



VIRGINIA RAILWAY EXPRESS
AMENDMENT OF SOLICITATION
REQUEST FOR PROPOSALS (RFP)
ADDENDUM No. 2

Issued: October 20, 2025

RFP No.: 025-014 **Title: Construction Management Services for Construction of VRE Broad Run Expansion**

Contact: Ramon Paez **Email:** rpaez@vre.org **Telephone:** (703) 838-5447

This addendum is hereby incorporated into the solicitation documents of the above referenced RFP. The following items are clarifications, corrections, additions, deletions and/or revisions to the RFP, which shall take precedence over the original documents. ***Bold and Italics*** indicate additions while deletions are indicated by ~~strike through~~. Offerors must acknowledge receipt of this addendum by returning a signed original with their Proposal.

DESCRIPTION OF AMENDMENT

The above numbered solicitation is amended as follows:

1. PART II- PROCUREMENT SCHEDULE

A. Note the following revision to Proposals Due (Closing Date and Time):

REVISE:

October ~~23~~ ***30***, 2025 at 2:00 P.M. EST

B. Note the following revision to Interviews (Optional):

REVISE:

~~November 24~~ ***December 3***, 2025 from 10:00 A.M. to 4:00 P.M. EST

2. PART XII- ATTACHMENT B- REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF BIDDERS/OFFERORS

A. Note the following revision to Attachment B- Representations, Certifications and Other Statements of Bidders/Offerors, Attachment G, “Disadvantaged Business Enterprise Statement”.

REVISE:

VRE commits itself to an active effort to involve certified Disadvantaged Business Enterprises (DBE) in contracting opportunities, to increase competition, and to broaden the base of support for public transit. For Federal Fiscal Years 20225 – 20247, VRE has established a goal of ~~14.7~~ **0.00%** for the utilization of DBEs. To ensure that DBEs have the maximum practicable opportunity to compete for contract and subcontract work, we ask that the Bidder/Offeror describe below, how its organization will assist VRE with its commitment toward achieving its ~~14.7~~ **0.00%** goal.

3. **PART XII- ATTACHMENT D- FEDERAL TRANSIT ADMINISTRATION (FTA) THIRD PARTY CONTRACT PROVISIONS**

- A. Note the following revision to Attachment D- Federal Transit Administration (FTA) Third Party Contract Provisions, Provision No. 28, “Disadvantaged Business Enterprise (DBE), Paragraph c”.

REVISE:

c. VRE’s overall goal for DBE participation is set at **0.00%** ~~14.7%~~. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling **0.00%** ~~not less than 14.7%~~ of the total Contract price.

4. **PART XII- ATTACHMENT E- DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROVISIONS AND FORMS**

- A. Note the following deletion to Attachment E- Disadvantaged Business Enterprise (DBE) Provisions and Forms.

DELETE:

Delete Attachment E in it’s entirety.

5. **LIST OF ADDENDUM NO. 1 DOCUMENTS (IN PDF)**

- A. Part XII, Attachments, insert Attachment B- Representations, Certifications and Other Statements of Bidders/Offerors annotated “Addendum No. Two” included in this addendum.
- B. Part XII, Attachments, insert Attachment D- Federal Transit Administration (FTA) Third Party Contract Provisions annotated “Addendum No. Two” included in this addendum.

6. Except as specifically amended herein, all other terms and conditions of this solicitation remain unchanged and in full force and effect.

Offerors must acknowledge receipt of this amendment by returning a signed original with the Proposal package prior to the hour and date specified in the solicitation. Failure to acknowledge receipt of this document may be grounds to declare your Proposal non-responsive.

Company _____

Address _____

City _____ State _____ Zip Code _____

Name of Person Authorized to Sign _____
Print

Signature _____ Date _____

ATTACHMENT B

Representations, Certifications and Other Statements of Bidders/Offerors

ADDENDUM NO. TWO

Company Name _____

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Addendum No. Two



REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF BIDDERS/OFFERORS

The following forms shall be completed with signatures and incorporated with the Bid/Proposal.

