

**** REGULAR MEETING ****

SEISMIC GOVERNANCE COMMITTEE

Thursday, September 29, 2022
9:00 AM

In conformity with the Governor's Executive Order N-29-20 (March 17, 2020) and due to concerns over COVID-19, the Seismic Governance Committee meeting will be conducted entirely telephonically.

Members of the public who wish to offer public comment to Seismic Governance Committee meeting should call (669) 900-6833 and use Meeting ID No. 843 8674 9048 and then press #. Press # again when prompted for participant ID.

MEMBERS: Matthew W. Szabo, City Administrative Officer, Chair (CAO)
Sharon M. Tso, Chief Legislative Analyst (CLA)
Jennifer P. McDowell, Office of the Mayor (Mayor)

Staff Contact	Office	Staff Phone
Elis Lee	CAO	(213) 577-6817
Antoinette J. Woodward	CAO	(213) 473-7594
Matthew Shade	CLA	(213) 978-0203
Kevin Minne	BOE	(213) 485-5228
Shay Doong	BOE	(213) 694-4271

PUBLIC COMMENTS: General Public Comment, Multiple Agenda Item Comment

AGENDA ITEMS:

1. Minutes of the:
 - a. August 25, 2022 Regular Meeting; and,
 - b. September 12, 2022 Special Meeting
2. Bureau of Engineering – Status Update on the Sixth Street Viaduct Project
3. Findings to continue Teleconference Meetings Pursuant to AB361. Determination in accordance with AB 361 Section 3(e)(3) that, while the state of emergency due to the COVID-19 pandemic, as originally proclaimed by the Governor on March 4, 2020, remains active and/or state or local officials have imposed or recommended measures to promote social distancing, this legislative body has reconsidered the circumstances of the state of emergency and that the state of emergency continues to directly impact the ability of the members to meet safely in person and/or state or local officials continue to impose or recommend measure to promote social distancing – Action by Committee

**** REGULAR MEETING ****

SEISMIC GOVERNANCE COMMITTEE

Thursday, September 29, 2022
9:00 AM

To receive meeting notices for the Seismic Governance Committee (SGC), subscribe through the Early Notification System at www.lacity.org.

Unless otherwise notified, the SGC meets on the last Thursday of the month at 9:00 a.m. in Room 1500, City Hall East

Upon request, SGC staff will provide reasonable accommodations to enable individuals with disabilities to participate in its meetings, including access to agenda materials in alternate formats. If you have a request for accommodations, please contact Elis Lee at (213) 577-6817 or Elis.Lee@lacity.org at least two business days in advance of the SGC meeting.

Public Notice

An opportunity for the public to address the Committee on agenda items will be provided during the Multiple Agenda Item Comment period. A member of the public who wishes to speak on agenda item(s) shall be allowed to speak for up to one minute per item up to a total of three minutes per meeting.

The Committee will also provide an opportunity for the public to speak on general public interest items during the General Public Comment period. Each speaker shall be limited to one minute of general public comment each meeting. The Committee shall not discuss or take action relative to any general public comment.

Telecommunication Relay Services

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodations to ensure equal access to its programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or services may be provided upon request. To ensure availability, your request should be received at least 72 hours in advance of the need. Requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act can be made by contacting contact Elis Lee at (213) 577-6817 or Elis.Lee@lacity.org. For Telecommunication Relay Services for the hearing impaired, please see the information below.

Telephone communication is one of the most important forms of communication in society today. Due to advancements in technology, telephone devices have evolved with new services and capabilities. Individuals who are deaf and hard of hearing, and individuals with a speech disability are following these trends and are rapidly migrating to more advanced telecommunications methods, both for peer-to-peer and third-party telecommunications relay service (TRS) communications.

Telecommunications Relay Service is a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls. TRS is available in all 50 states, the District of Columbia, Puerto Rico and the U.S. territories for local and/or long distance calls. TRS providers - generally telephone companies - are compensated for the costs of providing TRS from either a state or a federal fund. There is no cost to the TRS user.

**** REGULAR MEETING ****

SEISMIC GOVERNANCE COMMITTEE

Thursday, September 29, 2022

9:00 AM

What forms of TRS are available? There are several forms of TRS, depending on the particular needs of the user and the equipment available: TRS includes: Text to Voice TTY-Based TRS; Speech-to-Speech Relay Service; Shared Non-English Language Relay Service; Captioned Telephone Relay Service; Internet Protocol Relay Service; and Video Relay Service. Please visit this site for detail descriptions, <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Don't hang up! Some people hang up on TRS calls because they think the communications assistant is a telemarketer. If you hear, "Hello. This is the relay service ..." when you pick up the phone, please don't hang up! You are about to talk, through a TRS provider, to a person who is deaf, hard-of-hearing, or has a speech disability.

For more information about FCC programs to promote access to telecommunications services for people with disabilities, visit the FCC's Disability Rights Office website.

Notice to Paid Representatives: If you are compensated to monitor, attend, or speak at this meeting, City law may require you to register as a lobbyist and report your activity. See Los Angeles Municipal Code §§ 48.01 *et seq.* More information is available at ethics.lacity.org/lobbying. For assistance, please contact the Ethics Commission at (213) 978-1960 or ethics.commission@lacity.org.

**SEISMIC GOVERNANCE COMMITTEE (SGC)
BRIDGE IMPROVEMENT PROGRAM
SPECIAL MEETING MINUTES**

September 29, 2022

SGC Members in Attendance:

Matthew Szabo, Municipal Facilities Chief, Chair (CAO)

Matias Farfan, Chief Legislative Analyst Office (CLA)

Jennifer McDowell, Office of the Mayor (Mayor)

The meeting was called to order at 9:01 a.m.

No General Public Comment.

Item 1 Approval of Minutes from the July 28, 2022 meeting.

Disposition: Approved

Item 2 Bureau of Engineering – Sixth Street Viaduct Project – Information Only

Disposition: BOE to report back on the financial status of the project for the September 15, 2022 meeting

Shay Doong, BOE, presented an update on the Sixth Street Viaduct Project. Mr. Doong, BOE, advised the Committee that the project construction was at 96 percent completion, with completion of milestone 2 anticipated by November 19, 2022, to include the following remaining activities: 1) Restoration of concrete; 2) Lighting of the River; 3) Installation of railing of the stairway, pedestrian walkways, and a few locations on the deck; 4) Fencing along the property lines; 5) Fronting of the fencing around the public streets where the park is to be constructed; 6) Removal of asphalt protection in the railways for erosion control and embankment within the State right-of-way; 7) Restoration of the warehouse that is being used as a field office to its original condition; and, 8) Other punch list items.

Mr. Doong, BOE, advised the Committee that the Settlement Agreement of Change Order (SACO) No. 118 was adopted by the Board of Public Works (Board) on April 2020, which authorized an increase in the overall project budget. Mr. Doong clarified that Board of Public Works authorized the City Engineer to execute SACO No. 118 and issue subsequent change orders related to the Global Agreement, with the maximum amount authorized under SACO and subsequent change orders totaling

\$85 million. Mr. Doong, BOE, advised that Council and Mayoral approval occurred in late June 2020 and the SACO was executed on August 27, 2020. Mr. Doong clarified that the SACO provided a lump sum payment of \$65 million to be issued based on the actual bridge opening date.

