

CONTRACT FOR
TRANSIT SYSTEM OPERATION SERVICES

Between

CITY OF LOMPOC

And

RATP DEV USA, INC.

CONTRACT FOR TRANSIT SYSTEM OPERATION
SERVICES

This Agreement is made and entered into by and between the City of Lompoc, a municipal corporation ("CITY") and RATP DEV USA, Inc., a Texas Corporation ("CONTRACTOR").

WHEREAS, CITY has a need for operations and management services in connection with the City of Lompoc Transit program, known henceforth as COLT; and

WHEREAS, CONTRACTOR has represented it has the experience, expertise, skills, personnel, and qualifications to perform such services for CITY.

NOW, THEREFORE, the parties hereto do hereby mutually covenant and agree as follows:

1. Engagement. CITY hereby engages CONTRACTOR and CONTRACTOR hereby agrees to perform for CITY the services hereinafter set forth for the payments hereinafter set forth, all pursuant to the terms and conditions herein.
2. Documents Incorporated by Reference. CONTRACTOR'S proposal and cost calculations ("Proposal"), are incorporated herein by reference and made a part of this Agreement, as if fully set forth at this point. CONTRACTOR shall perform the Scope of Services in accordance with the "Technical Approach" in the proposal, provided that in the event of a conflict between the Technical Approach and the Scope of Services herein, the Scope of Services will govern.
3. Scope of Service. Pursuant to this Agreement, CONTRACTOR shall, upon receiving CITY'S notice to proceed, do all things necessary to operate and provide day-to-day supervision relating to the COLT program in accordance with Attachment A, "Scope of Services," including but not limited to:
 - a. Providing the day-to-day operations of COLT,
 - b. Providing for employment and supervision of all personnel including supervisors, vehicle operators, dispatchers, clerical, and other personnel,
 - c. Providing for operation of training and safety programs,
 - d. Providing for preparation of performance reports and analyses of financial and other matters; clerical, statistical, and bookkeeping services,
 - e. Providing for vehicle cleaning and servicing as specified,
 - f. Providing equipment and supplies required for the operation of COLT unless specifically identified to be contributed by CITY,
 - g. Utilizing, implementing, and integrating any computerized scheduling and dispatching software provided by CONTRACTOR,

- h. Providing such other work as may become necessary in connection with the COLT program as discussed within the Request for Proposal (“RFP”) for the Services, which is incorporated herein by this reference, and
- i. Providing vehicle monitoring system with video event date recorder and GPS tracking camera on all COLT buses. Software access to all modules shall be provided to CITY.

CONTRACTOR will be subject only to the general policies and direction of CITY with regard to COLT operation and to the provisions and requirements of this Agreement, and applicable federal, state, and local laws and regulations.

CONTRACTOR shall provide paratransit service as required by Code of Federal Regulations, Title 49, Part 37. The minimum service provided shall be service to any eligible person at any requested time on a particular day in response to a request for service made the previous day. CONTRACTOR will utilize dispatch software and provide drivers for partial days to provide an efficient service that minimizes Vehicle Revenue Hours. Vehicle Revenue Hours for paratransit service shall not exceed 22 hours per day Monday thru Friday and 8 hours per day on Saturday without the prior approval of CITY’s Authorized Representative. CITY reserves the right to revise these not to exceed hours per Section 7.

4. CITY’S Responsibilities:

- a. CITY shall be responsible for providing one administrative office to be used exclusively for the operation of the COLT Transit program from which CONTRACTOR will operate. The parties agree the cost for rental of that office has been incorporated into the compensation paid by CITY to CONTRACTOR so no additional rent is due.
- b. CITY shall be responsible for providing all COLT revenue vehicles to be operated by CONTRACTOR, which shall be properly licensed and certified.
- c. CITY shall be responsible for all COLT vehicle fuel and maintenance (routine and non-routine, for preventive and non-recurring) necessary for the operation of the COLT program.

5. CONTRACTOR Program Manager. CONTRACTOR agrees Mr. Andre Thingili shall staff the position of Program Manager and shall be physically onsite at COLT a minimum of 40 hours per week. If CONTRACTOR decides to change the Program Manager, then such change must be acceptable to CITY, as evidenced in writing signed on behalf of CITY.

In the event CITY, in its sole judgment, determines any Project Manager is not providing the service required by this Agreement, CITY shall notify CONTRACTOR, in writing, specifying concerns. CONTRACTOR shall have ten (10) working days to resolve such concerns to CITY’S satisfaction. If CITY remains dissatisfied, then CITY shall notify CONTRACTOR and CONTRACTOR shall replace the Program Manager within ten (10) days after the final notice.

6. Compensation. The total compensation CITY will pay CONTRACTOR for the services provided pursuant to this Agreement is as follows:

CONTRACTOR shall be paid based on Actual Vehicle Revenue Hours. Actual Vehicle Revenue Hours are the hours vehicles travel while in revenue service. Vehicle revenue hours include layover/recovery time, but exclude deadhead and training operations prior to revenue service and road tests. CONTRACTOR shall provide monthly accounting based on the agreed upon compensation in Attachment B. That rate shall be deemed fully inclusive for all services provided under this Agreement. Compensation formula (*i.e.*, total number of Actual Vehicle Revenue Hours multiplied by the negotiated hourly rate) shall be in full compliance with the terms as outlined in CITY'S Request for Proposals for the Services.

CONTRACTOR shall submit a monthly itemized statement and performance report in a format approved by CITY'S Authorized Representative. CITY shall pay each correctly submitted monthly invoice for services satisfactorily performed in full within thirty (30) days after receipt of that correctly submitted invoice. CONTRACTOR shall keep records concerning payment items on a generally recognized accounting basis and such records shall be maintained for a period of three (3) years following the completion of the Services assigned. Such records shall be made available for copying, inspection or audit by duly authorized CITY employees or independent agents of CITY during reasonable business hours.

