



REQUEST FOR PROPOSAL
FOR
PARATRANSIT TRANSPORTATION SERVICE

1. REQUEST FOR PROPOSAL

- 1.1 Invitation**
- 1.2 Introduction**
- 1.3 General Information**
- 1.4 Acceptance Period**
- 1.5 Evaluation and Selection of Proposals**
- 1.6 Late Submissions**
- 1.7 Documents to be Submitted with Technical Proposal**
- 1.8 Price Proposal Submission**
- 1.9 Small Business Enterprise Goal**
- 1.10 Proof of Insurability**
- 1.11 Bond(s)**

2. SCOPE OF WORK, TERMS AND CONDITIONS

- 2.1 Contract**
- 2.2 Contract Period**
- 2.3 General Information**
- 2.4 Scope of Work**

3. GENERAL TERMS

- 3.1 General Definitions**
- 3.2 Relationship and Work in General**
- 3.3 Termination of Contract**
- 3.4 Breaches and Dispute Resolution**
- 3.5 Inspection of Work**
- 3.6 Copyright**
- 3.7 Proprietary Rights**
- 3.8 Indemnification**
- 3.9 Ownership of Documents**
- 3.10 Contracting Authority Protection**
- 3.11 Maintenance of Records**
- 3.12 Progress Records**
- 3.13 Effect of Extensions of Time**
- 3.14 Changes and Modifications**
- 3.15 Assignment**
- 3.16 Extent of Agreements**
- 3.17 Partial Invalidity**
- 3.18 Titles and Headings for Convenience Only**
- 3.19 Notice, Waiver and Applicable Law**
- 3.20 Compliance with Laws and Regulations**
- 3.21 Access to Records and Reports**
- 3.22 Environmental and Sustainability Management System Program**
- 3.23 Contract Period**
- 3.24 Mutual Responsibility**
- 3.25 Specified Parts**
- 3.26 Sales Tax Exemption**
- 3.27 Boycott of Energy Companies Prohibited**
- 3.28 Critical Infrastructure Prohibition**
- 3.29 Custody of Bid/Proposal Documentation**
- 3.30 Contractor Representative**

4. GENERAL SOLICITATION POLICY PROVISIONS

- 4.1 Covenant Against Contingent Fees**
- 4.2 Proposers' Requests and Appeals**
- 4.3 Non-collusive Affidavit**
- 4.4 Penalty for Collusion**
- 4.5 Covenant Against Gratuities**
- 4.6 Code of Ethics**
- 4.7 Procurement Protest Procedure**

- 4.8 Release of Information
- 4.9 Rejection of Proposals
- 4.10 Preparation Costs

5. INSURANCE

- 5.1 General Insurance Requirements
- 5.2 Specific Insurance Requirements

6. BILLING AND PAYMENT

- 6.1 Compensation
- 6.2 Prompt Payment
- 6.3 Discounts
- 6.4 Acceptance of Final Payment
- 6.5 Retainage
- 6.6 ACH
- 6.7 Contract and Purchase Order Number

7. FEDERAL PROVISIONS - RESERVED

8. SMALL BUSINESS ENTERPRISE PROGRAM

- 8.1 Policy
- 8.2 Terms and Definitions
- 8.3 Contractor and Subcontractor Obligations
- 8.4 Submission of SBE Forms
- 8.5 SBE Goal
- 8.6 Credit Applied to Goals
- 8.7 Documented Good Faith Efforts
- 8.8 Certification of SBEs
- 8.9 SBE Modification and Substitution
- 8.10 Contract Compliance Tracking
- 8.11 Prompt Payment Verification Process
- 8.12 SBE Financial Institutions
- 8.13 Sanctions for Non-Compliance with SBE Program Provisions
- 8.14 False, Fraudulent and Dishonest Conduct

9. FORMS

- 9.1 Forms to be Submitted with Proposal

10. PRICE PROPOSAL

- 10.1 Price Proposal

ATTACHMENTS:

PART 1 REQUEST FOR PROPOSAL

- 1.1 Invitation:** VIA Metropolitan Transit (hereinafter "VIA") is seeking proposals from responsible firms for VIA RFP #26-379 Paratransit Transportation Service.
- 1.2 Introduction:** VIA is a Metropolitan Transit Authority created according to Chapter 451, Texas Transportation Code ("VIA") to provide public transportation services for the citizens of Bexar County. The system's legal name is VIA Metropolitan Transit (VIA). VIA is a Political Subdivision of the State of Texas and governed by a Board of Trustees who are appointed by its County and Municipal Governments. VIA provides fixed route transit service, paratransit service for mobility-impaired customers, special event and park and ride service. In total, VIA's service area is approximately 1,200 square miles.

Our Mission: VIA Metropolitan Transit provides regional multimodal transportation options that connect our community to opportunity, support economic vitality and enhance quality of life throughout our region.

VIA's Board-adopted Supplier Policy:

VIA is committed to enhancing business/supplier opportunities for all who want to do business with VIA. It is fundamental to VIA's commitment to the local economy to allow competition in order to grow and develop a portfolio of critical and valued business partners. VIA believes that generating open competition brings value and an ability to leverage the best resources in the marketplace.

VIA believes that it is the responsibility of VIA's Procurement process and the responsibility of every staff member at VIA who secures products and services and who makes purchasing decisions for the Agency to strive to meet this commitment. The VIA Board of Trustees supports VIA's Procurement overall objectives which focus on obtaining the best quality and service at minimum cost and which guard against favoritism and profiteering at public expense. VIA seeks to provide equal opportunities for all businesses to participate. It is an integral element of each VIA staff member's responsibility to look to minority and small business firms for contracting opportunities. Broadening the supplier pool means better service and value for VIA.

1.3 General Information:

1.3.1 Summary of Salient Dates: Following are the tentative salient dates of the procurement process:

RFP Issue Date:	June 18, 2026
Pre-Proposal Conference:	June 25, 2026 10:00AM CST
Last date for Receipt of Request for Clarification and/or Modifications:	July 2, 2026
Proposal Deadline:	August 4, 2026 2:00PM CST
Proposal Submittal Address:	800 W. Myrtle, Suite 203 San Antonio, Texas 78212
Contract Term:	5 years w/ one 5-year option
Disadvantaged Business Enterprise (DBE) Goal:	0%

*Unless a specific time is indicated, the time shall be 4:45 (VIA's close-of-business).

- 1.3.2 Inquiry and Questions:** Effective immediately upon release of the Request for Proposal (RFP), and until notice of contract award, all official communications from proposers regarding the requirements of this RFP shall be directed to the Contracting Officer (See section 4.6 Code of Ethics). Proposal Packages should be submitted to, and any requests and all questions should be directed to:

VIA Metropolitan Transit
Procurement Department
Attn: Dominick Ortiz
800 W. Myrtle, Suite 203
San Antonio, Texas 78212
Telephone: 210-362-2423
E-mail: Dominick.ortiz@viainfo.net

1.3.2.1 VIA Metropolitan Transit is not responsible for any verbal exchange or any other exchange of information that occurs outside of the official process specified herein.

- 1.3.3 A Pre-Proposal Conference** will be held via teleconference at ***(June 25, 2026 10:00AM CST)***. Firms wishing to participate may join by clicking the hyperlink "Click here to join the meeting" listed below. Upon entry into the meeting firms will be asked to list their name, company name and email within the meeting chat. All prospective proposers are encouraged to attend.

Microsoft Teams meeting

Join:

<https://teams.microsoft.com/meet/288168238659230?p=jBZZ83mYTpsZ93HElw>

Meeting ID: 288 168 238 659 230

Passcode: iU9VH3FJ

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Dial in by phone

[+1 210-469-4151,313131952#](tel:+12104694151313131952) United States, San Antonio

[Find a local number](#)

Phone conference ID: 313 131 952#

- 1.3.4 Request for Clarification and/or Modifications:** Proposers must submit requests for changes to or approval of equals, clarifications and modifications of the specifications in writing as provided in Section 4.2, Proposers Requests and Appeals, of the contract documents. The RFP documents (which will ultimately form the Contract) can only be modified in writing. The Contracting Officer must receive requests for changes to, or approval of equals, clarifications or modifications to the RFP no later than 4:45 p.m., on the date indicated above. Those requests may be emailed to the above address. The Contracting Officer will issue a response to those requests to all prospective proposers via email, and copies will be posted on VIA's internet site (<https://via.sbcompliance.com>). Proposers are responsible for ensuring that they have received all modifications and incorporated any changes in their proposals.

1.3.4.1 Samples, Brand Names and Equals:

1.3.4.1.1 Samples: Samples, when required, must be submitted for pre-bid approval no later than the date specified in the section entitled "Requests for Clarifications and/or Modifications," herein, or within the time specified in the Technical Specifications, at no

expense to VIA. If not destroyed or used up during testing, samples will be returned upon request at the Bidder's expense.

1.3.4.1.2 Brand Names: It should be understood that specifying brand names, components, and/or equipment in this specification shall not relieve the supplier/Contractor from the responsibility to produce the product in accordance with the performance warranty and contractual requirements. The supplier/Contractor is responsible for notifying VIA of any inappropriate brand names, components and/or equipment that may be called for in the specifications, and to propose a suitable substitute for consideration, no later than the date specified in the section entitled "Request for Clarification and/or Modifications," above.

1.3.4.1.3 Equals: Whenever a material, article or piece of equipment is identified on the Plans or in the Specifications by reference by manufacturers' or vendors' names, trademarks, catalog numbers, etc., it is intended merely to establish a standard; and any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed is, in the opinion of the Contracting Officer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Contracting Officer's prior written approval, as provided in the section entitled, "Bidders' Requests," above.

1.3.5 Preparation of Proposals: Proposers shall submit in separate sealed packages, one (1) unbound original and 5 bound copies of the technical proposal, one unbound original of the price proposal; and an electronic copy of the technical proposal in PDF format. The technical proposal package shall be labeled "**Technical Proposal -VIA RFP # 26-379 Paratransit Transportation Service**" and the price proposal envelope shall be labeled "**Price Proposal - VIA RFP #26-379 Paratransit Transportation Service**" and addressed to the Contracting Officer as indicated above.

1.3.6 Receipt of Proposal: Prior to the time and date indicated in section 1.3.1 entitled, "Summary of Salient Dates all Proposal Packages shall be delivered to the Contracting Officer at the address indicated in section 1.3.2 entitled "Inquiry and Questions. Proposal Packages received after the time and date specified shall not be considered, except as provided in section 1.6 entitled "Late Submissions.

1.3.7 Amendment and/or Postponement: VIA reserves the right to postpone, for its own convenience, the deadline for submitting proposals. Further, VIA reserves the right to unilaterally revise or amend the scope of services up to the time set for submitting proposals. Such revisions and amendments, if any, shall be announced by addenda to this solicitation. Copies of such addenda shall be furnished to all prospective proposers and a copy will be posted on VIA's internet site. The deadline for submitting proposals shall be at least five (5) working days after the last addendum and the addendum shall include an announcement of the new date, if applicable, for submitting proposals. Proposers are requested to acknowledge receipt of all addendums as part of the technical proposal. Failure to acknowledge an addendum will not automatically disqualify a proposer, but failure to address any changes in the proposal may lead to a lower score than would otherwise be the case. Any Proposer whose proposal has already been submitted to VIA when the decision to postpone is made will be afforded the opportunity to revise or withdraw their proposal.

1.4 Acceptance Period: Proposals shall remain valid for a period of sixty (120) calendar days from the date of submission. If a Best and Final Offer has been requested of the Offeror/Proposer, the Proposal shall remain valid for a period of up to sixty (90) additional days from the date of submission of the Best and Final Offer.

1.5 Evaluation and Selection of Proposals:

1.5.1 General:

1.5.1.1 Separate Packages: Proposers are required to respond to this RFP with two separate packages: a technical proposal and a price proposal. VIA's Evaluation Committee will first evaluate the technical proposals and determine which are technically acceptable. These will be ranked within a technical competitive range. Price proposals will be opened only for those firms within the technically competitive range.

1.5.1.2 Responsiveness: In order for a Proposer to be eligible to be awarded the Contract, the Proposal must be responsive to the RFP, and VIA must be able to determine that the proposer is responsible to perform the Contract satisfactorily. Responsive Proposals are those complying in all material aspects of the solicitation. A Proposer may, at any time after the submission of the Proposal, be requested to submit further written evidence verifying that the firm(s) meets the criteria necessary to be determined a responsible Proposer. Refusal to provide requested information may result in the Proposer being declared nonresponsive, and the Proposal may be rejected.

Proposers are expected to agree with the terms contained or referenced herein. Proposers should therefore not make any changes to these terms, nor restate any provisions in their Proposal or supporting material. However, if the Proposer has any specific exceptions, such exceptions should be set forth in a separate letter included with its response to the RFP. VIA is under no obligation to entertain or accept any such specific exceptions.

VIA will accept proposals that offer exceptions to VIA's general terms and conditions. VIA may negotiate such exceptions with Proposers that fall within the overall competitive range. Should VIA and a proposer fail to come to acceptable terms, that proposer shall be eliminated from consideration for contract award.

1.5.1.3 Organization of Technical Proposal Materials: To enhance the comparability and facilitate evaluation, all proposals must be organized addressing each of the evaluation criteria as set forth in the following section entitled "Evaluation of Technical Proposal." VIA will appoint an Evaluation Committee to evaluate all proposals submitted for this project.

- A. To be acceptable, proposals shall be of no more than 40 pages (single-sided using 12 point or greater font size) not including resumes. The Proposal pages shall be numbered and bound, or in a 3-ring binder with the proposing firm's name clearly indicated on the cover.

1.5.2 Evaluation of Technical Proposal:

1.5.2.1 Initial Evaluation: All proposals will be initially evaluated and ranked based on weighted evaluation criteria listed below or that may be issued in addenda.

1.5.2.2 Review: The technical submittals shall be reviewed and evaluated by the Evaluation Committee on the basis of the 100-point rating system. The technical evaluation shall be based on the responsiveness of the technical submittal to the needs of VIA and to the requirements of the technical specifications with a maximum numerical rating as indicated herein.

1.5.2.3 Evaluation Form: Each member of the Evaluation Committee shall complete an evaluation form for each technical proposal submitted. The final technical rating for each proposal shall be based on the average of the total score compiled by members of the Evaluation Committee.

CRITERIA

WEIGHT

A. Personnel and Contractor's Qualifications:

35

Assessment of key personnel, organizational experience and qualifications. How well do the proposer's key staff qualifications and firm's experience and references ensure successful implementation of high quality service. Discuss the personnel's roles in the performance/execution of the service throughout the course of the program.

B. Project Management and Operations Plan:	35
Assessment of the Contractor's organizational and operational approach to meeting the requirements of the contract. How well does the proposal address key elements of the operational needs including transition and performance metrics in the RFP.	
C. Fleet and Vehicle Maintenance Plan:	25
Assessment of the fleet and maintenance plans. How well do the fleet and preventive maintenance plans ensure high quality and reliable service. Include list of vehicles make, model, and year to be used for the service.	
D. Safety and Training Programs:	25
Assessment of the safety and training programs. How well do the safety and training programs indicate a strong commitment to safety and ability to deliver service that is safe and operators that are well prepared to deliver high quality paratransit service. Discuss emergency event measures and plans to meet needs discussed in RFP.	

TOTAL 120

1.5.2.4 Technical Evaluation: Following an initial evaluation and ranking of all technical proposals submitted, VIA will identify those firms technically qualified to perform the work regardless of price. If VIA determines that a Proposal is not technically sufficient, or a Proposer is not technically qualified, that Proposal will not be evaluated further.

1.5.2.5 Further Discussions/clarification: After determining which of the technical proposals are within the competitive range, the Committee will determine whether acceptance of the most favorable initial proposal without discussion is appropriate and in the best interest of VIA or whether negotiation should be conducted with all proposers within the competitive range. If the Committee determines it is in the best interest of VIA to enter into negotiations with the proposers in the competitive range, the committee may submit, only to the proposers in the competitive range, questions regarding their proposals which it feels are appropriate for discussion or which need additional clarification. Proposers shall be prepared to respond, in writing, to all questions within the time frame provided by the Technical Evaluation Committee. If deemed necessary by the Committee, oral interviews and discussions with the proposers may be required.

1.5.2.6 Interviews: The committee will determine whether acceptance of the most favorable initial proposal without discussion is appropriate, or whether interviews and/or discussions should be conducted with all Proposers within the competitive range. VIA personnel may visit the Contractor's work facility during the evaluation period.

1.5.2.7 Negotiations: The committee or designated members of the committee may negotiate with each Proposer whose proposal falls within the overall competitive range. Each Proposer remaining within the overall competitive range at the close of negotiations may be allowed to submit a "Best and Final Offer."

1.5.2.8 Re-evaluation (if necessary): When discussions (if conducted) have been completed, the technical proposals from the proposers in the competitive range shall be re-evaluated and ranked on the basis of documented changes and modifications to the proposals. All changes or modifications to the proposal must be documented in writing to be considered in the re-evaluation.

1.5.3 Evaluation of Price Proposal:

1.5.3.1 Opening of Price Proposal: VIA will evaluate the Price Proposals of those firms who are determined to be technically acceptable to perform the work and ranked within the technically competitive range.

1.5.3.2 Scoring: The Selection Committee's recommendation for award of this contract shall be based on the highest total points for each submittal. This number shall be arrived at by adding the average total rating for the Technical Proposal to the point rating determined for the Price Proposal:

$$\frac{\text{Lowest Price}}{\text{Firm's Price}} \times 60 \text{ points} = \text{Price Score}$$

The price score of Firm B is shown in the following example:

<u>Firm</u>	<u>Price Proposal</u>	<u>Price Score</u>
A	\$100	60.00 points
B	\$125	48.00 points
C	\$115	52.17 points

$$\frac{\$100.00 \text{ (Lowest Price, Firm A)}}{\$125.00 \text{ (Firm B Price)}} \times 60 \text{ points} = 48 \text{ points}$$

1.5.4 Combined Proposal Scoring: The sum total points scored on both the technical (120-point maximum) and price (60-point maximum) will be considered in the determination of the overall competitive range and contract award.

An example of the combined scoring follows:

<u>Firm</u>	<u>Technical Score</u>	<u>Price Score</u>	<u>Total Score</u>
A	89 points	60.00 points	149.00 points
B	86 points	48.00 points	134.00 points
C	93 points	52.17 points	145.17 points

In this example, Firm A is the highest rated firm in the overall competitive range.

1.5.5 Best and Final Offer: The best and final offer will contain all information and documents necessary to state the Proposer's entire proposal without reference to the original proposal or to any supplements that may have been submitted during negotiations. All Proposers that submit best and final offers will be evaluated by the committee, or designated committee members, based upon those best and final offers.

1.5.6 Contract Award: Award will be made to the responsible firm whose proposal is most advantageous to VIA. Accordingly, VIA may not necessarily make an award to the Proposer with the highest technical ranking nor award to the Proposer with the lowest Price Proposal if doing so would not be in the overall best interest of VIA.

1.7 Documents to be Submitted with Technical Proposal: The required documents/forms (attached hereto in Section 9) must be completed by the Offeror and submitted with the Technical Proposal. Failure to do so may deem the proposal as non-responsive.

1.8 Price Proposal Submission: Proposers must submit their Price Proposals utilizing the forms provided in this document as **Part 10, Price Proposal**.

1.9 Disadvantaged Business Enterprise (DBE) Goal: VIA has not established a(n) **DBE goal for this**

procurement In order to comply with the October 3, 2025 United States Department of Transportation Interim Final rule.

Please see the Part 8 entitled "Disadvantaged Business Enterprise" for information regarding VIA's DBE program.

1.10 Proof of Insurability: Proposers must submit a copy of their current certificate of insurance (COI) with their proposal. If the COI does not include the required coverage and minimum limits as specified in the RFP, Proposers must also submit a letter from their insurance provider stating the provider's commitment to insure the Proposer, if awarded the contract, for the types of coverage and at the limits specified in the RFP.

1.11 Bond(s): All bonds must be provided by a Treasury listed bonding company.

1.11.1 Performance Bond: Within fourteen (14) calendar days after the date of Notice of Award, the Contractor shall furnish a Performance Bond issued by a corporate surety authorized to transact such business in the State of Texas. Said bond shall be in the amount of one hundred percent (10%) of the contract amount and shall be on a form customarily used by the surety industry or the form approved by VIA. The Contractor shall pay the premium

1.11.2 Additional or Substitute Bond: RESERVED

1.11.3 Payment Bond: RESERVED

1.11.4 Warranty Bond: RESERVED

1.11.5 Duplication of Bond(s): RESERVED

PART 2
SCOPE OF WORK, TERMS AND CONDITIONS

2.1 Contract: Submission of a proposal constitutes an offer to perform the work specified and to be bound by the terms contained or referenced herein. Upon acceptance of the offer, and upon award of the Contract to the successful offeror (if any), this procurement solicitation document (entitled "Request for Proposal") together with the completed and executed forms required herein, and all attachments hereto, together with the documents listed below (incorporated into this Contract by reference) shall collectively constitute the Contract. In case of any conflict among these documents where the intended resolution is not clear, the order of precedence shall be:

- 1) Change Orders or Contract Modifications
- 2) Best and Final Offer
- 3) Negotiation Memorandum (if any)
- 4) Addenda to the RFP
- 5) VIA's Scope of Work, Terms and Conditions
- 6) Contractor's original proposal

2.2 Contract Period:

2.2.1 Commencement: Contractor agrees to commence work within ten (10) business days from the date the Contract is awarded.

2.2.2 Performance Deadlines: Subject to any delays by strikes, fires, or other casualties, and other events outside the Contractor's reasonable control, Contractor agrees to exercise commercially reasonable efforts in completing the work set out in the Scope of Work.

2.2.3 Term: The term of the contract is five (5) years from the date specified in the Notice of Award with an option to extend the contract for an additional five (5) year term. Exercise of option years shall be based on the Contractor's successful performance and at VIA's sole discretion to continue within the structure of the contract and its requirements.

2.2.4 Payment: Payment will only be made after receipt of a proper invoice. A proper invoice includes the Contract/Purchase Order number, date of invoice and a description of service delivered. Mail original and one (1) copy of all invoices to Accounts Payable, 800 Myrtle Ave, STE 203, San Antonio, TX 78212, or accountspayable@viainfo.net.

2.2.5 General Information: The Contractor, in accordance and compliance with the terms, provisions and requirements of this Contract shall manage, perform and provide all activities and services and produce all reports set forth in the Scope of Services. Modifications or alterations to the Scope of Services may be made only pursuant to prior notification and written approval of VIA.

2.2.6 Contract Performance Security Bond (VIATrans Transportation ADA Complementary Services only): The Contractor shall provide contract performance security bond made payable to VIA Metropolitan Transit, Texas (VIA). The security bond shall be in an amount of 10% of the total contract value. ONLY THE FOLLOWING TYPES OF SECURITY BONDS ARE ACCEPTABLE AND MUST BE IN ORIGINAL FORM. FACSIMILE, ELECTRONIC OR PHOTOCOPIES ARE NOT ACCEPTABLE:

- Irrevocable letter of credit issued, in the name of the Contractor or its' surety, by a financial institution subject to the laws of Texas.
- A performance bond from a company authorized to issue bond and chartered or authorized to do business in Texas.
- Cashiers or Certified Check.

This contract performance security bond shall remain in effect for the entire term of the contract. The irrevocable letter of credit shall be automatically renewed annually. Bonding companies providing the bond must be approved for amount of bond(s) on U.S. Department of Treasury Circular C570. Bonds completed (signed) by an out of Texas surety require a counter signature by a Texas resident agent of a

company chartered or authorized to do business in Texas.

The contract performance security bond shall be submitted to VIA within fourteen (14) calendar days after receipt of a copy of the executed Contract or a Notice of Award. The Notice to Proceed shall not be issued until a properly executed contract performance security bond is received and accepted by VIA.

2.3 Scope of Services:

2.3.1 Program Overview and Contract Objectives: VIA Metropolitan Transit is seeking a qualified Contractor to provide safe, reliable, customer-focused ADA complementary paratransit transportation services for eligible VIAtrans customers. The service shall support VIA in meeting its obligation to provide complementary paratransit service to individuals with disabilities who are unable to use the fixed route system for some or all trips. VIA is seeking a contractor that has provided paratransit services for five (5) consecutive years within the last five years and has provided service with a minimum of five thousand (5,000) hours per week with a minimum fleet of one hundred forty (140) vehicles.

The Contractor shall provide all personnel, vehicles, supervision, maintenance, facilities, technology support, materials, supplies, training, insurance, reporting, and other resources necessary to deliver the services described in this Scope of Work. The Contractor shall perform the work as an independent contractor and shall be solely responsible for its employees, vehicles, facilities, and operational performance.

2.4 Objectives:

- Provide ADA complementary paratransit service in a safe, courteous, professional, reliable, and accessible manner.
- Maintain service continuity and minimize missed trips, late trips, and customer inconvenience.
- Meet or exceed all Key Performance Metrics established by VIA.
- Protect customer safety, customer dignity, and customer information.
- Maintain sufficient fleet, staffing, supervision, training, and maintenance resources to operate all service assigned by VIA.
- Support VIA in regulatory reporting, National Transit Database reporting, complaint investigations, audits, and performance monitoring.

2.4.1 Contract Structure: The service is intended to be priced on a revenue service hour basis, as defined by the Contract and Price Proposal. The Contractor shall operate routes, manifests, add-on trips, modified trips, and other assigned service as directed by VIA. VIA shall retain responsibility for passenger eligibility, scheduling, dispatch direction, service planning, customer-facing policies, and other functions reserved to VIA.

2.4 Regulatory and ADA Compliance Requirements: The Contractor shall comply with all applicable federal, state, and local laws, regulations, guidance, policies, and contractual requirements governing ADA complementary paratransit service. This includes, but is not limited to, the Americans with Disabilities Act, Federal Transit Administration requirements, U.S. Department of Transportation requirements, drug and alcohol testing requirements, National Transit Database reporting support, Title VI and nondiscrimination requirements, accessible service requirements, and VIA policies and procedures.

2.5

2.5.1 ADA Complementary Paratransit Requirements: The Contractor shall deliver service in a manner that supports VIA compliance with ADA complementary paratransit requirements. The Contractor shall not deny service, discourage travel, impose unauthorized conditions of service, or take any action that would restrict eligible customers from receiving service in accordance with VIA policy and applicable law.

2.5.2 Nondiscrimination and Customer Rights:

- The Contractor shall provide service without discrimination on the basis of disability, race, color, national origin, age, sex, religion, or any other protected status.

- The Contractor shall ensure operators and staff treat customers with dignity, respect, patience, and sensitivity.
- The Contractor shall support VIA complaint investigations and shall fully cooperate with VIA, FTA, or other oversight entities.

2.5.3 Required Regulatory Programs:

- DOT and FTA drug and alcohol testing program for safety-sensitive employees.
- DOT physical and medical qualification requirements when applicable.
- Personnel training on ADA, disability awareness, passenger assistance, securement, customer service, safety, and emergency response.
- Policies and procedures for service animals, mobility devices, medical equipment, and customer assistance.
- Recordkeeping and documentation shall be sufficient to demonstrate compliance.

2.6 Service Area, Span of Service, and Service Levels:

2.6.1 Service Area: The Contractor shall provide service within VIA's designated VIAtrans service area, generally located within Bexar County, Texas, and may be expanded, reduced, or modified by VIA during the term of the Contract. VIA shall provide the official service area map as an exhibit to the Contract.

2.6.2 Span of Service: VIAtrans service operates between approximately 4:00 a.m. and 1:00 a.m., Monday through Sunday, every day of the year, unless modified by VIA. The Contractor shall provide service during all days and hours assigned by VIA, including weekdays, weekends, holidays, special events, emergency operations, severe weather events, and other demand-based schedules.

