



Motor Vehicle Purchase Agreement Vehicle Configuration

Customer Information

CITY OF FREMONT
- -
42551 OSGOOD RD
FREMONT, CA 94539

5109795739
mcollins@fremont.go
VIN 5YJYGDEE2LF031430

Reservation RN113627028

Order Payment \$0.00

Accepted by 07/09/2020
Customer on

Odometer 15

Price indicated does not include taxes and governmental fees, which will be calculated as your delivery date nears. You will be responsible for these additional taxes and fees.

Description	Total in USD
Long Range All-Wheel Drive	\$8,990.00
Dual Motor All-Wheel Drive	\$0.00
Five Seat Interior	\$0.00
All Black Premium Interior	\$0.00
Solid Black Paint	\$1,000.00
19" Gemini Wheels	\$0.00
Autopilot	\$0.00
Model Y	\$41,000.00
Premium Interior	\$0.00
Subtotal \$ 50,990.00	
Destination Fee	\$ 1,125.00
Documentation Fee	\$ 75.00
Order Fee	\$ 100.00
Transportation Fee (if applicable)	\$ 0.00
Order Modification Fee (if applicable)	\$ 0.00
Total	\$ 52,290.00

PO #20210088
001.21140.7500



MOTOR VEHICLE PURCHASE AGREEMENT

Final Price Sheet

DATE OF AGREEMENT:	07/20/2020
BUYER'S AND CO-BUYER'S NAME AND ADDRESS:	SELLER'S NAME AND ADDRESS:
CITY OF FREMONT - - 42551 OSGOOD RD FREMONT, CA 94539	Tesla Motors Inc. 45500 Fremont Blvd. Fremont, CA 94538

DESCRIPTION OF PROPERTY						
New/Used	Year	Make	Model	Style	Vehicle Identification Number	Odometer
New	2020	TESLA	Model Y	UT	5YJYGDEE2LF031430	15

PURCHASE PRICE	
1. Total Vehicle Price	
A. Cash price of motor vehicle, options, accessories and fees. (See attached Vehicle Configuration for itemization.)	\$ <u>52,290.00</u> (A)
B. Other: N/A	\$ <u>0.00</u> (B)
C. Other: N/A	\$ <u>0.00</u> (C)
Total Vehicle Price (A through C)	\$ <u>52,290.00</u> (1)
2. Sales Tax Calculation	
A. Trade-in tax credit (if applicable)	\$ <u>0.00</u> (A)
B. Taxable Fees (if applicable)	\$ <u>0.00</u> (B)
C. Subtotal of Taxable Items	\$ <u>52,290.00</u> (C)
D. Sales Tax	\$ <u>4,836.83</u> (2D)
E. Other: N/A	\$ <u>0.00</u> (2E)
Total Cash Price (1 plus 2D and 2E)	\$ <u>57,126.83</u> (2)
3. Amounts Paid to Government Agencies*	
A. Registration/Transfer/Titling Fees	\$ <u>0.00</u> (A)
B. License Fee (if applicable)	\$ <u>0.00</u> (B)
C. Tire Fee (if applicable)	\$ <u>0.00</u> (C)
D. Battery Fee (if applicable)	\$ <u>0.00</u> (D)
E. Other Fee(s): N/A	\$ <u>0.00</u> (E)
F. Other Fee(s): Electronic Filing Fee	\$ <u>0.00</u> (F)
Total Government Fees (A through F)	\$ <u>0.00</u> (3)
4. Subtotal (2 plus 3)	\$ <u>57,126.83</u> (4)
5. Total Credits	
A. Deposit	\$ <u>0.00</u> (A)
B. Financed Amount:	\$ <u>0.00</u> (B)
C. EV Incentive (if applicable)	\$ <u>0.00</u> (C)
D. Trade in value applied to purchase (if applicable)	\$ <u>0.00</u> (D)
E. Customer downpayment	\$ <u>57,126.83</u> (E)
F. Other Credits	\$ <u>0.00</u> (F)
Total Credits (A through F)	\$ <u>57,126.83</u> (5)
6. Amount Due from Buyer (4 through 5)	\$ <u>0.00</u> (6)

*Seller may retain or receive part of the amounts paid to others.

