM monthly. The Contractor shall also receive a monthly compilation of injury/illness statistics, including incidence rates, from each subcontractor and shall provide this information to the City PM on a monthly basis. The Contractor shall be solely responsible for compliance by its employees, and employees of its subcontractors, with the directives of the field safety representative.

The Contractor shall conduct all field operations at all times in such a manner so as to avoid the risk of bodily harm to persons and damage to property. The Contractor shall continually and diligently inspect all Work, materials, and equipment to discover conditions, which might involve such risks and shall be solely responsible for discovery and correction of such conditions.

The Contractor shall furnish safety equipment, test equipment, safety apparel and instructions for the Work and shall enforce the use of such equipment and instructions by its employees and the employees of any of its Subcontractors for all Work conducted in the field at any of the Work areas.

The Contractor shall provide its own first-aid and other medical treatment of its employees and its subcontractor's personnel of any tier for Work conducted at any of the field Work areas. The Contractor shall coordinate Work activities, safety planning, and emergency response on multi-employer Work sites.

The Contractor and its Subcontractors shall take measures to protect the public's safety as well as the safety of their employees and all persons at or on the Work sites. Such measures shall include, but not be limited to, providing protection barriers and barricades, signs, involved, and all other measures required to comply with all applicable Laws and Regulations. The Contractor's responsibility for safety shall apply continuously twenty-four (24) hours per day and shall not be limited to Normal Working Hours, and the City PM shall not be responsible in any way for the methods selected by the Contractor in discharging its exclusive responsibility for safety of its Work hereunder.

60. ENERGY CONSERVATION

The Contractor shall comply with energy conservation plans and promote efficient use of all energy. In addition, the Contractor shall:

- A. Use lights only in areas where Work is actually being performed.
- B. Turn off faucets, valves, and equipment after required usage has been accomplished.
- C. Not use City telephones for personal reasons, nor make any toll or long-

distance calls using City telephones.

61. SALVAGE AND SALVAGE DISPOSAL

- A. Material and equipment, which are removed or disconnected and, in the opinion of the City, are of value but are not specified for reuse, shall remain the property of the City. The City PM or designated City representative shall be informed of the presence of the property and instructions for disposal shall be requested.
- B. Debris, rubbish, hazardous waste, and non-usable material resulting from the Work to which the City does not claim a further interest as a result of the preceding paragraph shall be disposed of by and at the sole expense of the Contractor at a location off City property. Hazardous waste must be disposed of in accordance with the Resource Conservation and Recovery Act and Laws and Regulations and at a facility properly licensed for such disposal. The Contract adjustment factor includes the cost of all clean up, including final cleanup on each individual Job Order.

62. SITE PREPARATION AND CLEANUP

The Contractor shall:

- A. Coordinate with the City on a sequence of procedures for gaining access to the premises, space for storage of materials and equipment, work of materials, use of approaches, corridors stairways, and similar features of a structure. This coordination is required prior to commencement of Work at a time directed by the City.
- B. Move the furniture and portable office equipment in the immediate work area to a designated location prior to start of Work and replace these items to their original location upon completion of the Work. The Contractor shall be liable for damages incurred while moving furniture and equipment and be responsible for contacting appropriate agencies for movement of vending machines. If the Work required by the Job Order will not allow furniture and portable office equipment to be replaced to its original positions, notify the City and new locations will be designated by the City for replacement of the furniture and equipment by the Contractor.
- C. Work of materials, equipment and accomplishment of Work shall be made with a minimum of interference to operations and personnel.
- D. The Work shall, so far as practicable, be done in definite sections or divisions and confined to limited areas. Work shall be completed in one section before Work in other sections or divisions are started.
- E. Perform clean up and site restoration prior to final walk-through inspection. All Projects shall be delivered in a clean, orderly and usable condition.

63. ACCESS TO BUILDINGS

- A. It shall be the Contractor's responsibility, through the City PM and appropriate building superintendent, to obtain access to buildings and facilities and arrange for the buildings to be opened and closed. Contractor shall arrange for adequate security of the building(s) at the end of each workday and on weekends.
- B. Contractor shall prohibit the opening of locked areas by the Contractor's employees to permit the entrance of persons other than the Contractor's employees engaged in the performance of assigned work in those areas.
- C. Provisions associated with this clause may be applied at the subcontractor level when authorized by the City PM.

64. CITY-FURNISHED EQUIPMENT / MATERIALS

- A. From time to time the City may elect to supply its own materials and/or equipment for a specific Project. In those cases, the Contractor shall provide transportation of any City-furnished equipment/materials included on the Job Order. The equipment/materials will be transported from the City storage area to the Work site indicated on the Job Order. The Contractor assumes the risk and responsibility for the loss or damage to City-furnished property. The Contractor shall follow the instructions of the City's representative regarding the disposition of all City-furnished property not consumed in performance of a Job Order.
- B. The Construction Task Catalog® was developed on the basis that the Contractor would furnish all equipment and materials to perform each Job Order. It is agreed between the parties that from, time to time, it may be advantageous for the City to furnish equipment and/or materials for an individual Job Order. In such event, it is agreed that the Work unit in the Construction Task Catalog will become a Non-Pre-Priced Work Requirements solely for the purpose of adjusting the unit price to reflect the value of the City furnished equipment/materials.