7. Changes in Scope of Work. Without invalidating this Agreement, CITY may from time to time order changes in the scope and/or extent of COLT operations to respond to market demand, special events, and other occurrences without requiring amendments pursuant to this Article; provided, that such changes do not result in a change in the estimated number of annual revenue hours, from those stated in Attachment B, of more than twenty percent (20%).

8. Term of Contract: The initial term of this Agreement shall be for the period commencing at 12:01 A.M. on July 1, 2023, and terminating at 11:59 P.M. on June 30, 2025, unless terminated pursuant to Paragraph 9 below.

CONTRACTOR will complete all applicable training requirements during the month of June, 2023, commence operations on July 1, 2023, and operate and maintain the service for a two-year period ending on June 30, 2025. CITY may extend the Agreement for up to two additional years, in one-year increments.

The price per revenue hour for any extension shall be as proposed in the CONTRACTOR'S Cost/Price Proposal dated May 3, 2023.

9. Termination:

This Agreement may be terminated by either CITY or CONTRACTOR for any of the following reasons:

a. CITY may terminate this Agreement in the event CONTRACTOR does not comply with any of the provisions and requirements imposed upon it by this Agreement. CONTRACTOR shall not be obligated to perform pursuant to this Agreement due to unforeseeable causes or events beyond the control of CONTRACTOR. Such unforeseeable causes or events may include fires,

floods, snowstorms, epidemic quarantine, restrictions, strikes, freight embargoes, or public road closures. In each instance, CONTRACTOR shall resume performance at the earliest possible date following the cessation of such unforeseen causes or events. If the performance of any service is excused under this paragraph, then CONTRACTOR shall not be entitled to any compensation.

When CONTRACTOR has knowledge any actual or potential cause or event may delay or prevent performance of this Agreement, it shall, on a timely basis, notify CITY, and thereafter shall continue to report to CITY all relevant information as it becomes known.

b. If this Agreement is to be terminated pursuant to subparagraph a., above, then CONTRACTOR shall be given five (5) business days to correct the specified deficiencies. If CITY is not reasonably satisfied with CONTRACTOR'S corrective effort, then CITY shall give five-days' written notice to CONTRACTOR of the termination of this Agreement.

c. CITY may also terminate this Agreement upon not less than sixty (60) days prior written notice to CONTRACTOR in the event that funding derived from either Federal, State, County, or CITY sources is terminated or reduced to the extent CITY determines it is no longer feasible to continue COLT operations pursuant to this Agreement. Under the above circumstances of termination, CONTRACTOR shall be paid any compensation due for COLT operations through the date of termination.

d. In the event of termination of this Agreement for any reason, all pertinent data prepared in support of the COLT program shall be made available to CITY without additional cost, and all materials, supplies and equipment provided by CITY under this Agreement shall be immediately returned to CITY.

10. Sale or Transfer. CONTRACTOR agrees it will not sell, assign, or transfer, in whole or in part, any right, title or interest it possesses by reason of this Agreement to any other person or entity without first obtaining the written consent of CITY to such sale, assignment, or transfer. If CONTRACTOR is acquired or purchased by any other company or corporation, then CITY has the right of termination of this Agreement. In the event of any violation of this Section, CITY may immediately terminate this Agreement.

11. Contract Transition. CONTRACTOR shall provide to either CITY or its designated agent, CONTRACTOR'S full cooperation in the transition to any successor to this Agreement for up to sixty (60) days, prior to or following, the effective date of the termination or expiration of this Agreement.

12. Conflicting Use. CONTRACTOR shall not use any vehicle, equipment, personnel, and other facilities, which are dedicated to CITY for performing services under this Agreement for any use whatsoever, other than as provided for in this Agreement without the prior written approval of CITY.

13. Independent Contractor. CONTRACTOR'S relationship to CITY in performance of this Agreement is that of an independent Contractor.

The personnel performing services under this Agreement shall at all times be under CONTRACTOR'S exclusive direction and control, and are employees of CONTRACTOR and not employees of CITY.

CONTRACTOR shall pay all wages, salaries, and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, and similar matters.

CONTRACTOR shall notify its employees by written notice any and all obligations in connection with their employment are those of CONTRACTOR and not CITY.

14. Conflict of Interest. No officer, employee, director, or agent of CITY shall participate in any decision relating to this Agreement which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested; nor shall any such person have any interest, direct or indirect, in this Agreement or the provisions thereof.

15. Insurance. With respect to performance or work under this Agreement, CONTRACTOR shall secure and maintain, and shall require all of its subcontractors to secure and maintain insurance as described below:

CONTRACTOR shall, at CONTRACTOR'S sole expense and throughout the term of this Agreement and any extension thereof, maintain adequate insurance to protect it from claims under the Worker's Compensation Acts.

CONTRACTOR shall also, at CONTRACTOR'S sole cost and expense and throughout the term of this Agreement and any extensions thereof, carry general personal injury, general liability, and automobile liability insurance with limits of not less than ten million dollars (\$10,000,000) for the injury or death of a person or persons and property damage in any one accident.

CITY, its elective officials, officers, employees, and agents shall be named as additional insured on the general liability and automobile liability policies. Each type of insurance shall be written by a financially responsible company or companies authorized to do business in the State of California.

CONTRACTOR shall provide CITY with certificates of insurance acceptable to the CITY for all policies written, and each shall contain an endorsement prohibiting cancellation unless thirty (30) days written notice is first given to CITY by the insurance company or companies providing said coverage.

16. Incorporation of Federal Requirements. The Federal Requirements in Attachment C, and all documents referenced therein, are incorporate into this Agreement. CONTRACTOR shall comply with all such requirements. In case of any conflict or discrepancy between the Federal Requirements and the other terms of this Agreement, the Federal Requirements shall prevail.

17. Performance Guarantee. CONTRACTOR shall perform no services pursuant to this Agreement, nor be entitled to compensation, unless and until CONTRACTOR submits a bond or other acceptable security to CITY. Such bond shall be executed by CONTRACTOR and a surety company licensed to do business in the State of California. Such bond shall be in the amount of ten percent (10%) of the estimated annual contract amount as stated in Attachment B and shall at all times be kept in full force throughout the term of this Agreement.