Auto Broker Fee: This transaction is not subject to a fee received by an auto broker from Seller unless this box is checked:

If checked, name of auto broker receiving fee: n/a



Motor Vehicle Order Agreement Terms & Conditions

Documentation. Your Motor Vehicle Order Agreement (the "Agreement") is made up of the following documents:

1. **Vehicle Configuration:** The Vehicle Configuration describes the vehicle that you configured and ordered, including pricing (excluding taxes and official or government fees).
2. **Final Price Sheet:** The Final Price Sheet will be provided to you as your delivery date nears. It will include final pricing based on your final Vehicle Configuration and will include taxes and official or governmental fees.
3. **Terms & Conditions:** These Terms & Conditions are effective as of the date you place your order and make your Order Fee (the "Order Date").

Agreement to Purchase. You agree to purchase the vehicle (the "Vehicle") described in your Vehicle Configuration from Tesla, Inc. or its affiliate ("we," "us" or "our"), pursuant to the terms and conditions of this Agreement. Your Vehicle is priced and configured based on features and options available at the time of order and you can confirm availability with a Tesla representative. Options, features or hardware released or changed after you place your order may not be included in or available for your Vehicle. If you are purchasing a used Vehicle, it may exhibit signs of normal wear and tear in line with its respective age and mileage.

Purchase Price, Taxes and Official Fees. The purchase price of the Vehicle is indicated in your Vehicle Configuration. This purchase price does not include taxes and official or government fees, which could amount to up to 10% or more of the Vehicle purchase price. Because these taxes and fees are constantly changing and will depend on many factors, such as where you register the Vehicle, they will be calculated closer to the time of delivery and indicated on your Final Price Sheet. You are responsible for paying these additional taxes and fees. If Tesla is registering your Vehicle, this will be due when you pay the purchase price. If you are registering your Vehicle in a self-registration state, the sales tax and state-applicable registration fees may be due at time of registration. If you present a check for any payment, we may process the payment as a normal check transaction, or we may use information from your check to make a one-time electronic fund transfer from your account, in which case your bank account will reflect this transaction as an Electronic Fund Transfer.

Order Process; Cancellation; Changes. After you submit your completed order, we will begin the process of preparing and coordinating your Vehicle delivery. At this point, you agree that the Order Fee and Transportation fee have been earned. If you cancel your order or breach this Agreement and we cancel your order, you agree that we may retain as liquidated damages the Order Fee and Transportation Fee, to the extent not otherwise prohibited by law. You acknowledge that the Order Fee and Transportation Fee are a fair and reasonable estimate of the actual damages we have incurred or may incur in transporting, remarketing, and reselling the Vehicle, costs which are otherwise impracticable or extremely difficult to determine. If you make changes to your order, you may be subject to potential price increases for any pricing adjustments made since your original Order Date. Any changes made by you to your Vehicle Configuration, including changes to the delivery location or estimated delivery date, will be reflected in a subsequent Vehicle Configuration that will form part of this Agreement. The Order Fee, Transportation Fee and this Agreement are not made or entered into in anticipation of or pending any conditional sale contract.

Delivery; Transfer of Title. If you are picking up your Vehicle in a state where we are licensed to sell the Vehicle, we will notify you of when we expect your Vehicle to be ready for delivery at your local Tesla Delivery Center, or other location as we may agree to. You agree to schedule and take delivery of your Vehicle within three (3) days of this date. If you do not respond to our notification or are unable to take delivery within the specified period, your Vehicle may be made available for sale to other customers. For new vehicles, if you do not take delivery within six (6) months of our first attempt to notify you, Tesla may cancel your order and keep your Order Fee.