2.6.3 Estimated Service Levels:

Service Component	Estimated Requirement
Average revenue hours per week	Approximately 7,500 – 8,500 hours
Minimum revenue hours per week	Approximately 5,000 hours, subject to holiday, weather, transition, and demand-based exceptions
Weekday routes	Approximately 170 to 185 routes, plus additional daily demand-based routes
Saturday routes	Approximately 90 routes
Sunday routes	Approximately 70 routes
Reserve operators	Minimum 10 percent reserve operators for each shift, seven days per week

The quantities above are estimates only. VIA may increase, decrease, or modify service levels based on customer demand, funding, fixed route service changes, emergencies, special events, or other operational needs. The Contractor shall remain flexible and responsive to changes directed by VIA.

2.6.4 Holidays, Special Events, and Emergencies: The Contractor shall support modified service levels during holidays, special events, severe weather, flooding, ice, snow, public emergencies, pandemics, natural disasters, and other events. VIA shall provide notice of planned schedule changes when practicable. For emergencies, VIA may provide immediate direction, and the Contractor shall respond without delay.

2.7 Contractor General Responsibilities: The Contractor shall furnish and manage all resources required to perform the service. At a minimum, the Contractor shall:

- Operate all routes, trips, and service hours assigned by VIA.
- Maintain required fleet size, spare ratio, vehicle availability, vehicle cleanliness, vehicle appearance, and vehicle safety.
- Recruit, hire, train, supervise, and retain qualified personnel.
- Maintain required management staff dedicated to VIAtrans service.

- Provide field supervision, customer service coordination, safety management, training, dispatch coordination, technology support, and maintenance management.
- Comply with all reporting and recordkeeping requirements.
- Investigate complaints, accidents, incidents, service failures, safety events, and customer concerns.
- Submit corrective action plans when required by VIA.
- Protect VIA equipment, customer information, operational data, and fare media.
- Maintain all required insurance, permits, licenses, bonds, and certifications.

2.7.1 Relationship with VIA: The Contractor shall perform as an independent contractor. Contractor employees shall not be employees, agents, or representatives of VIA. VIA may establish service requirements, performance standards, safety standards, reporting requirements, and customer service requirements without assuming control of Contractor employees.

2.8 Service Delivery Requirements:

2.8.1 Scheduled Service and Route Assignments: VIA shall determine the trips, routes, manifests, scheduled service hours, and service assignments to be performed by the Contractor. The Contractor shall assign qualified operators and vehicles to operate the service as scheduled. The Contractor shall receive route and manifest information through VIA-approved systems.

2.8.2 Pickup Window and On-Time Service: The Contractor shall provide on-time service according to the customer's negotiated pickup window. Unless otherwise modified by VIA, the pickup window is ten (10) minutes before and twenty (20) minutes after the negotiated pickup time. Operators shall not require a customer to board before the pickup window. Operators shall wait at least five (5) minutes when arriving within or after the pickup window, unless otherwise directed by VIA Dispatch.

2.8.3 Late Pickups, Late Drop-Offs, and Missed Trips:

Service Event	Definition / Requirement
Late pickup	Arrival more than twenty (20) minutes after the negotiated pickup time.
Late drop-off	Arrival at the customer destination more than twenty (20) minutes after the negotiated drop-off time, when applicable.
Missed trip	Arrival more than forty (40) minutes after the negotiated pickup time, whether or not the customer ultimately accepts the trip.
Reporting	Operators shall immediately notify VIA Dispatch of late trips, missed trips, service disruptions, or other service failures.

2.8.4 No-Shows: A no-show occurs when a customer fails to appear at the scheduled pickup location for the scheduled trip. Operators shall follow VIA procedures for waiting, notifying VIA Dispatch, receiving instructions, and recording the event. Operators shall not independently determine final no-show status without VIA Dispatch direction.

2.8.5 Cancel at Door: A cancel at door occurs when the customer, or an authorized person representing the customer, cancels the trip after the vehicle arrives. The operator shall obtain the name of the person cancelling the trip when practicable, notify VIA Dispatch while parked at the pickup location, and record the event in the VIA-approved system.

2.8.6 Add-On Trips and Same-Day Modifications: VIA Dispatch may assign add-on trips, reassign trips, modify manifests, extend routes, delete trips, or otherwise modify scheduled service to maintain on-time performance, respond to customer needs, recover from disruptions, or maximize service efficiency. The Contractor shall perform add-on trips and modifications as directed by VIA.

2.8.7 Vehicle Breakdowns: If a vehicle breaks down while in service, the operator shall immediately contact VIA Dispatch. The Contractor shall promptly dispatch a replacement vehicle and shall coordinate with VIA Dispatch to protect customers, recover the route, and minimize service disruption. Breakdowns involving customers on board shall receive priority response.

2.8.8 Lost and Found: Items left in vehicles by VIAtrans customers shall be secured, tagged, documented, and submitted to VIA's Lost and Found office or other VIA-designated location by the next business day,

unless otherwise directed by VIA.

2.9 Customer Assistance and Accessibility Requirements:

- 2.9.1 General Customer Assistance:** Operators shall provide reasonable assistance needed to ensure safe boarding, securement, transportation, and alighting. Operators shall open and close vehicle doors, assist customers entering and exiting the vehicle, assist with seat belts when needed, secure mobility devices, and provide assistance consistent with VIA policies and training.
- 2.9.2 Do Not Leave Alone Customers:** Certain customers may be designated by VIA as Do Not Leave Alone (DNLA). Operators shall follow VIA procedures for DNLA customers, including caregiver signature or confirmation requirements at pickup and drop-off, communication with VIA Dispatch if no responsible adult is available, and accurate documentation. DNLA violations are considered serious safety events and may result in liquidated damages or other corrective action.
- 2.9.3 Assist-to-Door Service:** The Contractor shall provide Assist-to-Door service for eligible customers as identified by VIA. Assist-to-Door service may include guiding a customer, pushing a manual wheelchair from an approved door to the vehicle, providing light touch assistance for balance, or providing verbal directions. Operators shall not enter a residence or building beyond the threshold, operate electric wheelchairs, bear a customer's weight, push a wheelchair over curbs or steps, unlock or lock doors, activate or deactivate alarms, or provide assistance on unsafe ramps or stairs.
- 2.9.4 Mobility Devices:** The Contractor shall transport customers using wheelchairs, scooters, walkers, canes, crutches, and other mobility devices consistent with ADA requirements, vehicle capacity, and VIA policy. Operators shall properly secure wheelchairs, scooters, and other mobility devices and shall ensure seat belts and securements are used in accordance with training and applicable policy.
- 2.9.5 Service Animals and Pets:** The Contractor shall not refuse service to a customer traveling with a service animal. Service animals shall not be considered companions or personal care attendants, and no additional fare shall be charged for a service animal. Pets may only be transported if permitted by VIA policy, under control, leashed or caged, and held on the customer's lap or otherwise safely accommodated.
- 2.9.6 Medical Devices and Equipment:** Medical devices and equipment, including portable oxygen supplies, shall be transported unless doing so would create a direct safety risk. If an operator believes the device or equipment cannot be transported safely, the operator shall contact VIA Dispatch before denying transport or leaving the pickup location.
- 2.9.7 Personal Care Attendants and Companions:** Personal Care Attendants (PCA) and companions may travel with eligible customers as authorized or approved by VIA. Companions and attendants must share the same origin and destination as the customer. Operators shall verify VIA-approved information and shall contact VIA Dispatch if a companion or attendant is present but not listed in the manifest or customer profile.
- 2.9.8 Fare Collection:** Operators shall collect fares and record fare media in accordance with VIA policy. Operators shall accept VIA-approved fare instruments, shall not make change unless authorized by VIA policy, shall not sell VIA fare media, and shall not solicit or accept tips, gratuities, or additional compensation from customers. Fare disputes shall be referred to VIA Dispatch.

2.10 Fleet Requirements:

2.10.1 Required Fleet:

Vehicle Type	Minimum Quantity	Spare Ratio	Total Minimum Available
Rear-loading wheelchair-accessible minivans or similar vehicles with a minimum of four (4) passenger seats and one (1) wheelchair position	120	15%	138

Vehicle Type	Minimum Quantity	Spare Ratio	Total Minimum Available
Passenger vans with eight (8) passenger seats and no wheelchair positions	40	15%	46
Cutaway passenger van with a minimum of two (2) wheelchair positions	4	2 in PM service at all times	4
Total Fleet	164	15%	188

The Contractor shall provide all vehicles required for service unless otherwise specified by VIA. Vehicles shall meet VIA-approved specifications, ADA requirements, safety requirements, insurance requirements, branding requirements, inspection requirements, and technology requirements. Any proposed modifications or substitutions to the approved vehicle type must receive prior written approval from VIA Metropolitan Transit.

2.10.2 Fleet Availability: The Contractor shall maintain a minimum fleet availability rate of ninety-five percent (95%) and shall maintain the required fifteen percent (15%) spare ratio. Vehicles unavailable due to maintenance, inspection, accident damage, technology failure, branding deficiency, or safety concerns shall not be counted as available unless approved by VIA.

2.10.3 Vehicle Age and Mileage Standard: The Contractor shall purchase new revenue vehicles at the start of the initial five (5)-year contract term. Up to 25% of the fleet may be model year 2026 vehicles with fewer than 25,000 miles. All vehicles shall be white to allow for future wrapping. No vehicle used in VIAtrans service shall exceed seven (7) years of age or 250,000 miles without prior written approval from VIA. VIA may require removal or replacement of any vehicle that does not meet safety, reliability, appearance, accessibility, comfort, or performance standards. At the end of the contract term, the Contractor shall sell or dispose of all vehicles. VIA will not purchase any vehicles.

2.10.4 Vehicle Appearance and Branding: Vehicles shall be clean, professional, accessible, and consistently branded as directed by VIA. VIA will provide the initial set of vehicle wraps. The Contractor shall replace damaged, faded, worn, or otherwise unacceptable wraps at its own expense during the Contract term, unless otherwise stated in the Contract with the VIA approved branding.

2.10.5 Required Vehicle Equipment:

- VIA-approved handset and radio, tablet, SmartCard validator, or successor equipment.
- Wheelchair securement equipment and seat belt systems.
- Step stools, seat belt extensions, safety equipment, and emergency equipment required by VIA.
- Required maps, route tools, or approved navigation resources.
- Any other equipment required by VIA, law, regulation, or vehicle specification.

2.11 Vehicle Maintenance and Fleet Reliability:

2.11.1 Maintenance Program: The Contractor shall establish and maintain a comprehensive vehicle maintenance program that ensures all vehicles are safe, clean, reliable, accessible, and available for service. The program shall include preventive maintenance, daily inspections, defect reporting, repairs, warranty management, maintenance records, road call tracking, accident repairs, cleaning, fueling, emissions compliance, and quality control.

2.11.2 Preventive Maintenance Compliance: The Contractor shall achieve one hundred percent (100%) compliance with manufacturer-recommended and VIA-approved preventive maintenance schedules. Preventive maintenance intervals shall not be exceeded without prior written approval from VIA. Vehicles with overdue preventive maintenance shall not be placed into revenue service unless approved by VIA in writing.

2.11.3 Vehicle Inspections: The Contractor shall conduct pre-trip and post-trip inspections, monthly vehicle inspections, accessibility equipment inspections, securement inspections, and any additional inspections required by VIA. Inspection results shall be documented and made available to VIA upon request.

- 2.11.4 Vehicle Cleanliness and Daily Service:** Contractor shall ensure that all vehicles are serviced daily as described below before being placed into service:
- a) All vehicles must be fueled and serviced daily by Contractor: oil, transmission, coolant levels, tires checked daily, and windshield washer fluid checked and added if necessary.
 - b) Contractor shall inspect units nightly and complete a check-off list of such inspections. This listing shall be provided to VIA upon request or may be inspected by VIA at any time.
 - c) All vehicle interiors must be cleaned daily. This includes removing trash, sweeping floor, and mopping floor, all glass and windshields cleaned wipe stanchions and grab rails. The operator's area shall be wiped down, including, but not limited to, dash controls, dashboard and above the operator area and along the front dashboard.
 - d) Contractor shall also ensure that the exteriors of all vehicles are washed daily. Vehicle rims must be cleaned daily.
 - e) Contractor shall ensure that, monthly, the interiors of all vehicles are fully and thoroughly cleaned (with disinfectant) throughout including dashboard, ceilings, walls and all other interior areas and surfaces. This shall be termed Monthly Cleaning and shall be subject to inspection by VIA.
 - f) All passenger and operator seats with cloth upholstery shall be shampooed once every four (4) months within the fleet.
 - g) Contractor shall ensure that any vehicle that has been marked with graffiti is removed from service until the graffiti is cleared.
 - h) VIA may conduct inspections to ensure that the vehicles are cleaned in accordance with instructions outlined above.
- 2.11.5 Road Calls and Mechanical Failures:** The Contractor shall track and report all road calls, mechanical failures, accessibility equipment failures, communication equipment failures, and vehicle changes. All road calls and vehicle changes shall be reported consistent with NTD standards daily, and monthly, in a format approved by VIA. The Contractor is responsible for reporting repair, and the root cause of the failure to VIA within 24 hours of the event. A repair order must be made for every service call, whether a defect is found or not. The Contractor shall analyze trends and take corrective action to reduce recurring failures.
- 2.11.6 Maintenance Records:** The Contractor shall maintain complete maintenance records for each vehicle used in VIAtrans service. Records shall include preventive maintenance, inspections, defects, repairs, warranties, parts, mileage, road calls, accidents, technology repairs, cleaning, and vehicle availability status. Records shall be available to VIA for audit at any time.
- 2.11.7 Vehicle Security Cameras:** All revenue vans in service on this contract shall be equipped with security camera systems. The Contractor shall provide security camera systems for their vehicles. As relates to these camera systems, the Contractor is responsible for the following:
- a) Regular inspection and maintenance of the equipment. Onboard equipment must be inspected monthly and quarterly to ensure that they are in proper working order. Contractor is responsible for all maintenance of this equipment. Contractor is responsible for the timely download of security footage at VIA's request or at the request of law enforcement. Footage requests may include, but are not limited to, accident footage and serious complaint footage.
- 2.11.8 Storeroom and Parts Inventory:** Contractor is expected to adequately stock and procure replacement parts and supplies for the fleet of vehicles. It is expected that this shall require some level of effort and expertise to do this. The Contractor shall monitor fuel supplies, reorder fuel, perform fuel reconciliations, monitor fuel deliveries, and provide regular reports of fuel use as required. VIA shall pay for the gasoline fuel for revenue vehicles only. VIA shall not reimburse Contractor for fuel purchased at retail outlets. Contractor shall be responsible for the fluids and lubricants required for the fleet.
- 2.11.8.1 Fuel Supplied by VIA:** Unleaded fuel shall be supplied by VIA, at VIA's sole cost and expense, to Contractor on an "as needed" basis for all vehicles performing only VIA work. Contractor shall be responsible for monitoring and reporting the on-hand inventory of unleaded fuel stored within their fuel tanks.

2.11.8.2 Fuel Ordering: Based on inventory information provided by the Contractor, VIA shall order unleaded fuel to be delivered to the Contractor's location at pre-determined days and times. The Contractor shall record fuel tank inventory in written and electronic form. These records shall be maintained by the Contractor and made available to VIA upon request. It is VIA's intent to purchase the fuel for the contractor's vehicles that perform VIA work, and only for performing VIA work.

2.11.9 Equipment for Contractor's Vehicles: VIA shall provide the following equipment to be installed on the Contractor's vehicles. Installation shall be Contractor's responsibility. All equipment provided by VIA shall remain the property of VIA and shall be utilized by Contractor for VIA use only. Contractor must report within six (6) hours to the Project Manager when VIA provided equipment is damaged, lost or stolen. Contractor shall compensate VIA within sixty (60) days for any equipment provided to Contractor by VIA that has been damaged, lost or stolen. If not paid to VIA within sixty (60) calendar days, VIA shall deduct this cost from any compensation owed the Contractor.

Equipment:

- a) Tablet with radio system that serves as communication between the operator and VIA Dispatch and also allows VIA Dispatch to know the precise location of the vehicle.
- b) Genfare Validator and Operator Control Unit (OCU)
- c) Handset and receiver
- d) Wi-Fi router

2.11.9.1 Additional MDTs, IVLUs, and Validators: During the term of the contract, Contractor may receive additional IVLUs, MDTs and validators. Contractor shall be responsible for all costs of installing these additional units and shall follow all requirements as stated in the RFP. No material, equipment or facilities shall be furnished by VIA unless otherwise stated in this solicitation. If the Contractor requires additional equipment for additional vehicles beyond the spare ratio, the Contractor shall be responsible for the additional cost of the equipment.

2.11.9.2 Costs to Install/Remove/Transfer from one vehicle to another of the IVLU and MDT on Contractor's Vehicles: Contractor shall be responsible for all costs of equipment and supplies including labor related to the installation, removal, and transfer from one vehicle to another of the Tablet, Handset and Receiver, Validator, OCU, Wi-Fi router and any related equipment. This includes but is not limited to the costs of the cabling, connectors, antennas, antenna cabling and all related equipment and supplies. Contractor is responsible for all costs including labor to install and remove the cabling, connectors, antennas, antenna cabling and all related equipment and supplies. Contractor is responsible for purchasing a cable kit, equipment kit and hardware kit for all vehicles. VIA shall not provide any other equipment other than the tablet, radio and handset, and validators. Anytime the Tablet and/or Validator and OCU is transferred from one vehicle to another or installed on a vehicle for the first time, the Contractor shall install new cabling, connectors, antennas, antenna cabling, and all related equipment and supplies.

2.11.9.3 Troubleshooting, Repairs, and Maintenance of Equipment: Contractor shall be responsible for all costs including labor associated with troubleshooting, repairing, and maintaining of the Tablet, Handset and Receiver, Validator, OCU, Wi-Fi router and any related equipment. VIA shall be responsible for the cost of repair of the unit itself of the Tablet, Handset and Receiver, Validator, OCU, or Wi-Fi router resulting from normal wear and tear. The Contractor shall troubleshoot, repair and maintain the Tablet, Handset and Receiver, Validator, OCU, Wi-Fi router and any related equipment. The Contractor shall repair and/or replace but is not limited to antennas, cabling, components of the headset and headsets. Contractor is responsible for providing an inventory of the equipment.

2.11.9.4 End of Contract: At the end of the contract, Contractor shall be responsible for all costs including labor to remove the IVLUs, MDTs, Validator, EDACs radio, handset and receiver, and Wi-Fi router from Contractor's vehicles. Contractor is responsible for delivering the IVLUs, MDTs, Validator, EDACs radio, handset and receiver, and Wi-Fi router to VIA.

2.11.9.5 Contractor Default: If the contract is terminated for default, Contractor shall compensate VIA for all costs associated with removal of equipment from Contractor's vehicles and installation of

the equipment to another vehicle. Before equipment is taken out of the vehicle, VIA staff shall perform an ATP test. If the IVLU, MDT and associated equipment are not operable, Contractor shall be responsible for costs associated with making the equipment operable. VIA shall deduct this cost from any compensation owed Contractor.

2.11.10 Digital Closed-Circuit Television (CCTV) Recording System: VIA requires the installation of a digital CCTV monitoring/recording systems in every vehicle used to transport VIAtrans customers. This should be included with the new vehicle procurement. The specifications are included below if needed.

2.11.10 CCTV System Description: The CCTV system shall be a MobileView3004 analog small vehicle system with up to 4 cameras. The system must be capable of monitoring and recording all activity continuously with high-resolution color cameras at a rate of thirty (30) frames per second. Interior cameras shall be capable of switching from color mode to black and white and be equipped with an infrared illumination device. In addition to video recording, the system must capture audio within the vehicle. The system shall also record "discrete" data that shall continuously monitor and record vehicle speed, application of the foot brake, the emergency brake, turn signals and hazard signals. The video, audio and discrete data shall be recorded simultaneously on the same recording system and shall be viewable simultaneously when played back. The exterior cameras must be mounted in weatherproof heavy-duty enclosure and shall be the same color as the exterior of the vehicle on which they are installed.

2.11.10.1 Camera Installation:

- a) Forward facing camera near the windshield to record traffic and traffic signals in front of the vehicle and must be mounted in a manner which eliminates reflection from the windshield.
- b) Interior camera mounted in the front at an angle to capture the rear of the vehicle and the passenger side rear door.
- c) Interior camera mounted in the rear of the vehicle facing towards the front. The interior cameras are to record all activity which takes place inside the van and while loading and unloading passengers. If installed on a vehicle with a rear loading wheelchair ramp, this camera shall be aimed towards the rear of the vehicle.
- d) Exterior camera on curb side of the vehicle. The exterior cameras shall be mounted near the front of the vehicle facing towards the rear.

2.11.10.2 Camera Hard Drive Space: As available hard drive space is filled; new information shall overwrite the old information so that the video stored on the hard drive is in a continuous time sequence. The DVR hard drive must be secured to prevent unauthorized access to the unit. The unit must be secured with a key lock or installed in a key locked enclosure. All DVRs must be identical in model, manufacturer, features, and capabilities. All hard drives shall be identical and interchangeable with any vehicle in the fleet.

2.11.10.3 Playback Software: The system must include playback software that shall smoothly play back images at normal speed, by individual frames or at fast speeds. Recorded data must not be readable by any standard digital video player software and shall be non-editable; however, the software player shall have an option to convert saved files into a generic file format playable on common media players.

2.11.10.4 Responsibility: Contractor shall be responsible for the cost, installation and maintenance of this system.

2.11.10.5 Access to Contractor's Video Data: The Contractor must allow access to VIA staff to view any video captured on this system.

2.11.11 Vehicle Maintenance Compliance: The Contractor is required to maintain all required vehicles in

accordance with terms and conditions of this Contract. If a vehicle is found to be non-compliant or removed from service by VIA due to non-compliance after a VIA vehicle inspection, safety or vehicle audit, the Contractor may be assessed penalties. Examples of non-compliance include, but are not limited to:

- Vehicle(s) in-service not properly logged into the MDT or any other required systems
- Vehicle(s) in-service that are not clean, exterior or interior
- Vehicle(s) in-service with damaged seats or damaged interiors
- Vehicle(s) in-service with leaky interiors due to A/C Condensation or any other fluid(s)
- Vehicle(s) with accident damage or body damage
- Vehicle(s) with graffiti or damages in the operator's area as a result of operator misuse or abuse
- Vehicle(s) with inoperable radios, MDT's or any other required systems
- Vehicle(s) with inoperative interior and/or exterior lights
- Vehicle(s) with lack of current VIA-issued publications
- Vehicle(s) with severely cracked windows or windshields that obstruct the Operator's view of the road or that detract from the overall appearance of the vehicle
- Vehicle(s) with sub-standard climate control
- Vehicles with expired State vehicle registration stickers
- Vehicles with expired Texas Department of Public Safety inspection stickers
- Vehicles with missed Preventive Maintenance Inspections (PMI) or PMIs performed outside the inspection window

2.12 Staffing and Key Personnel Requirements:

2.12.1 Dedicated Management Team: The Contractor shall provide a professional, experienced, and dedicated management team for VIAtrans service. Key staff shall be full-time and dedicated to the VIAtrans contract unless otherwise approved by VIA. Key staff shall not be moved, transferred, or replaced without prior notice to and approval by VIA, as required by the Contract.

Position	Minimum Requirement / Responsibility
General Project Manager	Full-time; responsible for day-to-day contract management, VIA coordination, performance, reporting, and overall service delivery. The Project Manager must have a minimum of five (5) years of transit management experience and at least seven (7) years of experience in public transportation, including a minimum of two (2) years in management or operations of an ADA Paratransit service of comparable size.
Operations Manager	Full-time; responsible for operator supervision, pull-out performance, on-street service, service recovery, and operational performance. The Operations Manager should have at least three (3) years of management experience in transit and at least five (5) years of experience in transit operations, two (2) years of which must be ADA Paratransit of a similar size.
Maintenance Manager	Full-time; responsible for vehicle maintenance, fleet reliability, maintenance records, inspections, and regulatory compliance. The Maintenance Manager must be legally licensed to operate a Paratransit vehicle in Texas and hold at least five (5) ASE Automotive Certifications. The Maintenance Manager must have at least seven (7) years of technician experience and a minimum of five (5) years of progressive experience in maintenance supervision.
Safety and Training Manager	Full-time; responsible for safety program, training, retraining, monitoring, accident investigations, and safety reporting. The Safety and Training Manager must also be legally licensed to operate a Paratransit vehicle in Texas. The Safety and Training Manager must possess the FTA's Public Transportation Safety Certification Training Program – Bus certificate. The Safety and Training Manager shall be responsible for attending VIA training classes as required.
Communication and Technology Support Staff	Responsible for radios, MDTs, tablets, validators, software access, technology troubleshooting, equipment records, and VIA system

Position	Minimum Requirement / Responsibility
	coordination. The Communication Technology Support Person is also responsible for maintaining all communication with VIA and all computers that connect to VIA. This individual should be full-time and dedicated to VIAtrans service. A minimum of three (3) years' related experience is required.
Customer Service Coordinator	Full-time; responsible for complaint investigation, CAF responses, customer service coordination, and service quality issue tracking.
Trainers	Minimum of three (3) full-time trainers dedicated to operator and supervisor training, refresher training, and VIA-approved curriculum implementation.
Field Supervisors	One (1) Field Supervisor per every twenty (20) vehicles in service, or portion thereof, and at least one (1) field supervisor when service is below that level. All Field Supervisors on duty shall be assigned a non-revenue accessible vehicle with the configuration with one (1) wheelchair position that is ADA compliant and three (3) seats for passengers. The vehicle must be equipped with a radio and tablet to communicate with dispatch on the VIA radio platform.

2.12.2 Availability of Management: At least one (1) key manager shall be on call at all times. The General Project Manager or Operations Manager shall be available in person or by telephone during all hours when revenue service is being provided. The Contractor shall provide VIA with current contact information and an on-call schedule and shall promptly notify VIA of any changes.

2.12.3 Staffing Plan: The Contractor shall maintain a staffing plan sufficient to operate all assigned service. The staffing plan shall include recruitment, hiring, training, retention, absenteeism coverage, reserve operators, overtime management, succession planning, and contingency staffing for holidays, special events, and emergencies.

2.12.4 Staffing Retention Plan: The Contractor shall submit an annual Staffing Retention Plan that identifies turnover trends, vacancies, recruitment strategies, retention initiatives, wage and benefit considerations, employee engagement efforts, and actions to prevent staffing shortages from affecting service.

2.12.5 Minimum Wage: The Contractor shall be solely responsible for all costs associated with increases in applicable Federal and/or State minimum wage requirements during the term of this Contract. The Contractor shall also bear all costs associated with Contractor personnel or vehicles affected by communicable diseases, illnesses, infections, or other medical or health conditions. VIA reserves the right, for cause, to prohibit any Contractor operator from performing services under this Contract based on past performance or allegations of misconduct, whether substantiated or unsubstantiated. Contractor operators assigned under this Contract shall be paid a minimum wage of \$18.01 per hour.

2.13 Operator Standards and Personnel Requirements: Operators and field personnel are central to safe and customer-focused service. The Contractor shall ensure all personnel meet VIA-approved standards before providing service and throughout employment.

2.13.1 Minimum Operator Qualifications:

- At least twenty-one (21) years of age.
- High school diploma or GED.
- Valid Texas Class C driver's license or higher, or other license required by law or VIA.
- Continuous possession of a valid U.S. driver's license for the required period established by VIA.
- Valid DOT medical card when required.
- Acceptable motor vehicle record.
- Acceptable criminal background and sex offender screening consistent with law and VIA requirements.

- **Smith System Driving Course:** All newly hired operators must complete the Smith System Driving Course or equivalent before providing service to VIAtrans customers. All currently hired operators must complete this course within six (6) months of the commencement of this contract. The Contractor is responsible for this cost and cannot pass this cost to the employee. Transit and Paratransit Company (TAPTCO) Driving Course can be provided as supplemental training.

2.13.2 MVR, Reference Checks, DOT Physicals: The Contractor shall conduct motor vehicle record checks, reference checks, and other screenings required by VIA before employment and at required intervals thereafter. The Contractor shall bear all costs of required screenings and shall not pass those costs to employees unless expressly permitted by law and approved by VIA. All operators and Field Supervisors must have a Motor Vehicle Record (MVR) not more than 90 days old from the Texas Department of Public Safety prior to employment and every 90 days thereafter. The MVR check shall include a record of the applicant's driving history from any State in which the applicant resided for a minimum of 3 years and current possession of valid Texas Class C Driver's License or approved equal. The information shall be kept in each employee's personnel file.