65. SHOP DRAWINGS AND SUBMITTALS

- A. Shop Drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures and other data which are prepared by the Contractor or any Subcontractor, manufacturer, supplier, or distributor, and which illustrate some portion of the Work.
- B. Samples are physical examples furnished by the Contractor to illustrate materials, equipment, or Workmanship, and to establish standards by which the Work will be judged.

- C. The Contractor shall review, stamp with its approval, and submit with reasonable promptness and in orderly sequence so as to cause no delay in the Work or in the Work of any other contractor, all copies of Shop Drawings and samples as required upon request by the City. Shop Drawings and samples shall be properly identified as specified, or as the City may require. At the time of submission, the Contractor shall inform the City in writing of any deviation in the Shop Drawings or Samples from the requirements of the Contract Documents.
- D. By approving and submitting Shop Drawings and samples, the Contractor thereby represents that the Contractor has determined and verified all field measurements, field criteria, materials, catalog numbers and similar data, or will do so, and that the Contractor has checked and coordinated each Shop Drawing and sample with the requirements of the Work and of the Contract Documents.
- E. The Contractor shall cross out any items on sheets, which constitute information not pertaining to the equipment specified, and clearly mark all components, which are provided, as "optional" by the manufacturer and shall clearly mark any and all items needing approval hereinafter. Failure to comply with the above will result in rejection of Shop Drawings.
- F. The City will review and approve Shop Drawings and samples with reasonable promptness so as to cause no delay, but only for conformance with the design concept of the Job Order and with the information given in the Contract Documents. The City's approval of a separate item shall not indicate approval of the entire assembly in which the item functions.
- G. The Contractor shall make any corrections required by the City and shall resubmit the required number of corrected copies of Shop Drawings or new samples and return to the City for approval within ten (10) work days or as specified by the City. The Contractor shall direct attention, in writing or on resubmitted Shop Drawings, to (1) corrections requested by the City on previous submission, and (2) to additional revisions made, other than those specifically requested by the City PM on previous submission.
- H. The City's approval of Shop Drawings or samples shall not relieve the Contractor of responsibility for any deviation from the requirements of the Contract Documents, unless the Contractor has informed the City in writing of such deviation at the time of submission and the City has given written approval to the specific deviation. Additionally, the City's approval shall not relieve the Contractor from responsibility for errors or omissions in the Shop Drawings or samples.
- I. No portion of the Work requiring a Shop Drawing or sample submission shall be commenced until the City has approved the submission. All such portions of the Work shall be in accordance with approved Shop Drawings and samples.

66. PERSONAL AND PROPERTY DAMAGE

- A. Until the Work is complete and accepted by the City, the Contractor shall assume all risks and bear all losses that may result from any cause to the Work to existing structures and equipment, and to other property located on the premises, or adjacent thereto. The Contractor shall assume liability for all damage or injury that may result to all such property and/or to persons where such damage or injury is caused in connection with Contractor's Work or is due to the Contractor's negligence or to the Contractor leaving open or unprotected portions of streets or other property.
- B. The Contractor shall indemnify, defend and hold harmless the City, its officers, employees, and agents from and against any and all liability, claims, demands, causes of action, costs, loss, damage and expense (including attorney's fees) of any nature whatsoever for personal injury and property damage arising from or in connection with the Contractor's negligent, willful or unlawful actions, omissions, operations or services hereunder, including any Worker's Compensation suits, arising from or connected with all Work pursuant to the Contract Documents.

67. INDEMNIFICATION

- A. **General.** The Contractor shall indemnify, hold harmless, and protect City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties") from and against any and all demands, liability, loss, suit, claim, action, cause of action, damage, cost, judgment, settlement, decree, arbitration award, stop notice, penalty, loss of revenue, and expense (including, but not limited to, any fees of accountants, attorneys, experts or other professionals, and costs of investigation, mediation, arbitration, litigation and appeal), in law or in equity, of every kind and nature whatsoever, arising out of or in connection with, resulting from or related to, or claimed to be arising from the Contract or the Work performed by Contractor, or any of its officers, agents, employees, subcontractors of any tier, material suppliers, or any person for whose acts any of them may be liable, regardless of whether such claim, suit or demand is caused, or alleged to be caused, in part, by an Indemnified Party including, but not limited to, liability arising from:
 - 1) Bodily or personal injury, emotional injury, sickness or disease, or death to any persons;
 - 2) Damage to property, including property under the care and custody of City;
 - 3) Civil fines or penalties;
 - 4) Any dangerous, hazardous, unsafe or defective condition of, in or on the Work site, of any nature whatsoever, which may exist by reason of any act, omission, neglect, or any use or occupation of the Work site by Contractor, its officers, agents, employees or subcontractors;

- 5) Any operation conducted upon or any use or occupation of the Work site by Contractor, its officers, agents, employees, or subcontractors under or pursuant to the provisions of the Contract or otherwise;
- 6) Any act, omission or negligence of Contractor, its officers, agents, employees, or subcontractors;
- 7) Infringement of any patent rights, licenses, copyrights or intellectual property which may be brought against the Contractor or City arising out of Contractor's Work, for which the Contractor is responsible;
- 8) Any and all claims against City seeking compensation for labor performed or materials used or furnished to be used in the Work or alleged to have been furnished, including all incidental or consequential damages resulting to City from such claims;
- 9) Failure to comply with any applicable law, statute, code, ordinance, regulation, permit, or orders, including, without limitation, all applicable federal and state labor standards, including the prevailing wage provisions of sections 1770 *et seq.* of the California Labor Code;
- 10) Any misrepresentation, misstatement or omission with respect to any statement made in or any document furnished by the Contractor in connection therewith;
- 11) Any breach of any duty, obligation, or requirement under the Contract Documents.