If you wish to pick up or take delivery of your Vehicle in a state where we are not licensed to sell the Vehicle, or if you and Tesla otherwise agree, Tesla will, on your behalf, coordinate the shipment of your Vehicle to you, generally from our factory in California or another state where we are licensed to sell the Vehicle. In such a case, you agree that this is a shipment contract under which Tesla will coordinate the shipping of the Vehicle to you via a third-party common carrier or other mode of transport. You agree that



delivery of the Vehicle, including the transfer of title and risk of loss to you, will occur at the time your Vehicle is loaded onto the transport (*i.e.*, FOB shipping point). During such transit, your Vehicle will be insured at no cost to you, and you will be the beneficiary of any claims for damage to the Vehicle or losses occurring while the Vehicle is in transit. To secure your final payment and performance under the terms of this Agreement, we will retain a security interest in the Vehicle and all proceeds therefrom until your obligations have been fulfilled.

If you choose to pick up or take delivery of your Vehicle in a state in which we are not licensed to sell the Vehicles, the Vehicle may be delivered or shipped to you from a state in which Tesla likewise does not have a license to sell the Vehicles. In such a case, you agree that the sale is transacted, and legal title to the Vehicle transfers to you, in the State of California, at the later of the time that (i) you make your final payment to Tesla in California and (ii) Tesla approves your purchase from a sales or delivery location in California.

The estimated delivery date of your Vehicle, if provided, is only an estimate as we do not guarantee when your Vehicle will actually be delivered. Your actual delivery date is dependent on many factors, including your Vehicle's configuration and manufacturing availability.

Premium Connectivity. A trial of Premium Connectivity will be included following delivery of the Vehicle. Once this trial is over as detailed at www.tesla.com/support/connectivity, you may subscribe to Premium Connectivity or your Vehicle will return to Standard Connectivity.

Privacy Policy; Payment Terms for Services; Supercharger Fair Use Policy. Tesla's Customer Privacy Policy; Payment Terms for Services and Supercharger Fair Use Policy are incorporated into this Agreement and can be viewed at www.tesla.com/about/legal.

Agreement to Arbitrate. Please carefully read this provision, which applies to any dispute between you and Tesla, Inc. and its affiliates, (together "Tesla").

If you have a concern or dispute, please send a written notice describing it and your desired resolution to resolutions@tesla.com.

If not resolved within 60 days, you agree that any dispute arising out of or relating to any aspect of the relationship between you and Tesla will not be decided by a judge or jury but instead by a single arbitrator in an arbitration administered by the American Arbitration Association (AAA) under its Consumer Arbitration Rules. This includes claims arising before this Agreement, such as claims related to statements about our products.

We will pay all AAA fees for any arbitration, which will be held in the city or county of your residence. To learn more about the Rules and how to begin an arbitration, you may call any AAA office or go to www.adr.org.

The arbitrator may only resolve disputes between you and Tesla, and may not consolidate claims without the consent of all parties. The arbitrator cannot hear class or representative claims or requests for relief on behalf of others purchasing or leasing Tesla vehicles. In other words, you and Tesla may bring claims against the other only in your or its individual capacity and not as a plaintiff or class member in any class or representative action. If a court or arbitrator decides that any part of this agreement to arbitrate cannot be enforced as to a particular claim for relief or remedy, then that claim or remedy (and only that claim or remedy) must be brought in court and any other claims must be arbitrated.

If you prefer, you may instead take an individual dispute to small claims court.

You may opt out of arbitration within 30 days after signing this Agreement by sending a letter to: Tesla, Inc.; P.O. Box 15430; Fremont, CA 94539-7970, stating your name, Vehicle Identification Number, and intent to opt out of the arbitration provision. If you do not opt out, this agreement to arbitrate overrides any different arbitration agreement between us, including any arbitration agreement in a lease or finance contract.



Warranty. You will receive the Tesla New Vehicle Limited Warranty or the Tesla Used Vehicle Limited Warranty, as applicable, at or prior to the time of Vehicle delivery or pickup. You may also obtain a written copy of your warranty from us upon request or from our [website](#).

Limitation of Liability. We are not liable for any incidental, special or consequential damages arising out of this Agreement. Your sole and exclusive remedy under this Agreement will be limited to reimbursement of your Order Fee and Transportation Fee.