References: The Contractor is responsible for performing reference checks on all operators before providing service to VIAtrans customers. Reference checks shall include current employers, previous employers and personal references.

DOT Physicals: All operators shall maintain a valid DOT medical card, must be in good physical condition and pass a physical examination before providing VIAtrans service. The Contractor is responsible for the cost of the physical examination and cannot pass this cost to the employee.

2.13.3 Criminal Background Checks: Contractor must conduct background checks from a reputable source to include national criminal conviction records and sex offender records. The Contractor is responsible for this cost and cannot pass this cost to the employee.

- a) The Contractor shall conduct Local, County, State-wide and Federal background checks on all safety sensitive personnel prior to employment and once annually thereafter. The background check shall include an examination of criminal history from any county and State in which the applicant resided within the past seven years.
- b) All operators and Field Supervisors shall be screened prior to and during employment to ensure that they do not have a criminal conviction that would make the employee a danger to passenger safety or threaten the loss of VIA property. A conviction record shall not necessarily be a bar to employment and factors such as age and time of offense, seriousness and nature of the violation and rehabilitation shall be considered. All criminal convictions shall be reviewed on a case-by-case basis by the Contractor and VIA's Project Manager prior to commencing VIAtrans service. VIA's participation in the criminal review process only pertains to a review of the applicant's past criminal history. The Contractor shall be solely responsible for the decision to hire any applicant.
- c) All operators who are expected to operate or maintain a vehicle in VIAtrans service, including Field Supervisors and mechanics, must have continuous possession of a valid Driver's License in the U. S. for the past 3 years and current possession of valid Texas Class C Driver's License or higher.
- d) All operators shall have no felony criminal convictions related to violence or drugs or prior "Driving While Intoxicated" or "Driving Under the Influence" (DWI/DUI) convictions within the past 5-years.
- e) Applicants terminated from VIA, or from a previous employer due to drug and alcohol usage shall not be eligible for hire.

- 2.13.4 Uniforms, Identification, and Professional Appearance:** Operators, field supervisors, and other customer-facing staff shall wear VIA-approved uniforms and identification while providing service. Personnel not wearing the approved uniform and required identification may be prohibited from providing service.
- 2.13.5 Personal Electronic Devices:** Operators and supervisory personnel shall not use personal electronic devices while driving or while otherwise engaged in safety-sensitive service activities, except as expressly allowed by VIA policy for emergencies or approved communication when safely parked. Violations may result in removal from VIAtrans service.
- 2.13.6 Map Books:** The Contractor shall provide map books to all operators and Field Supervisors. The Contractor is responsible for the cost of the map book and cannot pass this cost to the employee. At all times while providing service under this contract operators must have a map book on hand that covers the service area. VIA reserves the right to require the Contractor to replace map books as necessary
- 2.13.7 Hours of Service:** Operators shall not be scheduled or permitted to work more than twelve (12) consecutive hours, thirteen (13) total hours during any service day, or more than six (6) consecutive days during any seven-day period, unless a more restrictive law, regulation, or VIA policy applies.
- 2.13.8 Complaint-Based Retraining and Removal:** The Contractor shall monitor operator complaints, safety performance, attendance, on-time performance, customer assistance, securement, and professionalism. Operators with recurring substantiated complaints, safety issues, policy violations, or service failures shall receive retraining, progressive discipline, or removal from VIAtrans service as directed by VIA or required by Contractor policy.

2.14 Training Requirements:

- 2.14.1 General Training Requirement:** The Contractor shall provide initial training, refresher training, remedial training, technology training, safety training, ADA training, passenger assistance training, and other training required by VIA. Training shall meet or exceed VIA-approved curriculum standards and shall be updated when VIA changes policies, systems, procedures, or performance expectations.
- 2.14.2 Required Training Topics:**
- ADA complementary paratransit requirements and disability awareness.
 - Passenger Assistance Training and sensitivity training.
 - Wheelchair, scooter, and mobility device securement.
 - Assist-to-Door and Do Not Leave Alone procedures.
 - Service animals and medical equipment.
 - Customer service, de-escalation, and respectful communication.
 - Fare collection and fare dispute procedures.
 - Safe driving, Smith System or VIA-approved equivalent, defensive driving, and accident prevention.
 - Radio, RideCo Software, and Genfare Fare Validation.
 - Route sheets and contingency paper procedures.
 - Incident, accident, complaint, and emergency reporting.
 - Drug and alcohol requirements and safety-sensitive employee responsibilities.
 - Security awareness and emergency procedures.
 - Data privacy and cybersecurity awareness.
- 2.14.3 Training Records:** The Contractor shall maintain complete training records for each employee assigned to VIAtrans service. Records shall identify training completed, dates, instructors, test results, retraining, certifications, refresher requirements, and expiration dates. Records shall be available to VIA upon request.

2.15 Safety, Security, and Emergency Management:

2.15.1 Safety Management System: The Contractor shall establish and maintain a safety program consistent with the principles of the Federal Transit Administration (FTA) Safety Management System (SMS) and 49 CFR Part 673, Public Transportation Agency Safety Plan (PTASP). The safety program shall address hazard identification, risk assessment, accident prevention, safety performance monitoring, employee reporting, corrective action, safety training, and continuous improvement. The system shall include methods for promoting safe driving practices, such as safety incentives and awards, (Safety Award Program), meetings, and posters.

2.15.2 Safety Review Board: The Contractor shall establish a safety review process to evaluate accidents, incidents, preventability, corrective actions, retraining, and safety awards. VIA may attend or review safety review meetings, records, and determinations.

2.15.3 Accident and Incident Response: The Contractor shall immediately respond to accidents, incidents, customer injuries, vehicle damage, safety events, security events, and other reportable occurrences. Field Supervisors shall respond in person to accidents and incidents involving customers on board whenever practicable. The Contractor shall preserve evidence, prepare reports, conduct investigations, determine corrective actions, and coordinate with VIA.

2.15.3.1 Preventable Vehicular Accidents per 100,000 Revenue Miles: Preventable vehicular accidents per 100,000 revenue miles is a measure of both operations' performance, as well as passenger service quality. Performance is impacted by how well drivers are trained, vehicles are maintained, and operating policies and procedures support safe operations day-to-day. Preventability is assessed if there was an opportunity for the driver (within reasonable action) to have avoided the accident.

Preventable accidents are reportable for all incidents that:

- i. Result in passenger injury whether requires medical transport or not
- ii. Involve a non-arson fire, and/or a collision between a revenue vehicle and:
 - Another vehicle
 - Facilities
 - Equipment
 - Infrastructure
 - Pedestrian
- iii. Result in fatality
- iv. Result in property damage at any amount that includes transit and non-transit vehicles, transit facilities, bus shelters, equipment, private property, bicycles, mobility devices

2.15.4 Drug and Alcohol Program: The Contractor shall maintain one hundred percent (100%) compliance with all applicable DOT and FTA drug and alcohol testing requirements for safety-sensitive personnel. The Contractor shall maintain testing records and provide compliance documentation to VIA upon request.

2.15.4.1 Substance Abuse Prevention Program - Drug and Alcohol Testing: Applies to operational service contracts involving FTA covered employees – 49 CFR 655 and 49 CFR part 40: Contractor shall establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 655 and 49 CFR part 40, produce any documentation necessary to establish its compliance with Parts 655 and 49 CFR part 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State oversight agency of Texas, or VIA, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 655 and 49 CFR part 40 and review the testing process.

2.15.4.2 Drug and Alcohol Misuse Program: Contractor must have a comprehensive anti-drug use and alcohol misuse program in place that meets or exceeds all Federal requirements. The Drug and Alcohol Testing program shall include required training as well as pre-employment testing, reasonable suspicion testing, post-accident testing (when there is a human fatality, any individuals involved in the accident require immediate medical care away from the scene, or a vehicle is towed

due to disabling damage), return to duty testing, random testing, and follow-up testing. The Contractor's Drug and Alcohol Program Manager/ Designated Employer Representative shall attend a Transportation Safety Institute hosted Substance Abuse Management and Program Compliance course. A, D.H.H.S (Department of Health and Human Services) approved laboratory shall be used for all required drug testing. VIA shall have the right to audit Contractor's records and drug testing program. The Contractor is responsible for all testing and cost for all drug and alcohol testing requirements, and the Contractor shall not pass these costs to the employee.

2.15.4.3 Information about Program: Contractor shall submit to VIAs Project Manager and Drug and Alcohol Program Manager; the following and obtain VIA's approval prior to contract award:

- a) A copy of Contractor's anti-drug use and alcohol misuse policy and program.
- b) Name, address, and telephone number of the Medical Review Officer.
- c) Name, address, telephone number, and contact person at the drug testing facility.
- d) Name, address, and telephone number of Substance Abuse Professional (SAP).

A roster of all employees with pre-employment drug testing results must be provided prior to contract commencement.

2.15.4.4 EEO, Title VI, Drug and Alcohol: All accidents/incidents as defined and reportable to the National Transit Database are due to VIA's Safety Department by the next VIA business day of the accident/incident event. The Contractor shall submit reports accurately and completely directly to VIA's SharePoint database the next business day or within 48 hours of all incidents and/or accidents. The Contractor shall provide personnel to be trained by VIA and VIA shall provide access to VIA's SharePoint database.

2.15.4.5 Other Requirements:

- a) Contractor shall ensure that each employee subject to the Substance Abuse Prevention Program receives a copy of Substance Abuse Prevention Policy and confirms acceptance.
- b) Required training shall be conducted before performing a safety-sensitive function.
- c) Required training for all employees who supervise or direct safety-sensitive employees.
- d) A negative drug and alcohol screen result from the MRO/testing facility must be received before any employee performs a safety-sensitive function.
- e) Provide monthly updated Employee Roster (including terminated employees) with the following:
 - 1. Employee Name
 - 2. Employee SS Number
 - 3. Employer's Employee Number, if available
 - 4. Date MRO confirmed negative pre-employment drug and alcohol screen
 - 5. Date of required training
 - 6. Date employee began performing safety-sensitive function
 - 7. Employment termination date
- f) Complete annual MIS Reports per 49 CFR 655 and submit to VIA by February 15 following the reporting period.
- g) Report on all positive drug or alcohol results to VIA's Safety Department within twenty-four (24) hours.
- h) Report all accidents subject to post-accident testing to VIA within twenty-four (24) hours of occurrence.
- i) Other reporting documentation as required
- j) A copy of all drug and alcohol results shall be sent to VIA within 5 calendar days of the Contractor receiving the results.

2.15.6 Emergency Operations: The Contractor shall support VIA during emergency operations, including severe weather, flooding, ice, snow, public health emergencies, facility disruptions, civil emergencies, natural disasters, and other events. The Contractor shall participate in emergency planning, drills, after-action reviews, and service restoration activities as directed by VIA.

2.15.7 Safety Infraction Communication: The Contractor shall document and promptly report to VIA any safety infractions occurring during service hours, including, without limitation, the following:

- Do Not Leave Alone classified rider is mistakenly left alone
- Operator(s) or Street Supervisor(s) not in possession of a valid Texas driver's license and a Department of Transportation (DOT) medical card, while in revenue service
- Failure to check customer ID that results in a wrong location drop-off
- Failure to properly tie down a wheelchair correctly
- Lack or improper use of seat belts for all occupants in the vehicle
- Operation of a vehicle while texting
- Operation of a vehicle with a cell phone, cell phone earpiece or ear cord
- Reckless driving to include running red lights, violations/tickets, speeding
- Violation of highway/rail grade crossings

2.16 Technology, Communications, and Data Management:

2.16.1 VIA-Approved Systems: The Contractor shall use all technology systems designated by VIA for scheduling, dispatch coordination, communications, fare collection, reporting, customer profiles, complaint investigation, maintenance records, and service monitoring. Systems may include Trapeze, RideCo, radios, SmartCard validators, or Customer Assistance Form systems.

2.16.2 Communication Requirements: Operators and field supervisors shall maintain communication with VIA Dispatch as required. Vehicles with non-functioning required communication equipment shall not be used in revenue service without prior VIA approval. The Contractor shall promptly report, repair, replace, or troubleshoot malfunctioning equipment.

2.16.3 Data Accuracy: The Contractor shall ensure that operator entries, trip statuses, times, fares, events, no-shows, cancellations, incidents, accident reports, maintenance records, and other data are accurate, timely, and complete. VIA may audit Contractor data at any time.

2.16.4 Cybersecurity and Data Privacy: The Contractor shall protect customer information, VIA data, operational data, system credentials, and technology assets. The Contractor shall maintain cybersecurity practices that include password controls, access management, employee cybersecurity awareness, secure handling of customer information, incident reporting, device protection, and compliance with VIA information security requirements. Cybersecurity incidents involving VIA systems, VIA data, or customer information shall be reported to VIA within twenty-four (24) hours, or sooner if required by VIA policy or law.

2.17 Reporting and Records Requirements:

2.17.1 General Reporting: The Contractor shall submit accurate, complete, and timely reports in the format and schedule required by VIA. VIA may modify reporting formats, reporting systems, definitions, and submission deadlines during the term of the Contract.

2.17.2 Monthly Performance Report: The Contractor shall submit a Monthly Performance Report no later than the fifteenth (15th) calendar day of the following month, unless VIA establishes a different deadline. The report shall include, at a minimum:

- Revenue hours operated and scheduled.
- Revenue miles operated.
- Passenger trips provided.
- Total Passengers transported.
- No-shows, cancellations, cancel-at-door events, and add-on trips.

- Missed trips, late pickups, and late drop-offs.
- On-time pickup and drop-off performance.
- Pull-out performance and route coverage.
- Customer complaints, complaint status, and complaint resolutions.
- Accidents, incidents, injuries, and preventability determinations.
- Vehicle road calls, mechanical failures, and fleet availability.
- Preventive maintenance compliance and overdue maintenance.
- Staffing levels, vacancies, turnover, absenteeism, and reserve operator status.
- Training completed and overdue training.
- Drug and alcohol testing compliance.
- Corrective actions implemented and open corrective actions.

2.17.3 Monthly Executive Dashboard: The Contractor shall submit a one-page executive dashboard summarizing KPI performance, month-over-month trends, year-to-date trends, risk areas, corrective actions, fleet status, staffing status, safety metrics, and customer complaint trends.

2.17.4 Records Retention and Audits: The Contractor shall maintain all records required by the Contract, VIA, FTA, DOT, State of Texas, and applicable law. Records shall be retained for the period required by the Contract or law, whichever is longer. VIA may inspect, copy, audit, or request records at any reasonable time. The Contractor shall provide requested records within one (1) business day for urgent operational matters and within the timeframe specified by VIA for routine requests.

2.17.4.1 Open Records Requests: Contractor agrees to and shall promptly assist, at no charge to VIA, in locating and copying any and all documents VIA deems responsive to a request received under the Texas Public Information Act, as amended, or any similar law, adhering to all applicable statutory deadlines.

2.17.4.2 Proprietary Documents: Any and all documents pertaining to this contract belong to and are the property of VIA and shall be furnished to VIA upon termination of this contract. VIA retains all proprietary interest in these documents.

2.17.5 NTD and Regulatory Reporting Support: The Contractor shall provide data and supporting documentation needed by VIA for National Transit Database reporting, ADA compliance reporting, audits, grants, regulatory reviews, and internal performance analysis.

2.18 Key Performance Metrics: The Contractor shall meet or exceed the following Key Performance Metrics. VIA may revise targets, definitions, or reporting methodologies during the term of the Contract to align with regulatory requirements, operational needs, or industry standards.

Metric	Target	Measurement / Notes
On-time pickup performance	>= 90% monthly	Arrival within the negotiated pickup window.
On-time drop-off performance	>= 90% monthly	Arrival within the negotiated drop-off time standard established by VIA.
Vehicle pull-out reliability	>= 99% daily	Scheduled vehicles begin service on time and are fully equipped.
Route coverage – Hours Scheduled	100%	All routes and service hours assigned by VIA are operated.
Customer complaint rate	<= 1 substantiated complaint per 1,000 passenger trips	Measured monthly and year-to-date.
Customer satisfaction	>= 90% annually	Measured by VIA survey or approved feedback mechanism.
Preventable accident rate	<= 1.0 per 100,000 miles	Measured monthly and year-to-date.
Road call rate	MDBF >= 40,000 miles	Mean Distance Between Failures; Mechanical failures requiring service interruption or vehicle change.

Metric	Target	Measurement / Notes
Fleet availability	>= 90%	Available fleet meeting all service, safety, accessibility, and technology requirements.
Preventive maintenance compliance	100%	No overdue preventive maintenance without VIA approval.
Training compliance	100%	All required training completed by required deadlines.
Drug and alcohol compliance	100%	Compliance with DOT/FTA requirements.
Reporting timeliness	100%	All reports submitted by VIA deadlines.
Corrective action timeliness	100%	CAPs submitted and implemented by approved deadlines.

Failure to meet a KPI may result in a Corrective Action Plan, penalties, reduction in assigned service, increased VIA oversight, personnel removal, or other remedies available under the Contract.

2.19. Corrective Action and Performance Management:

2.19.1 Corrective Action Plans: If the Contractor fails to meet any KPI for two consecutive months, fails to meet a critical safety or ADA requirement, experiences a serious service failure, or otherwise performs below VIA expectations, VIA may require a Corrective Action Plan. The Contractor shall submit the plan within ten (10) business days of VIA's request, unless VIA requires a shorter timeframe due to safety or service urgency.

2.19.2 Corrective Action Plan Contents:

- Description of the performance failure or compliance issue.
- Root cause analysis.
- Immediate actions taken to protect service and customers.
- Corrective actions to be implemented.
- Responsible personnel.
- Implementation schedule.
- Performance monitoring method.
- Expected measurable improvement.
- Date by which full compliance will be restored.

2.19.3 Performance Review Meetings: The Contractor shall participate in regular performance review meetings with VIA. Meetings may be weekly, monthly, quarterly, or as otherwise directed by VIA. Topics may include service performance, staffing, fleet, safety, complaints, corrective actions, customer experience, technology, and upcoming operational changes.

2.19.4 Escalation: If performance does not improve after a Corrective Action Plan, VIA may impose additional remedies, including increased reporting, mandatory management changes, removal of operators or supervisors, reduction of service assignments, penalties, withholding of payment where allowed, default notice, or contract termination.

2.20 Penalties and Service Credits: The following schedule is recommended for VIA review. Penalties should be finalized by VIA Contract Services and operations staff before release. Amounts below are placeholders intended to create clear accountability for critical service failures.

Performance Failure	Assessment
Deleted Route Hours – Shall be assessed when actual service hours fall below the minimum scheduled service hours for any given day.	Hourly Rate x Route Deletion Occurrences
Late Pullout >30 minutes – Shall be assessed when a vehicle scheduled pullout occurs more than thirty (30) minutes after scheduled pullout time.	\$75 per occurrence
Failure to contact Dispatch >15 minutes – Shall be assessed when operator fails to contact VIA Dispatch for more than fifteen (15) minutes as required, including upon returning from lunch.	\$75 per occurrence

Performance Failure	Assessment
Failure to Verify Rider with Identification Card – Shall be assessed when a driver fails to verify a customer's required identification prior to providing service.	\$100 per occurrence
Refused or Rejected Trip – Shall be assessed when an operator refuses a scheduled trip without prior approval from VIA Dispatch.	\$75 per occurrence
Safety Infraction – Shall be assessed for any of the criteria met in <i>section 2.15.7 Safety Infraction Communication</i> .	\$1,000 per occurrence
Customer Assistance Forms (CAF) Complaint Rate >1 – Shall be assessed when employee at fault complaints exceed 1 for every 1,000 passenger trips for the reporting month	\$500 per month
Preventable accident – Shall be assessed when a preventable accident occurs during service hours.	\$250 per occurrence, in addition to other remedies
Fleet Availability – Shall be assessed when failure to maintain required spare ratio or fleet availability	\$500 per day
Vehicle and Maintenance Compliance – Shall be assessed when a vehicle is found non-compliant or removed from service by VIA due to non-compliance for any of the criteria found in <i>section 2.11.11 Vehicle Maintenance Compliance</i>	\$75 per occurrence
Monthly Cleaning – Shall be assessed if the Contractor fails to thoroughly clean the vehicle, including the dashboard, ceilings, walls, and all other interior areas and surfaces, as determined by inspection conducted by VIA.	\$100 per occurrence
Major Repair, Out of Service, and Cleanliness - Shall be assessed if the Contractor fails to return a vehicle to service after it has been out of service for more than 30 days.	\$250 per day
Mean Distance Between Failures – Shall be assessed when MBDF falls between 35,000 – 39,999 miles (Total Revenue Miles + Deadhead Miles)/Number of Roadcalls	\$500 per month
Mean Distance Between Failures – Shall be assessed when MBDF falls between 30,000 – 34,999 miles (Total Revenue Miles + Deadhead Miles)/Number of Roadcalls	\$1,000 per month
Mean Distance Between Failures – Shall be assessed when MBDF falls between 0 – 29,999 miles (Total Revenue Miles + Deadhead Miles)/Number of Roadcalls	\$2,000 per month
National Transit Database Reporting – Shall be assessed when Contractor fails to produce ad-hoc reporting, monthly and/or quarterly reports, or any annual report that is submitted late or incomplete.	\$500 per day
Late monthly report	\$250 per business day late
Failure to submit required Corrective Action Plan	\$500 per business day late
Failure to maintain required training compliance	\$250 per employee per occurrence
Failure to comply with drug and alcohol requirements	Remedy determined by VIA; may include removal from service and contract default

Penalties shall not limit VIA's right to pursue any other remedy available under the Contract, law, or equity. VIA may waive or reduce penalties when VIA determines that the failure was caused by circumstances beyond the Contractor's reasonable control and the Contractor acted promptly to mitigate the impact.

2.20.1 Service Credit – Preventable Vehicular Accident: Preventable vehicular accidents per 100,000 revenue miles is a measure of both operations' performance, as well as passenger service quality. Performance is impacted by how well drivers are trained, vehicles are maintained, and operating policies and procedures support safe operations day-to-day. Preventability is assessed if there was an opportunity for the driver (within reasonable action) to have avoided the accident.

Preventable accidents are reportable for all incidents that:

- i. Result in passenger injury whether requires medical transport or not
- ii. Involve a non-arson fire, and/or a collision between a revenue vehicle and:
 - 1. Another vehicle
 - 2. Facilities
 - 3. Equipment
 - 4. Infrastructure
 - 5. Pedestrian
- iii. Result in fatality
- iv. Result in property damage at any amount that includes transit and non-transit vehicles, transit facilities, bus shelters, equipment, private property, bicycles, mobility devices

A reportable accident may involve a vehicle operated by the Contractor that is not providing revenue service. Accidents that occur at a transit revenue facility, at a maintenance facility, during a transit- related maintenance activity, or involved a transit revenue vehicle, then the accident would be reportable.

The following outlines the incentives per six-month period for Preventable Vehicular Accidents per 100,000 revenue miles:

Preventable Vehicular Accidents per 100,000 Revenue Miles	Incentive Payment per Period
< 0.79	\$40,000
0.80 - 0.84	\$30,000
0.85 - 0.89	\$20,000
0.90 +	No Incentive

2.21 Transition-In Requirements:

2.21.1 Transition Plan: The Contractor shall submit a detailed transition plan for VIA review and approval. The plan shall identify all tasks, milestones, deadlines, responsible personnel, risks, dependencies, and contingency actions required to begin service without disruption.

2.21.2 Required Transition Elements:

- Project management schedule and implementation timeline.
- Staff recruitment, hiring, onboarding, background checks, licensing, DOT physicals, and drug and alcohol program readiness.
- Training schedule and completion milestones.
- Fleet acquisition, inspection, branding, technology installation, and readiness.
- Facility occupancy, maintenance setup, storage, utilities, communications, and equipment readiness.
- Technology access, RideCo, radio/MDT/tablet testing, data security, and system training.
- Coordination with VIA and incumbent contractor where applicable.
- Risk register and contingency plan for staffing gaps, vehicle delays, technology issues, and service continuity risks.

2.21.3 Ramp-Up Schedule:

In-Service Date	Approximate Quantity of Vehicles During Service Hours
November 1-30, 2026	40
December 1-31, 2026	120
Full-service implementation	160 vehicles plus required spare ratio

VIA may modify the ramp-up schedule after award and before implementation. The Contractor shall maintain the required spare ratio during ramp-up and full operations.

2.21.4 Incumbent Operator Recruitment: If the Contractor seeks to hire operators currently employed by the incumbent contractor, the Contractor shall do so in a manner that does not interfere with existing service. The Contractor shall submit a recruitment and onboarding plan that protects current operations, maintains minimum service levels, prevents staffing shortages, and avoids service degradation during the transition period.

2.21.5 Union Engagement Requirement: In the event a labor union seeks to represent, engage with, or otherwise initiate communication regarding employees performing services under this Scope of Work, the Contractor shall immediately notify VIA and comply with all applicable labor laws governing such engagement.

2.21.6 Contractor Obligations: Upon notification of union interest, the Contractor shall:

- Cooperate in good faith with the union's lawful efforts to organize or communicate with employees.
- Refrain from any actions that could be construed as interference, retaliation, or obstruction of employees' rights under federal or state labor law.
- Maintain uninterrupted service delivery and staffing levels throughout any union engagement process.

2.21.7 CBA Alignment: If a Collective Bargaining Agreement (CBA) is established or becomes applicable to employees performing work under this Contract, the Contractor shall fully comply with all CBA provisions, including but not limited to wages, scheduling, training, discipline, and grievance procedures. The Contractor shall coordinate with VIA prior to implementing any operational changes required by the CBA.

2.21.8 Information & Notification: The Contractor shall provide VIA with timely updates regarding union communications, requests, or organizing activity. The Contractor shall also provide VIA with any documentation required for oversight, compliance review, or labor-relations coordination.

2.21.9 Non-Disruption of Service: The Contractor shall ensure that union engagement, organizing activity, or CBA implementation does not disrupt service delivery, operational performance, or compliance with the requirements of this Scope of Work.

2.21.10 Operational Alignment with VIA Standard Operating Procedures: The Contractor shall ensure that all service delivery, operational practices, and administrative processes are fully aligned with the Standard Operating Procedures issued by VIA. VIA shall provide the Contractor with all applicable SOPs upon contract award, including any referenced manuals, operational guidelines, or procedural documents necessary for service implementation.

The Contractor shall incorporate all VIA SOPs into its daily operations and shall ensure that all employees, subcontractors, and representatives performing work under this Contract are trained on, and consistently adhere to, these procedures.

2.22 Transition-Out Requirements: The Contractor shall cooperate fully with VIA and any successor contractor during the final phase of the Contract. The transition-out period shall begin no later than one hundred twenty (120) days before the end of the Contract or such other date directed by VIA.

2.22.1 Transition-Out Duties:

- Participate in transition meetings with VIA and the successor contractor.
- Provide records, reports, staffing information, vehicle information, technology information, maintenance records, safety records, training records, complaint records, and other information requested by VIA.
- Provide access to property, vehicles, equipment, systems, and records as directed by VIA.
- Maintain full-service performance during transition-out.

- Cooperate in knowledge transfer, system transfer, and operational handoff activities.
- Avoid actions that would disrupt service, staffing, technology, fleet readiness, customer experience, or VIA operations.

2.22.2 Service Continuity During Transition-Out: The Contractor shall continue to meet all service, staffing, fleet, safety, reporting, and performance requirements through the final day of service. Transition-out activities shall not excuse performance failures unless expressly approved by VIA in writing.

2.23 Business Continuity, Cybersecurity, and Risk Management:

2.23.1 Continuity of Operations Plan: The Contractor shall maintain a Continuity of Operations Plan (COOP) that identifies how the Contractor will continue or restore service during disruptions. The COOP shall be submitted to VIA for review and updated annually or whenever material changes occur.