The condition of such bond shall be CONTRACTOR shall fully and faithfully perform all conditions and covenants of this Agreement or the face amount of such bond shall be forfeited to CITY.

This bond may be in the form of a renewable one-year bond, and shall be renewed annually before its expiration date; provided, however, that such bond must remain in full force and effect from and after the date CITY makes any demands for payment on the bond or until CITY releases such claim.

Provision of such bond, or its equivalent, approved by CITY is a material covenant of this Agreement.

CITY shall not approve any security that is not unconditionally payable to CITY upon its sole demand.

18. Fidelity Bond. CONTRACTOR shall secure for its employees a Fidelity Bond protecting CITY from employee theft up to the amount of Ten Thousand Dollars (\$10,000.00) for any one occurrence. Such Fidelity Bond shall name CITY as loss payee with respect to amounts claimed hereunder arising out of CONTRACTOR'S performance under this Agreement. CONTRACTOR shall provide CITY a copy of said bond accompanied by proof of payment for same.

19. Hold Harmless. CONTRACTOR shall indemnify, defend, and hold harmless CITY, its officers, employees, and agents from all costs (including reasonable attorney's fees and all court costs), expenses, losses, liabilities, claims, damages, causes of action and judgments arising out of or caused by any act or omission of CONTRACTOR, or any of its officers, agents or employees related to this Agreement.

20. Nondiscrimination. There shall be no discrimination against any person employed pursuant to this Agreement in any manner forbidden by law.

21. Time is of the Essence. That time is of the essence of this Agreement.

22. Section Headings. The section headings appearing herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Agreement.

23. Interpretation. The terms and conditions of this Contract shall be construed pursuant to their plain and ordinary meaning and shall not be interpreted against the maker by virtue of that party having drafted the Agreement.

24. Laws Governing Agreement. This Agreement shall be interpreted in accordance with the laws of the State of California. CONTRACTOR agrees this Agreement was entered into at Lompoc, California, and the County of Santa Barbara is the agreed upon venue for any litigation as a result of breach hereof or any questions arising hereunder.

25. Notices. Any notice required pursuant to this Agreement shall be mailed, first class postage pre-paid, to the following addresses:

CITY OF LOMPOC
Aviation/Transportation Administrator
100 Civic Center Plaza
Lompoc, CA 93436

RATP DEV USA, Inc.
300 Throckmorton Street, Suite 670
Fort Worth, TX 76102

27. Understanding of the Parties. This Agreement represents the complete understanding between the parties with respect to the matters set forth herein. No amendment or modification of this Agreement shall be valid unless signed on behalf of CITY and CONTRACTOR.

28. Severability. Invalidation in whole or in part of any provision of this Agreement shall not affect the validity of other provisions. CITY'S failure to insist in one or more instances upon the performance of any term or terms of this Agreement shall not be construed as a waiver or relinquishment of CITY'S right to such performance by CONTRACTOR.

29. Authority. The City Manager of CITY, or his/her designee, shall have the authority to act for and exercise any of the rights of CITY as set forth in this Agreement.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement on the day and year first set forth above.

RATP DEV USA, Inc., a Texas Corporation

City of Lompoc, a California municipal corporation

By: _____

By: _____
Dean Albro, City Manager

APPROVED AS TO FORM:

Jeff Malawy, City Attorney

ATTEST:

Stacey Haddon, City Clerk

ATTACHMENT A

SCOPE OF SERVICES

1.1 City of Lompoc Transit – Description of Service

CITY provides fixed-route and demand-response public transit service within Lompoc and the neighboring unincorporated communities of Vandenberg Village, Mesa Oaks and Mission Hills.

Twice weekly CITY also provides inter-community shuttle service linking Lompoc with the Santa Barbara/Goleta area.

Three times daily (Monday-Saturday) CITY provides inter-city fixed-route service linking Lompoc with the Cities of Buellton and Solvang.

CITY currently contracts with a private operator for its daily transit operations. CITY’s Public Works staff conducts all maintenance on the COLT fleet and provides the fuel for the normal operation of the COLT service.

CONTRACTOR will manage all operations-related functions from CITY’s Public Works facility located at 1300 West Laurel Avenue, or a new planned facility at 320 North ‘D’ Street, in Lompoc.

Total estimated revenue hours for these services are:

Approximate Annual Revenue Hours:

	Current	Anticipated
COLT Fixed-route	15,445	15,445
Demand response:	6,852	6,852
Santa Barbara Shuttle	957	957
Hancock service	607	607
Total:	23,861	23,861

The contractor must obtain and keep current all required licenses and permits to operate in the COLT service area within the scope of this contract service.

The COLT service area boundaries include Vandenberg Village, Mesa Oaks and Mission Hills, as well as all areas within CITY limits and the Bridgehouse Shelter located just east of CITY limits. Transportation outside of this service boundary is limited only to the Santa Barbara Shuttle and the Wine Country Express.

Service is not available on the following holidays: New Year’s Day, Martin Luther King Day, President’s Day, Memorial Day, June 19th, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Eve, and Christmas Day. CITY reserves the right to operate modified schedules in conjunction with holidays or other special events, given a one (1) week notice to the Contractor. The modified schedules will in no way alter the contract, nor will they be considered adjustment to service, nor will it result in compensation either to the Contractor or CITY.

Typical COLT service hours:

Monday – Friday	6:10 a.m. to 7:10 p.m.
Monday – Thursday	8:00 p.m. to 10:00 p.m. (Hancock College on-demand service)
Saturday	9:00 a.m. to 5:00 p.m.
Sunday	No Service

Contractor will be expected to provide dispatch coverage during all hours during which COLT is in operation, plus additional time prior to and subsequent of revenue service to assure all runs are covered by qualified drivers. Exact hours of operation are subject to change at CITY's sole discretion.

1.2 Adjustment to Service

CITY reserves the right to adjust service at any time without any adjustment to the unit cost per revenue hour with the Contractor. Modifications to services may include, but are not limited to, extending, deleting, or adding routes, or parts of routes, and expanding or decreasing revenue hours.