No Resellers; Discontinuation; Cancellation. Tesla and its affiliates sell cars directly to end-consumers, and we may unilaterally cancel any order that we believe has been made with a view toward resale of the Vehicle or that has otherwise been made in bad faith. We may also cancel your order and refund your Order Fee and Transportation Fee if we discontinue a product, feature or option after the time you place your order or if we determine that you are acting in bad faith.

Governing Law; Integration; Assignment. Except as provided below, the terms of this Agreement are governed by, and to be interpreted according to, the laws of the State in which we are licensed to sell motor vehicles that is nearest to your address indicated on your Vehicle Configuration. Prior agreements, oral statements, negotiations, communications or representations about the Vehicle sold under this Agreement are superseded by this Agreement. Terms relating to the purchase not expressly contained herein are not binding. We may assign this Agreement at our discretion to one of our affiliated entities.

State-Specific Provisions. You acknowledge that you have read and understand the provisions applicable to you in the State-Specific Provisions attachment to this Agreement.

This Agreement is entered into and effective as of the date you accept this Agreement, by electronic means or otherwise. By confirming and accepting this Agreement, you agree to the terms and conditions of this Agreement.



State Specific Provisions

For **NEW YORK** residents: If the Vehicle is not delivered in accordance with the Agreement within 30 days following the estimated delivery date, you have the right to cancel the Agreement and receive a full refund, unless the delay in delivery is attributable to you.

For **MASSACHUSETTS** residents: ATTENTION PURCHASER: All vehicles are WARRANTED as a matter of state law. They must be fit to be driven safely on the roads and must remain in good running condition for a reasonable period of time. If you have significant problems with the Vehicle or if it will not pass a Massachusetts inspection, you should notify us immediately. We may be required to fix the car or refund your money. THIS WARRANTY IS IN ADDITION TO ANY OTHER WARRANTY GIVEN BY US.

For **MICHIGAN** residents and purchasers: The terms of this Agreement are governed by, and are to be interpreted according to, Michigan law. The sale of your vehicle will be transacted outside of Michigan, and in a state in which Tesla has a license to sell vehicles, as explained in the body of the Agreement.

For **WASHINGTON, D.C.** residents:

NOTICE TO PURCHASER

IF, AFTER A REASONABLE NUMBER OF ATTEMPTS, THE MANUFACTURER, ITS AGENT, OR AUTHORIZED DEALER IS UNABLE TO REPAIR OR CORRECT ANY NON-CONFORMITY, DEFECT, OR CONDITION WHICH RESULTS IN SIGNIFICANT IMPAIRMENT OF THE MOTOR VEHICLE, THE MANUFACTURER, AT THE OPTION OF THE CONSUMER, SHALL REPLACE THE MOTOR VEHICLE WITH A COMPARABLE MOTOR VEHICLE, OR ACCEPT RETURN OF THE MOTOR VEHICLE FROM THE CONSUMER AND REFUND TO THE CONSUMER THE FULL PURCHASE PRICE, INCLUDING ALL SALES TAX, LICENSE FEES, REGISTRATION FEES, AND ANY SIMILAR GOVERNMENT CHARGES. IF YOU HAVE ANY QUESTIONS CONCERNING YOUR RIGHTS, YOU MAY CONTACT THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

Seller certifies that the information contained in the itemization of the purchase price, including the Vehicle Configuration, and required by Chapter 3 (Buying, Selling and Financing Motor Vehicles) of Title 16 of the Code of D.C. Municipal Regulations, is true to the best of our knowledge.

For **RHODE ISLAND** residents: Rhode Island law requires that all motor vehicles sold at retail must be in such condition as to pass a State safety inspection at the time of sale so as to protect consumers.



Delivery Declaration

VEHICLE DESCRIPTION		
Year/Model	Buyer Name/s	VIN
2020 / Model Y	CITY OF FREMONT - -	5YJYGDEE2LF031430

BY SIGNING BELOW, YOU AGREE THAT YOU HAVE TAKEN DELIVERY OF YOUR Model Y ON OR BEFORE _____ AND THAT YOU AGREE WITH YOUR FINAL MOTOR VEHICLE PURCHASE AGREEMENT, WHICH HAS BEEN UPLOADED TO AND IS AVAILABLE IN YOUR MYTESLAACCOUNT.