2.23.2 COOP Topics:

- Severe weather, flooding, ice, snow, and extreme heat.
- Fuel shortages or fuel supply interruption.
- Facility disruption, power outage, fire, or loss of maintenance capacity.
- Cybersecurity event or technology outage.
- Pandemic, public health emergency, or communicable disease event.
- Labor shortage, strike, or high absenteeism event.
- Vehicle shortage, parts shortage, or maintenance backlog.
- Emergency communications and escalation procedures.
- Alternative reporting, dispatch coordination, and service recovery procedures.

2.23.3 Risk Register: The Contractor shall maintain a risk register identifying operational, safety, staffing, fleet, technology, regulatory, and transition risks. The risk register shall identify likelihood, impact, mitigation strategy, responsible owner, and status.

2.23.4 Insurance, Bonds, and Financial Security: The Contractor shall maintain all required insurance, bonds, and financial security required by the Contract. Performance security requirements, including the amount, form, timing, and renewal requirements, shall be as stated in the Contract documents.

2.24 Continuous Improvement and Contract Governance:

2.24.1 Continuous Improvement: The Contractor shall actively pursue improvements to service quality, safety, reliability, customer satisfaction, employee retention, fleet reliability, technology use, reporting accuracy, and operational efficiency. The Contractor shall propose improvements to VIA and shall implement approved improvements at no additional cost unless otherwise agreed in writing.

2.24.2 Annual Service Improvement Plan: The Contractor shall submit an Annual Service Improvement Plan that reviews prior-year performance, identifies recurring issues, proposes measurable improvements, and establishes initiatives for the next year. The plan shall address safety, customer experience, on-time performance, fleet reliability, staffing, training, technology, and compliance.

2.24.3 Contract Governance Meetings:

Meeting	Recommended Frequency	Purpose
Operations meeting	Weekly during start-up, then biweekly or monthly	Review daily operations, staffing, route coverage, service disruptions, complaints, and corrective actions.
Performance meeting	Monthly	Review KPIs, dashboard, reports, safety, fleet, staffing, and service quality trends.
Executive review	Quarterly	Review strategic issues, major risks, contract compliance, customer experience, and

Meeting	Recommended Frequency	Purpose
		improvement initiatives.
Annual review	Annually	Review full-year performance, renewal considerations, service level changes, price considerations if applicable, and improvement plan.

2.25 Definitions and Performance Measurement Rules: The following definitions are recommended to reduce disputes during contract administration. VIA should finalize these definitions before publication and use the same definitions in the pricing form, monthly reporting template, KPI dashboard, and liquidated damages schedule.

Term	Recommended Definition
Operational Day	The calendar day or service day during which the Contractor is required to provide VIAtrans service, including any service that begins before midnight and ends after midnight.
Revenue Service Hour	The period of time during which a vehicle is available to transport VIAtrans customers, as defined by VIA for payment and reporting purposes.
Scheduled Service Hour	The service time assigned by VIA for a route, run, or vehicle assignment. Scheduled service hours may include time from garage pull-out to garage pull-in if used by the Contract payment structure.
Non-Operated Hour	Any scheduled service hour or portion of service that the Contractor fails to operate due to lack of vehicle, lack of operator, mechanical failure, late pull-out, or other Contractor-controlled reason.
On-Time Pickup	A pickup where the vehicle arrives within the VIA-approved pickup window.
Late Pickup	A pickup where the vehicle arrives after the end of the pickup window.
Missed Trip	A pickup where the vehicle arrives more than forty (40) minutes after the negotiated pickup time, or where the trip is otherwise not provided due to Contractor failure.
Road Call	A mechanical, accessibility, safety, communication, or vehicle-related failure that interrupts service, requires a vehicle change, or prevents the vehicle from completing assigned service.
Preventable Accident	An accident determined preventable under National Safety Council guidelines, VIA policy, or other VIA-approved accident review standards.
Substantiated Complaint	A customer complaint determined by VIA or the Contractor investigation to be supported by available evidence, records, AVL, audio, video, operator statement, customer statement, or other relevant documentation.

2.25.1 Data Reconciliation: When Contractor data and VIA system data differ, VIA shall determine the controlling data source for contract administration, payment, KPI measurement, liquidated damages, and regulatory reporting. The Contractor shall promptly identify and explain data discrepancies and shall cooperate with VIA to correct inaccurate or incomplete records.

2.25.2 KPI Calculation Methodology: KPI calculations shall be based on VIA-approved data sources and definitions. The Contractor shall not exclude trips, hours, miles, complaints, accidents, road calls, staffing shortages, or service failures from performance calculations unless VIA approves the exclusion in writing. Weather, emergencies, customer no-shows, customer cancellations, road closures, and other external factors may be noted in the monthly report but shall not be excluded

from KPI reporting unless approved by VIA.

2.25.3 Payment and Performance Separation: Payment methodology and performance measurement should be defined separately. VIA may pay the Contractor based on scheduled service hours, revenue hours, or another pricing unit, while still measuring on-time performance, missed trips, complaints, safety, and fleet reliability using trip-level and system-level data. Non-operated hours, service failures, or disallowed hours should be deducted from payment according to the Contract.

2.27 Facilities, Equipment, and Base Operations: The Contractor shall provide and maintain all facilities, storage areas, maintenance areas, dispatch coordination space, training space, administrative space, parking, fueling arrangements, communication equipment, office equipment, technology access, and other base operations resources necessary to support VIAtrans service. Contractor shall provide a facility that is no more than two (2) road miles beyond Interstate 410 to minimize vehicle deadhead time and mileage. The facility and all activities performed at the facility, including vehicle maintenance, must comply with all Federal, State, and Local safety requirements and laws including but not limited to fire codes, building codes, OSHA and State of Texas requirements, and environmental regulations. The facility shall be required to be operational 24 hours a day including inclement weather days.

Contractor shall be required to provide VIAtrans contract management staff and **their** representatives with the exclusive use of an office, centrally located in the Contractor's operations facility. This office must be in close proximity to management and supervisory staff. The office must have a locking door, desk, adequate power, heating, AC and ventilation.

The Fleet/Base facility must have a bulletin board for operators to view changes to pick-up points, policies, and trip information.

2.27.1 Facility Readiness:

- Facilities shall be operational at least thirty (30) days before service implementation unless VIA approves a different schedule.
- Facilities shall support daily pull-out, pull-in, vehicle inspections, maintenance, cleaning, fueling, technology checks, employee reporting, training, and secure record storage.
- Facilities shall comply with all applicable zoning, environmental, safety, accessibility, fire, building, and occupational requirements.
- VIA may inspect Contractor facilities before service begins and during the Contract term.

2.27.2 Parking, Fueling, and Charging: The Contractor shall maintain adequate vehicle parking, fueling capacity, and, if applicable, charging infrastructure to support all assigned service and required spare vehicles. Fueling, charging, or parking limitations shall not delay pull-out, reduce fleet availability, or interrupt service.

2.27.3 Equipment Accountability: The Contractor shall maintain an inventory of VIA-owned or VIA-provided equipment installed in vehicles or used by Contractor personnel. The inventory shall include equipment type, asset number, vehicle assignment, condition, repair history, and location. Lost, damaged, or misused VIA equipment may be charged to the Contractor unless caused by ordinary wear and tear or other circumstances approved by VIA.

2.27.4 Equipment Provided by VIA at Fleet/Base Facility: VIA shall provide the Wireless LAN. Contractor must house at its fleet/base facility and in strategic locations, the modules and components supporting the Wireless Local Area Network (W-LAN) server, which shall perform data interchange between vehicles and the central site. This system includes an uninterrupted power supply (UPS), router, switch, antenna and access point. The equipment must be kept in a secure location with an approved environmental climate control. Contractor must provide a ventilated lock cabinet with minimum dimensions of 24 inches in height, 21.25 inches in width and 24.5 inches in depth for the system equipment and uninterrupted power supply (UPS). The cabinet's location shall be approved by VIA's IT staff. Contractor is responsible for the cost of moving the system equipment and VIA's IT staff must approve the location.

2.27.5 Equipment Provided by Contractor at Fleet/Base Facility: Contractor is responsible for maintaining computers, printers, modems, fax machines and correcting all problems that occur. Any

device attached to VIA's network is subject to all required policies to include domain group policies, computer usage policies, virus scanning software or anything VIA's IT department deems necessary.

2.27.6 Telephones: Contractor shall install and maintain a separate telephone line for the exclusive use of Contractor's and VIA's personnel.

2.28 Customer Service, Complaint Management, and Service Quality:

2.28.1 Customer Service Philosophy: The Contractor shall deliver service in a manner that recognizes that VIAtrans customers may rely on the service for medical care, employment, education, shopping, community participation, and daily life activities. Customer service shall emphasize safety, dignity, patience, reliability, and respectful communication.

2.28.2 Complaint Intake and Investigation: VIA shall remain the primary point of contact for VIAtrans customer complaints, compliments, and concerns unless VIA directs otherwise. The Contractor shall investigate assigned complaints and provide timely, factual, and complete responses through VIA-approved systems. Investigations shall include review of operator statements, customer information, manifests, AVL data, dispatch records, video or audio when available, and other relevant evidence.

2.28.3 Complaint Response Time:

Complaint Priority	Recommended Response Standard
Priority 1 - Safety, ADA, DNLA, serious misconduct, injury, accident, or potential service denial	Initial Contractor response within one (1) business day; final investigation within three (3) business days unless VIA approves an extension.
Priority 2 - Service quality, late service, operator conduct, fare issue, securement issue, or customer assistance concern	Final investigation within five (5) business days unless VIA approves an extension.
Priority 3 - General concern, compliment, information request, or low-risk service issue	Response within five (5) business days or as directed by VIA.

2.28.4 Service Quality Monitoring: The Contractor shall monitor service quality through field observations, ride checks, AVL review, complaint trends, customer feedback, supervisor reports, safety events, and operator performance data. The Contractor shall identify recurring issues and implement corrective actions before issues become repeated complaints or service failures.

2.28.5 Customer Experience Improvement: The Contractor shall support VIA customer satisfaction surveys, focus groups, advisory committee meetings, and other customer experience efforts as requested. The Contractor shall implement approved customer experience improvements and shall report progress in the Annual Service Improvement Plan.

2.29 Quality Assurance, Audits, and Compliance Reviews:

2.29.1 Quality Assurance Program: The Contractor shall maintain a Quality Assurance Program that verifies compliance with Contract requirements, VIA policies, ADA requirements, training requirements, safety requirements, maintenance requirements, technology requirements, and reporting requirements. The program shall include scheduled and random audits, supervisory observations, records reviews, trend analysis, and corrective action tracking.

2.29.2 Minimum Quality Assurance Activities:

- Operator ride checks and road observations.
- Random uniform, ID, license, watch, and equipment checks.
- Monthly vehicle inspections, including securement equipment and seat belts.
- Review of missed trips, late trips, and no-show coding.
- Review of customer complaint trends and substantiation results.
- Review of accident and incident investigations.

- Preventive maintenance audit and road call trend review.
- Training record audit and expired certification review.
- Data accuracy audit comparing manifests, tablets, MDTs, AVL, and reports.

2.29.3 VIA Audit Rights: VIA may conduct announced or unannounced audits of the Contractor's operations, vehicles, facilities, maintenance records, training records, personnel files, drug and alcohol records, complaint investigations, safety records, technology records, and performance reports. The Contractor shall cooperate fully and provide access to requested information, personnel, and locations.

2.29.4 Audit Findings: The Contractor shall respond to audit findings within the timeframe established by VIA. Responses shall include corrective actions, responsible personnel, deadlines, and evidence of completion. Repeated audit findings may result in enhanced oversight, liquidated damages, Corrective Action Plans, or other contractual remedies.

Exhibit A
Table 1 ADA Complementary Paratransit Requirements

ADA Requirement	Paratransit Service Comparable to Fixed Route
Service area	Operate within $\frac{3}{4}$ mile of a local fixed-route
Hours and days of service	Operate during same days and hours as fixed-route
Advance reservation	Accept advance reservations at least the day before
Fares	Charge a fare no more than twice the base, non-discounted adult fare for fixed-route
Trip requests and purpose	Serve all requests (no denials) for all trip purposes without prioritization
Capacity constraints	Operate without a substantial number of untimely pickups, missed trips, excessive trip lengths, excessive telephone hold times

Exhibit B
VIATrans Service Area Map

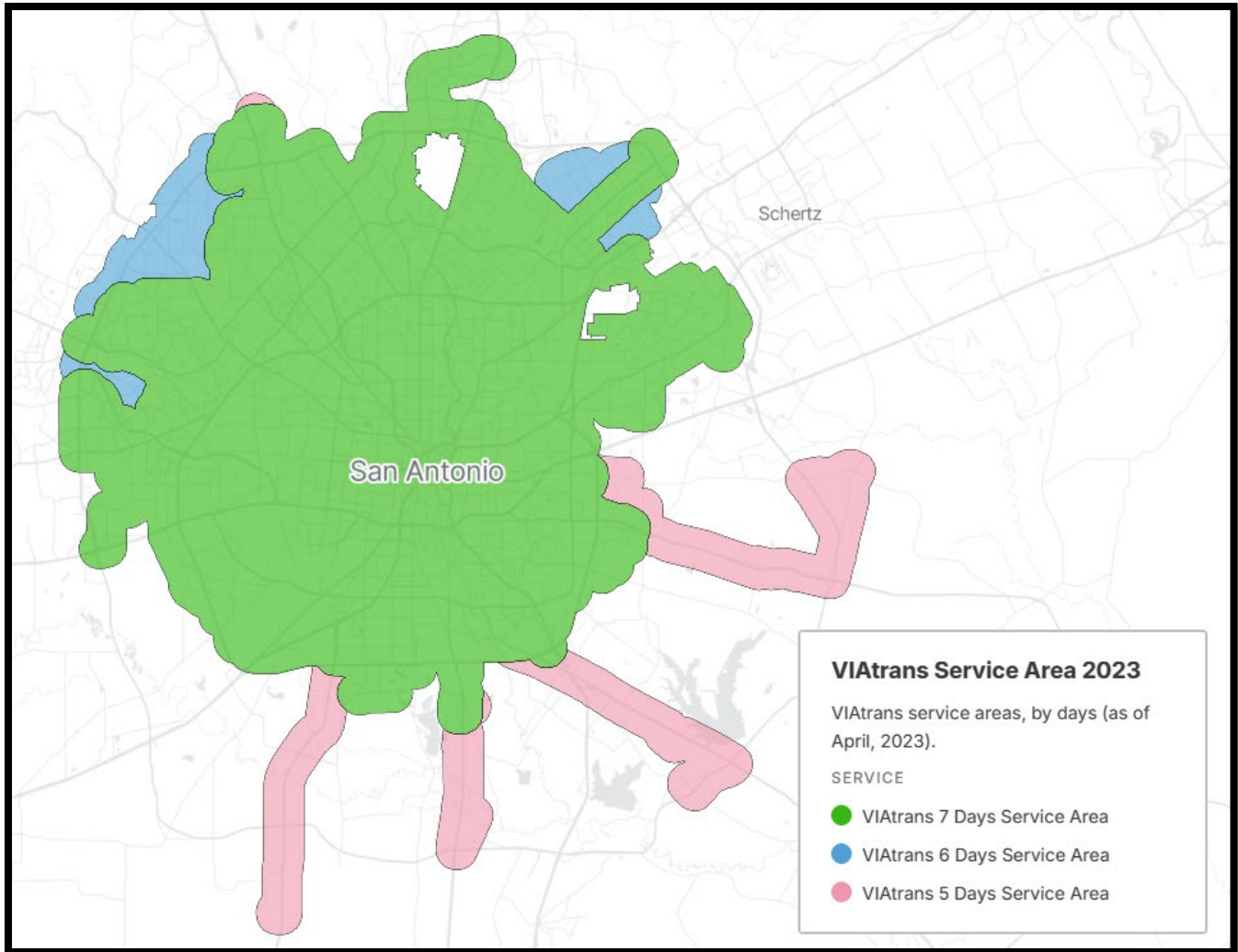


Exhibit C Vehicle Specifications

Proposers must submit for VIA's consideration prior to the deadline stated in Part 1.3.4 Request for Clarifications and/or Modifications, for a determination of approved equal status for the vehicle types that a Proposer plans to submit in their Proposal. These requests must be submitted on this form and delivered by email to Dominick Ortiz, Procurement Department, at dominick.ortiz@viainfo.net. Late requests will not be considered.

The proposer will submit this form any relevant product literature in order to demonstrate that the vehicle(s) meets all the proposal's requirements.

Proposer to complete the following:

Company Name of Proposer: _____

Contact Name/Title: _____

Contact E-Mail: _____

Contact Phone Number: _____

Request No: _____

References to VIA's RFP

Requirement

Reference RFP Page Number: _____

Reference RFP Specification Requirement: _____

Request for Approved Equal

Manufacturer Offered: _____

Make and Model of Vehicle: _____

Description of vehicle offered for consideration as an approved equal: _____

Product Literature attached to this form: _____

VIA Response:

RFAE Approved or Not Approved: _____

Reasons: _____

Exhibit D Vehicle Specifications

Minivan Specifications: Vans shall be a long wheelbase minivan style modified with a rear-loading wheelchair ramp capable of transporting the driver plus four (4) ambulatory passengers and 1 wheelchair passenger.

2025 Chrysler Voyager



Exhibit D
Vehicle Specifications

2025 Chrysler Pacifica



Exhibit D Vehicle Specifications

Passenger Van Specifications: Van shall be capable of transporting the driver plus 8 ambulatory passengers.

2025 Ford Transit Passenger Wagon



Recommended Floor Plan

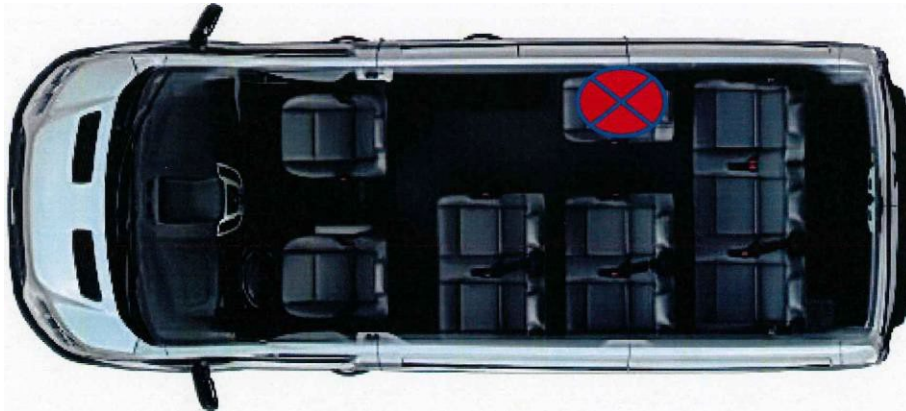


Exhibit D
Vehicle Specifications
2025 GM/Chevrolet Express Passenger Van



2025 Mercedes-Benz Sprinter Passenger Van



2026 Micro Bird G5 Shuttle Bus – Unit 25C289

Exhibit D
Vehicle Specifications



Exhibit E

Customer Boardings by Year

Year	Month	Ambulatory Passengers	Accessible Passengers
2020	Jan	79%	21%
2020	Feb	79%	21%
2020	Mar	77%	23%
2020	Apr	69%	31%
2020	May	72%	28%
2020	Jun	73%	27%
2020	Jul	70%	30%
2020	Aug	72%	28%
2020	Sep	74%	26%
2020	Oct	75%	25%
2020	Nov	71%	29%
2020	Dec	70%	30%
Average		73%	27%

Year	Month	Ambulatory Passengers	Accessible Passengers
2021	Jan	72%	28%
2021	Feb		
2021	Mar	74%	26%
2021	Apr	74%	26%
2021	May	75%	25%
2021	Jun	77%	23%
2021	Jul	75%	25%
2021	Aug	77%	23%
2021	Sep	78%	22%
2021	Oct	77%	23%
2021	Nov	77%	23%
2021	Dec	76%	24%
Average		76%	24%

Year	Month	Ambulatory Passengers	Accessible Passengers
2022	Jan	77%	23%
2022	Feb	78%	22%
2022	Mar	78%	22%
2022	Apr	76%	24%
2022	May	76%	24%
2022	Jun	76%	24%
2022	Jul	76%	24%
2022	Aug	77%	23%
2022	Sep	77%	23%
2022	Oct	77%	23%
2022	Nov	76%	24%
2022	Dec	76%	24%
Average		77%	23%

Year	Month	Ambulatory Passengers	Accessible Passengers
2023	Jan	77%	23%
2023	Feb	77%	23%
2023	Mar	78%	22%
2023	Apr	77%	23%
2023	May	78%	22%
2023	Jun	77%	23%
2023	Jul	77%	23%
2023	Aug	78%	22%
2023	Sep	78%	22%
2023	Oct	78%	22%
2023	Nov	78%	22%
2023	Dec	76%	24%
Average		77%	23%

Year	Month	Ambulatory Passengers	Accessible Passengers
2024	Jan	78%	22%
2024	Feb	78%	22%
2024	Mar	77%	23%
2024	Apr	77%	23%
2024	May	76%	24%
2024	Jun	75%	25%
2024	Jul	75%	25%
2024	Aug	76%	24%
2024	Sep	76%	24%
2024	Oct	77%	23%
2024	Nov	76%	24%
2024	Dec	75%	25%
Average		76%	24%

**No data is available for February 2021 due to the Texas snowstorm, which impacted data collection.

Exhibit F

Contractor Miles and Hours by Year

Year	Month	Revenue Hours	Deadhead Hours	Total Vehicle Hours
2020	Jan	25,475	4,913	30,387
2020	Feb	24,424	4,415	28,838
2020	Mar	21,134	4,196	25,330
2020	Apr	15,976	3,064	19,041
2020	May	17,606	3,514	21,120
2020	Jun	19,298	3,826	23,123
2020	Jul	17,767	3,289	21,056
2020	Aug	16,442	2,712	19,154
2020	Sep	17,895	3,175	21,070
2020	Oct	19,101	3,388	22,489
2020	Nov	17,464	3,170	20,634
2020	Dec	17,850	3,237	21,087
Years Total:		230,432	42,898	273,330
Average		19,203	3,575	22,778
			Weekday Average	894
			Saturday Average	484
			Sunday Average	282

Year	Month	Revenue Hours	Deadhead Hours	Total Vehicle Hours
2021	Jan	17,343	3,154	20,496
2021	Feb			
2021	Mar	20,108	3,593	23,702
2021	Apr	19,971	3,527	23,498
2021	May	19,828	3,397	23,224
2021	Jun	18,829	3,399	22,228
2021	Jul	18,647	3,472	22,119
2021	Aug	18,123	3,318	21,441
2021	Sep	18,247	3,150	21,398
2021	Oct	18,931	3,047	21,977
2021	Nov	18,554	2,590	21,144
2021	Dec	18,808	2,366	21,173
Years Total:		207,388	35,038	242,426
Average		17,282	2,920	20,202
			Weekday Average	793
			Saturday Average	429
			Sunday Average	289

Year	Month	Revenue Hours	Deadhead Hours	Total Vehicle Hours
2022	Jan	17,621	2,344	19,965
2022	Feb	18,094	2,525	20,619
2022	Mar	22,295	2,779	25,074
2022	Apr	22,593	2,968	25,561
2022	May	22,497	3,056	25,554
2022	Jun	21,316	2,876	24,192
2022	Jul	21,109	2,989	24,098
2022	Aug	23,303	3,110	26,413
2022	Sep	22,601	2,936	25,537
2022	Oct	22,831	2,917	25,748
2022	Nov	21,364	2,859	24,223
2022	Dec	21,613	3,006	24,619
Years Total:		257,238	34,365	291,603
Average		21,436	2,864	24,300
			Weekday Average	1,012
			Saturday Average	470
			Sunday Average	324

Year	Month	Revenue Hours	Deadhead Hours	Total Vehicle Hours
2023	Jan	21,677	2,994	24,671
2023	Feb	19,889	2,759	22,648
2023	Mar	24,097	3,260	27,357
2023	Apr	21,994	3,114	25,108
2023	May	23,497	3,374	26,870
2023	Jun	22,692	3,061	25,753
2023	Jul	21,587	2,877	24,464
2023	Aug	24,016	3,198	27,214
2023	Sep	22,597	2,925	25,522
2023	Oct	25,881	3,072	28,953
2023	Nov	24,725	3,167	27,892
2023	Dec	23,595	3,099	26,694
Years Total:		276,246	36,900	313,147
Average		23,021	3,075	26,096
			Weekday Average	1,085
			Saturday Average	497
			Sunday Average	364

Year	Month	Revenue Hours	Deadhead Hours	Total Vehicle Hours
2024	Jan	24,285	3,258	27,543
2024	Feb	23,960	4,003	27,964
2024	Mar	25,223	4,370	29,593
2024	Apr	26,534	4,933	31,467
2024	May	27,291	5,145	32,436
2024	Jun	25,763	4,996	30,759
2024	Jul	27,469	5,563	33,032
2024	Aug	29,230	4,610	33,839
2024	Sep	28,334	4,109	32,443
2024	Oct	31,051	4,542	35,593
2024	Nov	27,081	4,130	31,212
2024	Dec	27,080	4,279	31,358
Years Total:		323,301	53,937	377,239
Average		26,942	4,495	31,437
			Weekday Average	1,256
			Saturday Average	569
			Sunday Average	452

Exhibit 8

Complaint Rate per 1,000 Passengers

Year	Month	Total Passengers	Total Complaints	Complaint Rate per 1,000 Passengers
2023	Oct	43,630	112	2.57
2023	Nov	41,288	99	2.40
2023	Dec	38,004	85	2.24
2023	Total	122,922	296	2.41

Year	Month	Total Passengers	Total Complaints	Complaint Rate per 1,000 Passengers
2024	Jan	39,370	94	2.39
2024	Feb	40,724	85	2.09
2024	Mar	41,505	72	1.73
2024	Apr	42,921	90	2.10
2024	May	43,619	68	1.56
2024	Jun	40,797	82	2.01
2024	Jul	43,539	96	2.20
2024	Aug	47,033	126	2.68
2024	Sep	46,828	117	2.50
2024	Oct	51,441	164	3.19
2024	Nov	43,771	109	2.49
2024	Dec	42,465	91	2.14
2024	Total	524,013	1,194	2.28

PART 3 GENERAL TERMS

3.1 General Definitions:

"Appeal" means a formal request for reconsideration of a determination rendered by the Contracting Officer in respect of:

- (a) a request, prior to contract award, as set forth in the section entitled, "Bidders' Requests," herein; or
- (b) a dispute concerning a question of fact, arising after contract award as set forth in the section entitled "Disputes," herein.

"Apprentice" (in the context of construction contracts) means (a) a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training or with a State apprenticeship agency recognized by the Bureau; or (b) a person in his first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship council (where appropriate) to be eligible for probationary employment as an apprentice.

"Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite) cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.

"Authorized Signature" is the written authorization of the person who is executing this Contract on behalf of the Bidder/Contractor and who is authorized to bind the Bidder/Contractor.

"Bidder" is the person or legal entity responding to this procurement solicitation. The term also includes **"Proposer," "Offeror"** and/or **"Contractor."**

"Construction Coordinator" (used in the context of construction contracts) is the person who is responsible for the field coordination of a construction project for VIA.

"Construction Manager" is that person who is designated by VIA to provide overall management supervision in the performance of this construction contract. The Construction Manager reports directly to the Project Manager.

"Contracting Officer" is that person designated by VIA to enter into and administer this Contract and make determinations and findings up to his/her level of authority, in regard to the Contract on behalf of VIA. For the purpose of this Contract, the Contracting Officer is the individual identified in the section entitled "Inquiry and Questions" or otherwise designated by VIA.

"Contractor" means the person or legal entity prior to contract award, submitting a response to a procurement solicitation (IFB, RFQ or RFP); it also means the successful Bidder to whom the Contract is ultimately awarded. Any reference to "Bidder," "Proposer," or "Offeror," also applies to Contractor after award. It is generally intended that these terms be interchangeable.

"Day" unless otherwise defined, shall be defined as a calendar day.

"DEO" means Diversity and Economic Opportunity department for VIA Metropolitan Transit.

"DBE" means **"Disadvantaged Business Enterprise"**.