In the event actual annual revenue hours fall below eighty percent (80%) or exceed one hundred twenty percent (120%) of the total projected annual revenue hours, CITY reserves the right to negotiate a revised unit cost per revenue hour with the Contractor.

1.2.1 Special Services

The Contractor from time to time may be required to provide special event-related services. Special event services may vary from year to year. Special event services shall be billed at no more than the agreed upon firm-fixed unit cost.

1.3 Drivers

1.3.1 Qualifications/Standards

The Contractor shall conduct an adequate background check on each driver to ensure he/she meets the following standards and are qualified to perform public transportation services:

- A. All operators must be employees (full or part-time) of the Contractor. The Contractor may not sub-contract with individuals to execute trip assignments.
- B. Continuous possession of a valid driver's license, a California DMV Transit Certificate, passenger endorsement, air brake endorsement, current possession of a Class A or B license, and any other certifications as required by the State of California to operate the services as described herein.
- C. Not more than two (2) moving violations in the past five (5) years and no DWI/DUI conviction within the prior seven (7) years.
- D. Demonstrated command of the English language, both oral and written.

- E. Sensitivity to customer needs.
- F. Ability to resolve complaints and problems in a courteous and professional manner, as required.
- G. No felony conviction history.
- H. Must pass Federal Drug and Alcohol Testing regulations (see Appendix 10).

1.3.2 Training

Contractor shall be responsible for all aspects of training, including the provision and payment for the required training.

Contractor must provide an orientation and training plan outlining how drivers with recent transit operating experience have been previously trained to an equivalent level as required by the “new trainee” program below.

All drivers without recent transit bus operations experience, hired by the Contractor must attend, at a minimum, the following training:

A minimum of eighty (80) hours of training per driver, of which at least thirty-two (32) hours shall be behind-the-wheel of a vehicle, including at least eight (8) hours of system and route training/orientation. This training must be completed before a driver can be placed into unsupervised revenue service.

Within this required training period, Contractor shall instruct drivers in at least eight (8) hours of disability awareness sensitivity training, which includes ADA regulations and procedures; four (4) hours of sexual harassment training; eight (8) hours of passenger control/difficult passenger training; and eight (8) hours of defensive driving training. CITY reserves the right to review all training materials, and to monitor training sessions. The Contractor shall arrange and pay for this training.

Contractor shall be required every year to ensure all operating personnel associated with this contract receive at least the required sixteen (16) hours of Department of Motor Vehicles training and eight (8) hours of recurrent “transit certificate” training.

The cost of driver wages accrued during all training shall be borne by the Contractor.

Contractor shall be required to ensure all operators and dispatch staff is aware of proper customer communication practices required for polite and courteous customer assistance.

Contractor shall ensure all operators complete training prior to their operation of a vehicle in revenue service. The Contractor will also be responsible for providing remedial training for any driver who demonstrates an absence of appropriate skills.

Training during and subsequent to training for new hires, such as recurrent training and retraining, shall be conducted by the Contractor. The Contractor shall be required to have an Operator Development Program in place to address all operator-related training needs. CITY shall inform the Contractor in writing of any changes in operating procedures. The

Contractor will be responsible for any training at its cost for existing operators which are needed as a result of altered or modified procedures.

Written documentation of all training, including new hires, recurrent, and retraining shall be maintained by the Contractor and furnished to CITY or its representative upon request.

All training programs shall be subject to CITY approval within a reasonable timeframe.

1.3.3 Uniform Specifications and Appearance Standards

a. Uniform Specifications

The Contractor shall develop a dress code that will be subject to CITY approval. Such dress code will feature, at a minimum, both shirt/blouse and slacks (standardized dress shorts permitted with City prior approval). Drivers shall wear name tags clearly displaying their first names at all times while performing their duties. Uniforms shall clearly display (separately) both the name of the contracting firm and name of the transit service. Each driver shall have an accurate timepiece available and in clear sight at all times during vehicle operations.

The dress code shall include shoes that shall be solid, plain-toe military style oxford. Low-cut and high-top tennis shoes are not permissible. Suede shoes, sandals, cleated, or open-toe shoes will not be permitted.

Consideration for safety must be applied to all dress code elements.

b. Appearance Standards

At all times while on duty, drivers shall be well-groomed, clean, and in complete uniform. Drivers shall conform to the following standards of appearance at all times while on duty or when in uniform. All drivers must be neat in appearance, no visible tattoos and body piercings, uniform clean and pressed, shoes shined, hair clean and neatly presented.

1.3.4 Removal

CITY may require the Contractor to immediately, pending investigation, remove any driver from revenue service for any one of, but not necessarily limited to, the following:

- A. Committing unsafe or inappropriate acts while providing service.
- B. Revocation, suspension, or non-renewal of a valid California driver license.
- C. Conviction of any felony criminal offense.
- D. Unacceptable customer service as reported by customers, other drivers, or directly observed by CITY staff or agents thereof.
- E. Non-compliance with CITY -specified appearance standards.

1.4 Personnel

The Contractor shall furnish all operators, porters/bus washers, dispatchers, supervisors, administrative personnel, and other supporting services necessary for the provision of the transportation service in accordance with this Contract.

CITY reserves the right to review the resumes of management personnel assigned to this Contract. Contractor's project manager shall meet with CITY's representative as required (but not less than monthly).

As part of this proposal, proposers shall include proposed driver, dispatch, training and safety manager(s), road supervisor(s), support personnel, and project manager wage and benefit packages, which will be offered to each of the referenced employment classifications upon contract commencement.

1.4.1 Required Management Personnel

CITY requires a full time Project Manager be on duty during all service hours. A Training/Safety Manager/Road Supervisor is also required. The Project Manager must be approved by CITY. Project Manager information must include a full resume, work history and 3 work-related references.

The Contractor shall provide road supervision personnel on duty prior to driver rollout to assure complete route coverage/schedule adherence. All cleaning and other personnel working after normal service hours shall be appropriately supervised.