All of the above are collectively hereafter referred to as "Claims" and individually as a "Claim".

B. Defense of Claims, Enforcement and Restrictions.

- 1) In addition to Contractor's duty to indemnify, Contractor shall have a separate and wholly independent duty to defend Indemnified Parties against all Claims. If any Claim is alleged or brought against Indemnified Parties, Contractor shall defend Indemnified Parties at Contractor's expense by legal counsel approved by City and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of Contractor shall be required for the duty to defend to arise. City shall notify Contractor of any Claim, shall tender the defense of the Claim to Contractor, and shall assist Contractor, as may be reasonably requested, in the defense.
- 2) Contractor's obligations under this Section 67 shall apply regardless of whether or not such Claim was caused in part or contributed to by any actual or alleged negligent act or omissions of an Indemnified Party.
- 3) If a court of competent jurisdiction determines that a Claim was caused by the active negligence, sole negligence or willful misconduct of Indemnified Parties, Contractor's costs of defense and indemnity shall

be (1) reimbursed in full if the court determines sole negligence by the Indemnified Parties, or (2) reduced by the percentage of active negligence and/or willful misconduct attributed by the court to the Indemnified Parties.

- 4) If this Contract includes work or services performed by a design professional, such as an architect, landscape architect, professional engineer or professional land surveyor, subject to California Civil Code Section 2782.8, Contractor shall defend and indemnify Indemnified Parties against design-related Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor or a subcontractor.
- 5) Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from each and every subcontractor in performance of the Contract.
- 6) Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. In the event of any claim, suit or demand made against any Indemnified Parties, the City may in its sole discretion reserve, retain, or apply any monies due to the Contractor under the Contract for the purpose of resolving such claims; provided, however, that the City may release such funds if the Contractor provides the City with reasonable assurance of protection of the City's interests. The City shall in its sole discretion determine whether such assurances are reasonable. Contractor's obligations under this Section 67 extend to claims occurring after termination of the Contractor's performance of the Contract or final payment to the Contractor.

C. **No Limitations.** Contractor's obligations under this Section 67 are in addition to any other rights or remedies which the Indemnified Parties may have under the law or under the Contract Documents. Contractor's indemnification and defense obligations set forth in Section 67: (i) are separate and independent from the insurance provisions set forth above; and (ii) do not limit, in any way, the applicability, scope, or obligations set forth in the insurance provisions. In claims, suits, or demands against any Indemnified Party by an employee of the Contractor, a subcontractor, anyone directly or indirectly, employed by them, or anyone for whose acts they may be liable, the Contractor's indemnification and defense obligations shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

68. LIABILITY AND WORKERS COMPENSATION INSURANCE

Without limiting the Contractor's indemnification of the City during the term of this Contract, the Contractor shall, at its sole cost and expense, procure and maintain for the

duration of the Contract insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, Contractor's agents, representatives, officers, employees, or subcontractors. Payment for insurance shall be included in the Adjustment factors bid and no additional payment shall be made therefore.

A. Minimum Insurance Requirements

1. Commercial general liability insurance (equivalent in scope to Insurance Services Office (ISO) form number CG 00 01 11 85 or CG 01 01 10/93) in an amount not less than \$5,000,000 per occurrence and \$5,000,000 general aggregate. Such coverage shall include but shall not be limited to broad form contractual liability, and cross liability protection. The City, its Boards, and their officials, employees, and agents shall be named as additional insureds. There shall be no limitations on the coverage afforded to the City of Long Beach, its Boards, Commissions, officials, employees, and agents.
2. Commercial automobile liability insurance (equivalent in scope to ISO form CA 00 01 06 92) covering symbol 1, "Any Auto in an amount not less than One Million Dollars (\$500,000) combined single limit per accident for bodily injury and property damage liability. The City, its officials, employees, and agents shall be named as additional insured by endorsement. There shall be no limitation on the afforded to the City, its officials, employees, and agents.
3. Workers' compensation insurance as required by the State of California and employer's liability insurance in an amount no less than One Million Dollars (\$1,000,000) per accident.

B. Acceptability of Insurers

The insurance required herein must be placed with carriers admitted to write insurance in California, or with legally authorized non-admitted insurers with a rating of or equivalent to A: VIII by A.M. Best Company.

C. Verification of Coverage

Contractor shall furnish City with the documentation set forth in Paragraph E prior to the effective date of the Contract and shall at least thirty (30) days prior to expiration of the insurance required herein, furnish City with renewal documentation. Each required document shall be signed by the insurer or a person authorized by the insurer to bind coverage on its behalf.

The City reserves the right to require complete, certified copies of all insurance required herein at any time.

Contractor shall notify the City in writing within five (5) work days if any insurance

required herein is voided by the insurer or cancelled by the insured. Such notice shall be sent by certified mail, return receipt requested, and shall include a certificate of insurance and the required endorsements for the replacement coverage.