Mr. Doong, BOE, disclosed that even though CalTrans is subsidizing a substantial portion of the project, the cash flow issue is mainly due to CalTrans' inability to convert the remainder of the Highway Bridge Program (HBP) funds. Outstanding grant conversions total \$90 million, to be paid over four federal fiscal years, in accordance with the established schedule: \$24 million (2022-23); \$25 million (2023-24); \$19 million (2024-25); and, \$22 million (2025-26).

Mr. Doong, BOE, explained that because the federal fiscal year does not begin until October, BOE anticipates the funding to be dispersed in February of each year. Further, Mr. Doong BOE, clarified that without acceleration of the federal payments, BOE anticipates needing additional MICLA loans of \$33 million for current year activities.

Mr. Doong, BOE, disclosed that there is a clause in the Global Agreement that allows for extension to the incentive completion date, in the case of a catastrophic event, and only if the contractor has shown that they have used all available measures to accelerate the work to meet the incentive completion date.

Mr. Doong, BOE, explained that during the past two years of the pandemic, COVID had a direct impact on the project including raw material shortages and delays in fabricating facilities due to staff shortages caused by quarantine requirements. Mr. Doong, BOE, advised that the contractor has implemented numerous acceleration measure to overcome the impacts including purchasing additional false art to construct multiple arches on the bridge, re-sequencing of work and increasing work shifts to seven-days with up to three shifts.

Consequently, Mr. Doong advised the BOE made the determination that the conditions defined within the catastrophic clause of the Global Agreement had been met, and the Bureau acted accordingly to extend the incentive completion date by 18 calendar days from September 27, 2022, to October 15, 2022, and to likewise extend the Milestone 2 completion date by nine calendar days with the new completion date of November 19, 2022.

Diego De La Garza (Mayor's Office) asked for confirmation whether there were potential delays for completion of milestone two as a result of supply chain issues. Mr. Doong, BOE, confirmed that despite supply chain delays, completion of Milestone 2 is anticipated by the November 19 deadline.

Matias Farfan, CLA, asked for specifics about what the requirement for compliance with the State maintenance plan. Mr. Doong, BOE, advised that there were structural issues prior to the completion of the program including cracks on the structure, cable lubrication, and pad replacement. Ted Jordan, City Attorney, added that a typical bridge is generally over a freeway and jurisdiction is not normally shared. Mr. Jordan, City Attorney elaborated that it does not make sense for an agency to do one part of the maintenance of a bridge but to do a cost-share agreement, given that the City owns approximately 90 percent of the bridge.

Mr. Farfan, CLA, also asked for clarification whether in the case the City wants to close the bridge or restrict traffic whether the State is involved in these types of decisions. Mr. Doong, BOE, answered that because the City owns the bridge entirely, it is up to the City to close the bridge or restrict traffic.

Matt Szabo, CAO, asked for an explanation on the second change order on when the Global Agreement was executed. Mr. Doong, BOE, confirmed that the Global Agreement was formally executed in August and went to the Board in April.

Mr. Szabo, CAO asked whether at the time of the Global Agreement went to the Board if BOE foresaw the impacts of the COVID pandemic. BOE confirmed that they did not foresee the impacts, especially in terms of labor shortage and supply chain issues. Ted Jordan, City Attorney, also added that the COVID pandemic was an event that was declared a state of emergency.

Mr. Szabo, CAO, asked that since the Board approved the Global Agreement a month after the state of emergency was declared if the Board was automatically approving the catastrophic exemption. Ted Jordan, City Attorney, gave a negative response stating that the declared state of emergency once created does not automatically apply. Mr. Doong, BOE, added that the contractor also must show proof that they have exhausted all options, which BOE believes the contractor has attempted to stay on schedule to the best of their ability and make up for lost time with ramped up re-sequencing of crews and purchasing additional materials.

Mr. Szabo, CAO, asked if the HBP would reimburse for all cost of the MICLA loan including the interest and BOE confirmed in the affirmative.

Bernyce Hollins, CAO, asked for clarification as to whether the incentive payment is being held at this point. BOE confirmed that the payment has not been signed yet and will be sent to the Office of Accounting, when ready.

Ms. Hollins, CAO, suggested that because there are significant financial issues involved that the Committee is hearing for the first time and given the potential for future City liabilities for the City that the Committee consider requesting that BOE provide a written report for the Special Committee meeting that would be scheduled for mid-September. Mr. Doong, BOE, expressed concern that the sooner the contractor receives the incentive payment, the sooner the City will be cleared of liabilities and claims. Mr. Jordan, City Attorney, speculated there could be a required release date stipulated in the Supplemental Agreement that could trigger penalties for late payment.

Item 3 Seismic Governance Committee to consider a determination in accordance with AB 361 Section 3(e)(3) that, while the state of emergency due to the Covid-19 pandemic, as originally proclaimed by the Governor on March 4, 2020, remains active and/or state or local officials have imposed or recommended measures to promote social distancing, this legislative body has reconsidered the circumstances of the state of emergency and that the state of emergency continues to directly impact the ability of the members to meet safely in person and/or state or local officials continue to impose or recommend measures to promote social distancing.

Disposition: Approved as read into the record.

Meeting adjourned at 9:38 a.m.

**SEISMIC GOVERNANCE COMMITTEE (SGC)
BRIDGE IMPROVEMENT PROGRAM
SPECIAL MEETING MINUTES**

September 29, 2022

SGC Members in Attendance:

Matthew Szabo, Municipal Facilities Chief, Chair (CAO)

Matias Farfan, Chief Legislative Analyst Office (CLA)

Jennifer McDowell, Office of the Mayor (Mayor)

The meeting was called to order at 9:32 a.m.

No General Public Comment.

Item 1 Seismic Governance Committee to consider a determination in accordance with AB 361 Section 3(e)(3) that, while the state of emergency due to the Covid-19 pandemic, as originally proclaimed by the Governor on March 4, 2020, remains active and/or state or local officials have imposed or recommended measures to promote social distancing, this legislative body has reconsidered the circumstances of the state of emergency and that the state of emergency continues to directly impact the ability of the members to meet safely in person and/or state or local officials continue to impose or recommend measures to promote social distancing.

Disposition: Approved as read into the record.

Meeting adjourned at 9:33 a.m.

CITY OF LOS ANGELES
INTERDEPARTMENTAL CORRESPONDENCE

Date: September 23, 2022

To: Seismic Governance Committee
Matthew Szabo, City Administrative Officer, Chair
Sharon M. Tso, Chief Legislative Analyst
Jennifer McDowell, Office of the Mayor

From: Kevin Minne, Principal Civil Engineer
Bridge Improvement Division
Bureau of Engineering



Subject: **Sixth Street Viaduct Project Status Report**

As requested by the Seismic Governance Committee on August 25, 2022, this report provides a status update related to the Sixth Street Viaduct's (Project) construction and fiscal status.

Construction Status

Construction on the Project is currently approximately 98% complete with 100% completion anticipated by November 19, 2022. This completion date does not include the installation of mitigation measures to climbing, street racing, and other unsafe activities which have recently occurred on the viaduct.

