1. Issuance of this Purchase Order by City constitutes acceptance of Supplier's offer on the terms and conditions stated herein, and forms a contract.

2. City will not pay charges for taxes, transportation, boxing, packaging, crating or similar costs or charges for separate state or federal taxes. All such taxes, sales, excise or similar taxes to be paid by City must be itemized separately hereon and on invoices. City is exempt from payment of Federal Excise Tax under Certificate Number 95-730509K and supplier shall not charge this tax to City.

3. City's obligation to pay the sum herein stated for any one fiscal year shall be contingent upon the approval of the City's City Council. In case of non-approval, City shall make no obligation for such fiscal year commences on October 1 and ends on September 30 of the following year. If the City Council fails to appropriate the necessary funds for any fiscal year, then the Purchase Order shall terminate at no additional cost or obligation to City.

4. Time is of the essence. If at any time Supplier believes that goods, materials, equipment, supplies "(items)", labor or services will not be made as scheduled, supplier shall immediately give written notice stating the cause of the delay to City. Deliveries must be prepaid. City will not accept COD shipments.

5. City reserves the right at any time to make changes in drawings and specifications, in methods of shipment and packaging, and in place(s) of delivery. If necessary, there will be an equitable adjustment in price and time of performance mutually satisfactory to Supplier and City; but any claim by Supplier for such an adjustment must be made in writing within thirty (30) days after such change.

6. Supplier warrants that the items delivered and the work or services performed shall conform to the specifications, drawings, samples or other description specified by City and shall be fit and sufficient for the purpose intended, merchantable, of good materials and workmanship, in good working order and free from defect or faulty workmanship for a period of at least ninety (90) days, after delivery. When defective items or faulty workmanship is discovered, Supplier shall provide all labor, materials, parts and equipment to correct such defect or make such replacement at no expense to the City. Supplier items not meeting City's specifications shall be held for Supplier's instructions at Supplier's risk and if Supplier so directs, will be returned at Supplier's expense.

7. Supplier shall defend, indemnify and hold harmless City, its officials, employees and agents harmless from all losses, damage, liability, demands, claims, causes of action, and expenses (including attorneys' fees) resulting from any injuries to persons (including death) or damage to or destruction of property connected with or arising from the negligent acts or omissions, wilful misconduct or misrepresentations of Supplier, its agents or employees in the performance of this Purchase Order or relating to a claim of infringement of a patent, trademark or copyright.

8. City reserves the right to terminate this Purchase Order, or any part of it, at any time even though Supplier is not in default. On receipt of notice of termination, Supplier shall, unless such notice otherwise directs, immediately discontinue all work on the Purchase Order and deliver, if and as directed, to City all completed and partially completed items and work in process. This section shall not limit or affect the right of the City to terminate this Purchase Order immediately upon Supplier's breach.

9. City reserves the right to terminate this Purchase Order or any part of it and reject delivery of items if delivery is not made when and as specified. Supplier shall be charged for any direct losses, but not any consequential damages, sustained by City, its employees, officers, agents and assigns as a result of Supplier's failure to perform or to timely deliver the materials or services specified. In the event Supplier's inability to deliver such goods or services is attributable to causes beyond Supplier's reasonable control. Direct losses shall include any costs to City in excess of the Purchase Order price of obtaining items or services from other sources similar to those terminated or rejected.

10. Supplier shall not substitute items without written approval of the City Purchasing Division.

11. All invoice fees for City's use of patented or copyrighted items for items furnished under this Purchase Order shall be included in the Purchase Order price.

12. In cases where a price subject to escalation has been agreed upon, all claims for such price escalation must be received by City within sixty (60) days after date of final shipment. The price escalation shall be shown as a separate item on the invoice. Unless an escalation clause has been shown as a specific part of this Purchase Order, Supplier shall not be entitled to reimbursement for costs incurred due to escalation.

13. All items or services provided under this Purchase Order shall comply with the State Orders and Regulations of the California Code of Industrial Safety, Title 8, California Code of Regulations (CAL/OSHA) and all applicable OSHA regulations as well as all other applicable sections of the California Code of Regulations. Supplier shall defend, indemnify and hold harmless City, its officials, employees and agents from any loss, claim, cause of action, liability, cost or expense, including but not limited to fines, penalties, corrective measures, and attorney's fees, City may sustain by reason of Supplier's failure to comply.

14. Supplier shall keep confidential and not disclose or use in any way confidential business or technical information that the City may disclose in conjunction with this Purchase Order or Supplier may learn as a result of entering City property to deliver materials or services to City. Supplier shall not use the same in any manner other than for purposes of fulfilling this Purchase Order.