D. Documentation required

The certificates and endorsements are to be provided by the City and shall be received and approved by the City before work commences. As an alternative, Contractor may submit certified copies of any policy that includes the required endorsement language set forth in Paragraph (D)(2) below.

1. Certificate(s) of insurance evidencing the required general liability insurance, automobile liability insurance, and workers' compensation insurance required hereunder.
2. General liability insurance endorsements
 - a. ADDITIONAL INSURED endorsements (equivalent in scope to ISO form CG 20 26 11 85) naming the City of Long Beach, its Boards and their officials, employees, and agents as additional insureds.
 - b. PRIMARY AND NONCONTRIBUTORY COVERAGE. As respects (a) work performed by the Named Insured for or on behalf of the City, (b) products sold by the Named Insured to the City, or (c) premises leased by the Named Insured from the City, the insurance afforded by this policy to the City, and to its boards, commissions, officials, employees and agents, shall be primary insurance. Any other Insurance or self-insurance maintained by the City, its boards, commissions, officials, employees, and agents shall be in excess of this insurance and not contribute to it.
 - c. SEVERABILITY OF INTERESTS. The insurance afforded by this policy applies separately to each Insured seeking coverage or against whom a claim is made of suit is brought, subject to the Insured's limit of liability.
 - d. PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS. Any failure to comply with the reporting provisions of the policy shall not affect coverage provided to the City, its boards, commissions, officials, employees, or agents.
 - e. CANCELLATION NOTICE. This insurance shall not be reduced in coverage or limits, cancelled, or non-renewed except after 30 work days' prior written notice (10 work days' notice for cancellation due to nonpayment of premium) has been given to the City by certified mail. Such notice shall be addressed to the City at the above address, attention: Risk Management.

3. Automobile liability insurance endorsements

- a. ADDITIONAL INSURED endorsements naming the City of Long Beach, its Boards and their officials, employees, and agents as additional insureds with respect to any auto owned, leased, hired, borrowed or used by the named insured, in connection with this Contract.
- b. CANCELLATION endorsement, which provides that the City is entitled to 30-days prior written notice of cancellation or non-renewal of the policy, or reduction in coverage, by certified mail, return receipt requested.
- c. CONTRIBUTION NOT REQUIRED endorsement, which provides that the insurance afforded by the general liability policy is primary to any insurance or self-insurance of the City, its officials, employees, or agents as respects operations of the Named Insured. Any insurance maintained by the City, its officials, employees or agents shall be in excess of the Contractor's insurance and shall not contribute to it.
- d. SEVERABILITY OF INTEREST endorsement, which provides that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. ADDITIONAL INSURED COVERAGE NOT AFFECTED BY INSURED'S DUTIES AFTER ACCIDENT OR LOSS. The policy must be endorsed to provide that any failure to comply with the reporting provisions of the policy shall not affect coverage to the City, its officials, employees, or Agents.

4. Workers' compensation and employer's liability insurance endorsements

- a. CANCELLATION endorsement, which provides that the City is entitled to 30 workdays prior written notice of cancellation or non-renewal of the policy, or reduction in coverage, by certified mail, return receipt requested.
- b. WAIVER OF SUBROGATION endorsement, which provides that the insurer will waive its right of subrogation against the City, its Board and their officials, employees and agents with respect to any losses paid under the terms of the workers' compensation and employer's liability insurance policy which arise from work performed by the named insurer for the City.

5. Professional Liability (if applicable) and required endorsements.

E. Self-insured programs, self-insured retentions, deductibles

1. Any self-insurance program, self-insured retention, or deductible must be approved separately in writing by City's Risk Manager or designee and shall protect the City, its Boards and their officials, employees, and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained such self-insurance, self-insured retention, or deductible provisions.
2. Contractor is expressly obligated to provide for legal defense and investigation of any claim against the City. as an additional insured and for all costs and expense incidental to such defense or investigation.
3. Contractor shall upon request, complete the City's self-insurance questionnaire and provide the required certification by the Contractor's financial officer.

F. Subcontractors

Contractor shall require any and all subcontractors performing services under this Contract to meet requirements of this Article unless otherwise agreed in writing by City's Risk Manager or designee and except with respect to the Section 67.A.1 general liability limit requirement of \$5 million / \$5 million for the Contractor, subcontractors may instead provide limits of \$1 million / \$2 million.

69. DISCREPANCIES, INTERPRETATIONS, OMISSIONS AND CHANGES IN WORK

Should the Contractor find any discrepancy, omission, violation of applicable codes, or be in doubt as to the meaning of the Contract Documents, the Contractor shall stop Work in progress if that Work is affected by the particular discrepancy, omission or interpretation needed, and obtain direction from the City PM. The Contractor shall be responsible and pay for any loss or damage where there is a doubt as to what is required when proceeding with the Work without consulting the City PM.

Additive or deductive changes in the Detailed Scope of Work to a Job Order are dealt with by the issuance of a Supplemental Job Order to accommodate the changes. The procedures for the issuance of such a Job Order are the same as the procedures for the issuance of the Base Job Order. Any additions or deletions are calculated using the appropriate item in the CTC, times the quantity to be added or subtracted, times the appropriate factor. Time will be negotiated as appropriate for the Scope of Work.