Remaining activities include restoration of the concrete lining in the river, railing at the stairs, railing at the pedestrian ramps, railing at few locations on the deck, removal of asphalt protection in the railroads, restoration of the converted warehouse field office to its original condition, and final punch list items.

Furthermore, an Emergency Change Order (ECO 173) was issued for fencing along the property lines fronting all public streets below the Project to secure the 12-acre site for the upcoming PARC project. Funding for ECO 173 will be from the Project's authorized construction contingency.

Supplemental Agreement Change Order (SACO) 118 and Change Order (CO) 186

On April 21, 2020, the Board of Public Works authorized an increase to the project budget, the City Engineer (CE) to execute the Global Agreement and issue SACO 118, and for the CE to issue subsequent COs related to the Global Agreement (SACO 118 is attached). The recommended authorizations under the Board Report were subject to Council and Mayor approval. Following Council and Mayor approval in late June 2020, SACO 118 was fully executed on August 27, 2020.

The cumulative amount of the Global Agreement for all Task Orders was \$65,000,000, with an incentive payment not to exceed \$20,000,000, for a maximum total of \$85,000,000. This agreement settled all existing contractor claims totaling approximately \$165,000,000 and will prevent all future claims upon payment of the final incentive payment. As outlined in the Global Agreement, the final incentive payment amount due to the Contractor was to be determined by the CE and issued in a future separate CO based on the actual viaduct opening date.

Per Exhibit B of the Global Agreement, the initial incentive completion date was September 27, 2022, with an incentive maximum payment date of June 20, 2022. However, a clause in Exhibit B also allowed for an extension to the incentive completion date in the case of a catastrophic event and only if the contractor has shown that it had used all available means and methods to accelerate work to meet the incentive completion date.

As the initial incentive maximum payment date was approaching, considering the devastating effects of the pandemic on labor resources, followed by sharp industrywide increases in commodity prices and significant delays in the supply chain for critical materials, the CE decided that an extension to the incentive completion date was warranted per the clause in the Global Agreement. The contractor also demonstrated innovative solutions to aggressively push towards completing the project by procuring additional falsework materials to build multiple arches of the viaduct concurrently and running additional shifts seven days a week.

Upon opening of the viaduct to the public on July 8, 2022, CO 186 was issued on August 11, 2022 to change the incentive maximum payment date and incentive completion date from June 20, 2022 and September 27, 2022 to July 8, 2022 and October 15, 2022, respectively as shown in Table 1 below. CO 186 also provided the contractor with a lump sum payment of \$20,000,000 for achieving the incentive maximum payment date.

Contract Work Item	Incentive Max. Payment Date	Incentive Daily Amount	Maximum Incentive Amount	Incentive Completion Date
Original Milestone 1	June 20, 2022	\$200,000/day	\$20,000,000	September 27, 2022
Revised Milestone 1	July 8, 2022	\$200,000/day	\$20,000,000	October 15, 2022

Table 1 – Revised dates related to the Incentive from CO 186

Furthermore, CO 186 granted a non-compensable, time extension for Milestone 2, revising the final completion date of the Project to November 19, 2022 due to the ongoing impacts of raw material shortages and supply chain issues on the fabrication of the remaining railings on the Project.

Project Closeout

As the Project nears construction completion staff have begun closeout activities, including a Project Specific Maintenance Agreement (PSMA) with Caltrans, assembling the as-built record drawings, completing the final Financial Plan Annual Update, and producing a load rating analysis for Caltrans. The load rating analysis is a new requirement from Caltrans which is estimated to cost approximately \$500,000 to complete. The Project team is working with Caltrans to determine whether a simpler analysis would suffice at a lower cost.

A preliminary cashflow analysis for the remainder of the project showed a potential additional short-term cashflow need up to \$10,000,000 for FY 22/23, however in collaboration with the Public Works Office of Accounting (OOA) and the CAO, it was determined that existing account balances will satisfy most of this cashflow need. It was also confirmed that the Project has an additional \$20,000,000 in MICLA loan authority under CF#12-1409 which *should* sufficiently provide for any cashflow needs beyond what is available in existing account balances. A more detailed reconciliation of Project accounts and thorough cashflow analysis is needed to refine the final fiscal needs of the Project, however. This analysis should be completed by December 2022 and the Project team will report back to the SGC should any additional fiscal needs are identified.

Project grant funds are currently programmed for reimbursement as shown below in Table 2. Figures below are based on a Federal Fiscal Year which starts in the month of October and ends in September. Reimbursements would be expected by the month of February in each fiscal year.

Federal Fiscal Year	Highway Bridge Program (Federal)	Prop 1B (State)	Total Reimbursements
2022/23	\$21,400,000	\$2,772,597	\$24,172,597
2023/24	\$21,999,141	\$2,850,222	\$24,849,363
2024/25	\$16,820,897	\$2,179,325	\$19,000,222
2025/26	\$21,999,141	\$0	\$21,999,141

Table 2 – Highway Bridge Program Reimbursement Programming

Should you have any additional questions or concerns, please contact me at kevin.minne@lacity.org or at 213-923-5897.

KDM/sd

Attachment: SACO 118

Cc: Nate Hayward, Council District 14
Julie Sauter, Bureau of Engineering
Shay Doong, Bureau of Engineering

**City of Los Angeles – Department of Public Works – Bureau of Engineering
SUPPLEMENTAL AGREEMENT CHANGE ORDER**

Project Title SIXTH STREET VIADUCT TASK ORDER PACKAGE 5: NEW VIADUCT BRLSZD-5006(839)			Project No. X149	Change Order No. 118	File No. 8.6.12	Page 1 of 3
Work Order Number E700224F	Contract Number C-123545	Bid Item No.	Subject Global Agreement to Release All Past and Future Claims			
Contractor Skanska – Stacy & Witbeck (SSW)			Plan Reference			
<input type="checkbox"/> Changed/Unforeseen Conditions <input checked="" type="checkbox"/> Errors and Omissions <input type="checkbox"/> Change in Scope CCO Type: HHFD		Schedule Activity	Specification Reference Section 01254			

1. Reason for Change:

Following the award of Task Order 5 – New Viaduct, the City and the Contractor, SSW, (individually “Party”, collectively, “the Parties”) were unable to reach agreement on a number of commercial issues. These issues include Certified Claim No. 1 “Development of Falsework Camber & Camber Strip Components for New Viaduct Falsework Frames 1-6” dated December 5, 2017, Certified Claim No. 2 “Design Defects, Extended BIM Efforts, and Disruption Impacts” dated August 29, 2018, which was later superseded by Certified Claim No. 2 Supplement “Design Defects, Extended BIM Efforts, and Disruption Impacts – Change in Character due to Defective Plans and Specifications” dated January 24, 2020. Certified Claim No. 2 et al references and includes numerous City-issued change orders for which the final compensation for cost and time impacts could not be agreed upon between both Parties at the Project staff level, as well as requests for equitable adjustment in the form of Change Order Requests and Time Impact Analyses.

The Parties continued negotiations of these issues at an Executive level, concluding in the attached negotiated settlement agreement (“Global Agreement”), which shall be effective upon its incorporation into the Contract through final execution of this Supplemental Agreement Change Order (SACO).