Proposers must include complete employment history and resume materials for the project manager being proposed. This position is critical to the success of the operation and significant scrutiny of the proposed project manager is to be expected.

1.4.2 Supervision

Contractor shall provide a qualified supervisor at all times during program operations to provide continuous daily street supervision of contracted service including the monitoring of schedule adherence, on-street operation, and on-route compliance. This supervision will include conducting ride checks (on-board) to ensure operator adherence to procedures (i.e., fare collection, ADA compliance, and customer relations). This supervision will also include responses to investigation of accidents, and customer complaints. CITY also reserves the right to provide similar investigations and adherence checks of its own without notice to ensure compliance with terms of the Contract.

1.4.3 Dispatching/Radio Control

CITY will equip its transit vehicles with appropriate communication equipment (i.e., radios). The Contractor will provide adequate dispatch and radio monitoring personnel to enable effective driver/vehicle assignments and prompt responses to driver and/or vehicle problems, which could impact transit service. The Contractor provides the base station and accessories. The Contractor is expected to ensure that the equipment provided is well maintained and functioning.

1.4.4 Safety and Security

The Contractor shall take all reasonable and necessary precautions to provide security for any equipment provided by CITY, as well as for records of all transit operations. Contractor shall be responsible for safety and security of passengers during operations and for all related equipment and facilities. Contractor shall include specific procedures in the proposal, which define the safety and security program for transit service. Safety and organizational meetings shall be held with all employees at least once monthly.

Contractor shall report all hazardous conditions (e.g., trees, signs, road conditions, etc.) within the respective service area to CITY and/or other appropriate authority and take necessary precautions to safeguard passengers, personnel, and equipment.

Contractor shall not permit drivers to bear weapons of any type (pocket knives are exempt only if the blade is no longer than two inches) on Contractor, or City property, facilities, or onboard vehicles while operating a vehicle under the terms of this agreement.

1.4.5 Injury and Illness Prevention Plan

CONTRACTOR shall maintain and provide a copy of the Contractor's Injury and Illness Prevention Plan in compliance with Title 8 of the California Code of Regulations, Sec. 3203.

1.5 City-Owned Vehicles

A. The Contractor shall be initially provided air conditioned, wheelchair accessible vehicles. An adequate number of vehicles will be made available to the Contractor to assure at least a twenty percent spare ratio. Contractor may utilize CITY-owned vehicles for driver training. See Appendix 11 for the RFP for Fleet Rosters.

B. CITY shall pay for all repairs unless the repairs arise/result from Contractor negligence.

CITY reserves the right to add/subtract or substitute vehicles for those described herein.

CITY will not provide Contractor with any non-revenue vehicles to conduct daily non-revenue service tasks. Contractor shall be responsible for providing any non-revenue vehicles that may be desired for running of errands, field review of operations, shuttling of drivers, etc.

1.5.1 Transition of Vehicles to New Contractor

CITY and incoming Contractor will jointly inspect each vehicle and sign off on the inspection sheet.

1.5.2 Operating Mode

CITY will provide all revenue service vehicles. The Contractor is required to provide the necessary drivers, supervisory/management services, and all other goods and services

needed to provide the services described in this Scope of Services unless expressly stated such goods and services will be provided by the City.

1.6 Facilities

Contractor shall occupy and perform services as required by this RFP from CITY of Lompoc's Public Works Yard located at 1300 West Laurel Avenue or a new facility planned at 320 North D Street, in Lompoc. Contractor shall share this facility with CITY administrative staff and fleet maintenance staff. City Fleet maintenance staff shall perform vehicle maintenance and occupy the maintenance portion of the facility. Said facility shall be used for the storage, maintenance, and servicing of all vehicles associated with this contract.

1.6.1 Vehicle Maintenance

CITY will be responsible for all vehicle maintenance. Such maintenance shall be performed at an appropriate facility provided by CITY. CITY shall pay for all repairs unless the repairs result from Contractor negligence. It is CITY's responsibility to determine negligence based on common industry practices.

1.6.2 Fuel

CITY will provide all fuel necessary for the operation of City owned transit vehicles.

1.7 Software/Hardware/Furniture

The Contractor will be required to supply all administrative office furniture/software, and all computer hardware associated with this contract. Contractor will utilize current scheduling software, provided by CITY, as well as be proficient in the use of Apollo video software currently in use by CITY.

1.7.1 Fare Collection

The Contractor shall collect the fares and charges as established by CITY. Fare collection and all security-related measures shall be solely the responsibility of the Contractor. The Contractor shall be required to provide the following materials or information:

- A. Documentation showing fares collected which shall be reported monthly (by day) and segregated by service type (i.e., fixed-route, Dial-A-Ride, etc.);
- B. Fare boxes shall be provided by CITY and maintained by CITY.

CITY reserves the right to approve any fare collection system implemented throughout the contract term. CITY reserves the right to examine all records relating to fares collected at its discretion, including retaining the services of an independent third-party auditor.

Contractor shall sell COLT, Breeze, and Clean Air bus passes from CITY Maintenance and Operations Facility as part of the program duties.

1.7.2 Telephone Information Service

Contractor shall provide dispatch and customer information service to the public in English and Spanish during all operating hours. Demand-response reservations shall be taken during all operating hours. CITY will provide sufficient phone lines dedicated to the service. These phone lines are for the sole purpose of providing customer information and shall not be used for any other purpose.

1.8 Equipment Condition

Vehicles placed in service by Contractor must, without exception:

- A. Be cleaned daily inside and outside. Exterior washed once a week.
- B. Vehicle floors will be swept and mopped daily.
- C. Driver area will be wiped down. This shall include, but not be limited to, dash controls, dashboard, above the driver area, and along the front dashboard.
- D. Have fully operational heating and air conditioning, wheelchair lifts, securement belts, flip seats, radios, fareboxes, and destination signs.
- E. Be free of body damage, nor any missing or unpainted panels.
- F. Be free of graffiti on the exterior and the interior.
- G. Have all safety items fully operational (i.e., lights, brakes, horn, tires, wheelchair tie-downs, seat belts, etc.)
- H. No vehicle shall be cannibalized for parts for any reason without prior written consent of CITY.