15. Supplier shall not assign this Purchase Order or any part hereof or any payments due hereunder or delegate any duties without City's prior written approval.

16. City's remedies herein are cumulative and additional to any other remedies at law or in equity. The waiver of any breach of this Purchase Order shall not be deemed a waiver of any subsequent breach of such or any other provision of this Purchase Order.

17. This Purchase Order shall not be amended, modified or rescinded, except by written agreement signed by the parties and expressly referring to this Purchase Order.

18. Any indebtedness of Supplier to City may, at the City's option, be credited against amounts owing by City hereunder.

19. Supplier shall furnish further itemization and breakdown of the Purchase Order price when requested by City.

20. Supplier and its subcontractor(s) shall not discriminate against any person in the performance of this Purchase Order on the basis of race, religion, national origin, color, age, sex, sexual orientation, AIDS, HIV status, handicap or disability, and shall comply with applicable federal and state equal employment opportunity laws, ordinances, rules and regulations.

21. Supplier shall comply with all applicable federal, state and local laws, rules, regulations and ordinances pertaining to the subject matter hereof, and shall obtain all necessary licenses and permits related to the items, work or services supplied.

22. Supplier, its employees, and agents shall be considered independent contractors and not employees of City.

23. City's purchases are based on its actual needs and requirements: City is obligated only to purchase those items and those quantities that City needs and requires, regardless of any estimated quantities provided to the Supplier.

24. The issuance of this Purchase Order does not make Supplier the exclusive supplier of items or services that are the subject of this Purchase Order.

THE FOLLOWING ADDITIONAL CONDITIONS APPLY WHEN SUPPLIER IS TO PERFORM WORK ON THE PREMISES OF CITY:

25. If, during the work, Supplier allows any indebtedness or lien to accrue for labor, equipment or materials, which may become a claim against City, Supplier shall immediately pay such claim or indebtedness or cause such lien to be dissolved and discharged by giving a bond and, in case of failure to do so, City may withhold any money due to Supplier until such claim, indebtedness or lien is paid or may apply such money toward the discharge thereof; or City may, at its option, cancel this Purchase Order, take possession and control of the work, complete the work, and retain all money due Supplier. City shall pay to City the difference between the Purchase Order price and the actual cost to City in completing or causing the work to be completed.

26. Supplier shall perform the work at Supplier's own risk until the same is fully completed and accepted and shall, in case of any accident, death or injury to the work or items before final completion and acceptance, repair or replace the work or items so injured, damaged or destroyed, at Supplier's own expense and to the satisfaction of City. When items are furnished by others for installation or erection by Supplier, Supplier shall receive, unload, store, and handle same at site and become responsible therefore, as though such items were being furnished by Supplier under the Purchase Order.

27. City shall not be responsible, until completion of performance and acceptance by the City, for any loss, damage, or destruction of any item or items in Supplier's possession or control, whether or not such loss or damage has been caused by Supplier's negligence or otherwise.

a. COMPREHENSIVE GENERAL LIABILITY: minimum insurance coverage required is $1,000,000 combined single limit per occurrence and $2,000,000 annual aggregate. The City of Long Beach, its Boards, Commissions, employees and agents shall be endorsed onto the Supplier's policy as additional insureds.

b. CITY'S LIABILITY: the minimum insurance coverage required is $500,000 combined single limit for bodily injury and property damage covering owned, non-owned and hired vehicles. The City of Long Beach, its Boards, Commissions, employees and agents shall be endorsed onto the Supplier's policy as additional insureds.

c. WORKERS' COMPENSATION: As required by the California Labor Code, such insurance in amount of at least $1,000,000 per occurrence. Self-insurance is not approved. The City shall be approved by the City. The policy shall contain a waiver of subrogation in favor of the City of Long Beach, its Boards, Commissions, employees and agents.

28. Supplier shall respect the California Labor Code, labor laws, and all applicable California Labor Code, labor laws, and any applicable regulations and ordinances. Supplier shall furnish to the City before performance Certificates of Insurance and original endorsements in the form and format of insurance endorsement as required by the California Labor Code, labor laws, and any applicable regulations and ordinances. All certificates of insurance shall be in the form and format of insurance endorsement as required by the City.

29. This Purchase Order is not transferable. Supplier shall furnish to the City before performance Certificates of Insurance and original endorsements in the form and format of insurance endorsement as required by the City. All certificates of insurance shall be in the form and format of insurance endorsement as required by the City.

30. By accepting this purchase order, you are acknowledging that it was created in accordance with city purchasing ordinance and state law.