2. Description of Change:

The attached executed Global Agreement, and referenced Exhibits, are hereby incorporated into the Contract through the execution of this Supplemental Agreement Change Order (SACO).

Refer to the attachment *Change in Task Order 5 Amount Breakdown* for the itemized allocation of the Task Order 5 component of the Global Agreement amount. Change Orders will also be issued for construction Task Orders 2, 4, C, and D to incorporate the Global Agreement and extend their respective milestone/completion dates due to the revised Task Order 5 milestone dates. The cumulative amount of the Global Agreement for all Task Orders is \$65,000,000, with an Incentive Payment not to exceed \$20,000,000, for a maximum total of \$85,000,000. The final Incentive Payment amount due to the Contractor will be as determined by the Engineer, as set forth in the Global Agreement.

**City of Los Angeles – Department of Public Works – Bureau of Engineering
SUPPLEMENTAL AGREEMENT CHANGE ORDER**

Project Title SIXTH STREET VIADUCT TASK ORDER PACKAGE 5: NEW VIADUCT BRLSZD-5006(839)			Project No. X149	Change Order No. 118	File No. 8.6.12	Page 2 of 3
Work Order Number E700224F	Contract Number C-123545	Bid Item No.	Subject Global Agreement to Release All Past and Future Claims			
Contractor Skanska – Stacy & Witbeck (SSW)			Plan Reference			
<input type="checkbox"/> Changed/Unforeseen Conditions <input checked="" type="checkbox"/> Errors and Omissions <input type="checkbox"/> Change in Scope CCO Type: HHFD		Schedule Activity	Specification Reference Section 01254			

Global Agreement Distribution	
Construction Task Order	Amount
Task Order C – Building Demolition/Utility Relocations	\$5,250
Task Order D – Utility Relocations	\$12,999
Task Order 2 – Demolition	\$6,001
Task Order 4 – Foundations	\$805,056
Task Order 5 – New Viaduct (Up to)	\$84,170,694
Total (Up to)	\$85,000,000

3. Change in Contract Amount:

Extra Work – Lump Sum Agreed Price ADD \$64,170,694

Extra Work – Schedule-Based Incentive Payment ADD Up To \$20,000,000

4. Change in Contract Duration:

The Contract duration for both Milestone 1 and 2 is hereby extended by 530 calendar days.

Refer to the Global Agreement for changes to Liquidated Damages amounts.

Cost and Schedule Control Summary

Original Contract Amount	\$ 190,950,000	Original Contract Duration	1385	Calendar Days
Previous C.O.'s Add/(Deduct)	\$ 4,303,644	Previous C.O.'s Add/(Deduct)	106	Calendar Days
This C.O. Add/(Deduct)	\$ 64,170,694	This C.O. Add/(Deduct)	530	Calendar Days
Revised Contract Amount	\$ 259,424,338	Revised Contract Duration	2021	Calendar Days
Revised Contract Amount with Schedule-Based Incentive	up to \$ 279,424,338	Revised Contract Completion	07/30/2022	

The compensation (time and cost) set forth in this Change Order comprises the total compensation due the CONTRACTOR, all Subcontractors, and all Suppliers, for the work or change defined in this Change Order, including impact on the unchanged work. By signing the Change Order, the CONTRACTOR acknowledges and agrees on behalf of himself, all Subcontractors, and all Suppliers, that the stipulated compensation includes payment for all work contained in the Change Order, plus all payment interruptions of schedules, extended field overhead costs, delay, and all impact, ripple effect or cumulative impact on all other work under this Contract. The signing of the Change Order indicates that the Change Order constitutes full mutual accord and satisfaction for the change, and that the time and cost under the Change Order constitutes the total equitable adjustment owed the CONTRACTOR, all Subcontractors, and all Suppliers, as a result of the change. The CONTRACTOR on behalf of himself, all Subcontractors, and all Suppliers, agrees to waive all rights, without exception or reservation of any whatsoever to file any further claim related to this Change Order. No further claim or request for equitable adjustment of any type shall rise out of or as a result of this Change Order or the impact of this Change Order on the remainder of the work under this Contract.

**City of Los Angeles – Department of Public Works – Bureau of Engineering
SUPPLEMENTAL AGREEMENT CHANGE ORDER**

Project Title SIXTH STREET VIADUCT TASK ORDER PACKGE 5: NEW VIADUCT BRLSZD-5006(839)			Project No. X149	Change Order No. 118	File No. 8.6.12	Page 3 of 3
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Contractor Skanska – Stacy & Witbeck (SSW)			Plan Reference			
<input type="checkbox"/> Changed/Unforeseen Conditions <input checked="" type="checkbox"/> Errors and Omissions <input type="checkbox"/> Change in Scope CCO Type: HHFD		Schedule Activity	Specification Reference Section 01254			

APPROVED BY THE BOARD OF PUBLIC WORKS ON: 4/21/2020

BOARD OF PUBLIC WORKS: 
MEMBER

DATE: 8/26/20

BOARD OF PUBLIC WORKS: _____
MEMBER

DATE: _____

APPROVED AS TO FORM: _____
CITY ATTORNEY'S OFFICE: 
NAME

DATE: 8/26/2020

SUBMITTED BY:   Digitally signed by Natalie Moore
Date: 2020.08.25 11:12:00-07'00'
CONSTRUCTION MANAGER

DATE: 8/25/2020

APPROVED BY:  Shay Doong
2020.08.25 11:40:26-07'00'
PROJECT MANAGER

DATE: _____

APPROVED BY:  Digitally signed by Mike Aparicio
Date: 2020.08.25 15:48:14 -07'00'
CONTRACTOR

DATE: 8/25/2020

APPROVED BY: 
SENIOR OR PRINCIPAL ENGINEER

DATE: 8/27/2020

T.O. 5 - Supplemental Agreement Change Order 118 - Change in Task Order 5 Amount Breakdown

Total Task Order 5 SACO Amount **Up to \$84,170,694***

Task Order 5 - Non-Claim Pending COs Resolved through SACO **\$136,362**

20	Signing, Striping and Traffic Signal Plan Revision 1	\$0
49	Implementation of a Disputes Review Board	\$75,062
74	Waive Permanent Grout Cap Requirements (Section 50-1.02F (7-19-13) of Caltrans Revised Standard Specifications dated 05-06-16) for Deck Tendon Anchorage	\$0
81	Grout Quality Testing for Bents 10, 11, 12 ARFB (Partial P-T) Grouting	\$4,985
98	Miscellaneous Pull Box Changes to Address Existing Field Conditions	\$1,966
104	Relocate New Service No. 2	\$28,470
110	Additional Testing Requested for Bent 8 TARFB/Knuckle Pour #1	\$5,350
111	Epoxy-Coated Steel Reinforcing Bars (ASTM A775 and A934) - Acceptance of Certificates of Compliance with Facility Audit	\$0
113	Non-Destructive Test Method for Cable Hanger Nitronic 60 Pins	\$20,529
115	Revised Railing and Projectile Screen Connection to Arch Rib	\$0