1.9 Data

1.9.1 Daily Statistics

The following information will be provided on a daily basis.

- A. Summary of driving and industrial accidents and incidents for previous day.
- B. Wheelchair boardings attempted/successful for the previous day.
- C. Number of late/missed trips for previous day and the cause.
- D. Number of overloads experienced for the previous day.

Written accident reports must be submitted to the respective entity within 24 hours of the incident.

1.9.2 Weekly Reports

The daily statistics shall be aggregated to a weekly and month-to-date basis and a report provided to CITY on a monthly basis. In addition to the daily indicators, ridership counts segregated by service, service type, and route as well as the number and type of complaints received for the week must be included in the weekly report.

1.9.3 Monthly Reports

The following performance indicators must be reported monthly.

- A. Miles between road calls,
- B. Miles between maintenance road calls,
- C. Number and percentage of missed/late pull-outs,
- D. Number and percentage of missed/late trips,
- E. Number and percentage of on-time performance,
- F. Number of complaints/1,000 passengers,
- G. Total accidents/100,000 miles,
- H. Collision accidents/100,000 miles,
- I. Total preventable accidents/100,000 miles,
- J. Passenger accidents per 100,000 miles,
- K. Wheelchair boardings,
- L. Drug and Alcohol tests,
- M. Driver/Dispatcher training activities,
- N. Driver evaluations,
- O. Ridership counts by day, mode, route, and fare type;
- P. Revenue Miles by Mode,
- Q. Revenue Hours by Mode, and
- R. Fare Revenue by Mode.

1.9.4 Customer Complaints

Contractor will contact by telephone, or follow up with written correspondence if necessary, to the complaint. If an investigation is required, Contractor will conduct an investigation and the initiator will be contacted by telephone or written correspondence regarding the results of the investigation. Contractor shall respond to customer complaints within one (1) business day of receipt. The Contractor will be required to track and report to CITY all complaint information within twenty-four (24) hours of receipt of complaint. A written Customer Concern report must be generated and submitted to CITY for each complaint received.

1.9.5 NTD Reporting

All public transit service provided under this Agreement must be reported annually to the Federal Transit Administration (FTA) in a completed National Transit Database (NTD) report. As part of the annual NTD reporting requirement, the Contractor shall conduct on-board data sampling each year as directed by the FTA/NTD, to statistically compute valid passenger mile data. The Contractor agrees to use the technique described in FTA Circular **C 2710.1A (dated July 18, 1988) or any updated version(s)**. The Contractor

shall submit the daily random-sample trip sheets no later than the tenth (10th) calendar day for the previous month's sampled trips to CITY. The Contractor shall prepare a quarterly report of the randomly-selected trips to be submitted to CITY no later than thirty (30) days after the end of each quarter and prepare an annual summary to be submitted to CITY no later than thirty (30) days after the end of the fiscal year. Contractor shall be responsible for ensuring that all reported NTD data meets FTA requirements and definitions. Contractor shall be responsible for maintaining the most recent NTD data collection procedures. The monthly, quarterly, and annual reports shall be considered missed if not submitted to CITY by the tenth (10th) calendar day or thirty (30) days after the end of the quarter or fiscal year, respectively, and be considered a cause for termination (default) of this Contract. Contractor shall conduct any mandatory sampling that NTD may require of CITY at any time during the resulting contract term.

1.9.6 Drug-Free Workplace Policy

The Contractor is required to develop and implement procedures that comply with CITY's Drug-Free Workplace Policy and applicable FTA requirements (Appendix 1).

1.9.7 Performance Specifications

All performance specifications will be strictly adhered to in order to provide the highest level of service possible. CITY reserves the right to monitor the Contractor in its performance of the Contract to ensure all performance specifications are adhered to.

To receive full compensation, the Contractor is required to meet or exceed the following standards of performance on a monthly basis:

Operating Performance Standards - Vehicles shall be operated with due regard for the safety, comfort, and convenience of passengers and the public. Service shall be provided as scheduled or according to any adjusted schedule established by CITY, including route modifications required because of a declared emergency. The Contractor shall strive to maintain on-time performance, however, Contractor shall not be held responsible for the failure to provide on-time service due to weather, unavoidable vehicle malfunctions, or naturally occurring disasters, if sufficient documentation is provided to CITY.

Personnel Performance Standards - Regularly assigned drivers must be available at all times of transit operation to ensure consistent and reliable service under the Contract.

All personnel are responsible for knowledge of the service. Project personnel must maintain a courteous attitude, answering to the best of their ability, any questions from the public regarding the provision of service. Customer service training must include a focus on positive customer relations. Personnel must report customer complaints and/or operational problems to the Contractor's project manager who will be responsible to inform CITY. All customer complaints must be reported to CITY within twenty-four (24) hours of being received.

Drivers must accurately and completely submit the required operating reports each day.

1.10 Marketing and Public Relations

CITY shall be responsible for all marketing and public relations activities relating to its public transit program.

CITY shall furnish all schedules, maps, transfers, passes and other printed materials required for marketing the service. The Contractor shall distribute onboard notices, cooperate and participate in marketing, promotion, advertising, public relations, and public education programs and projects undertaken by CITY from time to time. CITY shall be the exclusive public media contact in connection with the transit program. Under no circumstances shall the Contractor or its employees be permitted to distribute any unauthorized printed or written materials without prior written permission from CITY.

1.10.1 Advertising on Vehicle Exterior and Interior

CITY may, during the course of this contract, require the Contractor to allow vendors contracted by CITY access to vehicles assigned to this contract to install and remove advertising material. All advertising materials will meet uniform size requirements, and are subject to CITY approval prior to being installed.

1.10.2 Signage

Contractor shall display required head signage, in plain view, in all transit vehicles, while in revenue service.