ATTACHMENT NO.	TITLE
A.	Company Information Questionnaire
B.	Conflict of Interest Certification
C.	Trade Secrets or Proprietary Information
D.	Certification of Primary Participants Regarding Debarment, Suspension, and Other Ineligibility and Voluntary Exclusion
E.	Certification of Restrictions on Lobbying
F.	Non-Collusion Affidavit
G.	Disadvantaged Business Enterprise Statement
H.	Seismic Safety Certification of Compliance
I.	Federal Tax Liability and Recent Felony Convictions Certification

THESE FORMS SHALL NOT BE RETYPED



A. COMPANY INFORMATION QUESTIONNAIRE

1. Business Entity Identification & Ownership Disclosure

Company: _____

Contact Person: _____

Title: _____

Address: _____

Email Address: _____

Telephone No.: _____ Fax No.: _____

Check (☑) which of the following applies:

Sole Proprietor: Partnership: Limited Partnership:

Corporation: Limited Liability Corporation: Joint Venture:

Organized under the laws of the State of: _____

Commonwealth of Virginia License No.: _____

Federal Identification No.: _____

SAM.gov Unique Entity ID No.: _____

Principal Place of Business: _____

Check (☑) which of the following applies:

Small, Woman-owned and Minority-owned Business (SWaM):

*Certified by: _____

***(The SWaM certification must be attached hereto.)**

Disadvantaged Business Enterprise (DBE):

*Certified by: _____

***(The DBE certification must be attached to the DBE statement included herein.)**



2. **State Corporation Commission (SCC) Identification**

The Bidder/Offeror must be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise by law. The Bidder/Offeror shall include in its Bid/Proposal the identification number issued to it by the Virginia State Corporation Commission (SCC). If the Bidder/Offeror is a joint venture which does not have a SCC identification number, then the name of the joint venture shall be provided, all members of the joint venture shall be identified by full name, and each member of the joint venture shall provide its SCC identification number or establish its exemption from such requirement.

Check (☑) which of the following applies and provide the requested information:

- Bidder/Offeror is a Virginia business entity organized and authorized to transact business in Virginia by the SCC. The Bidder's/Offeror's identification number issued by the SCC is _____.
- Bidder/Offeror is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and the Bidder's/Offeror's identification number issued to it by the SCC is _____.
- Bidder/Offeror is a Virginia joint venture organized and authorized to transact business in Virginia by the SCC.
- Bidder/Offeror is a joint venture which does not have an identification number issued to it by the SCC, but each member of the joint venture is authorized to transact business in Virginia and the SCC identification numbers issued to each member of the joint venture are as follows: _____.
- Bidder/Offeror does not have an identification number issued to it by the SCC and such Bidder/Offeror is not required to be authorized to transact business in Virginia by the SCC for the following reason(s): _____.

Attach additional sheets to explain in further detail why the Bidder/Offeror is not required to be authorized to transact business in Virginia. A Bidder's/Offeror's failure to submit supporting details may result in its Bid/Proposal being deemed non-responsive.

3. **Annual Gross Receipts:**

Indicate by checking (☑) the appropriate block that applies to your firm:

- Less than \$7,500,000
- More than \$7,500,000



4. **Virginia State & Local Government Conflicts of Interest and Public Procurement**

This solicitation is subject to the provisions of Section 2.2-3100 et. seq., of the Code of Virginia (1950), as amended, (The Code), the State and Local Government Conflict of Interests Act, Section 2.2-4300 et. seq. of the Code, the Virginia Public Procurement Act, the Virginia Governmental Frauds Act(Code of Virginia § 18.2-498.1 et seq.), and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.).

The Bidder/Offeror is or is not aware of any information bearing on existence of any potential conflicts of interest or violation of ethics in public contracting. If yes, explain below.

5. **Other Information**

A. General nature of the services performed and/or goods provided by the company:

B. Indicate the length of time the company has been in business providing this type of service and/or product?

_____ Years _____ Months

C. Has the company ever failed to complete any work awarded to it? If yes, explain. *(Attach additional sheets of paper if necessary.)*

D. Has the company ever defaulted on a contract? If yes, explain. *(Attach additional sheets of paper if necessary.)*



E. The Bidder/Offeror certifies, to the best of its knowledge and belief that the Bidder/Offeror and/or any of its principals, Subcontractors or any persons associated therewith in the capacity of owner, partner, director, officer or any other position:

- (1) is or is not currently under suspension, debarment, voluntary exclusion, or determined ineligible by any Federal agency;
- (2) has or has not been suspended, debarred, voluntarily excluded, or determined ineligible by any Federal agency within the last three (3) years;
- (3) has or has not a proposed debarment pending;
- (4) has or has not been indicted, convicted, or had a civil judgment rendered against it or them by a court competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years; or
- (5) has or has not read and is or is not in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a) and the regulations issued there under. The Bidder/Offeror also certifies that its Subcontractors are in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a) and the regulations issued there under.

For any condition noted, indicate: 1) to whom it applies, 2) initiating agency, and 3) date of action. (Attach additional sheets of paper if necessary.)