Task Order 5 - Pending COs **\$17,935,170**

52	Closure Pour Details at Frame Construction Joints	\$0
69	Test Edge Girders PT Anchorage System to its full 27 strand capacity	\$0
73	P-T Couplers Material Testing Verification to include with Certificate of Compliance	\$0
79	Field Bending Epoxy Rebar within Limits of ARFB PT Blockout	\$29,445
85	Self Consolidating Concrete for Transverse Arch Rib Floor Beams and Knuckles Bents 4 - 11	\$15,836,773
88	Self Consolidating Concrete for Transverse Arch Rib Floor Beams and Knuckles Bent 12	\$1,992,348
90	Field Quality Control Testing for Self-consolidating Concrete	\$0
92	Adding Epoxy Bar and Polystyrene Plug to Architectural Concrete at Knuckle Joints	\$29,106
95	Self Consolidating Concrete for Knuckle Region at Abutment 13 (within Caltrans 101 Fwy R/W) and Bent 3	\$0
97	Rebar detail for Y-Arm 8 & 9 & 10 Stairs Landing at deck	\$0
99	Revising Submittal 122-R3 Frame 4 PT Shop Drawings PT-7D1 and PT-7D3	\$931
103	Additional BIM Modeling and Coordination for Frame 6 Edge Girders	\$31,031
106	Mechanical Bar Splice Transitioning Couplers (#14 to #11) - Project Specific Approval	\$0
107	PROCUREMENT ONLY: Additional Abutment 13 Changes due to BIM Submittal 111-R5	\$0
109	Support for City's Concrete Quality Investigation at Bent 12 Knuckle	\$15,536
112	Alternate Railing Anchorage Detail	\$0

Task Order 5 - Additional Amount for Unilateral COs**\$14,142,691**

11	Changes to ARFB Post-Tensioning (PT) and Floor Beam PT and Spacing	\$8,515,683
32	Revision of Span 9 South Hanger Forces (Plan S5-64)	\$0
36	Bent 12 BIM - Plan Revisions to Rebar and Post Tensioning in the Y-Bents, ARFB and Edge Girders	\$3,017,669
38	Post Tensioning - Couplers and Plastic Duct	\$0
41	Deck Construction Joint	\$1,613,902
42	Changes to Architectural Cover of Post-Tensioning Anchors, Y-Bent Rebar, and Other Misc. Changes	\$0
45	Adding Mild Steel to Edge Girder to Accommodate Construction Equipment Loading (Temporary Condition)	\$0
50	Bent 10 BIM - Plan Changes	\$0
51	Post-Tensioning (PT) Stressing Data Detail	\$0
53	Edge Girder Overstress due to Arch Rib Falsework Removal	\$0
54	BIM Revision 2 - Changes to Contract Documents through BIM Shop Drawings for Bents 10 and 12	\$0
57	BIM Revision 4 - Plan Changes for Abutment 13	\$0
58	BIM Revision 3 - Plan Changes for Floor Beam and Edge Girder	\$0
59	BIM Revision 5 - Plan Changes for Bent 3 Knuckle Region and Updates from BIM efforts at Bent 10 & Abutment 13	\$0
60	Y-Bent 4 - Architectural Concrete Modification	\$0
63	BIM Revision 6 - Plan Changes Related to Post Tensioning Updates and Other Miscellaneous Updates	\$859,406
65	BIM Revision 7 - Plan Changes Related to Edge Girder BIM Modifications	\$0
71	Frame Construction Joint and Arch Rib Updates	\$0
75	Arch Rib 7N Intrados Revision	\$0
77	Adding Mild Reinforcement to Intermediate Floor Beams to Accommodate Temporary Stresses Caused by Contractor Requested Bridge Deck Construction Joint	\$0
86	Transverse Arch Rib Floor Beam Soffit Chamfer	\$0
87	Compensation for Extended BIM Efforts	\$136,031
91	BIM Impacts to the Development of Frame 6 Post-Tensioning Shop Drawings	\$0
100	Delete Edge Girder Outer Ties at Floor Beam PT Block-Out	\$0
101	Eliminate Conflict with Edge Girder Closed Stirrup and PT Duct with Railing Anchor Bolts	\$0
102	Optional Change to Edge Girder Secondary Hanger Reinforcement Details	\$0
105	Additional Abutment 13 Changes due to BIM Submittal 111-R5	\$0

Task Order 5 - Unsolicited Change Order Requests & Other Claims**\$31,956,471**

SSW COR-A1	Compensable Time Extension	\$30,810,547
SSW COR-1	DSCs at Bent 5 RW and Shoring Obstructions	\$403,229
SSW COR-1/LASS-5	Fabrication of Multi-plane, Multi-radius #14 Grade 80 Reinforcing Bars	\$0
SSW COR-10A,B	Impacts due to BOE Non-Compliance of Submittal Review Times - Double Handling of Material on the Project Site	\$279,089
SSW COR-19	Changes to PT Plate Anchorage Systems (Abutment 13 and Bent 3)	\$359,045
SSW COR-24	Cost Impacts for LUD Design - Memo to Designer 20-2 and Frame 6 Stop Work Directives	\$44,999
SSW COR-29A,B,C	Schedule Mitigation - Additional Y-Arm Rebar Support System & Additional ARFB Form Support System	\$0
SSW COR-39	Partnering Costs	\$59,562
SSW COR-40	ARFB No.5 Deck Chamfer Rebar RFI 367, 387, 393	\$0
Claim #1 (SSW COR-4)	Recovery of Costs Incurred for Development of Falsework Camber & Camber Strip Components for New Viaduct Falsework Frames 1 - 6	\$0
Total Task Order 5 Lump Sum Agreed Price		\$64,170,694

Task Order 5 - Risk Items and Other Schedule-Related Impacts and Mitigation**\$20,000,000****Total Task Order 5 Schedule-Based Incentive****Up to \$20,000,000**

*Includes \$64,170,694 as part of Lump Sum and \$20,000,000 in Schedule-Based Incentive amount



098009 – 6th Street Viaduct, Contract No. C-123545
Skanska-Stacy & Witbeck, a Joint Venture
585 South Santa Fe Avenue
Los Angeles, CA 90013

Date: March 19, 2020 – Final version

Project:

Sixth Street Viaduct Replacement Project (“Project”)
City of Los Angeles Contract No. C-123545 (“Contract”)

Parties

City of Los Angeles (“City”)
Skanska Stacy and Witbeck, Joint Venture (“SSW”)
(Individually, the “Party” and collectively, the “Parties”)

This document sets forth the Parties’ global agreement (“Global Agreement”) and shall be effective upon its incorporation into the Contract as a Supplemental Agreement Change Order (“SACO”) memorializing the agreed-upon terms between SSW and the City in regards to SSW’s Government Code claim dated August 16, 2019, submitted to the City, and all other claims asserted by SSW or its subcontractors or suppliers for alleged increased costs, Project impacts, extra work, differing site conditions, railroad delays, design deficiencies, loss of efficiency, loss of productivity, and delays (collectively “Claims”) allegedly incurred or experienced by SSW or its subcontractors or suppliers concerning the Project, any counterclaims that the City has in connection with the Claims, and certain other disputed issues on the Project as identified herein.