"Final Acceptance" (used in the context of construction contracts) means all provisions of the Contract have been completed to VIA's satisfaction, including punch list items.

"FTA" means Federal Transit Administration a division of the United States Department of Transportation.

"Liquidated Damages" means the amount assessed in lieu of actual damages, for the failure to complete the work in a timely manner and not as a penalty, at the agreed rate per calendar day expressed herein in the section entitled "Liquidated Damages."

"Indefinite Quantities Contract" or **"IDQ"** refers to those service Contracts providing for a specific term and fixed labor rates, pursuant to which specific Task Orders may be issued on an as needed basis.

"Invitation for Bid" or **"IFB"** means the formal procurement issued by VIA (see also, "Procurement") and, where the context allows, also includes "Requests for Qualifications" (RFQs) and "Requests for Proposal" (RFPs).

"Notice of Award" is the written notice sent by VIA notifying the selected Bidder of the award of contract, and acceptance of Bidder's offer to perform under the terms contained herein. In the absence of a formal Notice of Award, the receipt of a Notice to Proceed or Purchase Order issued by VIA shall serve as notice of the award.

"Notice to Proceed" (in the context of construction contracts) is the written notice sent by VIA after the Contractor has complied with the submission of the required DBE information, a Performance Bond, Payment Bond, Warranty Bond and/or Insurance as required by VIA, and which notifies the Contractor to commence performance under the Contract. For contracts not requiring a Performance Bond, Payment Bond, Warranty Bond and/or Insurance, VIA will issue a Purchase Order. Issuance of a Purchase Order shall serve as a Notice to Proceed.

"Plans" (in the context of construction contracts) are the parts of the Contract which show the characteristics and scope of the work to be performed and which have been prepared or approved by the Architect/Engineer and/or Contracting Officer.

"Price Request" means the request issued by VIA to the Contractor for the services, goods, supplies, or work outside the general scope of this contract performed or to be performed by the Contractor.

"Procurement" means the formal solicitation issued by VIA, for services, goods, supplies, or work, and includes Invitations for Bid (IFBs), Requests for Qualifications (RFQs) and/or Requests for Proposal (RFPs), as applicable.

"Project Manager" is that person designated by VIA to act as the technical representative or advisor to the Contracting Officer/Contracting Officer during contract performance and gives directions regarding the technical specifications, to the Contractor.

"Project Site" (in the context of construction contracts) means the physical location for performance of any Work under the Contract.

"Protest" means a formal request contesting:

- (a) a final ruling issued by the Contracting Officer in the case of a request for clarification of the specifications or a request for approval of an equal or modification of the specifications;
- (b) any alleged impropriety or other similar situation arising prior to bid opening; or,
- (c) the award of contract.

"Protest Committee" is the three (3) member group established by VIA for the purpose of reviewing protests submitted by a Bidder or supplier.

"Provide" means to furnish and install completely and ready for use.

"Purchase Order" means the written order sent by VIA on its form ordering the equipment or supplies in accordance with the terms and conditions of the Procurement.

"Request for Proposals" or "RFP," see "Procurement."

"Request for Qualifications" of "RFQ," See "Procurement."

"Reserved" is a term utilized to delete standard terms and conditions that are not applicable to a specific procurement.

"Site" (see "Project Site").

"South Central Texas Regional Certification Agency" or "SCTRCA" means that agency whose membership consists of various local governmental entities, including VIA; the purpose of which is to provide a unified resource for firms to seek DBE certification and information on doing business with DBE-certified firms. SCTRCA may be reached at (210) 227-4722.

"Specifications" means the written description and statement of necessary requirements of the equipment, construction, services and/or supplies to be provided, including the technical specifications, if any.

"Subcontractor" means any person, firm or corporation supplying services, labor and/or materials under separate contract or agreement with, the Contractor.

"Subject Data" is recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Contract. The term includes graphic or pictorial delineations 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 does not include financial reports, cost analyses, and similar information incidental to contract administration.

"Supplier" means any manufacturer, company, or agency providing units, components, or subassemblies for inclusion.

"Task Order" (in the context of Indefinite Quantity Contracts (IDQs)) means the specific scope-of-work for a particular assigned project issued at VIA's discretion.

"Technically Competitive Range" – The range of prospective contractors that demonstrates a technically satisfactory approach and has satisfactory qualifications as well as a reasonable chance of being selected for award of a contract.

"Texas Open Records Act" or "TORA" means Chapter 552, Texas Government Code.

"VIA" means VIA Metropolitan Transit, San Antonio, Texas. References to **"grantee," "recipient"** or **"purchaser"** shall also mean "VIA."

"Work" is any and all labor, supervision, services, materials, machinery, equipment, tools, supplies, and facilities called for by the Contract and necessary to the completion thereof.

"Work On (At) the Project" means work to be performed at the location of the project including the transportation of materials and suppliers to or from the location of the project by employees of the Contractor and any subcontractor.

- 3.2 Relationship and Work in General:** Contractor, an independent contractor, covenants and agrees to perform for the stated compensation, all of the services described in Part 2, entitled "Scope of Work, Terms and Conditions" of this Contract. Contractor agrees to complete the work in a professional and workmanlike manner with a high degree of care to ensure the accuracy and timeliness thereof.

- 2.2.1 Assignment of Personnel:** Contractor agrees to assign qualified staff members including a Project Director who shall be responsible for the task administration and work performance.
- 2.2.2 Employment of Personnel:** Contractor agrees to employ, at its own expense, all personnel required in performing the services under this contract. Personnel employed by Contractor shall not be employees of, nor have any contractual relationship with VIA. All personnel engaged in the work shall be fully qualified and shall be authorized or licensed to perform such work as required.
- 3.2.3 Subcontracts:**
- 3.2.3.1 Use of Subcontractors:** The Contractor may utilize the services of specialty subcontractors on those parts of the work which, under normal contracting practices, are performed by specialty subcontractors.
- 3.2.3.2 Written Approval of VIA:** No work or services under this Contract shall be subcontracted without the prior written approval of VIA and then only by written contract or agreement. To obtain approval, Contractor must submit to VIA a written statement concerning the proposed award to the subcontractor that includes, at a minimum, the following:
- (a) A description of the supplies or services to be called for by the subcontract; and
 - (b) Identification of the proposed subcontractor.
- 3.2.3.3 Responsibility for Subcontractor(s) Acts:** VIA's approval of a subcontract notwithstanding, VIA shall not be obligated to any third party, including any subcontractor retained by Consultant, for payment of any work or services performed under this Contract, or to provide any work or services as compensation for any work or services performed under this contract. The Contractor is and shall be fully responsible to VIA for acts and omissions of Contractor's subcontractors and any person directly or indirectly employed by the subcontractor.
- 3.2.3.4 Binding of Subcontractors:** Unless specific waiver is granted in writing by VIA, subcontractor shall be subject to each and every relevant and applicable provision of this Contract. Compliance by subcontractors with this Contract shall be sole responsibility of the Contractor.
- 3.2.3.5 Lack of Privity:** Nothing contained in this contract shall create any contractual relationbetween any subcontractor and VIA.
- 3.2.3.6 Consent Not Acceptance of Price or Waiver:** Neither consent by the Contracting Officer to any subcontract nor any provisions thereof nor approval of the Contractor's procurement system shall be construed to be a determination of the acceptability of any subcontract price or of any amount paid under any subcontract or to relieve the Contractor of any responsibility for performing this contract, unless such approval or consent specifically provides otherwise.
- 3.2.3.7 Cost-Plus Subcontract:** The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost-basis.
- 3.2.3.8 Substitution of Subcontractors:** Any Subcontractor receiving approval in accordance with this paragraph 3.1 must be utilized by the Contractor for the portion of the Work for which they were approved. VIA will generally not entertain substitutes for any such Subcontractor in the absence of compelling circumstances to do so.
- 3.2.3.9 INDEMNITY: BY SUBMISSION OF A BID/PROPOSAL/STATEMENT OF QUALIFICATIONS (AS THE CASE MAY BE) THE CONTRACTOR AGREES THAT HE/SHE/IT WILL INDEMNIFY AND SAVE VIA HARMLESS FROM ALL CLAIMS GROWING OUT OF THE LAWFUL DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, AND ALL SUPPLIES, INCLUDING COMMISSARY, INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS CONTRACT. THE CONTRACTOR SHALL, AT VIA'S REQUEST, FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF**

THE NATURE HEREINABOVE DESIGNATED BE PAID, DISCHARGED, OR WAIVED. IF THE CONTRACTOR FAILS TO DO SO, THEN VIA MAY, AFTER HAVING SERVED WRITTEN NOTICE, DIRECT, OR WITHHOLD FROM THE CONTRACTOR'S UNPAID COMPENSATION A SUM OF MONEY DEEMED REASONABLY EFFICIENT TO PAY ANY AND ALL SUCH CLAIMS UNTIL SATISFACTORY EVIDENCE IS FURNISHED THAT ALL LIABILITIES HAVE BEEN FULLY DISCHARGED WHEREUPON PAYMENT TO THE CONTRACTOR SHALL BE RESUMED, IN ACCORDANCE WITH THE TERMS OF THIS CONTRACT, BUT IN NO EVENT SHALL THE PROVISIONS OF THIS SENTENCE BE CONSTRUED TO IMPOSE ANY OBLIGATIONS UPON VIA TO EITHER THE CONTRACTOR OR HIS SURETY.

3.3 Termination of Contract:

3.3.1 Termination for Convenience: VIA may terminate this contract, in whole or in part, at any time without cause and solely for the convenience of VIA by giving written notice of termination to the Contractor, which will not be less than ten (10) business days. The Contractor will be paid fees and expenses for work performed up to the time of termination and that meet the bargained for standards under the contract. VIA reserves the right to direct, within the termination notice, what work may be performed prior to the effective date of termination. To be paid, unless an extension is authorized in writing by VIA, the Contractor must submit its final invoice/claim within thirty (30) calendar days of the date of termination. If the Contractor has any property in its possession belonging to VIA, the Contractor will account for same and dispose of it in the manner VIA directs, including but not limited to returning same to VIA. Upon disposal of any VIA property as directed, VIA shall then pay Contractor's final invoice, provided however, that such payment does not exceed the maximum amount of this Contract.

3.3.2 Termination for Default:

3.3.2.1 Default: In the event the Contractor breaches the terms or violates the conditions of this Contract and does not cure the default within ten (10) business days after receiving written notice of such default from VIA, VIA may immediately terminate the Contract, and pursue any and all legal and equitable remedies available to it against the Contractor.

3.3.2.2 Notice: Termination shall be affected by serving a written notice of termination on the Contractor setting forth the manner in which the Contractor is in default. Service shall be obtained by personal delivery or delivery by mail, registered or certified, postage prepaid with return receipt requested and addressed to the Contractor at the most recent address provided by Contractor.

3.3.2.3 VIA Options: In addition to any and all other remedies at law or in equity that are available to VIA, default by the Contractor may result in the occurrence of one or more of the following:

- (a) VIA may complete such contract without further liability to the Contractor for compensation for any labor, supplies or materials furnished by the Contractor under the contract; and
- (b) To the extent applicable, VIA may direct the Contractor to remove any equipment delivered and/or installed by the Contractor and to refund to VIA any amounts paid by VIA to the Contractor, and VIA shall have no further liability to the Contractor; and
- (c) VIA may contract to acquire supplies or services similar to those terminated and Contractor shall remain liable to VIA for any difference in the total costs and expenses incurred by VIA.

3.3.2.4 Compensation and Liability: The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance bargained for and set forth in the contract. In addition to any other available remedies, the Contractor and to the extent applicable, the Contractor's surety or sureties shall be liable to VIA for all costs, loss or damage incurred for supplies or services to complete the contract.

3.3.3 Termination of Subcontracts: As directed to do so in the notice of termination, Contractor agrees to and shall cancel, withdraw, or otherwise terminate any outstanding orders or subcontracts which relate to the performance of this Contract. To this effect, VIA shall not be liable to Contractor nor Contractor's creditors for any expense, encumbrances or obligations whatsoever incurred after the date of termination.

3.4 Breaches and Dispute Resolution:

3.4.1 Disputes: Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the Contracting Officer. This decision shall be final and conclusive unless within ten (10) working days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Vice President of Procurement. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Vice President of Procurement shall be binding upon the Contractor and the Contractor shall abide by the decision.

3.4.2 Performance During Dispute: Unless otherwise directed by VIA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

3.4.3 Remedies: Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between VIA and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Texas.

3.4.4 Rights and Remedies: The duties and obligations imposed by the Contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by VIA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

3.5 Inspection of Work: VIA shall have the right to review and inspect the progress of the work described herein at all times.

3.6 Copyright: No reports, maps, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the Contractor. All reports, maps, and other documents produced under this contract shall become the property of VIA. The Contractor shall, at its expense, defend all suits or proceedings instituted against VIA and pay any award of damages assessed against VIA in such suits or proceedings, insofar as the same are based on any claim that materials furnished, or work performed, under the contract constitutes an infringement of any patent, trade secret, copyright, or any other proprietary right.

3.7 Proprietary Rights: Contractor agrees not to release data or information about the results of the project to any person outside of VIA without first obtaining written authorization to release such information from VIA.

3.8 Indemnification: CONTRACTOR covenants and agrees to **FULLY INDEMNIFY and HOLD HARMLESS**, VIA, the Board of Trustees, and its employees, officers and representatives, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal bodily injury, death and property damage, made upon VIA, directly or indirectly arising out of, resulting from or related to CONTRACTOR'S activities under this Agreement, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, consultant or subcontractor of CONTRACTOR, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this Agreement, all without, however, waiving any governmental immunity available to VIA under Texas law and without waiving any defenses of the PARTIES under Texas law. **IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF VIA, THE BOARD OF TRUSTEES, EMPLOYEES, OFFICERS, AND/OR REPRESENTATIVES OF VIA, UNDER THIS AGREEMENT.** The provisions of this INDEMNITY are solely for the benefit of the PARTIES hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONTRACTOR shall promptly advise VIA in writing of any claim or demand against VIA or CONTRACTOR

known to the CONTRACTOR related to or arising out of CONTRACTOR'S activities under this Agreement and shall see to the investigation and defense of such claim or demand at CONTRACTOR'S cost. VIA shall have the right, at its option and at its own expense, to participate in such defense without relieving CONTRACTOR of any of its obligations under this paragraph. **IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT, THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION 3.7, IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY, PROTECT AND HOLD HARMLESS VIA FROM THE CONSEQUENCES OF VIA'S OWN NEGLIGENCE, PROVIDED HOWEVER, THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION SHALL APPLY ONLY WHEN THE NEGLIGENT ACT OF VIA IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE, AND SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF VIA IS THE SOLE ACTIVE CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE. CONTRACTOR FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE, AND ON BEHALF OF VIA AND IN THE NAME OF VIA, ANY CLAIM OR LITIGATION BROUGHT AGAINST VIA AND ITS BOARD OF TRUSTEES, EMPLOYEES, AGENTS, OFFICERS, AND REPRESENTATIVES, IN CONNECTION WITH ANY SUCH INJURY, DEATH, OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS HEREIN SET FORTH.**

- 3.9 Ownership of Documents:** The parties agree and understand that any and all documents produced under this Contract are the sole and exclusive property of VIA and VIA retains ownership of all such documentation including, but not limited to, studies, plans, specifications, and all related documents. To the extent necessary, CONTRACTOR HEREBY ASSIGNS AND TRANSFERS ANY AND ALL COPYRIGHTS TO VIA.
- 3.10 CONTRACTING AUTHORITY PROTECTION: ANY AND ALL OF CONTRACTOR'S EMPLOYEES WHILE ENGAGED IN THE PERFORMANCE OF ANY WORK REQUIRED BY VIA UNDER THIS AGREEMENT SHALL BE CONSIDERED EMPLOYEES OF CONTRACTOR ONLY AND NOT OF VIA, AND ANY AND ALL CLAIMS THAT MAY ARISE FROM THE WORKERS COMPENSATION ACT ON BEHALF OF SAID EMPLOYEES WHILE SO ENGAGED, AND ANY AND ALL CLAIMS MADE BY ANY THIRD PARTY AS A CONSEQUENCE OF ANY ACT OR OMISSION ON THE PART OF CONTRACTOR'S EMPLOYEES WHILE SO ENGAGED IN ANY OF THE WORK OR SERVICES PROVIDED TO BE RENDERED HEREIN, SHALL BE THE SOLE OBLIGATION AND RESPONSIBILITY OF CONTRACTOR. TO THE EXTENT ALLOWED BY LAW, CONTRACTOR INDEMNIFIES, SAVES, AND HOLDS HARMLESS VIA AGAINST ALL CLAIMS, DEMANDS, ACTIONS, OR CAUSES OF ACTION OF WHATSOEVER NATURE OR CHARACTER, AS PERMITTED BY LAW, ARISING OUT OF ANY REASON OF THE EXECUTION OR PERFORMANCE OF THE WORK PROVIDED FOR HEREIN AND FURTHER AGREES TO DEFEND, AT ITS SOLE COST AND EXPENSE, ANY ACTION OR PROCEEDING COMMENCED FOR THE PURPOSE OF ASSERTING ANY CLAIM OF WHATSOEVER CHARACTER ARISING HEREUNDER.**
- 3.11 Maintenance of Records:** Contractor must maintain records to show actual time involved in performance of the Work, or each Task Order issued (if this is an Indefinite Quantities Contract) by VIA and costs incurred.
- 3.12 Progress Reports:** The Contractor shall submit to VIA monthly progress reports. Such reports shall outline the Contractor's work accomplished during the previous month. The Contractor is responsible for managing the project and maintaining Contractor Services within budget. Monthly progress reports submitted will include, but not be limited to, the percentage of completion of the work and each work task, special problems or delays encountered or anticipated, changes in the estimated value of each task, comparison of actual Contractor expenditures and charges to originally budgeted amounts, the anticipated work activities for the next work period, any necessary corrective action by the Contractor to accomplish project services within established cost limits, and a brief description of work accomplished, methodologies used, and conclusions reached, if any, for each task.
- 3.13 Effect of Extensions of Time:** Granting of or acceptance of extensions of time to complete the work or furnish the labor or materials will not operate as a release to the Contractor from the covenants and conditions of the Contract.
- 3.14 Changes and Modifications:**

3.14.1 Changes by Contractor: If, during the performance of Work under the Contract, the Contractor finds it impracticable to comply strictly with the specifications, the Contractor will notify the Contracting Officer immediately in writing.

3.14.2 Written Acceptance by VIA: Any proposals by Contractor that vary or add to this Contract shall be construed as additional terms or modifications and shall not become part of the Contract unless accepted in writing, by the Contracting Officer.

3.14.3 Change Orders/Contract Modifications: All changes in the work contemplated herein, or the work otherwise specified in Task Orders issued hereunder (if this is an Indefinite Quantities Contract), shall be made only with the prior approval of the Contracting Officer and only by appropriate written Change Order or Contract Modification as appropriate. The Contracting Officer may, at any time, by a written Change Order or Contract Modification, and without notice to the Surety (if any), make changes within the general scope of this Contract. If the change affects the Contractor's costs, then the Contracting Officer shall also make an equitable adjustment in the Contractor's compensation, after compliance by the Contractor with the Price Request procedure provided below. Charges or credits for the work covered by such approved Change Orders or Contract Modifications shall be determined by one or more, or a combination, of the following methods:

- (a) Unit prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost of:
 - 1) Labor, including foremen;
 - 2) Materials entering permanently into the work;
 - 3) The ownership or rental cost of construction plant and equipment during the time of use on extra work;
 - 4) Power and consumable supplies for the operation of power and equipment;
 - 5) Insurance;
 - 6) Social Security and old age and unemployment contributions;
 - 7) An equitable allowance for profit.

3.14.4 Price Requests: Where the Contracting Officer foresees issuing a Change Order affecting Contractor's costs, a Price Request will be issued to the Contractor. Unless otherwise specified therein, the Contractor shall fully respond to the Price Request within 10 days of issuance.

3.15 Assignment: The Contractor shall not assign, transfer, convey, sublet or otherwise dispose of the whole or any part of this Contract or his right, title or interest in or to any monies due or to become due under this Contract without VIA's express written consent. If such consent is given, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due the Contractor shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Contract.

3.16 Whole Agreements: The Contract constitutes the whole of the agreement between the parties hereto and neither thereof has been induced to make or enter into the Contract by reason of any promise, agreement, representation, statement, or warranty other than contained herein.

3.17 Partial Invalidity: If any term, provision, covenant, or condition of this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

3.18 Titles and Headings for Convenience Only: As used throughout this Contract, titles and headings of sections are for convenience only, and shall not be used to aid in interpretation of the provisions contained herein.

3.19 Notice, Waiver and Applicable Law:

3.19.1 Notices: Notice given to Contractor and VIA shall be given to the parties in writing by certified mail at the respective designated addresses.

3.19.2 Waiver: Waiver by VIA of a breach by Contractor of any provision of this Contract shall not be deemed a waiver of future compliance therewith, and such provision, as well as other provisions hereunder, shall remain in full force and effect.

3.19.3 Applicable Law and Venue: The rights and duties of the parties hereto shall be determined by the laws of the State of Texas, and to that end venue shall lie, and this agreement shall be considered and construed as a contract made and to be performed in San Antonio, Bexar County, Texas. All work performed, materials and supplies and/or construction furnished pursuant to this solicitation and Contract shall be in compliance with the laws and regulations of the State of Texas and the United States of America and local rules and ordinances as may be applicable. Contractor shall, if requested by VIA, supply certification and evidence of such compliance.

3.20 Compliance with Laws and Regulations: All work performed, materials and supplies and/or construction furnished pursuant to this solicitation and Contract shall be in compliance with the laws and regulations of the State of Texas and the United States of America and local rules and ordinances as may be applicable. Contractor shall, if requested by VIA, supply certification and evidence of such compliance.

3.21 Access to Records and Reports:

3.21.1 Audits: Upon three (3) days written notice, Contractor agrees to and shall provide VIA or any VIA representative, 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. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as determined by VIA or its representative.

3.21.2 Maintenance of Records: The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period as required by the appropriate retention statutes but in no case less than three (3) 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 VIA has disposed of all such litigation, appeals, claims or exceptions related thereto.

3.22 Environmental and Sustainability Management System Program: VIA has adopted an Environmental and Sustainability Management System (ESMS) Program to implement sustainable practices in VIA's operations. **TO THE EXTENT APPLICABLE, ALL CONTRACTORS AND ANYONE UNDER CONTRACTOR'S DIRECTION ENTERING ONTO A VIA SITE UNDER THIS CONTRACT SHALL ADHERE TO THE REQUIREMENTS OF THE ESMS. CONTRACTOR ACKNOWLEDGES, AGREES TO AND WARRANTS THAT IT WILL COMPLY WITH AND/OR HAS COMPLIED WITH THE ESMS AND ANY AMENDMENTS THERETO. FOR BREACH OF THIS WARRANTY, VIA SHALL HAVE THE RIGHT TO ANNUL THIS CONTRACT WITHOUT LIABILITY AND/OR EMPLOY ANY OTHER REMEDY IT MAY HAVE AT LAW OR IN EQUITY.**

3.23 Contract Period:

3.23.1 Contract Commencement Date: The Contract commencement date shall be the date of the "Notice to Proceed." VIA may issue a Notice to Proceed to the Contractor within a reasonable time after the Contractor has delivered the required bonds, certificates of insurance, construction progress schedules, and any other required data. Any preliminary work started, or materials ordered or purchased before receipt of the Notice to Proceed shall be at the risk and expense of the Contractor. Upon receipt of Notice to Proceed, the Contractor shall commence work and diligently prosecute the work to completion within the time limit herein specified.

3.23.2 Contract Completion:

3.23.2.1 Final Acceptance: The Contract shall be fully completed as evidenced by Final Acceptance by VIA.

3.23.2.2 Time Period: The date of beginning and the time for completion as specified herein are reasonable and ESSENTIAL CONDITIONS of this Contract, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality. Further, time is of the essence of each and every portion of this Contract for which a definite length of time is fixed, and where under the Contract additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this Contract.

3.23.2.3 Diligent Work: The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified.

3.23.2.4 Delay Consideration: If the Contractor notifies VIA in writing within ten (10) calendar days from the beginning of a delay specified in the section entitled, "Eligible Delays," below, and if VIA (within its sole discretion) after ascertaining the facts and considering them, notifies the Contractor of VIA's determination regarding the cause and extent of any acceptable delay, then to that extent the Contractor shall not be charged with liquidated damages or any excess cost.

3.23.2.5 Eligible Delays: The Contractor may request VIA to waive delays under the section entitled, "Delay Consideration," above, when the delay in completion of the work is due solely:

- (a) To any preference, priority or allocation order duly issued by the Government;
- (b) To unforeseeable cause beyond the control and wholly without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of VIA that a reasonable contractor would not provide for, acts of another contractor in the performance of a contract with VIA if VIA's liquidated and other damages attributable to the delay are paid by the other contractor, injunctions, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and adverse weather conditions;
- (c) To any delays of the Contractors' subcontractors or suppliers occasioned by any of the causes specified above; and
- (d) To causes, not including the fault of the Contractor, for which the Contractor's reasons are acceptable to VIA.

3.23.3 Liquidated Damages: See part 2 Scope of Work

3.24 MUTUAL RESPONSIBILITY OF CONTRACTORS: IF THROUGH ACTS OF NEGLECT ON THE PART OF THE CONTRACTOR, ANY OTHER CONTRACTORS OR ANY SUBCONTRACTOR SHALL SUFFER LOSS OF DAMAGE ON WORK, THE CONTRACTOR AGREES TO SETTLE WITH SUCH OTHER CONTRACTOR OR SUBCONTRACTOR BY AGREEMENT OR ARBITRATION IF SUCH OTHER CONTRACTOR OR SUBCONTRACTOR WILL SO SETTLE. IF SUCH OTHER CONTRACTOR OR SUBCONTRACTOR SHALL ASSERT ANY CLAIM AGAINST VIA DUE TO ANY DAMAGE ALLEGED TO HAVE BEEN SUSTAINED, VIA SHALL NOTIFY THE CONTRACTOR, WHO SHALL INDEMNIFY AND HOLD HARMLESS VIA AGAINST ANY SUCH CLAIM, AS PROVIDED IN PART 3.26 OF THIS CONTRACT.

3.25 Specified Parts (if applicable): All parts shall be new and under no circumstances will used, reconditioned, or obsolete parts be accepted.

Materials must be furnished as specified in all cases. Where brand names or specific items or processes are used in the Schedule of Supplies and Services, Plans or in the Specifications, and the term "approved equal" follows, a request for approval or any substitution or "approved equal" must be submitted in writing to VIA prior to submission of a bid and acceptance of the substitute will be at VIA's discretion. It shall be the responsibility of the bidder to obtain such approval from VIA. The bidder will be required to supply VIA

with performance data, samples, and special guarantees as a condition of acceptance of any proposed alternates.

Bidder shall be responsible for providing VIA with information on the latest applicable revision to any part or process specifically called for in the specifications for consideration in the specifications.

All engineering details must be settled before the bid opening date. VIA shall have the power to reject or condemn any material furnished or work performed under the contract that does not conform to the terms and conditions as set forth in the contract documents.

