

Provision	Professional Services/A&E	Operations/ Management	Rolling Stock	Construction	Materials & Supplies
No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000 if 49 CFR Part 18 applies				
Civil Rights (Title VI, EEO, ADA)	>\$10,000				
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000				
Buy America			>\$150,000	>\$150,000	>\$150,000
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000				
Lobbying	>\$100,000				
Clean Air	>\$100,000				
Clean Water	>\$100,000				
Cargo Preference			For property transported by ocean vessel	For property transported by ocean vessel	For property transported by ocean vessel
Fly America	For foreign air transport or travel				
Davis-Bacon Act and Copeland Anti-Kickback Act Section 1, Section 2				All exceeding \$2,000 (including ferry vessels)	
Contract Work Hours and Safety Standards Act		>\$100,000 (except transportation services)	>\$100,000	>\$100,000 (including ferry vessels)	
Privacy Act	All	All	All	All	All
Bonding				\$150,000	
Seismic Safety	A&E for New Buildings & Additions			New Buildings	
Transit Employee Protective Arrangements		Transit Operations			
Charter Service and School Bus Operations		All			
Bus Testing and Post-Delivery Audit			Buses		
Drug and Alcohol Use and Testing		Transit Operations			
Patent Rights	R&D				
Rights in Data & Copyright Requirements	R&D				
Energy Conservation	All	All	All	All	All
Recycled Products		Contracts for items designated by EPA, when procuring ≥\$10,000 per year		Contracts for items designated by EPA, when procuring ≥\$10,000 per year	Contracts for items designated by EPA, when procuring ≥\$10,000 per year
Conformance with ITS National Architecture	ITS Projects				
ADA Access	All	All	All	All	All
Notification of Federal Participation for States	Limited to States				

No Government Obligation to the Third Parties

The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

False or Fraudulent Statements or Claims – Civil and Criminal Fraud

31 U.S.C. 3801 et seq.

49 CFR Part 31 18 U.S.C. 1001

49 U.S.C. 5307

By executing this Contract, the Contractor acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose penalties under the program Fraud Civil Remedies Act of 1986.

Access to Records and Reports

49 U.S.C. 5325

18 CFR 18.36 (i)

49 CFR 633.17

The Contractor agrees that at mutually agreed to times and locations, Culver City, the Comptroller General of the United States, and the U.S. Secretary of Transportation or any of their duly authorized representatives, shall, for the purpose of audit and examination, be permitted to inspect all work, materials, payrolls, and other data and records, and to audit the books, records, and accounts relating to Culver City's account. Further, the Contractor agrees to maintain all required records for at least three (3) years after Culver City has made final payment and all other pending matters are closed.

Changes to Federal Requirements

49 CFR Part 18

The Contractor shall all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the current FTA Master Agreement between the City of Culver City and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to so comply shall constitute a material breach of the contract.

Disadvantaged Business Enterprise (DBE)

49 CFR Part 26

The Contractor agrees to comply with the Disadvantaged Business Enterprise requirements set forth in 49 C.F.R. 26.49, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

- A. Participation of DBEs: It is the policy of Culver City that DBEs as defined in 49 C.F.R. Part 26 shall have the opportunity to compete fairly and participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under the contract. Bidders are required to document sufficient DBE participation to meet DBE goals or, alternatively, document adequate good faith efforts to do so, as

provided for in 49 CFR 26.53. The successful bidder will be required to report its DBE participation obtained through race-neutral means throughout the period of performance for contracts financed in whole or in part with Federal funds under the Contract.

- B. Non-discrimination: The Contractor shall not discriminate on the basis of race, color, national origin, physical or mental disability, or sex in the award and performance of DOT assisted contracts. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of the contract, which may result in the termination of the contract or such other remedy as the City of Culver City deems appropriate.
- C. Termination of DBEs: The contractor must promptly notify the City whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the City of Culver City.
 - a. Prompt Payment and Return of Retainage: The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the City of Culver City. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the City and contractor's receipt of the partial retainage payment related to the subcontractor's work.

[Incorporation of Federal Transit Administration \(FTA\) Terms](#)

FTA Circular 4220.1E

The Contractor recognizes that this Contract includes, in part, certain terms and conditions required by the Federal Transit Administration, whether or not expressly set forth in the Contract. All contractual provisions required by the Federal Transit Administration, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. If any of the provisions of the Contract are contrary to the Federal Transit Administration's mandated terms and conditions, such terms and conditions shall be deemed to control.

The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of Culver City, which would cause Culver City to be in violation of the Federal Transit Administration terms and conditions.

[Privacy Act](#)

5 U.S.C. 552

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

[Energy Conservation Requirements](#)

42 U.S.C. 6321 et seq.

49 CFR Part 18

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State of California energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

ADA Access

1. On July 26, 1994, the Americans with Disabilities Act (“the Act”) became effective for employers of fifteen or more employees. If the Contractor is subject to the Act, it must comply with its provisions.
2. The Act protects against discrimination on the basis of “disability,” which is defined as a physical or mental impairment that substantially limits at least one “major life activity;” or discrimination against an individual who has a record of such impairment; or discrimination against an individual being regarded - even if inaccurately - as having such impairment. The Act also expressly prohibits job discrimination that is based on any individual’s relationship or association with a disabled person.