6. Safety History

A. The Bidder/Offeror does or does not have an Experience Modification Rate (EMR).

B. If yes, provide the Bidder’s/Offeror’s EMR for workers compensation during the past three years:

	EMR
2022	
2023	
2024	

(VRE reserves the right to require the Bidder/Offeror to provide a copy of their most recent EMR letter documenting their EMR value.)

Any of the above conditions, documented in Sections 1 through 6, of the Company Information Questionnaire will not necessarily result in denial of award, but will be considered in determining the Bidder’s/Offeror’s responsibility.

Providing false information may result in Federal criminal prosecution or administrative sanctions.

CERTIFICATION

I certify that this Bid/Proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a Bid/Proposal for the same services, materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of the State and Federal law and can result in fines, prison, sentences, and civil damage awards.

I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of this Invitation for Bids/Request for Proposals and certify that I am authorized to sign for the Bidder/Offeror.

Signature: _____ Date: _____

Name (Printed): _____ Title: _____



7. **FIRM'S CONTACT INFORMATION FOR THIS PROJECT**

Program Manager: _____

Telephone: _____

Fax Number: _____

Email: _____

Contract Administrator: _____

Telephone: _____

Fax Number: _____

Email: _____



B. CONFLICT OF INTEREST CERTIFICATION

I, whose name is subscribed below, a duly authorized representative and agent of the entity submitting this bid/proposal to VRE in response to this solicitation and on behalf of the Bidder/Offeror certify that:

1. Neither the Bidder/Offeror nor any affiliated entity has, within the past five years, been employed by or represented a deliverer of services that reasonably could be expected to be considered for purchase by VRE as a result of this solicitation;
2. If the Bidder/Offeror is awarded a contract under this solicitation and during the term of that contract prepares an invitation for bid or request for proposal for or on behalf of VRE, the Bidder/Offeror must not (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any potential bidder or offeror information concerning the procurement that is not available to the public.
3. The Bidder/Offeror will not solicit or accept any commissions or fees from vendors who ultimately furnish services to VRE as a result of any contract award made as a result of this solicitation.

Signature: _____ Date: _____

Bidder's/Offeror's Name (Printed): _____ Title: _____



C. **TRADE SECRETS OR PROPRIETARY INFORMATION**

Trade secrets or proprietary information submitted by a Bidder/Offeror in connection with a procurement transaction will not be subject to public disclosure under the Virginia Freedom of Information Act. However, a Bidder/Offeror seeking to protect submitted data or materials from disclosure must, before or upon submission of the data or materials, identify the data or materials to be protected and state the reasons why protection is necessary.

Please mark one:

- No, the Bid/Proposal that I have submitted does not contain any trade secrets and/or proprietary information.

- Yes, the Bid/Proposal that I have submitted does contain trade secrets and/or proprietary information.

If “yes,” you must clearly identify below the exact data or materials to be protected and list all applicable page numbers of the Bid/Proposal that contain such data or materials:

State the specific reason(s) why protection is necessary:

A Bidder, Offeror or Contractor shall not designate as trade secrets or proprietary information its entire Bid or Proposal.

If you fail above to identify the data or materials to be protected or to state the reason(s) why protection is necessary, you will not have invoked the protection of Section F of §2.2-4342 of the Code of Virginia. Accordingly, upon the award of a contract, the Bid/Proposal will be open for public inspection consistent with applicable law.



(This certification must be executed by the Contractor and Subcontractors)

D. CERTIFICATION OF PRIMARY PARTICIPANTS REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

(The Contractor)

or

(Subcontractor)

This contract is a covered transaction for purposes of 2 CFR Part 1200. The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. and must include the requirement in any lower tier covered transaction it enters into.

By signing and submitting its Bid or Proposal, the Bidder or Offeror certifies as follows:

The certification in this clause is a material representation of fact relied upon by VRE. If it is later determined that the Bidder or Offeror knowingly rendered an erroneous certification, in addition to remedies available to VRE, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Bidder or Offeror agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this Bid or Proposal is valid and throughout the period of any contract that may arise from this offer. The Bidder or Offeror further agrees to include a provision requiring such compliance in its lower tier covered transactions.

The prospective participant certifies to the best of its knowledge and belief that it and the principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or Local department or agency;
- (b) Have not within a three (3) year period preceding this Bid/Proposal been convicted of or had a civil judgment rendered against them or commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction: violation of Federal or State antitrust statute or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;



- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three (3) year period preceding this Bid/Proposal had one (1) or more public transactions (Federal, State, or Local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this Bid/Proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to five (5) years, or both.

Signature of Contractor's Authorized Official

Company Name

Name (Printed) of Contractor's Authorized Official

Title of Contractor's Authorized Official

Date

I am unable to certify to the above statements.

(If the Prime Contractor or Subcontractor is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this Bid/Proposal).