- 3.26 Sales Tax Exemption:** The materials provided for this project pursuant to this contract will be exempt from the Limited Sales, Excise and Use Tax imposed by Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas. When award is made, the Contractor shall obtain instructions for the issuance of an exemption certificate from the local office of the State Comptroller of Public Accounts.
- 3.27 Boycott of Energy Companies Prohibited:** Pursuant to Chapter 2274 of the Texas Government Code, Contractor verifies that: (1) it does not, and will not for the duration of the Contract, boycott energy companies, as defined in Section 2274.002 of the Texas Government Code or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to Contractor and this Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify the Authority.
- 3.28 Critical Infrastructure Prohibition:** Pursuant to Chapter 2275 of Texas Government Code A governmental entity may not enter into a contract or other agreement relating to critical infrastructure in this state with a company if, under the contract or other agreement, the company would be granted direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the governmental entity for product warranty and support purposes; and if the governmental entity knows that the company is owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or headquartered in China, Iran, North Korea, Russia, or a designated country.
- 3.29 Custody of Bid/Proposal Documentation:** Once bids/proposals are opened and upon request by VIA,; the apparent lowest responsive and responsible bidder/proposer may be required to submit legible copies of bid/proposal documentation used to prepare the bid/proposal for this project. This documentation will be placed in custody of VIA and preserved according to the terms in this section.
- 3.29.1 Submittal and Return of Bid/Proposal Documentation:** Bid/proposal documentation must be submitted within 48 hours of VIA's request. The apparent lowest responsive and responsible bidder/proposer shall submit the documentation in a sealed package. The package shall be clearly marked "Bid/Proposal Documentation" and shall state the bidder's/proposer's name and address, the date of submittal and the project number. VIA will return sealed packages of unsuccessful bidders/proposers within seven (7) calendar days after contract award.
- 3.29.2 Affidavit:** In addition to the bid/proposal documentation, the bidder/proposer shall submit an affidavit, signed under oath by a representative of the bidder/proposer authorized to execute bidding proposals, listing each bid/proposal document by the author, date, nature, and subject matter. The affidavit shall attest (1) that the affiant has personally examined the bid/proposal documentation, (2) that the affidavit lists all the documents relied upon by the bidder/proposer in preparing its bid/proposal for the project, and (3) that all such bid/proposal documentation is included in the sealed package submitted to VIA.
- 3.29.3 Duration and Use:** After execution of the Contract, VIA will secure the sealed package in a locked cabinet or other secure device.
- 3.29.4 Refusal or Failure to Provide Bid/proposal Documentation:** Failure to provide bid/proposal documentation shall render the bid/proposal non-responsive.

3.29.5 Confidentiality of Bid/Proposal Documentation: The bid/proposal documentation and the affidavit in VIA custody are, and shall remain, the property of the Contractor. VIA has no interest, or right to ownership of the bid/proposal documentation. However, at VIA's option, VIA may open and review the documentation for the purpose of negotiating change orders or contract modifications, including Value Engineering Change Proposals (VECPs), with the Contractor. These materials and all copies made by VIA will be returned to the Contractor at contract completion. VIA will make every reasonable effort to protect the confidentiality of the documentation.

3.29.6 Preparation Costs: All costs related to responding to this requirement shall be the sole responsibility of and shall be borne by the bidder/proposer.

3.30 Contractor Representative:

3.30.1 Notification of Primary and Alternate Representatives: Prior to start of Contract performance, the Contractor shall advise VIA in writing of the primary and alternate representative *(including phone number) who will have management responsibility for the total Contract effort to receive and act on technical matters and resolve problems of a contractual nature

PART 4
GENERAL SOLICITATION POLICY PROVISIONS

4.1 Covenant Against Contingent Fees: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, VIA shall have the right to annul this Contract without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

4.2 Proposers' Requests and Appeals:

4.2.1 Pre-proposal Approvals: The Contracting Officer's written approval must be obtained prior to proposal submission for:

- a. any clarification of the specifications; or
- b. any brand name or product proposed as equal to the one specified, unless the technical specifications explicitly permit approval after award; or
- c. any sample or engineering detail which the technical specifications required to be submitted before proposing, including substitution of any required proposal or contract form; or
- d. any modification to the specifications which the Proposer maintains are restrictive and which the Proposer proposes be altered, amended or changed.

4.2.1.1 Samples, Brand Names and Equals:

4.2.1.1.1 Samples: Samples, when required, must be submitted for pre-proposal approval no later than the date specified in the section entitled "Summary of Salient Dates," Proposers' Requests and Appeals, herein, or within the time specified in the Technical Specifications, at no expense to VIA. If not destroyed or used up during testing, samples will be returned upon request at the Proposer's expense.

4.2.1.1.2 Brand Names: It should be understood that specifying brand names, components, and/or equipment in this specification shall not relieve the supplier/Contractor from the responsibility to produce the product in accordance with the performance warranty and contractual requirements. The supplier/Contractor is responsible for notifying VIA of any inappropriate brand names, components and/or equipment that may be called for in the specifications, and to propose a suitable substitute for consideration, no later than the date specified in the section entitled " Proposers' Requests", above.

4.2.1.1.3 Equals: Whenever a material, article or piece of equipment is identified on the Plans or in the Specifications by reference by manufacturers' or vendors' names, trademarks, catalog numbers, etc., it is intended merely to establish a standard; and any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed is, in the opinion of the Contracting Officer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Contracting Officer's prior written approval, as provided in the section entitled, "Requests for Clarification and/or Modifications," above.

4.2.2 Submission: Submissions under Section 4.2.2, Pre-proposal Approvals, must be in writing and received by the Contracting Officer no later than the date specified in Section 1.3.4, Requests for Clarification and/or Modifications, of the Request for Proposal; and

a. supported by evidence such as technical data, test results, and/or other pertinent information that demonstrates that the substitute offered is equal to or better than the specification requirement; or

b. in the instance of submission of a request for modification of the specifications, must contain a draft of the recommended language relating to the specification(s) which is/are proposed to be altered, amended or changed.

4.2.3 Appeal: Any appeal of the Contracting Officer's determination in response to a request for pre-proposal approval must be submitted in writing and received by the Contracting Officer within seven (7) working days of the date issuance of the Contracting Officer's determination.

4.2.4 Final Ruling: After receipt of an appeal, if any, a final ruling will be issued by the Contracting Officer and provided contemporaneously to all Proposers. Proposers may protest a final ruling under Section 4.2, Proposers' Requests, as provided in Section 4.7, Protest Procedures.

4.2.5 Withdrawal: Proposers may withdraw a request or an appeal at any time prior to the Contracting Officer's issuance of a final ruling. There will be no further review by the Contracting Officer of a request or an appeal after a final ruling is issued.

4.2.6 Denial: Any pre-proposal request for approval is denied unless such request is approved by the Contracting Officer in writing prior to proposal submission.

4.3 Late Submissions:

4.3.1 Receipt Prior to Award: Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it:

(a) was sent by registered or certified mail and postmarked not later than the fifth calendar day before the date specified for receipt of proposals (e.g., a proposal submitted in response to a solicitation requiring receipt of proposals by the 20th of the month must have been postmarked on or before the 15th); or

(b) was sent by courier service which guaranteed delivery by the submittal deadline; or

(c) is the only proposal received.

4.3.2 Postmark: The only acceptable evidence to establish the postmark date of a proposal or modification sent by registered or certified mail is the U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service.

4.3.3 Courier Delivery Date: The only acceptable evidence to establish the courier service guaranteed delivery date is a receipt or other documentary evidence which will establish that the proposal or modification was sent by a courier service to be timely delivered.

4.3.4 Time/date Stamp: The only acceptable evidence to establish the time and date of receipt at VIA is the time/date stamp on the proposal wrapper or other documentary evidence of receipt maintained by VIA.

4.4 Non-collusive Affidavit: The Contractor represents and warrants that its proposal is genuine and not sham or collusive or made in the interest or in behalf of any person not therein named, and that the Contractor has not, directly or indirectly, induced or solicited any other person to submit a sham proposal, or any other person, firm, or corporation to refrain from submitting a proposal, and that the Contractor has not in any manner sought by collusion to secure itself an advantage over any other proposer.

4.5 Penalty for Collusion: If at any time it shall be found that the person, firm, or corporation to whom a contract has been awarded has, in presenting any proposal, colluded with any other party or parties, then the contract so awarded shall be voidable by VIA; and the Contractor shall be liable to VIA for all loss or damage which VIA may suffer thereby.

4.6 Covenant Against Gratuities: The Contractor warrants that it has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any official or employee of VIA with a view toward securing favorable treatment in the awarding, amending, or evaluating performance of this Contract. For breach of this warranty, VIA shall have the right to annul this Contract without liability and/or employ any other remedy it may have at law.

4.6.1 Local Government Code 176.006:

Any person who seeks to contract for the sale or purchase of property, goods or services with VIA shall file a completed conflict of interest questionnaire promulgated by the Texas Ethics Commission as required by the law (See Part 9, Forms).

4.7 Code of Ethics: On July 11, 1995, the VIA Board of Trustees adopted a *Code of Ethics and Conduct Related to Business Transactions*, establishing general standards of ethical conduct for VIA employees, Board members, Contractors and vendors. Contractor agrees to and warrants that it will comply and has complied with the *Code of Ethics and Conduct Related to Business Transactions* and any amendments thereto. For breach of this warranty, VIA shall have the right to annul this Contract without liability and/or employ any other remedy it may have at law. Upon request, a copy of the *Code of Ethics and Code of Conduct Related to Business Transactions* shall be made available to Contractors.

Vendors and Contractors shall pay particular attention to Section IV.C. of the *Code of Ethics and Code of Conduct Related to Business Transactions* (as amended) which prohibits any business contracting or attempting to contract with VIA from communicating with a Board member or VIA employee (other than VIA's Contracting Officer designated for this procurement in the Contract or an individual designated in writing by the Contracting Officer) regarding details of a procurement or other contract opportunity or extension or change to an existing contract.

4.8 Procurement Protest Procedure:

4.8.1 Protest: In the event VIA receives a protest according to the terms referenced herein, specifically 4.7.2. Timeliness, VIA will suspend the procurement process until the protest is resolved. A protest, if any, shall be in writing, received within the time limits set forth below (see "Timeliness") and shall be supported by sufficient information to enable the protest to be considered. Protests containing mere allegations or unsubstantiated expressions of suspicion without actual evidence to support the claim may be considered by VIA to be insufficiently supported. Protests (if any) must be submitted to VIA's Contracting Officer for referral to VIA's Chief Audit Officer, who will determine whether the protest is timely and otherwise meets the minimum requirements of this section and, if so, will transmit the protest for consideration by VIA's Protest Committee. If a protest is deemed by the Chief Audit Officer or the Protest Committee to be insufficient, the protester will be notified. A determination of insufficiency is final and may not be appealed; however, the protest deficiencies may be corrected, and the protest re-filed, provided the protest is re-filed in a timely manner (see, "Timeliness," below) and no additional time shall be allowed without good cause shown (such determination to be in VIA's sole discretion). Protests shall (at a minimum) include the following information:

- (a) name, address, and fax and telephone numbers of the protester;
- (b) solicitation or contract number;
- (c) detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protester;
- (d) copies of relevant documents;

- (e) statement as to the form of relief requested;
- (f) all information establishing that the protester is an interested party for the purpose of filing a protest; and
- (g) all information establishing the timeliness of the protest.

A protest, if any, must be based upon one or more of the following:

- (a) substantial allegations of restrictive procedures, alleged improprieties or other similar situations arising prior to proposal receipt (in procurements utilizing the Request for Proposal "RFP" process) or in all other cases, arising prior to contract award;
- (b) substantial allegations of the issuance of an improper or clearly incorrect final ruling relating to requests for changes to or approval of equals, clarifications and modifications of the specifications; or
- (c) substantial allegations of an improper award of contract or alleged impropriety arising after proposal receipt (in procurements utilizing the Request for Proposal "RFP" process) or in all other cases, arising after contract award.

4.8.2 Timeliness: To be effective, a protest must be submitted so that it is received by the Contracting Officer by the following deadlines:

- (a) a protest based upon substantial allegations of restrictive procedures, alleged improprieties or other similar situations arising prior to proposal receipt (in procurements utilizing the Request for Proposal "RFP" process) or in all other cases, arising prior to contract award, must be submitted so that it is received by VIA's Contracting Officer no later than seven (7) working days prior to the specified proposal receipt (in procurements utilizing the Request for Proposal "RFP" process) or in all other cases, no later than seven (7) working days prior to the date of contract award, and may only be protested once;
- (b) a protest based upon substantial allegations establishing the issuance of an improper or clearly incorrect final ruling relating to a request for changes to or approval under the specifications must be submitted so that it is received by VIA's Contracting Officer within seven (7) working days following the issuance of the Contracting Officer's final ruling; and
- (c) a protest of an allegedly improper award of contract or alleged impropriety arising after proposal receipt (in procurements utilizing the Request for Proposal "RFP" process) or in all other cases, arising after the date of contract award, must be submitted so that it is received by VIA's Contracting Officer within seven (7) working days following the earlier of the date (1) on which the Proposer knew, or (2) the date on which a diligent Proposer would have known, of the allegedly improper award or alleged impropriety. Notwithstanding the above, unless allowed by VIA in its sole discretion (upon good cause shown), a protest of an allegedly improper award of contract or alleged impropriety arising after proposal receipt (in procurements utilizing the Request for Proposal "RFP" process) or in all other cases, arising after the date of contract award, must be filed within seven (7) days after contract award.

4.8.3 Final Determination: VIA's Protest Committee will use its best efforts to issue, within seven (7) working days of receipt, a final determination of the protest.

4.8.4 Withdrawal: A Proposer may withdraw its protest at any time prior to VIA's Protest Committee issuing a final determination. There will be no further review by VIA of a protest after a final determination is issued.

4.8.5 FTA Review: In accordance with 2 CFR, Part 200.318, General Procurement Standards, VIA alone must be responsible, in accordance with good administrative practice and sound business judgment,

for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve VIA of any contractual responsibilities under its contracts. The ETA will not substitute its judgment for that of VIA unless the matter is primarily a federal concern. Violations of law will be referred to the Local, State, or Federal authority having proper jurisdiction.

- 4.9 Release of Information:** Contractor agrees and understands that access to government records is governed by the Texas Public Information Act more commonly referred to as the Texas Open Records Act (TORA). Any proprietary information, trade secrets or confidential commercial and financial information which a Contractor believes should be exempted from disclosure to a third party **shall be specifically identified and marked as such by Contractor at the time Contractor submits its proposal.** Blanket-type identification by designating whole pages or sections as containing proprietary information, trade secrets or confidential commercial and financial information is not sufficient to establish confidentiality. **The specific proprietary information, trade secrets or confidential communication and financial information must be clearly identified as such.** Upon request for records from a third party regarding this procurement, VIA will notify, in writing, in the manner required under TORA, the Contractor if and only if the information requested was identified by Contractor, as required under this paragraph. VIA may determine in its sole discretion whether sufficient legal justification exists for withholding the records and whether an opinion should be requested from the Texas Attorney General. **TO THE FULLEST EXTENT ALLOWED BY LAW, CONTRACTOR AGREES TO AND HEREBY DOES IDEMNIFY VIA FOR ITS COSTS ASSOCIATED WITH CONTRACTOR'S REFUSAL TO PRODUCE SUCH IDENTIFIED INFORMATION FOR PURPOSES OF TORA.** Further, Contractor agrees to fully cooperate with VIA and to provide VIA full and complete access to any and all records requested under TORA regarding this Contract at no cost to VIA.
- 4.10 Rejection of Proposals:** VIA reserves the right to reject any and all proposals that are not responsive or unreasonably priced or impose modifying conditions. VIA may reject the proposal of any party who has been determined to be non-responsible in any former contract with VIA. VIA reserves the right to reject any or all proposals, and to waive technical defects as the interest of VIA may require. Each Proposer shall be notified if all proposals are rejected.
- 4.11 Preparation Costs:** All costs related to responding to this procurement solicitation, including (if applicable) the cost of any oral presentations required, shall be the sole responsibility of and shall be borne by each proposer.

PART 5 INSURANCE

- 5.1 General Insurance Requirements:** The Contractor shall purchase and maintain in full force and effect during the entire period of this Contract, including any maintenance period thereof, insurance of the following types and in amounts not less than the amounts stated below. Such insurance shall protect VIA from any and all claims and damages, which may arise out of or result from, Contractor's operations whether such operations are performed by Contractor or by its subcontractor or by anyone for whose acts the Contractor may be liable. All costs associated with these insurance coverages are the sole responsibility of the Contractor. The Contractor must adhere to the following requirements:
- 5.1.1 Additional Insured:** The Commercial General Liability and Commercial Automobile Liability policies shall be endorsed to name VIA and its officers, trustees and employees as additional insured regarding Contractor's operations as well as completed operations in performance of this Contract.
- 5.1.2 Waiver of Subrogation:** The Commercial General Liability, Commercial Automobile Liability, Workers' Compensation and Employer's Liability, shall be endorsed to provide a waiver of subrogation in favor of VIA, its officers, trustees, and employees. If Contractor is an approved self-insurer, Contractor will waive all rights of recovery against VIA, its officers, trustees, and employees for any and all claims.
- 5.1.3 Coverage Primary:** Such insurance as is provided herein shall be primary and non-contributing with any other valid and collectible insurance available to VIA. The limits of liability required herein may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies; but, in no event shall the total limits of liability available for any one occurrence or accident be less than the amounts required.
- 5.1.4 No Commencement Without Coverage:** The Contractor shall not commence work under this Contract until all required insurance is obtained and approved by VIA. Approval of the insurance by VIA shall not relieve or decrease the liability of the Contractor hereunder.
- 5.1.5 Certificates:** All required endorsements and completed certificates of insurance evidencing coverage shall be furnished to the VIA Contract Officer prior to commencement of work and within ten (10) calendar days after the date of Notice of Award. All associated correspondences accompanying the requisite Certificates of Insurance shall be directed to the assigned VIA Contract Officer and reflect the VIA project number. All certificates must be issued reflecting VIA Metropolitan Transit as the certificate holder. Certificates and endorsements shall be provided by contractor and anyone involved in the performance of work under this contract by and through contractor (not otherwise included under contractor's coverage), including all subcontractors. All such insurance documents shall be provided by insurance companies authorized to do business in the State of Texas and having a Best's rating of A- (VII) rating or greater, as shown in the most current issue of A.M. Best's Key Rating Guide. Failure to furnish the required certificates of insurance and accompanying endorsements within the time allowed shall not be considered cause for modification of any contractual time limits.
- 5.1.6 No Lapse or Cancellation:** The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse. In the event of cancellation or lapse of insurance, the Contractor shall notify VIA immediately, in writing, by certified or registered mail, return receipt requested. Contractor shall also provide written notification to VIA, within ten (10) days of any cancellation due to non-payment of premium, notice of expiration, cancellation, nonrenewal or material change in coverage it receives from its insurer. In addition to any other remedies VIA may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, VIA shall have the right to order Contractor to stop work hereunder and/or withhold payment(s) which become due to Contractor until Contractor demonstrates compliance hereof and unless otherwise directed by VIA, shall cease work until evidence of acceptable insurance coverage is supplied to VIA.
- 5.1.7 Breach:** Failure to maintain insurance coverage, as required herein, constitutes a material breach of this Contract.

- 5.1.8 Subcontracts:** Contractor agrees to require, by written contract, that all subcontractors providing goods or services hereunder, purchase and maintain, during the term of the Contract, the same minimum levels of applicable insurance coverages that are necessary and appropriate for the work performed and as required of Contractor herein. Contractor shall provide to VIA certificates of insurance and endorsements Contractor receives from its subcontractor(s) that name the Contractor and VIA as additional insureds. Contractor shall provide VIA with said certificates and endorsements prior to the commencement of any work by that subcontractor.
- 5.1.9 Responsibility of Payments:** Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this Agreement.
- 5.1.10 Own Equipment and/or Property:** Contractor and its subcontractors are responsible for all damage to their own equipment or property.
- 5.1.11 Other Obligations:** It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.
- 5.1.12 Review of Insurance Requirements:** VIA reserves the right to review the insurance requirements of this Contract during the effective date of the Contract and at renewal or any extension hereof and to modify insurance coverages and limits when deemed necessary and prudent based upon changes in statutory law, court decisions, or circumstances surrounding this Contract.

5.2 Specific Insurance Requirements:

5.2.1 Workers' Compensation Insurance: Coverage is required for workers' compensation providing Statutory Benefits in accordance with the Workers' Compensation Act of the State of Texas and/or any other state or Federal law as may be applicable to the work being performed under this Contract.

5.2.2 Employer's Liability Insurance: Coverage is required for employer's liability with limits of liability not less than:

\$ 500,000	Each Accident
\$ 500,000	Policy Limit for Disease
\$ 500,000	Each Employee for Disease

5.2.3 Commercial General Liability Insurance: Contractor shall provide commercial general liability insurance covering all operations by or on behalf of the Contractor under this contract resulting in claims for personal injury (including bodily injury and death) and property damage (including loss of use) and for the following where exposure exists and for amounts not less than:

- 1) Premises/Operations
- 2) Products/Completed Operations
- 3) Personal and Advertising Injury
- 4) Broad Form Property Damage
- 5) Pollution liability, if applicable
- 6) Sexual Abuse and Molestation

\$ 2,000,000	General Aggregate
\$ 2,000,000	Products/Completed Operations Aggregate
\$ 1,000,000	Personal & Advertising Injury per occurrence
\$ 1,000,000	Each Occurrence

5.2.4 Commercial Automobile Liability Insurance: Coverage is required for automobile liability, covering all owned/leased, hired, rented, borrowed and non-owned motor vehicles including fuel transports used in connection with the work being performed under the Contract with limits of liability not less than:

\$ 1,000,000 Combined Single Limit

5.2.5 Professional Liability: Claims-made coverage to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional service. Said errors and omissions insurance coverage shall be annually renewed for no less than three (3) years following completion of the contract and acceptance of the work by VIA. Coverage including renewals shall have the same retroactive date as the original policy applicable to this Contract.

With limits not less than:

\$1,000,000 per claim
\$2,000,000 aggregate

5.2.6 Bailee's Coverage: The Contractor will be required to provide all risk physical damage for all equipment in the contractor's care, custody and control. This coverage may be provided under a commercial property policy or an inland marine policy. A certificate of insurance must be provided to VIA and reflect VIA's interest in this equipment.

\$500,000 Any one loss

5.2.7 Network Security (Cyber) and Privacy Liability Insurance. Contractor shall provide Cyber Liability Insurance to include: Privacy Liability, Network Security Liability, Internet Media Liability, Network Extortion, Data Breach Fund & Regulatory Proceedings, including first party and third party coverage, covering third party claims and losses with respect to network risks (such as data breaches, transmission of virus/malicious code; unauthorized access or criminal use of third party, ID/data theft) and invasion of privacy regardless of the type of media involved in the loss of private information (such as computers, paper files and records, or voice recorded tapes), covering collection, use, access, etc. of personally identifiable information, direct liability, as well as contractual liability for violation of privacy policy, civil suits and sublimit for regulatory defense/indemnity for payment of fines and penalties. The Cyber Liability Policy shall have policy limits of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate for all claims each policy year. The retroactive coverage date shall predate the effective date of this contract. Contractor shall maintain an extended reporting period for not less than two (2) years after termination of this Agreement.

PART 6 BILLING AND PAYMENT

- 6.1 Compensation:** The Contractor shall be reimbursed by VIA for authorized costs incurred in performance of the work under this Contract. Authorized costs shall include Contractor's direct labor, payroll burden, general and administrative, reimbursable expenses and fixed fee based on the prices specifically described in the Best and Final Offer. Detailed records must be maintained to show actual time devoted and costs incurred. The Contractor shall include as part of their invoice a list of all subcontractors and the amounts to be paid to each of the subcontractors from this invoice. This requirement is in accordance with FTA Circular 4716.1.

Errors on the invoice will cause the invoice to be sent to the Contractor to be corrected. The invoice will be checked entirely for accuracy before submittal to VIA. The rate of payments will be according to the schedules included (whether expressly or by reference) in this document. The invoice will be on the Contractor's letterhead and signed by the Chief Financial Officer or designated representative of the company.

Payment will only be made after receipt of a proper invoice. A proper invoice shall include the Contract/Purchase Order number, the date of the invoice, a description of the goods and/or services delivered, and **applicable project numbers**. All invoices must be emailed to acctpayable@viainfo.net or mailed to VIA Metropolitan Transit, Attn: Accts Payable, PO Box 12489, San Antonio, Texas 78212.

After verification, VIA will submit payment to the Contractor within thirty (30) days after receipt of a properly submitted invoice. In the event payment is not made within (30) days, the Contractor shall submit a reminder invoice marked overdue. If the invoice contains an error, the invoice will not be classified as a properly submitted invoice.

- 6.2 Prompt Payment:** The Prime Contractor is required to pay all Subcontractors for all work that the Subcontractor has satisfactorily completed, no later than ten (10) business days after the Contractor has received payment from VIA. In addition, all retainage amounts must be paid by the Contractor to the Subcontractor no later than thirty (30) business days after the Subcontractor has satisfactorily completed its portion of the work as determined by the Project Manager/Project Engineer. A delay in or postponement of payment to the Subcontractor requires good cause and prior written approval of the DBE Liaison Officer.

If the Contractor fails or refuses to comply with the terms of this Program, as it is set forth in such Contractor's Contract, VIA will issue an order stopping all or part of payment and/or work until satisfactory action has been taken. If the Contractor still fails to comply, VIA may issue a termination for default proceeding.

6.3 Discounts:

- 6.3.1 Evaluation of Offers:** Discounts for early payment shall not be considered in the evaluation of offers, except in the case of a tie bid provided that a minimum of ten (10) days is offered in which to take the discount.

- 6.3.2 Binding:** Discounts that are included in offers become a part of the resulting contracts and are binding on the Contractor for all orders placed under the Contract. Discounts offered only on individual invoices will be binding on the Contractor only for the particular invoice on which the discount is offered.

- 6.3.3 Time Computation:** Time will be computed, for discount computation purposes, from:

- (a) the date of delivery to and acceptance by VIA; or
- (b) the date a proper invoice is received in the office specified by VIA, if the latter date is later than the date of delivery.

- 6.3.4 Payment Date:** Payment will be deemed to have been made on the date which appears on payment checks.