1.11 Operating During an Emergency

In the event of an emergency, the Contractor shall deploy vehicles in a manner described by CITY. Emergency service does not constitute an expansion of service. CITY shall be obligated to compensate the Contractor for emergency service significantly exceeding the normal expense of operating the transit service during such period of declared emergency.

ATTACHMENT B
COMPENSATION

Cost Proposal		
	YEAR 1	YEAR2
	FY 2023/24	FY 2024/25
COLT Unit Cost per Revenue Hour	\$ 74.57	\$ 77.12
COLT Estimated Annual Revenue Hours	23,861	23,861
COLT Total Cost (Unit Cost x Annual Revenue Hours)	\$ 1,779,212.04	\$ 1,840,120.27
	\$ 1,779,212.04	\$ 1,840,120.27

ATTACHMENT C

FEDERAL REQUIREMENTS

1. FEDERAL GRANT CONDITIONS

Contractor's attention is called to the fact this contract is subject to a financial assistance contract between the City of Lompoc and the Federal Transit Administration (FTA) of the United States Department of Transportation ("DOT"). Contractor shall always comply with all applicable FTA regulations, policies, procedures, and directives including without limitation those listed directly or by reference in the FTA Master Agreement between the respective entity and FTA, as amended, and are incorporated herein by this reference. The Contractor shall comply with these FTA requirements and as they may be amended or promulgated from time to time during the term of this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any CITY directives, which would cause CITY to be in violation of the FTA requirements. Contractor's failure to comply with these FTA requirements and CITY directives shall constitute a material breach of this Contract.

The Contractor understands Federal laws, regulations, policies, and related administrative practices applicable to this contract on the date the contract was executed may be modified from time to time. The Contractor agrees the prevailing Federal requirements will govern the administration of this contract at any time, except if there is sufficient evidence in the contract of a contrary intent. Such contrary intent might be evidenced by express language of this contract, or a letter signed by the FTA Administrator the language of which modifies or otherwise conditions the text of a particular provision of this contract. Likewise, new Federal laws, regulations, policies, and administrative practices may be established after the date the contract has been executed and may apply.

If FTA requires any change to this Contract to comply with its requirements, both parties agree to amend this Contract as required by FTA. If such changes cause an increase or decrease in the work to be performed by the Contractor or the time for such performance, then the compensation to be paid to Contractor and time of performance shall be equitably adjusted.

2. ACCESS TO RECORDS AND REPORTS

Contractor agrees to provide CITY, the FTA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this

contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until CITY, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. (Reference 49 CFR 18.39(i)(11).)

FTA does not require the inclusion of these requirements in subcontracts.

3. 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.

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

- 1 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.
- 2 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.

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.

- B. 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.

4. ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES

The Contractor agrees to comply with the following requirements if applicable to the provision of services under the Contract:

- A. The Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §12101 et seq.;
- B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794;
- C. Section 16 of the Federal Transit Act, as amended, 49 U.S.C. §5301 (d);
- D. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities," 49 C.F.R. Part 37.
- E. U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Parts 27, 37 and 38.
- F. U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35.
- G. U.S. DOJ Regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36.
- H. U.S. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19.
- I. U.S. Equal Employment Opportunity Commission (EEOC), "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630.
- J. FTA Regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and
- K. Federal civil rights directives and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

5. PROGRAM FRAUD, FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project.

Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the CITY of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

6. SUSPENSION AND DEBARMENT

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

Contractor was required to execute and submitted Form APP-B5 "Certification Regarding Debarment, Suspension, Ineligibility & Voluntary Exclusion" included as Appendix 4 to the RFP in as part of its proposal. As required therein, this certification must be included in any lower tier covered transaction it enters into.

7. DISCRIMINATORY SPECIFICATIONS

The Contractor agrees that it will comply with the provisions of 49 U.S.C. §5323(h)(2) by refraining from including any exclusionary or discriminatory specifications in any solicitation or subcontract issued or executed by Contractor for work to be performed under this Contract.

8. COMPLIANCE WITH ENVIRONMENTAL STANDARDS

A. Compliance with Environmental Standards (Clean Air and Clean Water Acts):

Contractor agrees to comply with the provisions of the Clean Air Act, as amended, 42 U.S.C. §7401 et seq.; the Clean Water Act, as amended, sections 33 and 12 of

U.S.C.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. §1251 et seq.; the Resource Conservation and Recovery Act, as amended, 42

U.S.C. §6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §9601 et seq.; and all applicable regulations, standards, orders or requirements issued pursuant to these Federal statutes.

- B. The Contractor shall ensure that the facilities under ownership, lease or supervision, whether directly or under contract, that will be utilized in the accomplishment of the Project are not listed on the Environmental Protection Agency's (EPA) List of Violating Facilities.
- C. The Contractor agrees to report each violation to City and understands and agrees that City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- D. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

9. ENERGY CONSERVATION

Contractor shall comply with mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §6321 et seq. and 49 CFR Part 18.

10. CLEAN AIR ACT

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to CITY and understands and agrees that CITY will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Contractor agrees to comply with the following EPA regulations as applicable: "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines; Certification and Test Procedures," 40 C.F.R. Part 86; and "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600, and any revisions thereto.

11. CLEAN WATER ACT

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. Contractor agrees to report each violation to CITY and understands and agrees that CITY will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

12. RECYCLED PRODUCTS

The Contractor agrees to comply with all of the requirements of Section 6002 of the Resource Conservation and Recovery Act, 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 may apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

13. FLY AMERICA

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 30110, 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. 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. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

14. LOBBYING RESTRICTIONS (Contracts over \$100,000)

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or propose for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

The "Certification of Restrictions on Lobbying" and "Disclosure of Lobbying Activities Standard form LLL" required by 31 U.S.C. 1352(b)(5) and 49 C.F.R. 20.110 are attached to the RFP as Appendix 5.