Purpose of this Agreement:

The Parties’ intent in entering into this Global Agreement is to document and memorialize the terms and conditions and release of the Claims constituting the agreement between the City and SSW regarding all Claims and disputes, both known and unknown, as may now exist or arise in the future, in connection with or arising out of the Project, and whereby the City and SSW agree to an increase in the Contract amount with adjusted Milestone dates as described herein. SSW agrees that it will complete the Project in accordance with Contract and this Global Agreement within the agreed-upon Milestone dates identified herein (Milestone 1 and Milestone 2) and acknowledges that Liquidated Damages may be assessed in accordance with the Contract and this Global Agreement in the event the Milestone dates are not timely achieved by SSW. SSW represents to the City that it has performed its own independent investigation as to the practicability and probability of it achieving the Milestone dates and further acknowledges that it is not relying on any representations of the City, or its agents, as to the likelihood or probability of achieving the Milestones dates, and agrees that it shall accept all attendant risks of time, productivity, and cost impacts for timely achieving the Milestones Dates.



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Commercial Terms:

As sufficient consideration for entering into this Global Agreement, the Parties agree to the following:

1. \$65,000,000 increase (“Payment”) to SSW’s Contract amount for the Project including an adjusted scheduled Viaduct opening for vehicular and pedestrian use (“Milestone 1”) date of June 20, 2022, and scheduled Final Completion Date (“Milestone 2”) of July 30, 2022. Liquidated Damages for Milestone 1 may be assessed at the rate of \$40,000 per day. Reimbursement from SSW to the City for Milestone 2 may be assessed in the amount set forth in the Contract. Including this Payment, the total Contract amount will be \$339,773,398.
2. \$20,000,000 schedule-based incentive payment “Incentive Payment” will be incorporated into the Contract in accordance with Exhibit B. Including this Incentive Payment, the total Contract ceiling will be \$359,773,398, exclusive of any City initiated voluntary improvements, as defined in Exhibit A.
3. Except as expressly provided herein, this Global Agreement includes all compensation for any and all costs or expenses of any nature, including but not limited to, any Project overhead or allocable home office overhead to the Project, direct costs, indirect costs, bond costs, interest, profit and all applicable extensions of time arising from or caused by the items included in the Claims and any future Project impacts of any nature arising out of the Claims. This Global Agreement will operate as a general release by SSW, of known and unknown claims, except to the extent rights and claims are expressly excluded as identified and set forth in Exhibit A attached hereto and incorporated herein by this reference.
4. Payment terms: \$40,000,000 will be paid within 30 days of the execution of the SACO incorporating this Global Agreement, but no earlier than September 1, 2020. The remaining \$25,000,000 will be made in ten (10) equal payments of \$2,500,000, which are only due and payable upon achieving each individual milestone described below. For purposes of ten (10) equal payments, the individual milestones are as follows:
 - 1) Removal of the final form for the 2nd arch
 - 2) Removal of the final form for the 4th arch
 - 3) Removal of the final form for the 6th arch
 - 4) Removal of the final form for the 8th arch
 - 5) Removal of the final form for the 10th arch
 - 6) Removal of the final form for the 12th arch
 - 7) Removal of the final form for the 14th arch
 - 8) Removal of the final form for the 16th arch
 - 9) Removal of the final form for all pedestrian ramps
 - 10) Final approval of all bridge finish activities



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The revised Baseline Schedule (“Schedule”) for the Project shall be submitted by SSW and approved by the City prior to the City’s execution of the SACO, and shall be consistent with the various administrative approval durations in the Contract, and shall reasonably and accurately demonstrate SSW’s timely completion of the Project with regards to Milestone 1 and Milestone 2 by the dates agreed upon herein.

Should SSW not deliver the Milestone 1 and Milestone 2 in accordance with the Schedule and the dates agreed upon in this Global Agreement, the final payment to SSW will include the balance of the Payment, minus any Liquidated Damages that may be assessed, and any other offsets the City is entitled to under the terms of the Contract, the SACO and applicable law.

SSW acknowledges its failure to perform certain obligations in accordance with the performance requirements and Milestone 1 and Milestone 2 under this Global Agreement and the Contract will cause the City and the public to incur additional cost and inconvenience not contemplated herein, including, but not limited to, City staff and consultants performing project and construction management, extension of railroad use agreements, extension of real estate agreements for field office and staging, impacts on other projects, loss of public benefit, and damage to the City’s reputation. SSW acknowledges this cost and inconvenience will constitute damages to the City, and that the exact amounts of these damages and are extremely difficult or impractical to fix at the time of execution of the Contract and this Global Agreement. Accordingly, the City and SSW agree that the amounts described as liquidated damages in this Global Agreement, which are an increase to the liquidated damages included in the Contract, are not penalties, but represent a fair and reasonable estimate of the damages that the City will incur because of SSW’s failure to perform and are fair compensation to the City for its losses.

Therefore, City and SSW agreed that, in addition to all other damages to which City may be entitled, in the event that SSW fails to achieve the Milestones by the time requirements set forth in the approved Schedule, SSW shall pay to City as liquidated damages, and not as a penalty but as a reasonable estimate of the amount of damages City will suffer, the amount of forty-thousand dollars (\$40,000) per day for each calendar day occurring after the Scheduled deadline to achieve the Milestone during which the Milestone is not completed.

5. SSW must replace the current Project Executive with a qualified Project Executive with complex bridge experience prior to the City’s execution of this SACO. The current Project Executive must not have any role on the Project. SSW must fill all Key Personnel prior to the first Payment of this SACO. Approval of the Key Personnel is subject to City approval in accordance with Article 9 of the Contract.
6. The Parties agree to implement the actions described in the “New Project Culture” and “Joint Task Forces” sections below to support successful Project delivery and completion. However, it is understood and agreed by the Parties that failure to implement any, or all, of the actions below shall not have any impact on the terms of this Global Agreement and shall not be considered a material breach of any of the terms of this Global Agreement or the Parties’ Contract. The



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Parties agree to make good faith efforts to implement the goals and actions of the New Project Culture and Joint Task Forces.

7. The Parties agree that as part of this Global Agreement, SSW has been compensated fairly and completely on behalf of itself and its subcontractors and suppliers of all tiers and is knowingly accepting all risk of any and all past, present, and future cost and time impacts related to or arising from the completion of the Project, except to the extent expressly excluded in Exhibit A attached hereto. SSW's acceptance of the risk does not include acceptance of professional liability for the design of the viaduct. HNTB will remain the engineer of record for the Project.
8. **General Release – All Claims – Past and Future.** In consideration of the covenants, and agreements, and undertakings of the Parties under this Global Agreement, each Party, on behalf of itself and its respective present and former parents, subsidiaries, affiliates, officers, directors, shareholders, managers, members, successors, and assigns hereby releases, waives, and forever discharges the other Party and its respective and former directors, parents, subsidiaries, affiliates, employees, officers, directors, shareholders, managers, members, representatives, and permitted successors, and permitted assigns, of and from any and all actions, cause of action, suits, losses, liabilities, rights, debts, dues, sums of money, accounts, reckonings, obligations, costs, expenses, liens, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, damages and demands of every kind and any nature whatsoever, whether now known or unknown, perceived or proceeding, matured or unmatured, suspected or unsuspected, in law or equity with the with respect to the Claims covered by this Global Agreement which any such Party ever had, now have, or hereafter can, shall, or may have against any of such other party for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of time to the date of this Global Agreement arising out of or relating to the Claims covered by this Global Agreement, except for any surviving obligations hereunder this Global Agreement and claims relating to rights and obligations preserved by, created by, or otherwise arising out of this Global Agreement.