- 6.4 Acceptance of Final Payment:** The acceptance by the Contractor of final payment shall be and shall operate as a release to VIA of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of VIA and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or the Contractor's Surety or Sureties from any obligation under this Contract or Performance and Payment Bond.
- 6.5 Retainage (Construction Contracts Only):** To ensure proper performance of the Contract, VIA may retain ten percent (10%) or five percent (5%) for contracts over \$5,000,000.00 of the amount of each Request for Payment until final completion and acceptance of all work covered by the Contract subject to legal offsets (if any). VIA will deposit the retainage in an interest-bearing account (for any contract \$10,000,000.00 or more) pursuant to Texas Government Code 2252.032. The interest earned on such retainage funds if any, shall be paid in compliance with said provision of the Government Code.
- 6.5 ACH:** VIA offers ACH payments to Vendors.
- ACH Payments offer a more efficient and secure method of payment delivery. Funds are deposited directly into your account, reducing processing time and eliminating risks associated with mailed checks. In addition, ACH payments include remittance details to support accurate and timely application of funds.
- Bidders interested in the ACH payment method should contact VIA's Fiscal Management Department at (210) 362-2171 or acctpayable@viainfo.net.
- 6.7 All pay applications and/or invoices shall list Contract Number.**

**PART 7
FEDERAL PROVISIONS
[THESE PROVISIONS APPLY TO THE EXTENT APPLICABLE]**

Marked clauses are applicable to this solicitation

7.1	<input checked="" type="checkbox"/>	NO GOVERNMENT OBLIGATIONS TO THIRD PARTIES	2
7.2	<input checked="" type="checkbox"/>	PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENT OR RELATED ACTS	2
7.3	<input checked="" type="checkbox"/>	ACCESS TO RECORDS AND REPORTS	2
7.4	<input checked="" type="checkbox"/>	FEDERAL CHANGES	3
7.5	<input checked="" type="checkbox"/>	CIVIL RIGHTS REQUIREMENTS	3
7.6	<input checked="" type="checkbox"/>	DISADVANTAGED BUSINESS ENTERPRISE (DBE)	4
7.7	<input checked="" type="checkbox"/>	INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS	5
7.8	<input checked="" type="checkbox"/>	PROMPT PAYMENT	5
7.9	<input checked="" type="checkbox"/>	PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT OR SERVICES	5
7.10	<input checked="" type="checkbox"/>	ENERGY CONSERVATION	5
7.11	<input checked="" type="checkbox"/>	SAFE OPERATION OF MOTOR VEHICLES	6
7.12	<input checked="" type="checkbox"/>	FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTION	6
7.13	<input checked="" type="checkbox"/>	SEVERABILITY	6
7.14	<input checked="" type="checkbox"/>	SOLID WASTE	6
7.15	<input checked="" type="checkbox"/>	TERMINATION	7
7.16	<input checked="" type="checkbox"/>	GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)	7
7.17	<input checked="" type="checkbox"/>	DISPUTES, BREACHES, DEFAULTS, AND LITIGATION	7
7.18	<input checked="" type="checkbox"/>	LOBBYING	8
7.19	<input checked="" type="checkbox"/>	CLEAN AIR.....	8
7.20	<input checked="" type="checkbox"/>	CLEAN WATER.....	8
7.21	<input type="checkbox"/>	BUY AMERICA REQUIREMENTS	9
7.22	<input checked="" type="checkbox"/>	BREACHES AND DISPUTE RESOLUTION	9
7.23	<input type="checkbox"/>	CARGO PREFERENCE	9
7.24	<input type="checkbox"/>	FLY AMERICA REQUIREMENTS	9
7.25	<input type="checkbox"/>	DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS	10
7.26	<input type="checkbox"/>	CONTRACT WORK HOURS & SAFETY STANDARDS ACT	15
7.27	<input type="checkbox"/>	SPECIAL EEO PROVISION FOR CONSTRUCTION	15
7.28	<input type="checkbox"/>	BONDING REQUIREMENTS	15
7.29	<input type="checkbox"/>	SEISMIC SAFETY	16
7.30	<input type="checkbox"/>	VETERANS PREFERENCE	16
7.31	<input type="checkbox"/>	NONCONSTRUCTION EMPLOYEE PROTECTION – CONTRACT WORK HOURS & SAFETY STANDARDS ACT	16
7.32	<input type="checkbox"/>	TRANSIT EMPLOYEE PROTECTION PROVISIONS	16
7.33	<input type="checkbox"/>	CHARTER BUS REQUIREMENTS	17
7.34	<input type="checkbox"/>	SCHOOL BUS REQUIREMENTS	17
7.35	<input type="checkbox"/>	DRUG & ALCOHOL ABUSE AND TESTING	17
7.36	<input type="checkbox"/>	PATENT AND RIGHTS DATA	18
7.37	<input checked="" type="checkbox"/>	SPECIAL NOTIFICATION REQUIREMENTS FOR STATES	19
7.38	<input type="checkbox"/>	RECYCLED PRODUCTS	19
7.39	<input type="checkbox"/>	NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS ARCHITECTURE & STANDARDS	19
7.40	<input type="checkbox"/>	BUS TESTING	19
7.41	<input type="checkbox"/>	PRE-AWARD & POST-DELIVERY AUDIT REQUIREMENTS	20
7.42	<input checked="" type="checkbox"/>	CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS	20
7.43	<input checked="" type="checkbox"/>	ADDITIONAL ENVIRONMENTAL AND RESOURCE CONSERVATION REQUIREMENTS	20
7.44	<input checked="" type="checkbox"/>	ACCESS REQUIREMENTS FOR INDIVIDUALS AND DISABILITIES	21

Provisions 7.1 through 7.14 apply to ALL CONTRACTS

7.1 No Government Obligation to Third Parties - Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

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

7.2 Program Fraud and False or Fraudulent Statements or Related Acts – Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 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 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, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on the Contractor to the extent the US Government deems appropriate.

(2) If the Contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on the Contractor, to the extent the US Government deems appropriate.

(3) The Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

7.3 Access to Records and Reports– Applicability – As shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following access to records requirements applies to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), the Contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, the Contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC

5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$250,000.

3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, the Contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. The Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) 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 the Contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

The Contractor is not required to include these provisions in subcontracts.

7.4 Federal Changes – Applicability – All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

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

7.5 Civil Rights Requirements– Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

VIA is an Equal Opportunity Employer. As such, VIA agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, VIA agrees to comply with the Requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal Assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

7.5.1 Nondiscrimination: In accordance with 49 U.S.C. § 5332, the Contractor and any subcontractor 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.

7.5.2 Race, Color, Creed, National Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000(e) *et seq.*, 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. Chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. §

2000(e) note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000(e) note. 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, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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.

7.5.3 Age: In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, 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.

7.5.4 Disabilities: In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis or disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

7.6 Disadvantaged Business Enterprise (DBE) – RESERVED

7.7 Incorporation of Federal Transit Administration (FTA) Terms – Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1G, 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 request that would cause the recipient to be in violation of FTA terms and conditions.

7.8 Prompt Payment – Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The prime Contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime Contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

7.9 Prohibition on certain telecommunications and video surveillance equipment or services:

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to: (1) Procure or obtain covered telecommunications equipment or services; (2) Extend or renew a contract to procure or obtain covered telecommunications equipment or services; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services. (b) As described in section 889 of Public Law 115-232, "covered telecommunications equipment or services" means any of the following: (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security

purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (3) Telecommunications or video surveillance services provided by such entities or using such equipment; (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country; (c) For the purposes of this section, "covered telecommunications equipment or services" also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. (d) In implementing the prohibition under section 889 of Public Law 115-232, heads of executive agencies administering loan, grant, or subsidy programs must prioritize available funding and technical support to assist affected businesses, institutions, and organizations as is reasonably necessary for those affected entities to transition from covered telecommunications equipment or services, to procure replacement equipment or services, and to ensure that communications service to users and customers is sustained. (e) When the recipient or subrecipient accepts a loan or grant, it is certifying that it will comply with the prohibition on covered telecommunications equipment and services in this section. The recipient or subrecipient is not required to certify that funds will not be expended on covered telecommunications equipment or services beyond the certification provided upon accepting the loan or grant and those provided upon submitting payment requests and financial reports. (f) For additional information, see section 889 of Public Law 115-232 and § 200.471.

7.10 Energy Conservation – Applicability – All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

7.11 Safe Operation of Motor Vehicles:

(a) Seat Belt Use: The Recipient agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by: (1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles; and (2) Including a "Seat Belt Use" provision in each third party agreement related to the Award.

(b) Distracted Driving, Including Text Messaging While Driving: The Recipient agrees to comply with: (1) Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225); (2) U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and (3) The following U.S. DOT Special Provision pertaining to Distracted Driving: (i) Safety. The Recipient agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Recipient owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award; (ii) Recipient Size. The Recipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving; and 91 (iii) Extension of Provision. The Recipient agrees to include the preceding Special Provision of section 34(b)(3)(i) – (ii) of this Master Agreement in its third party agreements, and encourage its Third Party Participants to comply with this Special Provision, and include this Special Provision in each third party subagreement at each tier supported with federal assistance.

7.12 Federal Tax Liability and Recent Felony Convictions.

(1) Transactions Prohibited.

(i) The Recipient agrees that, prior to entering into any Third Party Agreement with any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the Recipient will obtain from the prospective Third Party Participant a certification that the Third Party Participant—

(A) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(B) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

(ii) If the prospective Third Party Participant cannot so certify, the Recipient agrees to refer the matter to FTA and not to enter into any Third Party Agreement with the Third Party Participant without FTA's written approval.

(2) Flow-Down. The Recipient agrees to require all Third Party Participants to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

7.13 Severability

The Recipient agrees that if any provision of the Underlying Agreement or any Amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

7.14 Solid Waste (Recovered Materials)

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Provision 7.15 applies to AWARDS EXCEEDING \$10,000

7.15 Termination. (Refer to the VIA's General Terms and Conditions section entitled "Termination of Contract").

Provision 7.16 to 7.17 applies to AWARDS EXCEEDING \$25,000

7.16 Government-wide Debarment and Suspension (Nonprocurement) – Applicability – Contracts over \$25,000.

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with U.S. DOT

regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel,

7.17 Disputes, Breaches, Defaults, and Litigation.

(a) FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.

(b) Notification to FTA; Flow Down Requirement. If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

(3) Additional Notice to U.S. DOT Inspector General. The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions.

(c) Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA's prior written concurrence.

(d) Enforcement. The Recipient must pursue its legal rights and remedies available under any third party agreement or any federal, state, or local law or regulation.

Provision 7.18 applies to AWARDS EXCEEDING \$100,000 BY STATUTE

7.18 Lobbying – Applicability – Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey 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.] - The Contractors who apply or bid 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.

Provisions 7.19 through 7.21 apply to AWARDS EXCEEDING \$150,000 BY STATUTE

7.19 Clean Air – Applicability – All contracts over \$150,000. 1) The Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. The Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. 2) The Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

7.20 Clean Water – Applicability – All Contracts and Subcontracts over \$150,000.

The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. The Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. The Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

7.21 Buy America Requirements – Applicability – Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$150,000).

The Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 60% domestic content for FY2016 and FY2017, a minimum 65% domestic content for FY2018 and FY2019 and a minimum 70% domestic content for FY2020 and beyond.

A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Bids not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Provision 7.22 applies to AWARDS EXCEEDING \$250,000 BY STATUTE

7.22 Breaches and Dispute Resolution – Applicability – All contracts over \$250,000. (Refer to the Section entitled "Breaches and Disputes").

Provisions 7.23 and 7.24 apply to the TRANSPORT OF PROPERTY OR PERSONS

7.23 Cargo Preference – Use of US-Flag Vessels – Applicability – Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The Contractor shall: a. use privately owned US-Flag commercial vessels to ship at least 50% 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 US flag commercial vessels; b. furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading.) c. include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material, or commodities by ocean vessel.

7.24 Fly America Requirements – Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US 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 US 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 shall include the requirements of this section in all subcontracts that may involve international air transportation.

Provisions 7.25 through 7.30 apply to CONSTRUCTION ACTIVITIES

7.25 Davis-Bacon and Copeland Anti-Kickback Acts – Applicability -Construction contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, over \$2,000.

7.25.1 Minimum Wages:

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made, or costs reasonably anticipated for bona fide fringe benefits under section 7.16 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics, are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 7.16. (1)(iv) of this section; also, regular contributions made, or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4).

Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 7.16 (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(ii)(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(ii)(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(ii)(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside, in a separate account, assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(v)(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(v)(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(v)(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

7.25.2 Withholding: VIA 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 the Contractor under this contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, VIA may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

7.25.3 Payrolls and Basic Records: (i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing

benefits under a plan or program described in section 7.16 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to VIA for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(ii)(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(ii)(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(ii)(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

7.25.4 Apprentices and Trainees: (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State

Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

7.25.5 Compliance with Copeland Act requirements: The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

7.25.6 Subcontracts: The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit

Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7.25.7 Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

7.25.8 Compliance with Davis-Bacon and Related Act Requirements: All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

7.25.9 Disputes Concerning Labor Standards: Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes' clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

7.25.10 Certification of Eligibility: (i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

7.26 Construction Employee Protections - Contract Work Hours & Safety Standards Act – Applicability – Contracts over \$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 40 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 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable 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 para. (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 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by 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 & 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 para. (2) of this section.

(4) Subcontracts - The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier

subcontracts. Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

7.27 Special EEO Provision for Construction

Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141 – 3144, and 3146 – 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of a public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

7.28 Bonding Requirements: (Refer to Section 1 entitled "Bonds"): (5% bid guarantee bond and 100% performance and payment bond)

7.29 Seismic Safety – Applicability – Construction of new buildings or additions to existing buildings. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. **The Contractor** shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

7.30 Veterans Preference - As provided in 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients: (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53; and (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

Provision 7.31 applies to NONCONSTRUCTION ACTIVITIES

7.31 NONCONSTRUCTION EMPLOYEE PROTECTION – CONTRACT WORK HOURS & SAFETY STANDARDS ACT (For all turnkey, rolling stock and operational contracts {except transportation services contracts and open market contracts} exceeding \$150,000.)

The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, and other participant at any tier of the Project, with the employee protection requirements for nonconstruction employees of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 et seq., in particular with the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and with implementing U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts

Provisions 7.32 through 7.35 apply to TRANSIT OPERATIONS

7.32 Transit Employee Protective Provisions – Applicability – Contracts for transit operations except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Public Transportation Employee Protective Arrangements. VIA agrees that 49 U.S.C. § 5333(b) requires employee protective arrangements to be in place as a condition of award of FTA assistance made available or appropriated for FTA programs involving public transportation operations. U.S. DOL recognizes the following categories of arrangements:

(1) U.S. DOL Certification. When its Project involves public transportation operations and is financed with funding made available or appropriated for 49 U.S.C. §§ 5307, 5309, 5312, 5337, or 5339, as amended by Map-21, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a Certification of employee protective arrangements before FTA may provide financial assistance for the Project. Therefore, VIA understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that: (a) It must carry out the Project as provided in its U.S. DOL Certification, which contains the terms and conditions that U.S. DOL has determined to be fair and equitable to protect the interests of any employees affected by the Project, (b) It must comply with 49 U.S.C. § 5333(b), and any future amendments thereto, (c) It will follow the U.S. DOL guidelines, “Guidelines, Section 5333(b), Federal Transit Law,” 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing, (d) It must comply with the terms and conditions of the U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement, including: 1 Alternative comparable arrangements U.S. DOL has specified for the Project, 2 Any revisions U.S. DOL has specified for the Project, or 3 Both, and

(e) It must comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement for the Project: 1 The U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement, 2 The documents cited in that U.S. DOL certification for the Project, 3 Any alternative comparable arrangements that U.S. DOL has specified for the Project, and 4 Any revisions that U.S. DOL has specified for the Project,

(2) Special Warranty. When its Project involves public transportation operations and is financed with funding made available or appropriated for 49 U.S.C. § 5311, as amended by Map-21, for former 49 U.S.C. § 5311 in effect in FY 2012, or a previous fiscal year, or for section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, U.S. DOL will provide a Special Warranty for those projects, including projects under the Tribal Transit Program. Therefore, VIA understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that: (a) It must comply with Federal transit laws, specifically 49 U.S.C. § 5333(b), (b) Follow the U.S. DOL guidelines, “Guidelines, Section 5333(b), Federal Transit Law,” 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing, (c) It will comply with the U.S. DOL Special Warranty for its Project that is most current on the date when it executed the Underlying Agreement, and documents cited therein, including: 1 Any alternative comparable arrangements U.S. DOL has specified for the Project, 2 Any revisions U.S. DOL has specified for the Project, or 3 Both, and (d) It will comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement: 1 The U.S. DOL Special Warranty for its Project, 2 Documents cited in that Special Warranty, 3 Alternative comparable arrangements U.S. DOL specifies for the Project, and 4 Any revisions that U.S. DOL has specified for the Project, and

(3) Special Arrangements for 49 U.S.C. § 5310 Projects. VIA understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not “necessary or appropriate” to apply the conditions of 49 U.S.C. § 5333(b) to Subrecipients participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make the following exceptions: (a) FTA will make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and (b) FTA reserves the right to make other exceptions as it deems appropriate.

- 7.33 Charter Bus Requirements** – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

- 7.34 School Bus Requirements** – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Pursuant to 49 USC 5323(f) or (g) as amended by MAP-21, 23 USC 133, 23 USC 142, and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for 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 shall not use federally funded equipment, vehicles, or facilities. Violations. If a Recipient or any Third-Party Participant that has operated school bus service in violation of FTA's School Bus laws and regulations, FTA may: (1) Require the Recipient or Third-Party Participant to take such remedial measures as FTA considers appropriate, or (2) Bar the Recipient or Third Party Participant from receiving Federal transit funds.

- 7.35 Drug & Alcohol Abuse and Testing** – Applicability – Operational service contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by Map-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.

Provision 7.36 applies to PLANNING, RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS

- 7.36 Patent and Rights Data** – Contracts involving experimental, developmental, or research work (\$10,000 or less, except for construction contracts over \$2,000).

This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such Certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant VIA intellectual property access and licenses deemed necessary for the work performed under this Agreement and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Agreement and shall, at a minimum, include the following restrictions: Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in an manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such a time as FTA may have either released or approved the release of such data to the public. This restriction on publications, however, does not apply to any contract with an academic institution. For purposes of this agreement, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. 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 below. 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.
 - a) Any subject data developed under the Contract, whether or not a copyright has been obtained; and
 - b) Any rights of copyright purchased by the Contractor using Federal Assistance in whole or in part by the FTA.
2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract 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 the 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 this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees 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 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. 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.
4. 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 otherwise granted to the Federal Government under any patent.
5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.
6. 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.

Provision 7.37 applies ONLY to States and Organizations that are being funded directly by the State with FTA grant funds.

7.37 Special Notification Requirements for States.

(a) Types of Information. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

- (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
- (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
- (3) The amount of federal assistance FTA has provided for a State Program or Project.

(b) Documents. The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

MISCELLANEOUS SPECIAL REQUIREMENTS

- 7.38 Recycled Products** – Applicability – All contracts for items designated by the EPA, when the purchaser or the Contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds.

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.

- 7.39 National Intelligent Transportation Systems Architecture and Standards** - The Recipient agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and to follow FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.

- 7.40 Bus Testing** – Applicability – Rolling Stock/Turnkey.

The Contractor [manufacturer] shall comply with 49 USC A5323(c) and FTA's implementing regulation 49 CFR 665 and shall perform the following:

1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient prior to the recipient's final acceptance of the first vehicle.

2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.

3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to the recipient's final acceptance of the first vehicle. If configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.

4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the US before October 1, 1988 and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

- 7.41 Pre-Award & Post-Delivery Audit Requirements** - Applicability – Rolling Stock/Turnkey.

The Contractor shall comply with 49 USC 5323(l) and FTA's implementing regulation 49 CFR 663 and 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 Contractor certifies compliance with Buy America, it shall submit documentation listing:

- A. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
- B. 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.
- C. Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.
- D. 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 buses will not be subject to FMVSS regulations.

7.42 Contracts Involving Federal Privacy Act Requirements – Applicability - When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

(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.

7.43 Additional Environmental and Resource Conservation Requirements:

7.43.1 Environmental Protection: The Contractor agrees to comply with the requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*; Section 14 of the Federal Transit Act, as amended, 49 U.S.C. app. 1610; the Council on Environmental Quality regulations, 40 CFR Part 1500 *et seq.*; and the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR Part 771 and 49 CFR Part 622.

7.43.2 Air Pollution: The Contractor agrees to comply with the joint FHWA/FTA regulations, "Air Quality Conformity and Priority Procedures for Use in Federal-Aid Highway and 49 CFR Part 623. The Contractor assures that any facilities or equipment acquired, constructed, or improved as part of the Project are or will be designed and equipped to limit air pollution as provided in accordance with the following EPA regulations: "Control of Air Pollution from Motor Vehicles and Motor Vehicles Engines," 40 CFR Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicles Engines: Certification and Test Procedures," 40 CFR Part 86; and "Fuel Economy of Motor Vehicles," 40 CFR Part 600; in accordance with applicable Federally-approved State Implementation Plan(s) (in particular, the Transportation Control Measures); and in accordance with applicable Federal regulations, directives and other standards.

7.43.3 Historic Preservation: The Contractor agrees to assist the Government to comply with Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, involving historic and archaeological preservation by:

- (a) Consulting the State Historic Preservation Officer on the conduct of investigations, in accordance Properties," 36 CFR Part 800, to identify properties and resources listed in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, and notifying VIA and the Government (FTA) of the existence of any such properties; and;
- (b) Complying with all Federal requirements to avoid or mitigate adverse effects upon such properties.

7.43.4 Mitigation of Adverse Environmental Effects: Should the performance under this Contract cause adverse environmental effects, the Contractor agrees to take all reasonable steps to minimize such effects pursuant to 49 U.S.C. app. 1610, all other applicable statutes, and the procedures set forth in 23 CFR Part 771 and 49 CFR Part 622. The Contractor agrees to undertake all environmental mitigation measures that may be identified as commitments in applicable environmental documents (such as environmental assessments, environmental impact statements, memoranda of agreements, and statements required by 49 U.S.C. 303) and with any conditions imposed by the Government as

part of a finding of no significant impact or a record of decision; all such mitigation measures are incorporated in and made part of this Contract by reference.

7.44 Access Requirements for Individuals with Disabilities: The Contractor agrees to comply with, and assure that any subcontractor, or third party contractor under this Project complies with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 *et seq.* and 49 U.S.C. 322; section 502(b) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 792(b), (7); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. app. 1612; and the following regulations and any amendments thereto:

- (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;
- (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Part 27;
- (c) U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 CFR Part 38;
- (d) Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR Part 35;
- (e) DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;
- (f) General Services Administration regulations, "Construction and Alteration of Public Buildings", "Accommodations for the Disabled" 41 CFR part 101-19;
- (g) Equal Employment Opportunity Commission (EEOCC) "Regulations to implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630;
- (h) Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR Part 64 Subpart F;
- (i) FTA regulations, "Transportation for Elderly and Disabled Persons," 49 CFR Part 609;
- (j) Architectural and Transportation Barriers Compliance Board regulations, "Minimum Guidelines and Requirements for Accessible Design," 36 CFR part 1190;
- (k) Architectural and Transportation Barriers Compliance Board regulations, "Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities," 26 CFR Part 1191; and
- (l) Architectural and Transportation Barriers Compliance Board regulations, "Americans With Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles," 36 CFR 1192.

PART 8
SMALL BUSINESS ENTERPRISE PROGRAM

On October 3, 2025, The U.S. Department of Transportation issued an interim final rule on the establishment of Disadvantaged Business Enterprise goals for federally funded projects.

Therefore, a goal has not been established for this project.

VIA Metropolitan Transit is committed to providing contracts and facilitating subcontracts to qualified small businesses whenever possible. The Office of Small Business Enterprise (OSBE) will assist prime contractors with opportunities to connect with suppliers of goods and services. OSBE's collaboration with supportive service partners will continue.

PART 9 FORMS

9.1 Forms to be Submitted with Proposal:

9.1.1 Offer and Certifications Form:

The undersigned Bidder/offeror having read and examined the Procurement (see section entitled "Definitions") documents, and which will ultimately comprise the Contract for the above designated Work, and thoroughly familiarized himself/herself with the factors which will affect the execution of the Work and the cost thereof, does hereby offer to furnish all materials and labor to complete the work set forth in this offer. All prices stated herein are firm and shall not be subject to escalation provided this offer is accepted within one hundred twenty (120) days after the official opening of the proposal.

Furthermore, the undersigned hereby declares that he has thoroughly reviewed all the Procurement documents (which will ultimately comprise the Contract) and has found no discrepancies with the information or accuracy of the documents that might affect either the cost or the time of the work.

The following certifications are made in connection with the bid/offer and the performance of the Contract (the references to "Bidder/offeror" shall also mean and apply to "Contractor" upon acceptance of the Bid/offer):

9.1.1.1 Good Faith Offer:

The Bidder/offeror hereby declares that only the persons or firms interested in the offer as principal or principals are named herein and that no other persons or firms then herein mentioned have any interest in this offer or in the contract to be entered into; that this offer is made without connection with any other person, company, or parties likewise submitting a bid or offer; and that it is in all respects for and in good faith.

9.1.1.2 Contractor Compliance with VIA's Drug/Alcohol-Free Workplace Policy:

The Bidder/offeror certifies that it will comply with VIA's Policies and Procedures for maintaining a drug and alcohol-free work environment, the essence of which is as follows:

1. While operating as a contractor or subcontractor performing work on VIA's premises, neither the Bidder/offeror or its subcontractor(s) will engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conduct of any contracting activity paid for by VIA. (Authority -- 49CFR 29.600 Subpart F)
2. At its sole option, VIA may elect to subject Contractor and/or subcontractor personnel to random testing for the presence of controlled substances when such employees are performing safety sensitive work on VIA's premises. (A copy of VIA's Drug and Alcohol Policy is available upon request.) (Authority -- 49CFR 40.1)
3. Upon determination of one or more confirmed instances of the presence of a controlled substance involving Contractor or subcontractor personnel, VIA may elect to take punitive action against Contractor including, but not limited to Termination for Default.

9.1.1.3 Affidavit of Non-Collusion:

The Bidder/Offeror certifies that:

The attached Bid/offer has been arrived at by the bidder independently, and has been submitted without collusion with, and without agreement, understanding, or planned common course of action with, any other vendor of materials, supplies, equipment, services described in the Procurement documents, designed to limit independent bidding or competition; and the contents of the Bid/offer have not been communicated by the bidder or its employees or agents, to any person not an employee or agent of the Bidder/offeror or its surety on any bond furnished with the Bid/offer, and

will not be communicated to any such person prior to the official opening of the bid or consideration of the proposal.

9.1.1.4 Certification of Restrictions on Lobbying:

The Bidder/offeror certifies that:

1. No Federally appropriated funds have been or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions (as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1431 (1/19/96).
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed for making or entering into this transaction imposed by 31 U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

THE BIDDER/OFFEROR CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE BIDDER/OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. 3801 ET. SEQ., APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

9.2 Offer:

By execution below, the Bidder/offeror agrees to faithfully and diligently complete the work as bid herein, and as specified in VIA's Procurement documents including those described in the section entitled "Contract" under Part 2, "Scope of Work, Terms and Conditions." Bidder/offeror understands and agrees that by execution below, it is offering to be bound by the terms contained or referenced in the section entitled "Contract" under Part 2, "Scope of Work, Terms and Conditions" and that, in the event VIA accepts this offer, such documents will form and constitute a legally binding contract.

By execution below, Bidder/offeror provides all the certifications and assurances described in this Bid/offer, and further certifies that all information provided or otherwise contained in its response to VIA's Procurement Solicitation is true and correct, including but not limited to the information contained in the required forms.

Signed this ____ day of _____, 20____.

PROPOSED CONTRACTOR (Bidder/offeror)

(Name should be the same as the response to question #1 "Business Questionnaire").

(individual or officer authorized to sign on behalf of Bidder/offeror)

(title, or legal capacity - attach power of attorney, if any)

ATTEST: (if Bidder/offeror is a corporate entity)

By _____ [Affix CORPORATE SEAL here]

(Title - usually, "corporate secretary")

ACKNOWLEDGED, SWORN TO and SUBSCRIBED before me, the undersigned authority, on this
____ day of _____, 20____, to certify which, witness my hand and seal of office.

Notary Public

AWARDED, executed and effective this ____ day of _____, 20____.

VIA Metropolitan Transit

By: _____

FORMS TO BE SUBMITTED WITH PROPOSAL

Marked forms are applicable to this solicitation

- | | | |
|------|-------------------------------------|---|
| 9.2 | <input checked="" type="checkbox"/> | Offer |
| 9.3 | <input checked="" type="checkbox"/> | Acknowledgement of Addenda |
| 9.4 | <input checked="" type="checkbox"/> | List of Similar Contracts/References (This form must be submitted for all Subcontractors) |
| 9.5 | <input checked="" type="checkbox"/> | Affidavit of Non-Collusion |
| 9.6 | <input checked="" type="checkbox"/> | Certification of Restrictions on Lobbying (This form must be submitted for all Subcontractors) |
| 9.7 | <input checked="" type="checkbox"/> | Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (This form must be submitted for all Subcontractors) |
| 9.8 | <input checked="" type="checkbox"/> | Business Questionnaire (This form must be submitted for all Subcontractors) |
| 9.9 | <input checked="" type="checkbox"/> | Conflict of Interest Questionnaire |
| 9.10 | <input checked="" type="checkbox"/> | Certificate of Interested Parties (Form 1295) |
| 9.11 | <input type="checkbox"/> | Contractor Utilization Plan |
| 9.12 | <input type="checkbox"/> | Intent to Perform |
| 9.13 | <input type="checkbox"/> | Documentation of Good Faith Efforts |
| 9.14 | <input checked="" type="checkbox"/> | Environmental and Sustainability Management System Contractor Briefing and Awareness Package |
| 9.15 | <input type="checkbox"/> | Buy America Certificate |

9.3 ACKNOWLEDGMENT OF ADDENDA

The undersigned acknowledges receipt of the following addenda to the Bidding Documents:

ADDENDUM NO. _____, DATED _____

ADDENDUM NO. _____, DATED _____

ADDENDUM NO. _____, DATED _____

ADDENDUM NO. _____, DATED _____

ADDENDUM NO. _____, DATED _____

NOTE: Failure to acknowledge receipt of all addenda may cause the bid to be considered nonresponsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the bid.