Cargo Preference Requirements

(For property transported by ocean vessel as part of Rolling Stock, Construction, and Materials & Goods Contracts)

46 U.S.C. 1241

The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

Fly America Requirements

(For foreign air transport or travel)

49 U.S.C. § 40118

41 CFR Part 301-10

The Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

Civil Rights Requirements

29 U.S.C. § 623, 42 U.S.C. § 2000

42 U.S.C. § 6102, 42 U.S.C. § 12112

42 U.S.C. § 12132, 49 U.S.C. § 5332

29 CFR Part 1630, 41 CFR Parts 60 et seq.

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

- a. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- b. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- c. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

Termination

(If 49 CFR Part 18 applies)

1. Termination for Convenience. The City of Culver City may terminate the Contract, in whole or in part, at any time and for any reason by written notice to the Contractor when it is in the best interest of the City of Culver City. The Contractor shall be paid its costs, including Contract close-out costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its termination claim to LCBOCC to be paid to the Contractor. If the Contractor has any property in its possession belonging to the City of Culver City, the Contractor will account for the same, and dispose of it in the manner the City of Culver City directs.

2. Termination for Default. If the Contractor fails to make delivery of the goods or to perform the services within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of the Contract in accordance with its terms and, in either of these two circumstances, does not cure such failure within a period of ten (10) days after receiving such notice from the City of Culver City, thereafter, the City of Culver City may terminate the Contract for default and have the Work completed and the Contractor shall be liable for any resulting cost to the City of Culver City. In the event of termination for default, the Contractor will only be paid the Contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the Contract. If, after termination for failure to fulfill Contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City of Culver City.

3. Termination Due to Insufficient Funds. If at any time during the term of the contract the Culver City City Council makes a determination that the City of Culver City has insufficient funds with which to carry out its performance and obligations under the contract, then the City of Culver City may terminate the Contract by delivering a notice of termination to the Contractor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Contractor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to the City of Culver City.

4. Termination Due to Failure to Receive a Grant or other Funding Device. If at any time during the term of the Contract the City of Culver City ceases to receive a grant or other funding device from a third party with which it intended to pay for the goods or services Contracted for, then, unless otherwise directed by the the Culver City City Council, the City of Culver City may terminate the Contract by delivering a notice of termination to the Contractor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Contractor shall be paid its costs, including Contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to the City of Culver City.

5. Damages upon Termination. Any damages to be assessed to the Contractor as a result of a default termination or any claim by Contractor for costs resulting from a termination for convenience by the City of Culver City, a termination due to insufficient funds by the City of Culver City, or a termination due to a failure to receive a grant or other funding device by the City of Culver City will be computed and allowable in accordance with federal regulations in effect at the time of termination.

Recycled Products

(Operations, Construction, and Materials and Supplies Contracts for items designated by EPA, when procuring ≥\$10,000 per year)

42 U.S.C. 6962

40 CFR Part 247

Executive Order 12873

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Debarment and Suspension

The Contractor shall provide Culver City with a signed certification setting forth its debarment and suspension status and that of its principals. During the term of the Contract, the Contractor shall inform Culver City of any change in the suspension or debarment status of the Contractor or its principals within ten days after such change occurs.

Resolution of Disputes, Breaches, or Other Litigation

No FTA Guidance; City Discretion

Byrd Anti-Lobbying Amendment

For any contract of over \$100,000, the third party contractor will be required to complete and submit certification forms, and, if appropriate, lobbying disclosure forms concerning compliance with 31 U.S.C. 1352.

Clean Air

For public works/construction projects, each third party contractor must agree to comply with any federal environmental and resource conservation requirements that apply to the construction activities under the terms of the Contract. The contractor is required to report any violation of standards, orders or regulation issued under the Clean Air Act (42 U.S.C. 7401 et. seq.) resulting from any activity of the contractor in connection with the performance of the

contract to FTA and to the appropriate U.S. EPA regional office. The contractor is responsible for the disposal of hazardous materials, in accordance with applicable federal, state and local law and guidelines.

Clean Water

For public works/construction projects, each third party contractor must agree to comply with any federal environmental and resource conservation requirements that apply to the construction activities under the terms of the Contract. The contractor is required to report any violation of standards, orders or regulation issued under the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) resulting from any activity of the contractor in connection with the performance of the contract to FTA and to the appropriate U.S. EPA regional office. The contractor is responsible for the disposal of hazardous materials, in accordance with applicable federal, state and local law and guidelines.

Contract Work Hours and Safety Standards

(Operations, Rolling Stock, and Construction Contracts)

The following provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-222) shall apply with respect to all U.S. federal government financed contracts and subcontracts in excess of \$100,000.