Each Party understands it may later discover claims or facts that may be different from, or in addition to, those that yet or any other Party now knows or believes to exist regarding the subject matter of this Global Agreement, and which, if known at the time of executing this Global Agreement, may have materially affected this Global Agreement and such Party's decision to enter into and grant the release contained in this. Nevertheless, the Parties intend to fully, finally, and forever settle and release all Claims that now exist, may exist, or previously existed, as set out in the release contained in this Global Agreement, whether known or unknown, foreseen or unforeseen, or suspected or unsuspected, and the release given herein is and will remain in effect leaked release, notwithstanding the discovery or existence of such additional or different facts. The Parties hereby waive any right or claim that may arise because of such different or additional claims or facts. The parties have been made aware of, and understand, the provisions of California Civil Code Section 1542 (Section 1542) which provides: "**A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his**



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or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or release party."

Items that are resolved and to be released in this Global Agreement include, but are not limited to:

- I. Constructability issues concerning the Project, including but not limited to, issues with respect to the design drawings and construction specifications and with respect to any and all claims, whether known or unknown, as to differing site conditions are resolved and released by this Global Agreement.
- II. Conflicts or inconsistencies, including but not limited to, between specific drawings or specifications, or both, all such claims, whether known or unknown, are resolved and released by this Global Agreement. City reserves the sole and exclusive right to resolve or clarify any future conflict or inconsistency in Project drawings and specifications, or both, as part of the consideration of this Global Agreement and SSW waives any such claims that may arise.
- III. Constructability issues and conflicts or inconsistencies between specific drawings and specifications, or both, include, without limitation, the following:
 - a. "Clashes" in general in the design of the Project.
 - b. A particular drawing or construction specification showing scope or including a requirement that is not shown or required in another drawing or specification section.
 - c. Rebar design or constructability conflicts.
 - d. Post-tensioning design of constructability conflicts.
 - e. Other embedded item conflicts.
- IV. Concrete – all types, including, but not limited to, self-consolidating concrete.
- V. Bridge Information Modeling (BIM).
- VI. Dimensional modeling, geometric control, and survey. SSW agrees that it will be responsible for this work, and any rework that may be necessary.
- VII. Railroad impacts and other impacts caused by other third-party agencies relating to work or coordination of work required for the Project, including regulatory compliance with all applicable Project permits.
- VIII. Productivity losses, rework, costs or labor escalation, rental fees, and any other costs that may be incurred unless specifically excluded in Exhibit A. The Parties acknowledge



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that the City retains sole and exclusive control over the acceptability of all work on the Project, in accordance with the Contract.

IX. SSW shall include the effects of adverse weather in the Schedule, in accordance with Section 01321 of the Contract. A maximum of five (5) severe weather days beyond the anticipated adverse weather per calendar year will be considered by the City for an approved non-compensable extension of the Milestone and Incentive Completion dates. Under no circumstances will the allowable extension exceed fifteen (15) calendar days.

Subject to the express exclusions set forth in Exhibit A attached hereto, the Parties agree to mutually release all claims, demands, actions, obligations, damages, costs, losses, expenses, liabilities and causes of action of any nature, arising out of, or in any way connected with the Project as of the execution of this Global Agreement (“Release”).

SSW agrees to provide services requested by the City in support of any administrative, contractual, and/or legal actions required to obtain reimbursement from the design consultant associated with this Agreement, including but not limited to cost records, claim documentation, legal support, and expert witnesses.

As previously indicated, SSW will immediately settle its pending lawsuit against Condon Johnson and Associates. This Global Agreement agreed to by the Parties, subject to the approvals identified on Page 8, fully resolves any claims arising out of the Condon Johnson and Associates lawsuit.

SSW agrees to update its performance bond and payment bond to reflect this Global Agreement.

The City agrees to perform timely review of all Geometric Recovery Plans (GRPs) and will not unreasonably reject any GRPs.



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New Project Culture:

1. The City and SSW mutually agree prior undesirable behaviors must change so the Project can sustain rapid progress and the resolution of issues as they arise. Consistent with that theme, all Project participants for both SSW and the City will embrace a “solution-first” approach to resolving design and construction challenges and ensure daily progress towards completion. The primary objective of both City and SSW will be the expedient resolution of construction and design issues and a view towards preserving the Project schedule.
2. The City agrees to provide a full-time Engineer to the Project who will be empowered to make daily field decisions on bridge construction and design issues including rebar placement and embed issues. This full-time Engineer will be authorized to make daily field decisions in order to facilitate schedule progress and will be empowered to work both together and simultaneously with the Bureau of Construction Administration and to advise inspectors in making binding field changes on a real time basis to be relied upon by SSW.
3. Both Parties recognize that with respect to modifying the design to facilitate construction, flexibility will be key to mutual success. Consequently, the City’s Engineer will be engaged in making expedited decisions regarding design changes and SSW’s construction engineer will be engaged in making expedited decisions regarding constructability, both to assure schedule progress. Notwithstanding the foregoing process, nothing herein shall impart design responsibility for the Project upon SSW or its consultant COWI, beyond temporary construction engineering responsibilities already included in the Contract. Instead the City’s consultant design engineer, HNTB, will remain as the engineer of record responsible for design of the Project.
4. SSW will enable Dale Mullins as the Construction Manager to make all non-design related field decisions on behalf of SSW in furtherance of facilitating the progress of construction.
5. Mike Aparicio and Julie Allen will be the steering committee to monitor and vigorously assure implementation of this New Project Culture.



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Joint Task Forces:

Joint Task Forces comprised of representatives of the City and SSW will be established to address several key initiatives on the Project with a view toward proactively and creatively addressing and resolving potential barriers to schedule progress. Joint Task Forces will be established for the following matters:

1. Railroad Task Force: Both the City and SSW recognize the importance of railroads in allowing access for the work to proceed unimpacted. This Task Force will focus on facilitating and enabling railroad access to progress the work in accordance with the schedule. The City will actively participate and assist with all coordination with the railroads.
2. Bridge Dimension and Layout Task Force: This task force will identify the required layout and dimensional control of the bridge, HNTB/City will confirm viaduct secondary dimensions, as requested by SSW. Post concrete placement, this team will also address compliance of the same controls and assure geometry control. SSW may submit their model as a shop drawing submittal and the City will have the Engineer of Record review and authorize same. The Parties mutually agree that collaboration is essential for the Parties to be able to achieve daily progress and complete the Project in accordance with the schedule. Irrespective of the creation of this task force, the City's designer HNTB remains the Engineer of Record and SSW maintains responsibility for survey and geometric control of the structure.
3. Schedule Task Force: This task force will be a joint effort to make sure that all schedule tools are current and accurate.

This Agreement is subject to approval of the California Department of Transportation (Caltrans), and the City of Los Angeles Board of Public Works, City Council, and the Mayor.