Name of Firm

Signature of Authorized Person

Address

Print Name

City State Zip Code

Position and/or Title

Type of Entity

Date

9.4 LIST OF SIMILAR CONTRACTS/REFERENCES (All Formal Solicitations)

1. Project:
Contact Person:
Company Name:
Telephone Number:
Fax Number:
E-mail Address:

2. Project:
Contact Person:
Company Name:
Telephone Number:
Fax Number:
E-mail Address:

3. Project:
Contact Person:
Company Name:
Telephone Number:
Fax Number:
E-mail Address:

4. Project:
Contact Person:
Company Name:
Telephone Number:
Fax Number:
E-mail Address:

Name of Firm

Signature of Authorized Person

Address

Print Name

City State Zip Code

Position and/or Title

Type of Entity

Date

9.5 AFFIDAVIT OF NON-COLLUSION (All Solicitations valued at \$25,000 and above)

I hereby swear (or affirm) under the penalty for perjury:

1. That I am the vendor (if the bidder is an individual), a member of the vendor partnership (if the vendor is a partnership), or an officer or employee of the vendor corporation having authority to sign on its behalf (if vendor is a corporation);
2. That the attached bid/proposal has been arrived at by the vendor independently, and has been submitted without collusion with, and without agreement, understanding, or planned common course of action with, any other vendor of materials, supplies, equipment, services described in the solicitation, designed to limit independent competition.
3. That the contents of the bid/proposal have not been communicated by the vendor or its employees or agents, to any person not an employee or agent of the vendor or its surety on any bond furnished with the bid/proposal, and will not be communicated to any such person prior to the official opening of the solicitation; and
4. That I have fully informed myself regarding the accuracy of the statements made on this affidavit.

Name of Firm

Signature of Authorized Person

Address

Print Name

City

State

Zip Code

Position and/or Title

Type of Entity

Date

Subscribed and sworn to before me this _____ day of _____, 20_____.

NOTARY PUBLIC

My Commission Expires: _____

9.6 CERTIFICATION OF RESTRICTIONS ON LOBBYING (All Solicitations valued at \$100,000 and above)

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of the fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, 20 ____.

Company Name: _____

By: _____
(Signature of company official)

**9.7 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
(Pursuant to 49 CFR Part 29, Appendix B) (All Solicitations Valued at \$25,000 and above)**

1. By signing and submitting this bid or proposal, the Bidder is providing the signed certification set out below.
2. The certification referred to in this paragraph clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, VIA may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to VIA if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "*covered transaction*," "*debarred*," "*suspended*," "*ineligible*," "*lower tier covered participant*," "*persons*," "*lower tier covered transaction*," "*principal*," "*proposal*," and "*voluntarily excluded*," as used in this paragraph, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549, 49 CFR Part 29. You may contact VIA for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by VIA.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and all solicitations for lower-tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under subparagraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, VIA may pursue available remedies including suspension and/or debarment.

CERTIFICATION

The prospective lower tier participant certifies, by submission of this offer, that neither it nor its "principals," [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

When the prospective lower tier participant is unable to certify to the statements in this certification, prospective lower tier participant shall attach an explanation to this proposal.

Signature _____

Typed or Printed Name _____

Title _____

Company _____

Date _____

BUSINESS QUESTIONNAIRE:
(For Solicitations Valued at \$5,000 and above)

This questionnaire must be submitted for all potential Contractors and subcontractors listed on the Schedule of Participation.

1. Name of Proposed Contractor ("Business", herein): _____
 Doing Business As: _____
Other business name, if applicable)
 EIN# _____ DUNS# _____
2. Business Mailing Address: _____
Street Address

City State Zip Code
3. Business Telephone Number: () _____ Fax Number: () _____
 E-mail address: _____
4. Business Type: ☐ Individual ☐ Corporation ☐ Partnership ☐ Joint Venture
5. Number of Years in Business: _____
6. Annual Gross Revenue: (M represents Millions)
☐ \$1M or less ☐ \$1M-\$5M ☐ \$5M-\$10M ☐ \$10M-\$16M ☐ \$16M or Over
7. Number of Employees:
☐ Less than 50 ☐ 50-100* ☐ 101-750 ☐ 751-1,000 ☐ 1,001 or over
8. Is Business Owned by Minority Ethnicity? ☐ Yes ☐ No
9. Ethnic Group: ☐ African American ☐ Hispanic American ☐ Native American
☐ Asian Pacific American ☐ Subcontinent Asian American ☐ Caucasian
☐ Other (Please Specify) _____
10. Female Owned Business? ☐ Male Owned Business? ☐
11. Type of Work Performed: ☐ Construction ☐ Wholesale/Distributor ☐ Manufacturing
☐ Professional Service ☐ General/Technical Service ☐ Retail
12. Please provide a brief description of your materials and/or services:

13. Is the Business a subsidiary of another entity? ☐ Yes ☐ No
14. Has the Business, or any officer or partner thereof, failed to complete a contract? ☐ Yes ☐ No
15. Is any litigation pending against the Business? ☐ Yes ☐ No
16. Has the Business ever been declared "not responsible"? ☐ Yes ☐ No
17. Has the Business been debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded or otherwise disqualified from bidding, proposing or contracting? ☐ Yes ☐ No
18. Has the Business been a defaulter, as principal, surety or otherwise? ☐ Yes ☐ No

REV 8/9/19

19. Has the government or other public entity requested or required enforcement of any of its rights under a surety agreement on the basis of a default or in lieu of declaring the Business in default? ☐Yes ☐No
20. Is the Business in arrears upon a contract or debt? ☐Yes ☐No
21. Are there any proceedings pending relating to the Business' responsibility, debarment, suspension, voluntary exclusion or qualification to receive a public contract? ☐Yes ☐No
22. Have liquidated damages or penalty provisions been assessed against the Business for failure to complete the work on time or for any other reason? ☐Yes ☐No
23. If a "yes" response is given under questions 14 through 23, please provide a detailed explanation including dates, references to contract information, contacts, etc. (attach additional pages as necessary). VIA reserves the right to inquire further with respect thereto.
24. List the name and business address of each person or legal entity that has a 10% or more ownership or control interest in the Business (attach additional pages as necessary).

25. Name of principal financial institution for financial responsibility reference.

Name of Bank: _____

Address: _____

City and State: _____

Officer familiar with bidders account: _____

Federal Taxpayer I.D. number: _____

26. Please indicate all current certifications held by your business:

_____DBE _____SBE

27. How were you notified of this solicitation? (Check all that apply—your response to this will help improve our outreach efforts.)

☐Newspaper

☐VIA Website

☐TX Marketplace

☐Direct Mail

☐E-mail

☐VIA Outreach

☐Telephone

☐Networking Event

☐Other (Identify) _____

I, individually and on behalf of the business named above, do by my signature below certify that the information provided in this questionnaire is true and correct. I understand that if the information provided herein contains any false statements or any misrepresentations: 1) VIA will have the grounds to terminate any or all contracts which VIA has or may have with the business; 2) VIA may disqualify the business named above from consideration for contracts and may remove the business from VIA's bidders list; or/and 3) VIA may have grounds for initiating legal action under federal, state or local law. **Note: This questionnaire is also a certification form; the information requested will be used to determine small business status as per 13 CFR Part 121. Additionally, this information will allow VIA to report the amount of subcontracting activity with all businesses that offer the commodities and services used by VIA.**

* Contractors that employ 50 or more transit related employees will be required to submit a copy of their EEO program.

Printed Name: _____ Title: _____

Signature of Owner: _____ Date: _____

(Owner, CEO, President, Majority Stockholder or Designated Representative)

Questions about this document should be directed to the Contracting Officer

REV 8/9/19

9.9 CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local government entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity, and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(1-a), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name of local government officer with whom filer has affiliation or business relationship.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ YES ☐ NO

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ YES ☐ NO

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director or holds an ownership interest in one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer, one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 _____
Signature of person doing business with the governmental entity Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

9.10 CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

1 Name of business entity filing form, and the City, State and Country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

VIA METROPOLITAN TRANSIT

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My name address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20_____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

ADD ADDITIONAL PAGES AS NECESSARY

Must file online at www.ethics.state.tx.us/File

9.11 CONTRACTOR UTILIZATION PLAN

CONFIDENTIAL INFORMATION
REQUIRED SUBMITTAL

VIA METROPOLITAN TRANSIT
 Contractor Utilization Plan



Instructions: Prime Contractors/Consultants must complete this form by listing: 1) Name of the prime and **all proposed subcontractors**; 2) Contact Information; 3) Description of work to be performed/product to be provided;; 4) Age of the firm;; and 5) Percentage (%) of work to be performed.

1) Name of PRIME CONTRACTOR	2) Contact Person, Address, and Phone # of firm(s)	3) Description of Work: services provided. Where applicable, specify "supply" or "install" or both		4) Age of Firm		5) % of Work to be Performed
<i>Example:</i> ABC Prime Contractor	John Doe 123 Blvd San Antonio, TX 78213	Installation of shelters		25 years		90%
1) Name of SUBCONTRACTORS	(Please indicate below)					
<i>Example:</i> XYZ Subcontractor	Jim Davis 4567 Main St. San Antonio, TX 78210	Concrete padding		5 years		10%
Work to be completed by Prime Contractor and all subcontractors must TOTAL 100% →						

This Contractor Utilization Plan (CUP) must be completed as instructed above and include the prime contractor and all subcontractors proposed on this project, including dollars and % of work committed. **If column 7 does not total 100%, the bid submittal may be considered non-responsive.** The undersigned will enter into a formal agreement with all proposed subcontractors for work listed in the CUP upon execution of a contract with VIA. The Contractor agrees to the terms of this CUP by signing below.

 Signature of Authorized Representative of Prime

 Date Signed

1) Name of SUBCONTRACTORS	2) Contact Person, Address, and Phone # of firm(s)	3) Description of Work, services provided. Where applicable, specify "supply" or "install" or both		4) Age of Firm		5) % of work to be performed
SUBCONTRACTORS (continued)	(Please indicate below)					
Work to be completed by Prime Contractor and all subcontractors must TOTAL 100% →						

This Contractor Utilization Plan (CUP) must be completed as instructed above and include the prime contractor and all subcontractors proposed on this project, including dollars and % of work committed. **If column 7 does not total 100%, the bid submittal will be considered non-responsive.** The undersigned will enter into a formal agreement with the proposed DBE firms for work listed in the CUP upon execution of a contract with VIA. The Contractor agrees to the terms of this CUP by signing below and submitting the Intent to Perform as completed by the DBE subcontractors.

Signature of Authorized Representative of Prime

Date Signed



Intent to Perform as SBE Subcontractor

IFB/RFP # _____

Please **STOP HERE** only if the following statement is true: “The Prime Contractor is a certified SBE firm and will self-perform 100% of the contract. No subcontractors will be utilized in performing the requirements of this contract.”

All other Prime Contractors must submit a completed Form 9.1.9 – Intent to Perform for SBE Goal Requirements for each SBE Subcontractor listed on Form 9.1.8 – Contractor Utilization Plan – Small Business Enterprise.

1. Name of First Tier Certified SBE Subcontractor _____

2. The undersigned is either certified under the Texas Unified Certification Program (TUCP) as SBE or will be at the time this solicitation is due.

(NOTE: In accordance with 49 CFR (Code of Federal Regulations) Part 26, VIA and ATD Board policy, SBE firms participating in VIA's SBE Program must have their certification status with a TUCP Certifying Agency by the due date established for this IFB/RFP.)

3. SBE Goal: The undersigned is prepared to perform the following described work and/or supply the material(s) listed in connection with the above project (where applicable specify “supply” or “install” or both)

(Name of First Tier SBE Subcontractor)

(Signature of Authorized Representative)

(Phone Number)

(Date Signed)

(Name of Prime Company)

(Signature of Authorized Representative)

(Phone Number)

(Date Signed)

9.13 DOCUMENTATION OF GOOD FAITH EFFORTS – SBE Goal Requirement

Informational Reference

If the Proposer cannot fully meet the SBE goal of this Contract, the Proposer shall complete Section 9.1.10 Documentation of Good Faith Efforts – SBE Goal Requirement **and attach documentation demonstrating the Proposer's Good Faith Efforts**. The Office of Diversity and Federal Compliance (ODFC) has the authority to make a fair and reasonable judgment regarding whether a Proposer made adequate Good Faith Efforts. Proposers are required to demonstrate Good Faith Efforts with additional documentation as applicable including call logs, posted advertisement, attendance to pre-bid/submittal meetings, and records of negotiation.

The following is a list of actions which the ODFC considers as part of the Proposer's Good Faith Efforts to obtain SBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

1. Conducting market research to identify small business contractors and suppliers and soliciting through all available means the interest of all certified SBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all SBEs listed in the Texas Unified Certification Program (TUCP) database
2. Selecting portions of the work to be performed by SBEs in order to increase the likelihood that the SBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate SBE participation, even when the Proposer might otherwise be able to perform these work items with its own resources. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates SBE participation.
3. Proposer should solicit the interest to allow reasonable time for SBEs to respond to the solicitation and submit a timely offer for the subcontract. Providing interested SBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation. The Proposer should determine with certainty if the SBE firms are interested in taking appropriate steps to follow up from initial solicitations.
4. (A) Negotiation in good faith with interested SBE firms. It is the Proposer's responsibility to make a portion of the work or material needs consistent with the available SBE subcontractors and suppliers, so as to facilitate SBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of SBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected; and evidence as to why additional Agreements could not be reached for the SBEs to perform the work.

(B) A Proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including SBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using SBEs is not in itself sufficient reason for a Proposer's failure to meet the contract SBE goal, as long as such costs are reasonable. The ability or desire of the Proposer to perform the work of a contract with its own workforce does not relieve them of the responsibility to make Good Faith Efforts.

However, Proposers are not required to accept higher quotes from SBE firms if the price difference is excessive or unreasonable.

5. (A) A Proposer must use objective criteria and perform a thorough investigation of a SBE's capabilities to determine whether a SBE is qualified to perform the needed work. The SBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for rejection or non-solicitation of bids in the Proposer's efforts to meet the project goal. Another practice considered an insufficient Good Faith Effort is the rejection of the SBE firm because its quotation for the work was not the lowest received bid. However, nothing in this paragraph shall be construed to require the Proposer to accept unreasonable quotes in order to satisfy contract goals.

(B) A Proposer's inability to find a replacement SBE at the original price is not alone sufficient to support finding that Good Faith Efforts have been made to replace the original SBE firm. The fact that the Proposer has the ability and/or desire to perform the contract work with its own workforce does not relieve the Proposer of the obligation to make Good Faith Efforts to find a replacement SBE, and it is not a sound basis for rejecting a prospective reasonable quote from a replacement SBE firm.
6. Making efforts to assist interested SBE firms in obtaining bonding, lines of credit, or insurance as required by the Proposer.
7. Making efforts to assist interested SBE firms in obtaining necessary equipment, supplies, materials, or related assistance or services.

9.13 DOCUMENTATION OF GOOD FAITH EFFORTS – SBE Goal Requirement



DATE: _____

Please read the statements below and check the box that is applicable to you.

- ☐ The Proposer **is able to meet** the SBE contract goal and has completed and submitted 9.1.8 – Contractor Utilization Plan and 9.1.9 – Intent to Perform for SBE and/or DBE Goal Requirements.

(Please note: Both SBEs and DBEs can be used to satisfy SBE goals.)

If the above statement is true, please **STOP HERE**.

- ☐ The Proposer **is unable to meet** the SBE contract goal. Please continue to page 2 of this section.

I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

PRINTED NAME: _____ SIGNATURE: _____ TITLE: _____

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

9.13 DOCUMENTATION OF GOOD FAITH EFFORTS – SBE Goal Requirement



DATE: _____

If you have not demonstrated attainment of the required DBE participation needed to meet the contract goal, you MUST complete and submit this form along with 9.1.8 – Contractor Utilization Plan – Small Business Enterprise (SBE) and 9.1.9 – Intent to Perform for SBE Goal Requirements.

PROPOSERS: If the Proposer is unable to meet the SBE Goal, ALL SECTIONS of this completed form MUST BE furnished along with all required supporting documentation at the time of bid submittal. **Should the Proposer fail to comply with this request, the bid shall be considered NON-RESPONSIVE.**

Proposal # _____

Project Title: _____

_____ has not fully satisfied the requirements of the bid/proposal specifications for the above bid by VIA in the following manner. *Please check the appropriate box.*

- ☐ The Proposer is unable to meet the SBE contract goal, however the Proposer is committed to a minimum of _____ % SBE and/or DBE utilization on this contract and has completed 9.1.9 – Intent to Perform for SBE Goal Requirements, along with all Good Faith Efforts documentation.
- ☐ The Proposer is unable to meet the SBE contract goal and has completed and submitted 9.1.8 – Contractor Utilization Plan along with all required supporting Good Faith Efforts documentation.

I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

PRINTED NAME: _____ SIGNATURE: _____ TITLE: _____

INSTRUCTIONS: Please, complete Sections A through C, and include all specific supporting documentation, as outlined below. If you feel that any section of this form is Not Applicable, DO NOT write Not Applicable or N/A. You must provide a written statement as to why the section is Not Applicable to your response.

- ☐ SPECIFIC PORTIONS OF WORK IDENTIFIED FOR SBE and/or DBE SUBCONTRACTOR(S): Complete Section A.
- ☐ NOTIFYING CERTIFIED SBEs OF CONTRACTING OPPORTUNITIES: Please, attach a copy of the announcement and written notices distributed to SBEs and/or DBEs. *Example: Newspaper announcement, mail or email correspondence, community outreach notices, etc.* Complete Section B.
- ☐ INITIAL SOLICITATION & FOLLOW-UP: Proposers may solicit from any state Unified Certification Program (UCP). Complete Section C.

9.13 DOCUMENTATION OF GOOD FAITH EFFORTS – SBE Goal Requirement



- A. SPECIFIC PORTIONS OF WORK IDENTIFIED FOR DBE SUBCONTRACTOR(S):** You MUST list all selected scopes or portions of work to be performed by SBE and/or DBE firms in order to increase the likelihood of meeting the contract goal for this project and the estimated value of each scope or portions of work identified. Use additional pages, if warranted.

Scope or Portions of Work Identified for SBE and/or DBE Participation			% of Contract Value
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
TOTALS			

9.13 DOCUMENTATION OF GOOD FAITH EFFORTS – SBE Goal Requirement



B. NOTIFYING CERTIFIED DBEs OF CONTRACTING OPPORTUNITIES: Please complete all fields below, list all sources of advertisement and outreach to SBE firms.

I. Did you attend all pre-proposal and/or outreach meeting(s) scheduled by VIA to inform SBEs of subcontracting opportunities?

YES	NO	Date of Meeting

II. You **MUST** identify publications in which announcements or notifications were placed and published. Include a copy of each notification. *Shaded area to be completed by ODFC office staff only.*

Source of Advertising/Outreach	What subcontracting areas of work were advertised?	Date of Ad	Deadline for Submittal		ODFC VERIFICATION
			Date	Time	
1.					
2.					
3.					
4.					

C. **INITIAL SOLICITATION & FOLLOW-UP:** You **MUST** complete all fields below, list all certified SBE and/or DBE firms that received written notification of work items to be subcontracted. If no response was received to the initial solicitation, you must indicate when firms received subsequent telephone or email solicitation (list delivery or read receipts date and certified firm's response). **You must include copies of the physical and/or electronic notice(s) sent to certified firms.**

SBE Firm & Contact	Phone	Scope of Work Solicited	Date of Written Notification	Result of Initial Communication	Date of Follow-Up and Method of Contact		Result of Follow-Up Communication
Ex: ABC Company/Jane Smith	(337) 321-4567	Legal Services	01/01/19	Will submit quote	01/10/19	E	Quote received on 01/12/19
1.							
2.							



9.13 DOCUMENTATION OF GOOD FAITH EFFORTS – SBE Goal Requirement

SBE Firm & Contact	Phone	Scope of Work Solicited	Date of Written Notification	Result of Initial Communication	Date of Follow-Up and Method of Contact (P = Phone, F = Fax, E = Email)		Result of Follow-Up Communication
Ex: ABC Company/Jane Smith	(337) 321-4567	Legal Services	01/01/19	Will submit quote	01/10/19	E	Quote received on 01/12/19
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							



9.14

Environmental and Sustainability Management System Contractor Briefing and Awareness Package

INTRODUCTION

As an ISO 14001 organization, it is VIA's objective and intent to ensure that contractors, suppliers, and vendors working for or on behalf of VIA adhere to all the applicable and relevant elements of the program.

If you have questions or concerns, you are directed to contact VIA's Procurement Department before starting work activities.

VIA'S ENVIRONMENTAL AND SUSTAINABILITY MANAGEMENT SYSTEM POLICY

The Environmental and Sustainability Management System (ESMS) Policy for VIA Metropolitan Transit applies to all land, structures, equipment, employees, and contractors located at **VIA Operational Facilities**. This includes all operational, administrative, maintenance and storage functions. VIA is committed to effective management of environmental impacts through the implementation of an Environmental and Sustainability Management System (ESMS). Each of VIA's employees is entrusted with incorporating the actions necessary in their work decisions and activities to fulfill this commitment.

By enacting this Environmental & Sustainability Management System, VIA commits to:

- Protecting the environment, pollution prevention, reduction of waste, and minimizing the consumption of natural resources
- Seeking the implementation of sustainable alternatives to traditional sources of fuel for our bus fleet and using sustainable energy as a percentage of VIA's overall electrical consumption
- Meeting or exceeding compliance obligations to which VIA subscribes which includes all federal, state, and local requirements.
- Evaluating environmental performance and progress through periodic review of the ESMS and related objectives
- Meeting the environmental expectations of our internal and external interested parties
- Educating, training, and motivating employees to carry out tasks in an environmentally responsible manner.

VIA is committed to continual improvement of the ESMS to enhance environmental performance. This Policy will be communicated to all VIA staff, contractors, and suppliers, and be available to the public through selected media.

SIGNIFICANT ASPECTS & IMPACTS

The ISO 14001 standard defines an "environmental aspect" as an "element of an organization's activities, products, and services that can interact with the environment." Action plans have been put into place to control these aspects and minimize the associated negative environmental impacts. These significant environmental aspects are the focus of VIA's ESMS.

VIA's significant environmental aspects from organizational activities include:

- Recycling & Waste Management
- Stormwater & Wastewater Quality
- Underground Storage tanks
- Spill Potential
- Emissions Control

ACKNOWLEDGEMENT

*****Chemicals and products composed of containing Per- and Polyfluoroalkyl Substances (PFAS) are not allowed for procurement or permitted for use within VIA operations or on VIA premises*****

My signature below acknowledges that I have read and understood VIA's Environmental Policy and Significant Aspects.

Please return this form to:

Procurement Department
VIA Metropolitan Transit
800 W. Myrtle
San Antonio, TX 78212
www.viainfo.net

Name _____

Title _____

Company _____

Address _____

Telephone _____

Email _____

Signature _____

(Complete one of two sections)

CERTIFICATE OF COMPLIANCE WITH SECTION 165(a). Federal Law found at 49 U.S.C. 5323(j) and 49 CFR Part 661 permits FTA participation on the contract only if steel and manufactured products used in the contract are produced in the United States. The bidder hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5

Date

Signature

Name

Type of Entity

Position and/or Title

OR

CERTIFICATE OF NON-COMPLIANCE WITH SECTION 165(a). The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) but may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2)(A), 49 U.S.C. 5323(j)(2)(B), or 49 U.S.C. 5323(j)(2)(D) and the applicable regulations in 49 CFR 661.7

Date

Signature

Name

Type of Entity

Position and/or Title

9.16 Forms to be Submitted After Award



9.16.1 Contractor Affidavit of Non-use of Asbestos:

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, personally appeared _____, hereinafter referred to as "Affiant," the authorized representative of _____, "Contractor," VIA Project no. _____, for construction of _____ (type and location of facility) who, being by me first duly sworn, upon oath deposed and stated:

I am over the age of 18 years and am fully competent and authorized to make this affidavit on behalf of Contractor. I have personal knowledge of the facts set forth below and they are all true and correct.

Contractor was awarded a contract for, and was the Prime Contractor for the construction of the project referenced above, hereinafter known as "Project," for VIA Metropolitan Transit (VIA), hereinafter known as "Owner," and

WHEREAS asbestos in a dust form is a recognized health hazard, and

WHEREAS the Owner shall not have any materials containing asbestos in any amount used or incorporated into the construction of the Project and Contractor was contractually bound accordingly;

THEREFORE, the Affiant certifies, affirms and understands the following:

1. The Contractor, any person, firm or organization representing or represented by the Contractor, or employed by the Contractor has not caused or allowed any asbestos material to be incorporated into the construction of the Project.
2. Any material containing asbestos found at any time, including after contract completion, to have been brought onto the site or incorporated into the Project construction by the Contractor, or any subcontractors, sub-subcontractors or suppliers, shall be removed and disposed of in accordance with the then current governmental regulatory standards. All costs associated with the inspection, sampling, testing, removal and disposal of material containing asbestos as described above shall be paid by the Contractor in accordance with the Contract.
3. Contractor further understands that Owner shall also look to the Contractor for any and all damages to Owner which result from the inability of the Owner to use any portion or all of the project due to the incorporation of asbestos materials.
4. Contractor further understands that Owner will pursue reimbursement of any cost, compensation or damages from the Contractor by any and every means within Owner's right and power.

Signature of Affiant

On _____, 20____, personally appeared _____ and having been duly sworn by me, subscribed to the foregoing affidavit and has stated that the facts stated therein are within his/her personal knowledge and are true and correct.

Notary Public, State of Texas



9.16.2 SUBCONTRACTOR PARTICIPATION FOR PAYMENT

This is to certify that for the month of _____, the following subcontractor(s) and supplier(s) will be paid:

Name of subcontractor(s) or supplier(s)	Amount
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Name of Authorized Person

Signature of Authorized Person

Date

9.17 Other Forms

9.17.1 Bid Bond Form (recommended)



KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned _____ as Principal, and

_____ as Surety, are hereby held and firmly bound unto VIA Metropolitan

Transit, San Antonio, Texas (hereinafter "VIA") as purchaser in the penal sum of _____ for payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Signed, this _____ day of _____, 20____. The condition of the above obligation is such that whereas the Principal has submitted to VIA a certain Bid, attached hereto and hereby made a part hereof to enter into a contract in writing, for the

NOW, THEREFORE,

- (a) If said Bid shall be rejected, or in the alternate,
- (b) If said Bid shall be accepted and if Principal shall perform all things required by the agreement to be performed prior to a Notice to Proceed and if Principal shall furnish a bond for his faithful performance of said contract and a bond for the payment of all persons performing labor or furnishing materials in connection therewith in accordance with the Invitation for Bids and shall in all other respects perform the agreement created by the acceptance of said Bid,

then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which VIA may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS HEREOF, the Principal and Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Principal (L.S.)

Surety

By _____



PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

ATTEST:

(Principal)

(Principal) Secretary

(SEAL)

(Witness as to Principal)

(Address)(Address)

(City State Zip Code)

By: _____
(Title)

(City State Zip Code)

(Surety)

ATTEST:

(Surety) Secretary

(SEAL)

(Witness as to Surety)

(Address)

(City State Zip Code)

(Attorney-in-Fact)

(Address)

(City State Zip Code)

**PART 10
PRICE PROPOSAL**

10.1 Price Proposal

10.1.1 Responsiveness: To be responsive, proposals must include this form completed in ink or by machine, as indicated, and specified in 1.3.5, Receipt of Proposal, and 1.8, Price Proposal Submission. Any modifications to this form or to any of the terms of the Request for Proposal will render this proposal non-responsive.

10.1.2 Completion: The Proposer shall respond to each item on the Price Proposal.

10.1.3 Offer: _____ offers to supply goods or services to VIA Metropolitan Transit without exception according to all terms of the Request for Proposal issued by VIA June 18, 2026 for **VIA Solicitation #** 26-379 in consideration of payment of the following price:

***Please see and complete Excel file “26-379 Price Proposal”**

PROMPT PAYMENT DISCOUNT. The following prompt payment discount is hereby offered for payments made within the period specified after receipt of invoice.

_____ % _____ days