Changes in work made necessary due to unforeseen site conditions, discovery of errors in plans or specifications requiring immediate clarification in order to avoid a serious work stoppage, changes of a kind where the extent cannot be determined until completed, or under any circumstances whatsoever when deemed necessary by the City are kinds of emergency changes which may be authorized by the City using an Interim Job Order

Authorization in writing to the Contractor as described in Article 11.

70. PATENTS AND ROYALTIES

In the event that any patented article, material or process is to be installed or used in the performance of the Work, the Contractor shall pay the royalty related thereto and shall defend, indemnify and hold harmless the City, its officers and employees from all liability, claims, demands, causes of action, loss, damages, costs, expenses, and royalties, including without limitation, reasonable attorney's fees from: (a) any infringement or alleged infringement of any patent, or for the misuse of any patented article, by Contractor and its Subcontractors in the performance of the Work, or (b) the infringement or alleged infringement of any patent by the City's use or operation of the Work following the completion thereof by the Contractor, or (c) the use or misuse by the Contractor and/or its subcontractors during the performance of the Work of any confidential information or secret processes, or (d) any use or misuse of confidential information or secret processes by the City in the use or operation of the Work following acceptance, or (e) any loss to the City in the event that the City is enjoined from using such patented article or material and the incidental damage caused by the loss of use and damage to City property or the City in removing same, and cost of replacing the article or material, the use of which is enjoined.

71. SUSPENSION OF WORK

- A. The City may order the Contractor in writing to suspend, delay or interrupt all or any part of the Work for such period of time as the City may determine to be appropriate for the convenience of the City.
- B. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the Work covered by the order during the period of Work stoppage.
- C. If the performance of all or any part of the Work is suspended, delayed, or interrupted for a period longer than sixty (60) work days by (a) an act of the City in the administration of this Contract, or (b) by the City's failure to act within the time specified in this Contract (or, if no time is specified, within a reasonable time), an adjustment may be made for any increase in cost of performance of this Contract (excluding profit) necessarily caused by suspension, delay, or interruption for a period longer than sixty (60) work days, and the Job Order modified in writing accordingly. However, no adjustment shall be made under this Article for any suspension, delay, or interruption to the extent (a) that performance would have been suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or (b) for which an adjustment is provided for or excluded under any other provision of the Contract Documents.
- D. No claim under this Article shall be allowed (a) unless the Contractor notifies the City within ten (10) work days after incurring the costs (but this requirement

shall not apply to a claim resulting from a direction from the City to suspend work); and (b) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment. No part of any claim based on the provisions of this Article shall be allowed if not supported by adequate evidence showing that the cost would not have been incurred but for a delay within the provisions of this Article.

- E. The City will not be liable for any damages, anticipated profits, or costs incurred with respect to suspended Work during any period of suspension, except for costs that (a) are incurred for the purpose of safeguarding the Work materials and equipment in transit or at the Site, (b) are incurred for such personnel, subcontractors, or rented equipment that are maintained at the Site; or (c) are other reasonable and unavoidable costs of shutting down the Work or reassembling personnel and equipment.

72. TERMINATION

A. Termination for Convenience

The City may, whenever in the best interest of the City, terminate this Contract, in whole or in part, for the convenience of the City. The City will give written notice of the termination to the Contractor specifying all or that part of the Contract terminated and the date termination becomes effective.

1. The Contractor shall incur no further obligations in connection with the terminated Work and, on the date set in the notice of termination, the Contractor shall stop Work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated Work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated Work. The City may direct the Contractor to assign the Contractor's right, title, and interest under the terminated orders or subcontracts to the City. The Contractor must still complete the Work not terminated by the notice of termination and may incur obligations as are necessary to do so.
2. The City may require the Contractor to transfer title and deliver to the City in the manner and to the extent directed by the City: (a) the fabricated or unfabricated parts, Work in process, completed Work, supplies, and other material produced or acquired for the Work terminated; and (b) the completed or partially completed shop drawings and sketches, information, and other property that, if the Contract had been completed, would be required to be furnished to the City. The Contractor shall, upon direction of the City, protect and preserve property in the possession of the Contractor in which the City has an interest. If the City does not exercise this right, the Contractor shall use

its best efforts to sell such supplies and manufacturing materials for the benefit of the City.

3. If the parties are unable to agree on the amount of a termination settlement, the City will pay the Contractor the following amounts:
 - a. For Contract Work performed before the effective date of termination, the total, without duplication of any items, of:
 - i. The percentage of the Contract price, which equals the percentage (%) of Work, completed in accordance with the schedule of values, if applicable, less prior progress payment(s), any applicable Liquidated Damages, and charge backs. The amount of outstanding Stop Notices shall be withheld until the Stop Notices are resolved as provided by law.
 - ii. The cost of settling and paying terminated subcontracts that are properly chargeable to the terminated portion of the Work.
 - b. The reasonable costs of settlement of the Work terminated, including:
 - i. Accounting, clerical, and other expenses reasonably necessary for the preparation of termination settlement bids and supporting data;
 - ii. Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