Name of Buyer or Buyer's Agent taking Delivery (please print): _____

Signed: _____

On behalf of: _____ [Buyer Name/s]

Date: _____

Delivery Experience Specialist Signature: _____



Payment Instructions

Electronic Check

The easiest way to pay for your Model Y is by electronic check, also known as ACH. Prior to delivery, you will be invited by email to make your payment on our website.

To make a payment now, please sign in to your My Tesla account at this web address:

<https://www.tesla.com/teslaaccount>

Mailed Check

If you are planning to mail a check for final payment, please send it to the following address:

Attn: Funding Team
45500 Fremont Blvd
Fremont, CA 94538

Wire Transfer

Please include your name and your order number (RN113627028) when paying by wire transfer.

Bank Name Wells Fargo Bank, N.A.

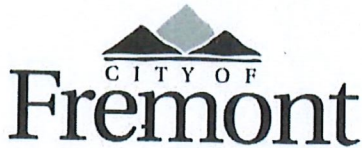
Bank Address 420 Montgomery
San Francisco, CA 94104

Account Name Tesla Motors Inc.

Account # 83231814113627028

ABA/Routing # 121000248

Note *Your name*, RN113627028



Sole Source/Non-bid Justification

Vendor name: Tesla

Item or Service being purchased: Tesla Model Y Patrol Vehicle

Amount: NTE \$60,000 **Council Date (if needed):** _____

- One of a kind:** The commodity or service has no comparable competitive product and only one vendor is available.
- Proprietary Product:** The item is only made by one vendor, which holds exclusive legal rights to the item.
- Replacement Item:** There is only one vendor that can supply the component or replacement part for equipment that is currently in service.
- Compatibility:** The item needs to comply with another product that is currently in service, and can only be purchased from one vendor.
- Emergency:** Immediate action is required to resolve an emergency. City Manager approval is required (Attach memo with details of the emergency, see Purchasing Code 2-9702 for full compliance).
- Manufacturer Direct:** Product or service can only be obtained by the manufacturer or authorized/certified dealer for parts or repair.
- Co-operative Purchase:** The product or service has been competitively bid by another agency and meets the requirement of the Purchasing Code 3.20.180. (Attach bid, other agencies purchase order, contract, price schedule and quote)
- Other:** _____

What steps were taken to find other Vendors?

The PD is expanding the current electric patrol vehicle program. The PD intends to purchase a Tesla Model Y as the next electric patrol vehicle. Due to the expertise and knowledge gained from building the Model S patrol vehicle coupled with the investment of the Tesla charger installed at the PD and the proven results from the Model S, Tesla vehicles are the only option at this point. Other Tesla models are either too small (3/S) or too expensive(X) to remain fiscally responsible.

NOTE: THIS PURCHASE WAS INCLUDED IN THE FY 2020/21 ADOPTED BUDGET. [Signature]

Use additional attachments if necessary.

Department Approval: _____ Date 05/29/2020

Purchasing Manager: [Signature] Date 6/4/2020

Finance Director: [Signature] Date 6/18/2020

City Manager: [Signature] Date 6/18/2020



Motor Vehicle Purchase Quote Vehicle Configuration



316mi
Range (EPA est.)

135mph
Top Speed

4.8s
0-60 mph

Description	Total in USD
Long Range All-Wheel Drive	\$11,990.00
Dual Motor All-Wheel Drive	\$0.00
All Black Premium Interior	\$0.00
Solid Black Paint	\$1,000.00
19" Gemini Wheels	\$0.00
Autopilot	\$0.00
Model Y	\$41,000.00

New Vehicle Warranty

4 years or 50,000 mi

Battery and Drive Unit Warranty

8 years or 120,000 mi

Subtotal	\$	\$53,990.00
Destination Fee	\$	1,125.00
Documentation Fee	\$	75.00
Order Fee	\$	100.00
Transportation Fee (if applicable)	\$	0.00
Order Modification Fee (if applicable)	\$	0.00
Total	\$	\$55,290.00

THIS NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES AND SHIPPING PAPERS.