1. Overtime requirements - No Contractor or subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such Work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (a) of this section the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages - The City of Culver City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of Work performed by the Contractor or subcontractor under any such Contract or any other Federal contract with the same prime Contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontracts - The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (3) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

Buy America

The Contractor shall comply with the applicable Buy America requirements set forth in 49 U.S.C. 5323(j) and the applicable regulations in 49 C.F.R. Part 661, as amended, and shall be responsible for providing the Buy America certification required under such regulations.

Copeland Anti-Kickback Act Section 1, Section 2

For public works/construction projects in excess of \$2,000, the provision of the Copeland Anti- Kickback Act (40 U.S.C. 276c) and implementing Department of Labor regulations apply. Specific clauses are enumerated at 29 CFR 5.5(a).

Davis-Bacon Act

For public works/construction projects or activities exceeding \$2,000, the requirements of the Davis- Bacon Act (40 U.S.C. 276(a) – 276(a)(7)) and implementing Department of Labor regulations apply. Specific clauses are enumerated at 29 CFR 5.5(a).

Bonding

1. Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to the City of Culver City and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

2. Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by the City to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of the City. It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of the City of Culver City, shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of the City's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by the City as provided in the Instructions to Bidders) shall prove inadequate to fully recompense the City for the damages occasioned by default, then the undersigned bidder agrees to indemnify the City and pay over to the City the difference between the bid security and the City's total damages, so as to make the City whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

1. Performance bonds

- a. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the City determines that a lesser amount would be adequate for the protection of the City.
- b. The City may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The City may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

2. Payment bonds

- a. The penal amount of the payment bonds shall equal:
 - i. Fifty percent of the contract price if the contract price is not more than \$1 million.
 - ii. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - iii. Two and one half million if the contract price is more than \$5 million.
- b. If the original contract price is \$5 million or less, the City may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the City of Culver City's interest.

1. The following situations may warrant a performance bond:

- a. City property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
- b. A contractor sells assets to or merges with another concern, and the City, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
- c. Substantial progress payments are made before delivery of end items starts.
- d. Contracts are for dismantling, demolition, or removal of improvements.

2. When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

- a. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the City determines that a lesser amount would be adequate for the protection of the City.
- b. The City may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The City may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

3. A payment bond is required only when a performance bond is required, and if the use of payment bond is in the City's interest.

4. When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

- a. The penal amount of payment bonds shall equal:
 - i. Fifty percent of the contract price if the contract price is not more than \$1 million;
 - ii. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - iii. Two and one half million if the contract price is increased.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The City shall determine the amount of the advance payment bond necessary to protect the City.

Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The City shall determine the amount of the patent indemnity to protect the City.

Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by the City, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the Project Manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the

Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by the City and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to the City. As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment, furnish separate Maintenance (or Guarantee) Bonds in form acceptable to the City written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

Seismic Safety

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

Patent Rights

Each third party contractor must comply with appropriate Patent and Rights in Data requirements (37 C.F.R. Part 401 and 49 C.F.R. Part 18).

1. General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

2. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

3. The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

Rights in Data & Copyright Requirements

1. The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

2. The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

- a. Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the

written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

- b. In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
 - i. Any subject data developed under that contract, whether or not a copyright has been obtained; and
 - ii. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.
- c. When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.
- d. Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
- e. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
- f. Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.
- g. Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

3. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

4. The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

Conformance with Intelligent Transportation System (ITS) National Architecture

For all respect to all Contracts involving the provision of Intelligent Transportation Systems ITS property and services the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the National ITS Architecture and Standards to the extend required by 23 USC Section 517 (d) and 23 CFR Part 655 and 940.

Transit Employee Protective Provisions

(For Transit Operations Contracts)

49 U.S.C. § 5310, § 5311, and § 5333

29 CFR Part 215

1. The Contractor agrees to comply with applicable transit employee protective requirements as follows:

a. General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

b. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

c. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

2. The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

Charter Bus and School Bus Operations

49 U.S.C. 5323(d)

49 CFR Part 604

49 U.S.C. 5323(F)

49 CFR Part 605

Charter Service Operations - The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

School Bus Operations - Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

Drug and Alcohol Testing Requirements

49 U.S.C. §5331

49 CFR Part 655

A. Drug and Alcohol testing provisions apply to Operational Service Contracts, whether Federal funds are utilized or not. These requirements do not apply to micro-purchases under \$3,500. Anyone who performs a safety-sensitive function for the City under the terms of the contract is required to comply with 49 CFR 653 and 654, with certain exceptions for contracts involving maintenance services.

B. The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of the State of California, or the City of Culver City, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to submit a copy of the Policy Statement developed to implement its drug and alcohol testing program.

X. PROVISIONS APPLICABLE TO ROLLING STOCK CONTRACTS ONLY

Bus Testing and Post Delivery Audit Requirements

The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

1. Buy America Requirements - The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

2. Solicitation Specification Requirements - The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

3. Federal Motor Vehicle Safety Standards (FMVSS) - The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.