Agreed:



SSW
MS Aparicio EVP



City

APPROVED AS TO FORM
Michael N. Feuer, City Attorney

By  8/26/2020



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EXHIBIT A

This Global Agreement excludes the following items:

1. Any and all City initiated “voluntary” design betterment improvements to the Project. If the City elects to implement any such improvements, the City will compensate SSW for its cost and time resulting from the construction of the improvements, unless the change is required as a result of Contractor error. “Voluntary” design changes are items that are elective in nature and not required for design sufficiency and/or to satisfy applicable design professional standards of care; Examples of such Voluntary improvements include, but are not limited to:
 - a. adding width or length to bridge;
 - b. adding lanes;
 - c. adding steps and/or stairs;
 - d. painting the bridge;
 - e. adding lighting;
 - f. adding arches or dimensional changes to the arches because of changes in design analysis;
 - g. adding hangar cables;
 - h. removing or modifying a poured structural element because of changes in design analysis from the Engineer of Record, unless the change in design analysis was due to defective or non-compliant work.
2. Existing warranties
3. The Parties' duties to defend and indemnify each other from third-party claims resulting from bodily injury or property damage, in accordance with the original terms of the Contract.
4. Any claim arising out of defective workmanship, latent or patent, or Project work not being accepted by the City.
5. Any claim arising out of labor compliance matters, project labor agreement matters, or subcontractor utilization matters under the purview of the Bureau of Contract Administration.
6. All provisions of the Contract not expressly modified by this Global Agreement remain in full force and effect.

NOTE: SSW requests that the dollar amount of this Global Agreement be excluded from the DBE goals and/or commitments set forth in the Contract. The Payment amount will include at least 8.5% DBE participation. This request must be made to the Bureau of Contract Administration, in consultation with Caltrans and FHWA, as appropriate.



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EXHIBIT B

Incentive Payment [Based on FHWA 8-13.3 Incentive (REV 12-15-03) (FA 1-8-04) (7-04)]

The City desires to expedite construction on this Contract to minimize the inconvenience to the traveling public and to reduce the time of construction. In order to achieve this, incentive provisions are established for the Contract Work Items described below. The total combined incentive payment shall not exceed **\$20,000,000**.

Contract Work Item	Incentive Maximum Payment Date	Incentive Daily Amount	Maximum Incentive Amount	Incentive Completion Date
Milestone 1 – Viaduct open to vehicular and pedestrian traffic	June 20, 2022	\$200,000 per day	\$20,000,000	September 27, 2022

The City will pay the Contractor an "incentive payment" in the amount of the "Incentive Daily Amount" as set forth above for each calendar day the actual completion date of the "Contract Work Item" as set forth above precedes the "Incentive Completion Date" as set forth above, and as determined by the Engineer and subject to the conditions precedent set forth below. For purposes of the calculation and the determination of entitlement to the "incentive payment" stated above, the "Incentive Completion Date" will not be adjusted for any reason, cause or circumstance whatsoever, regardless of fault, save and except in the instance of a catastrophic event (i.e., major earthquake, a declared state of emergency, or unusually severe weather).

The parties anticipate that delays may be caused by or arise from any number of events during the course of the Contract, including, but not limited to, work performed, work deleted, change orders, supplemental agreements, delays, disruptions, differing site conditions, utility conflicts, design changes or defects, time extensions, extra work, right of way issues, permitting issues, actions of suppliers, subcontractors or other contractors, actions by third parties, shop drawing approval process delays, expansion of the physical limits of the project to make it functional, weather, weekends, holidays, suspensions of Contractor's operations, or other such events, forces or factors sometimes experienced in bridge construction work. Such delays or events and their potential impacts on performance by the Contractor are specifically contemplated and acknowledged by the parties in entering into this Contract, and shall not extend the "Incentive Completion Date" for the purposes of calculation "incentive



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payment" as set forth above. Further, any and all costs or impacts whatsoever incurred by the Contractor in accelerating the Contractor's work to overcome or absorb such delays or events in an effort to complete the Contract by the "Incentive Completion Date," regardless of whether the Contractor successfully does so or not, shall be the sole responsibility of the Contractor in every instance.

In the event of a catastrophic event (i.e., major earthquake, a declared state of emergency, or unusually severe weather) directly and substantially affecting the Contractor's operations on the Contract, the Contractor and the City shall agree as to the number of calendar days to extend the "Incentive Completion Date" so that such extended "Incentive Completion Date" will be used in calculation of the "incentive payment." In the event the Contractor and City are unable to agree to the number of calendar days to extend the "Incentive Completion Date," the City will unilaterally determine the number of calendar days to extend the "Incentive Completion Date" reasonably necessary and due solely to such catastrophic event and the Contractor shall have no right whatsoever to contest such determination, save and except that the Contractor establishes that the number of calendar days determined by the City was arbitrary or without any reasonable basis.

In considering any extension of the "Incentive Completion Date" resulting from a catastrophic event, no modification of an provision will be considered by the City unless the Contractor clearly establishes that it has continuously from the beginning of the project aggressively, efficiently and effectively pursued the achievement of the "incentive payment." This would include the utilization of any and all reasonably available means and methods to overcome all impacts and accelerate the work so as to still achieve the "incentive payment," and that, but for this impact, the contractor would have otherwise earned the "incentive payment" provided in the original Contract. The Contractor must also continue to aggressively, efficiently, and effectively pursue the completion of the work. This would include the utilization of any and all reasonably available means and methods to overcome all impacts and accelerate the work. There shall be no right of any kind on behalf of the Contractor to challenge or otherwise seek review or appeal, in any forum, of any determination made by the City under this provision.

The Contractor shall have no rights under the Contract to make any claim arising out of this incentive payment except as is expressly set forth in this Agreement.

As condition precedent to the Contractor's entitlement to any "Incentive payment" the Contractor must provide written notice constituting a full and complete waiver, release and acknowledgment of satisfaction by the Contractor of any and all claims, causes of action, issues, demands, disputes, matters or controversies, of any nature or kind whatsoever, known or unknown, against the City, its employees, officers, agents, representatives, consultants, and their respective employees, officers and representatives, the Contractor has or may have as to work performed, work deleted, change orders, supplemental agreements, delays, disruptions, differing site conditions, utility conflicts, design changes or defects, time extensions, extra work, right of way issues, permitting issues, actions of suppliers or



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subcontractors or other Contractors, actions by third parties, shop drawing approval process delays, expansion of the physical limits of the project to make it functional, weather, weekends, holidays, suspensions of the Contractor's operations, extended or unabsorbed home office or job site overhead, lump sum maintenance of traffic adjustments, lost profits, prime mark-up on subcontractor work, acceleration costs, any and all direct and indirect costs, any other adverse impacts, events, conditions, circumstances or potential damages, on or pertaining to, or as to or arising out of the Contract. This waiver, release and acknowledgment of satisfaction shall be all-inclusive and absolute, save and except any administrative actions by the City to accept the work.

Should the Contractor fail to actually complete the Contract Work Item and obtain written verification of the actual completion date from the Engineer prior to the "Incentive Completion Date" to qualify for any "Incentive Payment" or should the Contractor fail to fully waive, release and acknowledge satisfaction as set forth above, the Contractor shall have no right to any payment whatsoever under this Agreement.

In the event the Contractor elects to exercise the "incentive payment" provision, should this provision conflict with any other provision of the Contract, the Contract shall be interpreted in accordance with this provision.