Purchase Order # **20210088-00**

Delivery must be made within doors of specified destination.

BILL TO

CITY OF FREMONT
ACCOUNTS PAYABLE
PO BOX 5006
FREMONT, CA 94537-5006
510-494-4620
FAX: 510-494-4621

VENDOR

TESLA MOTORS INC
45500 FREMONT BLVD
FREMONT CA 94538

SHIP TO

POLICE DEPARTMENT
CITY OF FREMONT
2000 STEVENSON BLVD
FREMONT CA 94538

Vendor Phone Number		Vendor Fax Number		Requisition Number		Delivery Reference	
				21000132			
Date Ordered	Vendor Number	Date Required	Freight Method/Terms		Department/Location		
06/24/2020	54249				POLICE DEPARTMENT		
Item#	Description/Part No.			Qty	UOM	Unit Price	Extended Price
1	TESLA MODEL Y PATROL VEHICLE TESLA MODEL Y PER ATTACHED QUOTE. J 00121140 - 7500			1.0	EACH	\$41,000.000	\$41,000.00
2	LONG RANGE ALL WHEEL DRIVE 00121140 - 7500			1.0	EACH	\$11,990.000	\$11,990.00
3	SOLID BLACK PAINT 00121140 - 7500			1.0	EACH	\$1,000.000	\$1,000.00
4	DESTINATION FEE, ORDER FEE, DOCUMENTATION FEE 00121140 - 7500			1.0	EACH	\$1,300.000	\$1,300.00
TESLA MODEL Y PATROL VEHICLE PER ATTACHED QUOTE ó C ^a CITY ASSET TAG: 22710 ... CITY CONTACT: DEIRDRE ROCKEFELLER-RAMSEY 510-790-6991 RECEIVING: POLICE ***** GL SUMMARY ***** <hr/> 001-21-2102-210200-0000-0156-00000000-02-7500- 60,284.08							

By 
Purchasing Services Manager

DEPARTMENT COPY

Total Ext. Price	\$55,290.00
Total Sales Tax	\$4,994.08
PO Total	\$60,284.08

CITY OF FREMONT STANDARD TERMS AND CONDITIONS

1. Purchase Order. This Purchase Order ("PO")/Contract is issued by the City of Fremont ("City") to the Contractor, subject to the following Standard Terms and Conditions unless otherwise noted on the face of the PO. This PO consists of the face of the PO, the Standard Terms and Conditions and any other documents referenced in or attached to this PO. Any of the following shall constitute Contractor's unqualified acceptance of this PO: Contractor's acknowledgment of this PO; commencement of performance, or acceptance of any payment, This PO is valid only as written. Contractor's different, or additional terms and conditions are objected to and excluded from this PO unless accepted in writing by City.

2. Time for Performance. Time is of the essence in the performance of this PO. Contractor shall perform the work ("Work") within the time specified herein, to the satisfaction of the City. If the Work cannot be performed at or within the specified time, Contractor shall promptly notify City of the earliest possible date for performance. If Contractor fails to perform the Work at or within the time specified, City may terminate all or any part of this PO.

3. Payment. City shall pay Contractor not more than the Contract Amount specified in this PO. The Contract Amount includes all costs including all labor, materials, equipment, tools, utilities, transportation, taxes and services. Invoices shall be remitted to the City of Fremont Accounts Payable Department, P.O. Box 5006, Fremont, CA 94537. City shall make payment to Contractor within 30 days of receipt of a correct, itemized invoice. Payment of invoices shall not constitute acceptance of the Work and invoices shall be subject to adjustment for defects in quality or failure to meet the requirements of this PO.

4. Extra or Additional Work. Contractor shall perform no extra or additional work or alter or deviate from the Work unless agreed in writing by the City. Extra or additional work to which City has not agreed in advance in writing will not be compensated

5. Warranty. Contractor warrants that all Work shall be performed in a professional and workman like manner in accordance with generally accepted business practices and performance standards of the industry and the requirements of this PO. Contractor further warrants that all materials, goods and equipment used in the Work shall be new, fit for the particular purpose intended and free from defects, liens and claims. Unless otherwise specified in this PO, the warranties set forth in this section shall be in effect for a period of ninety days from the date of the City's acceptance of the Work as complete.