B. Termination for Default

1. If the Contractor refuses or fails (a) to develop Proposals properly and diligently in substantial accord and compliance with the Request for Proposal issued by the City; (b) to reach agreement with the City on the means, methods, and quantities to accomplish a specific Detailed Scope of Work, (c) to commence the Work within the time specified in the Work Duration Schedule; (d) to perform the Work or any separable part with the diligence that will ensure completion in accordance with the Work Duration Schedule, including any extensions/adjustments made thereto; (e) to provide sufficient and properly skilled workers or proper materials or equipment to complete the Work in an acceptable manner and without delay to promptly pay its Subcontractors, laborers, and material suppliers; (f) to perform any of the Contractor's other obligations under the Contract Documents; or (g) to complete the Work within the time specified ("events of default"), the City may, by written notice to the Contractor, terminate the right to proceed with the Work (or the

separable part of the Work). In this event, the City may take over the Work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the site necessary for completing the Work. The Contractor and Contractor's sureties shall be liable for any damage to the City resulting from events of the default, whether or not the Contractor's right to proceed with the Work is terminated. This liability includes any increased costs incurred by the City in completing the Work.

2. The Contractor's right to proceed shall not be terminated because of delays, nor will the Contractor be charged with damages under this Article, if:
 - a. the delay in completing the Work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor such as (i) acts of God, (ii) acts of the public enemy, (iii) acts of the City in either its public or contractual capacity, (iv) acts of another contractor in the performance of a contract with the City, (v) fires, (vi) floods, (vii) epidemics, (viii) quarantine restrictions, (ix) strikes, (x) freight embargoes, (xi) unusually severe weather, or (xii) delays of Subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers (but failure or inability to pay shall not be an unforeseeable cause); and,
 - b. the Contractor, within ten (10) work days after the beginning of any delay unless extended by the City, notifies the City in writing of the causes of the delay. The City will ascertain the facts and the extent of the delay. If, in the judgment of the City, the findings warrant such action, the time for completing the Work will be extended by written approval of the City PM. The findings of the City will be final.
3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the City.
4. The rights and remedies of the City in this Article are in addition to any other rights and remedies provided by law or under this Contract. Time is of the essence for all delivery, performance, submittal, and completion dates in this Contract.

73. NOTICE OF SUSPENSION OR TERMINATION

The Notice of Suspension or Termination for any reason shall be given as described in

the Contract. Actual knowledge of such suspension or termination by an individual Contractor or by a co-partner, if the Contractor is a partnership, or by the president, vice-president, secretary or general manager, if the Contractor is a corporation, or by the managing agent regularly in charge of the Work on behalf of said Contractor, shall in any case be sufficient notice.

74. VENUE SELECTION

The Contractor hereby agrees to submit to the jurisdiction of the courts of the State of California. The exclusive venue of any action brought by the Contractor, on the Contractor's behalf or on the behalf of any subcontractor which arises from this Contract or is concerning or connected with services performed pursuant to this Contract, shall be in the courts of the State of California located in City of Long Beach, California.

75. WAIVER

The waiver by the City of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition on any subsequent breach of the same or any other term, covenant or condition.

76. PAYMENTS TO CONTRACTOR

A. Payment Types

1. One Time Payment - If an individual Job Order is scheduled for completion within twenty-five (25) work days or less, the City will make one payment after the Work is complete to the Contractor, exclusive of Retention. Contractor may request one (1) payment (including Retention payment); however, payment will be made after twenty-five (25) work days after the Notice of Completion has been filed and recorded.
2. Monthly Payment Schedule - For Job Orders with a monthly payment schedule, requests for payment must be submitted at least five (5) work days prior to the desired approval date. Payments shall only be made on Work inspected and approved by the City.

B. After the first payment and before making any other payment to the Contractor, the City may require that the Contractor produce and deliver to the City satisfactory proof or evidence that all labor performed, and materials furnished up to the date of the preceding payment request have been fully paid for, and that as of the said date, no claims exist if that is the case. This partial release of claim must be executed with the same formality as this Contract.

C. Upon receipt of a "Stop Notice", the City will withhold from the Contractor an amount of money sufficient to cover the potential cost of the "Stop Notice" and the reasonable cost of any associated litigation. In order to satisfy the requirements of a "Stop Notice", the City will refuse to release funds held in

retention. The Contractor is required to provide formal documentation of the remedy of the issues listed in the "Stop Notice" prior to the City releasing withheld funds.

D. Retention and Liquidated Damages if applicable

When payments are made under a Job Order, the percentage or amount specified by Public Contract Code Section 7201 shall be retained by the City. Retention payment will be made after twenty-five (25) work days after the Notice of Completion has been filed and recorded. Contractor shall indicate "Final" at the payment request.

The Contractor may elect to receive 100 percent of payments due without retention of any portion of the payment by the Owner by depositing securities of equivalent or greater value with the Owner in accordance with the provisions of Section 22300 of the Public Contract Code, provided that the Contractor requests permission to make such substitution within 5 working days after the Notice of Award and bears all expenses in connection therewith. Such securities, if deposited by the Contractor, shall be valued by the Owner, whose decision on valuation of the securities shall be final. Eligible securities shall be limited to those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest-bearing demand accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the Owner. If the Contractor elects to use an escrow account for retention, the Contractor shall submit a separate escrow invoice with the progress pay invoice. Such escrow invoice shall contain all information necessary to allow payment to be made to the account.

E. Required Documentation for Retention Release

The City's release of the retention does not relieve the Contractor of its responsibility to comply with both the Detailed Scope of Work and the terms and conditions of the Job Order and Contract for completed and warranty Work.