15. POLICIES FOR ALL TIERS

Contractor agrees to include the following Sections of the FTA Grant Contract Provisions as set out in full in this Appendix 1 in all subcontracts of every tier:

- A. Federal Grant Conditions
- B. Federal Changes
- C. Federal Obligation
- D. Access to Records and Reports
- E. Nondiscrimination
- F. Access Requirements for Individuals with Disabilities
- G. Discriminatory Specifications
- H. Energy Conservation
- I. Recycled Products
- J. Fly America
- K. Debarred Proposers (contracts over \$25,000)

This summary is provided for convenience only. Some FTA Grant Contract Provisions must be set out specific limited types of subcontracts and are not listed herein. Contractor must determine whether each FTA Grant Contract Provision requires inclusion in a subcontract.

16. POLICIES FOR SELECTED CONTRACTS

Contractor agrees to also include the following Sections of the FTA Grant Contract Provisions as set out in full in this Appendix C in all subcontracts of every tier exceeding \$100,000:

- A. Compliance with Environmental Standards
- B. Clean Air Act
- C. Clean Water Act
- D. Lobbying Restrictions

This summary is provided for convenience only. Some FTA Grant Contract Provisions must be set out specific limited types of subcontracts and are not listed herein. Contractor must determine whether each FTA Grant Contract Provision requires inclusion in a subcontract.

17. PRIVACY ACT

The following requirements apply to Contractor and any of its employees that may administer any system of records on behalf of the Federal Government under any contract:

A. 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, U.S.C. §552(a). 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.

1. 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.

18. FEDERAL CHANGES

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

19. FEDERAL OBLIGATION

A. CITY and the 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 the contract and shall not be subject to any obligations or liabilities to CITY, the Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

B. 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.

20. INCORPORATION OF FTA TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any of CITY's requests which would cause CITY to be in violation of the FTA terms and conditions.

21. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS

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.

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.

22. CHARTER BUS REQUIREMENTS

The contractor agrees to comply with 49 U.S.C. 5323 (d) and 49 CFR Part 604, which provides that recipients and sub-recipients 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.

23. SCHOOL BUS REQUIREMENTS

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

24. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- A. It is the policy of the US Department of Transportation that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall be encouraged to participate in the performance of contracts financed whole or in part with federal funds. As a condition of federal grant assistance, CITY has adopted a DBE program for CITY's federally funded contracts. No DBE goal has been established for this project. However, proposers shall ensure that DBEs could participate in the performance of this contract and shall take all necessary and reasonable steps to obtain DBE participation. The contractor shall not discriminate based on race, color, national origin, sex, disability, or age in the award and performance of subcontracts.
- B. Contractor shall not discriminate based on race, color, national origin, or sex in the performance of this contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this Contract or such other remedy as CITY deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- C. Contractor will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- D. 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 CITY. In addition, Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.
- E. Contractor must promptly notify 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. 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.

25. DRUG AND ALCOHOL TESTING

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, 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. Contractor agrees to comply with the "Implementation Guidelines" set forth in Appendix B. Further, to certify compliance, 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.

26. TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order No. 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, 23 U.S.C.A. § 402 note, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Contractor is encouraged to comply with the terms of the following Special Provision.

A. Definitions. As used in this Special Provision:

1. "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.
2. "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service testing, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

B. Safety. The Contractor is encouraged to:

1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving:
 - a. Contractor-owned or Contractor-rented vehicles or CITY-owned, leased or rented vehicles.
 - b. Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or
 - c. Any vehicle, on or off duty, and using an employer supplied electronic device.
2. Conduct workplace safety initiatives in a manner commensurate with the Contractor's sized, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

27. TERMINATION CLAUSES

- A. Termination for Convenience. When it is in CITY's best interest, CITY reserves the right to terminate this Agreement, in whole or in part, at any time by providing a ten (10) day written notice to the Contractor. 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 CITY. If the Contractor has any property in its possession belonging to CITY, the Contractor will account for the same, and dispose of it in the manner CITY directs.
- B. Lack of Beneficial Results. This Agreement may also be terminated if the City and the Contractor agree that its continuation would not produce beneficial results commensurate with the further expenditure of funds or if there are inadequate funds to operate the project equipment or otherwise complete the project.
- C. Termination for Default. CITY may terminate this Agreement upon a finding that the Contractor has not made satisfactory progress toward procuring the project equipment, services, salary and wages, as appropriate, within twelve (12) months of execution of this Agreement, or that the Contractor is otherwise not complying with the terms of this Agreement. Termination shall be by written notice specifying the reason for termination and giving the Contractor thirty (30) days to correct the default. CITY shall be the sole judge as to whether the Contractor's corrective measures are adequate. If the Contractor fails to remedy, to CITY's satisfaction the breach or default or any of the terms, covenants, or conditions of this Agreement CITY shall have the right to terminate the Agreement without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude CITY from also pursuing all available remedies against the Contractor.
- D. Period of Performance Extension. If it is later determined by CITY the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, CITY, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.
- E. Mutual Termination. The project may also be terminated if CITY and the Contractor agree that its continuation would not produce beneficial results commensurate with the further expenditure of funds or if there are inadequate funds to operate the project equipment or otherwise complete the project.

28. DISPUTES

CITY and the Contractor shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the Contractor shall submit to the authorized CITY Representative for this Agreement or designee a written demand for a decision regarding the disposition of any dispute arising under this Agreement. CITY Representative shall make a written decision regarding the dispute and will provide it to the contractor. The Contractor shall have an opportunity to challenge CITY's Representative's determination but must make that challenge in writing within ten (10) working days to CITY's Chief,

Representative or his/her designee. If the Contractor challenge is not made within the ten-day period, CITY Representative shall become the final decision of CITY. CITY and the Contractor shall submit written, information and supporting data in support of their respective positions. The decision of CITY's Representative or his/her designee shall be final, conclusive, and binding regarding the dispute, unless the Contractor commences an action in court of competent jurisdiction to contest the decision in accordance with Division 3.6 of the California Government Code.

29. INTELLIGENT TRANSPORTATION SYSTEMS – NATIONAL ARCHITECTURE

For all property and services the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the National Architecture and Standards to the extent required by 23 U.S.C. Section 517(d) and 23 CFR Parts 655 and 940.