6. Inspection. City may inspect the Work. Contractor shall at City's option either refund the amount paid for the Work or, at no cost to City, promptly repair, replace or correct any material or Work that is defective or not in compliance with the above warranties. Payment may be withheld until corrective action is completed and the Work is accepted.

7. Damage. If any damage (including death, personal injury or property damage) occurs in connection with the performance of the Work, Contractor shall immediately notify the City Risk Manager's office by telephone at 510-284-4050, and promptly submit to the City a written report in a form acceptable to the City. Contractor shall, at its sole expense, repair in kind, or as the City Manager or designee shall direct, any damage to public or private property. City may decline to approve and may withhold payment in whole or in part as may be necessary to protect City from loss because of defective work not remedied or other damage to the City. When the grounds described above are removed, payment shall be made.

8. Change Orders. City may amend or modify this PO at any time by issuance of a written change order. If any change causes an increase or decrease in the cost of or time required to perform the Work, Contractor shall notify City within ten (10) days of the receipt of the change order to obtain an equitable adjustment. If no response is received within ten (10) days, Contractor shall be deemed to have accepted the change without any price or schedule adjustment. Pending any adjustment, Contractor shall proceed in accordance with the change order,

9. Risk of Loss. Contractor assumes all risk of loss or damage to all Work in progress, materials and other items related to this PO until the same are accepted by City.

10. Independent Contractor/Subcontractors. Contractor and its employees, agents and subcontractors shall at all times be considered independent contractors and not an agent or employee of City. Contractor shall not subcontract any portion of the Work unless approved in advance in writing by the City.

11. Business License. The Contractor shall apply for and pay for a business license, in accordance with Fremont Municipal Code title V, chapter J, section 5-1 100, et seq.

12. Record Keeping. Contractor shall maintain records relating to performance and billing under this PO for a period of four years after final payment in accordance with generally accepted accounting principles and state law. During that period Contractor shall provide copies of its records upon request by the City.

13. Compliance with Law. Contractor shall comply with all applicable legal requirements including all federal, state and local laws. Contractor shall obtain and maintain all necessary permits and licenses for the performance of the Work.

14. Indemnification. Contractor shall indemnify, hold harmless and defend the City (including its elected officials, officers, agents and employees) from and against any and all claims (including all litigation, demands, damages, liabilities, costs and expenses, and including court costs and attorney's fees) resulting or arising from performance, or failure to perform, under this Agreement.

15. Insurance. When required by the City's Risk Manager. Contractor shall provide: (1) Satisfactory proof of general liability insurance, automobile liability, worker's compensation and any other required insurance; and (2) Required endorsements (including naming City as an additional insured)

16. Termination. The City Manager or designee may terminate all or any part of this PO without cause by giving fifteen (15) days' prior written notice to Contractor. If Contractor fails to perform any of its material obligations under this PO, in addition to all other remedies provided by law, the City Manager or designee may terminate this PO immediately upon written notice of termination. Upon receipt of any notice of termination, Contractor shall immediately discontinue performance. If the termination is for convenience, City shall pay Contractor for services satisfactorily performed up to the effective date of termination not to exceed the Contract Amount. If the termination is for cause, City may deduct from such payment. The amount of actual damage, if any, sustained by City due to Contractor's failure to perform.

17. Notices. All notices shall be in writing and delivered to the addresses specified in this PO. Communications shall be deemed to be effective upon actual receipt, or three working days following the deposit in the United States Mail of registered or certified mail.

18. Miscellaneous. The PO is not assignable without the prior written consent of the City. This PO sets forth the entire understanding of the parties and may be modified only through written agreement of both parties. If any provision of this PO is held to be invalid or unenforceable, the remaining provisions shall be valid and binding. Waiver of a breach or default under this PO shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision. The interpretation, validity, and enforcement of this PO shall be governed by the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this PO shall be filed and heard in a court of competent jurisdiction in the County of Alameda. In the event any legal action is commenced with respect to this PO, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.