The Contractor agrees that a condition precedent to the City's release of retention is in full compliance with all contract requirements.

The Contractor must submit a completed final payment request form to the City PM for approval. The Contractor agrees that its signature on the payment request form certifies that it has completed or submitted the following:

1. All warranties and maintenance requirements; and
2. All as-built prints, record drawings and inspection cards; and
3. All operation and maintenance manuals; and
4. All badges, keys and security entry cards; and
5. All other items as applicable.

Once the City PM provides the approval on the payment request form, the City will issue an authorization for final payment.

If the Contractor's final payment request is not approved, the City PM will issue a "Return of Payment Request for Correction" letter advising the Contractor of missing closeout deliverables and/or information requiring correction. After making the appropriate corrections, the Contractor shall submit a second corrected final payment request form.

Once the Contractor has submitted a duly completed final payment release request form, the City PM will provide approval, and the City PM will issue an authorization for payment.

The Contractor agrees that the City's approval of final payment does not relieve the Contractor of its responsibility to comply with the terms and conditions of the Job Order and Contract for completed and future work.

F. Documentation of Liquidated Damages

The City shall maintain records of Liquidated Damages that may be accessed and the amount that will be withheld at the final invoice/payment.

77. REQUIREMENTS FOR EACH REQUEST FOR PAYMENT

- A. The Contractor must submit a payment request form with supporting documentation for approval. Such request shall include the Purchase Order number under which the work was done. Once the City PM provides approval on the payment request form, payment will be made to the Contractor within twenty-five (25) work days.
- B. In the event of payment for additional work for modifications, the retention shall be as stipulated in the Base Job Order.
- C. If the City PM requests it, the Contractor shall include an update to the Work Duration Schedule together with the payment request form. If the requested update(s) is not provided with the payment request, the payment request form may be considered incomplete and the payment request will be rejected.
- D. At the discretion of the City, the Contractor may be required to submit a narrative report with each update to the Work Duration Schedule. The narrative report shall include a description of current and anticipated problem areas, delaying factors and their impact, and an explanation of corrective action taken or proposed. Failure to provide the narrative report may be considered a MATERIAL BREACH OF CONTRACT and the payment request will be rejected.
- E. The Contractor agrees that its signature on the payment request form, as herein prescribed, constitutes a sworn statement.
- F. The Contractor agrees that its signature on the payment request form requesting one-time payment, monthly payment or final payment certifies that:

1. The specified percentage of Work has been completed and material supplied, and is directly proportional to the amount of the payment currently requested; and
 2. The amount requested is only for performance in accordance with the specifications, terms and conditions of the subject Job Order; and
 3. Timely payments will be made to Subcontractors and suppliers from the proceeds of the payment covered by this certification, in accordance with these. General Provisions, and subcontracts; and
 4. This request for payment does not include any amounts which the Contractor intends to withhold or retain from a subcontractor or supplier, except those amounts withheld or retained in accordance with the terms and conditions of the subcontract; and
 5. Not less than the prevailing rates of wages as ascertained by the City have been paid to laborers, workers and mechanics employed on the subject Work; and there has been no unauthorized substitution of Subcontractors, nor have any unauthorized subcontracts been entered; and
 6. No subcontract was assigned or transferred or performed by anyone other than the original Subcontractor, except as provided in Sections 4100- 4113, inclusive, of the Public Contract Code; and
 7. If requested, the Contractor has attached Work Duration Schedule update[s].
 8. Where applicable, payments to subcontractors and suppliers have been made from previous payments received under the Contract; and
 9. If it was requested, the Contractor has attached a Schedule of Values which reflects a detailed justification for the partial payment amount requested.
- G. In addition to Section D above, in the case of a request for final payment, the Contractor agrees that its signature on the payment request form certifies that all punch list items have been signed off as completed by the City PM, and that all building inspection cards have been completed.
- H. The Contractor agrees that it is submitting a request for payment within one year of the completion of the Project for which it is billing. If the Contractor does not submit a request for payment within one (1) year after the completion of the Project for which it is billing, it herein agrees to forfeit that payment.
- I. If the Contractor's payment request is not approved, the City PM will issue a

“Return of Payment Request for Correction” letter advising the Contractor of missing deliverables and/or information requiring correction. After making the appropriate corrections, the Contractor shall submit a second, or corrected, payment request form.

- J. The Contractor agrees that the City's approval of payment does not relieve the Contractor of its responsibility to comply with the terms of the Detailed Scope of Work, and with the conditions of the Job Order and Contract for completed and future work.
- K. The Contractor agrees that even though the City has approved payment, the City retains the right to further inspect the work and issue correction notices.
- L. For each payment request, the Contractor shall submit the original payment request with the supporting documentation for payment. The payment request shall include, but is not limited to, the following information and attachments.
 - 1. Job Order number;
 - 2. Vendor Number,
 - 3. Purchase Order number;
 - 4. Payment period;
 - 5. Current authorized amount;
 - 6. The Daily Labor and Construction Progress Log;
 - 7. Certified payroll documents including Statement of Compliance if requested;
 - 8. A Schedule of Values if requested;
 - 9. A Narrative Report if requested, and if applicable;
 - 10. A subcontractor's Fringe Benefits Statement.

All payment requests shall be emailed to the City PM and the Accounts Payable email provided by the City.

78. PAYMENTS TO SUBCONTRACTORS

The Contractor must pay all subcontractors and suppliers within seven (7) calendar days after receipt of payment for that portion of the Work by the City.

79. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the City of all claims and all liability to the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the City, and others relating to or arising out of this Work. No payment, however, final or otherwise, shall operate to release the Contractor or the Contractor's sureties from any obligation under this Contract or the Performance and Payment Bond.

80. ANNUAL UPDATE OF THE CONSTRUCTION TASK CATALOG®

- A. The Construction Task Catalog® issued with the bid will be in effect for the first year of the Contract.
- B. On the anniversary of the Contract, a new Construction Task Catalog® will be furnished. The new Construction Task Catalog® will be effective for the twelve (12) month period after the anniversary of the effective date of the Contract. The Construction Task Catalogs® that accompany each anniversary shall only apply to Job Orders issued after the effective date of that specific anniversary and shall have no impact on Job Orders issued prior to the effective date of that specific anniversary.
- C. The Adjustment Factors submitted with the Proposal shall be used for the full term of the Contract, plus any Option Terms (if implemented). On the annual anniversary of the Contract, the Owner shall issue the Contractor a new Construction Task Catalog®. The Contractor will be issued the new Construction Task Catalog® for review prior to accepting new Work. The Contractor shall use the Construction Task Catalog® in effect on the date that the Job Order is issued. However, the Contractor cannot delay the issuance of a Job Order to take advantage of a scheduled update of the Construction Task Catalog®. In that event, the Contractor shall use the Construction Task Catalog® that would have been in effect without the delay.

81. JOB ORDER CONTRACTING SOFTWARE

- A. The City selected The Gordian Group's (Gordian) Job Order Contracting (JOC) Solution for their JOC program. The Gordian JOC Solution™ includes Gordian's proprietary JOC Information Management System ("JOC IMS"), construction cost data, and Construction Task Catalog® which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Contract, including the preparation and submission of Job Order Proposals, Price Proposals, subcontractor lists, and other requirements specified by the Owner. The Contractor shall be required to execute Gordian's SaaS Terms of Use and pay a 1% JOC System License Fee to obtain access to the Gordian JOC Solution™. The JOC System License Fee applies to all Job Orders issued to the Contractor under the terms of this Contract.
- B. Upon the Contractor's receipt of the initial payment from the Owner, Gordian will invoice the Contractor for the JOC System License Fee. Contractor shall remit payment to Gordian within thirty (30) work days of the date of the invoice. Any amounts arising in relation to money not paid when due will be subject to a late charge of (1.5%) per month on the unpaid balance or the maximum rate allowed by law, whichever is less.
- C. In submitting a bid, each Bidder agrees that, if awarded a contract, it shall execute a standard City of Long Beach Contract. Upon execution of the contract, the Contractor shall ensure that all staff that will utilize Gordian software, attend training conducted by the Gordian Group, regardless of previous Gordian or JOC experience. The training may be performed virtually or in person. No user access shall be granted until the training has been attended by all Gordian users/representatives for this contract. The training will

include topics such the Gordian platform, the Big Note, and JOC procedures relevant to the performance of the City of Long Beach JOC program. Sharing of Gordian access is not permitted.

82. TERMINATION FOR IMPROPER CONSIDERATION

- A. The City may, by notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Contract if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any City officer, employee or agent with the intent of securing the Contract or securing favorable treatment with respect to the award, amendment or extension of the Contract or the making of any determination with respect to the Contractor's performance pursuant to the Contract. In the event of such termination, the City shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.
- B. Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, to tangible gifts.

83. CLAIMS RESOLUTION

- C. Compliance with Mandatory Procedures.** Contractor's use of the claims resolution process available in Public Contract Code Section 9204 (as set forth below in Section 6-11.2) shall not satisfy or otherwise excuse Contractor's compliance with the mandatory notice and claim presentation procedures pursuant to Chapter 5 (commencing with Section 930) of Part 3 of Division 3.6 of Title 1 of the California Government Code.

Public Contract Code Section 9204.

Section 9204 is added to the Public Contract Code, to read:

The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a Contractor in connection with a public works project.

For purposes of this section:

- 1. "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of

the following:

- a. A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.
 - b. Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.
 - c. Payment of an amount that is disputed by the public entity.
- 2. “Contractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.
 - 3. “Public entity” means, without limitation, except as provided in subparagraph below, a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.
 - 4. “Public entity” shall not include the following:
 - a. The Department of Water Resources as to any project under the jurisdiction of that department.
 - b. The Department of Transportation as to any project under the jurisdiction of that department.
 - c. The Department of Parks and Recreation as to any project under the jurisdiction of that department.
 - d. The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.
 - e. The Military Department as to any project under the jurisdiction of that department.
 - f. The Department of General Services as to all other projects.

g. The High-Speed Rail Authority.

5. "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.
6. "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant with a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

The claimant shall furnish reasonable documentation to support the claim.

If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph 3, below, shall apply.

1. If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.
2. Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant with a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion

of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

3. Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.
4. Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.
5. If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under

this section.

A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section. This section applies to contracts entered into on or after January 1, 2017.

Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

END OF DIVISION H