(Prime Contractor) _____

or

(Subcontractor) _____



(This certification must be executed by the Contractor and Subcontractors)

E. CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____ hereby certify on behalf
(Name of the Firm's Official)

of _____ that:
(Name of the Firm/Contractor)

(1) No federal appropriated funds have been paid 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 office or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a 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. No federal assistance funds shall be used for activities designed to influence Congress or State Legislature on legislation or appropriations, except through proper, official channels.

(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 any agency, a Member of Congress, an office 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 contract under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of 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 a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, _____

By: _____
Signature

Name and Title: _____



(This Affidavit must be executed by the Contractor and Subcontractors)

F. NON-COLLUSION AFFIDAVIT

STATE OF _____

COUNTY OF _____

_____ being first duly sworn, disposes and says that they are

(Insert "sole owner", "partner," "president", or other title)

of _____

(Company name)

The Bidder/Offeror submitting this Bid/Proposal certifies that such Bid/Proposal was not made in the interest of or in behalf of any undisclosed person, partnership, company, organization or corporation; that such Bid/Proposal is genuine and not collusive or sham, and that said Bidder/Offeror has not been a party to any agreement to propose a fixed amount or to refrain from proposing and has not, directly or indirectly, by agreement, communication or conference with anyone attempted to induce action prejudicial to the interest of the Potomac and Rappahannock Transportation Commission and the Northern Virginia Transportation Commission, together known as the Virginia Railway Express, or of any Bidder/Offeror or anyone else interested in the proposed Contract.

Signed _____

Date _____



H. SEISMIC SAFETY- CERTIFICATE OF COMPLIANCE

(To be submitted with a Bid/Proposal for the construction of new buildings or additions to existing buildings.)

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

Date _____

Signature _____

Company Name _____

Title _____



I. FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS CERTIFICATION

The Bidder/Offeror must complete the following two certification statements. The Bidder/Offeror must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The Bidder/Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

1) The Bidder/Offeror represents that it is () is not () a corporation that has 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.

2) The applicant represents that it is () is not () a corporation that was convicted of a criminal violation under any Federal law within the preceding twenty-four (24) months.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

Tax Delinquency: A tax delinquency is 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.

The Bidder/Offeror agrees to require all Subcontractors to provide this certification and to flow this requirement down to participants at all lower tiers, without regard to the value of any subcontract.

Company Name: _____

Name of Signatory: _____

Signature: _____

Title: _____

Date: _____



ATTACHMENT D

Federal Transit Administration (FTA) Third Party Contract Provisions

ADDENDUM NO. TWO

Solicitation Provisions/Required Contract Clauses

Contract Subject to Federal Financial Assistance/Application of Provisions and Clauses

This Contract/project is funded in whole or in part by grants from the Federal Transit Administration (FTA) of the United States Department of Transportation. The award of any contract is subject to the requirements of financial assistance contracts between the Virginia Railway Express (hereinafter referred to as "VRE") and the U.S. Department of Transportation requiring compliance with purchasing procedures and standards as set forth in various federal statutes and regulations including 49 CFR Part 18, and Federal Transit Administration (FTA) Circular 4220.1G. The Contractor/Bidder/Offeror is required to comply with all terms and conditions prescribed for third-party contracts by the U.S. Department of Transportation, Federal Transit Administration (FTA).

Contractor/Bidder/Offeror is responsible for ensuring its compliance with all applicable FTA requirements. Additionally, Contractor/Bidder/Offeror is responsible for ensuring that subcontractors, at as many tiers of the Project as required, perform in accordance with the terms, conditions and specifications of the contract, including all applicable FTA requirements.

Upon request of VRE or FTA, Contractor/Bidder/Offeror shall provide evidence of the steps it has taken to ensure its compliance with the FTA requirements, as well as evidence of the steps it has taken to ensure subcontractor performance, and/or submit evidence of each subcontractor's compliance at all tiers.

The following solicitation provisions and required contract clauses will be incorporated by reference in any contract resulting from this solicitation issued by VRE. These solicitation provisions and required contract clauses are in addition to other General Specifications, Special and Technical Specifications, Bidding or Proposal Procedures, and Bid or Proposal Forms set forth in other sections of this solicitation which may also be incorporated by reference in any resulting contract. Some provisions and clauses require the bidder/offeror to execute and submit certain required certifications with the bid/proposal or contract, which are included herein. Failure to execute and submit required certifications with the bid/proposal or contract documents may render a bid/proposal non-responsive or a contract null and void.

Clauses may not be listed in consecutive numerical order as only those provisions and required clauses that apply to this contract/project have been referenced.

1. FLY AMERICA REQUIREMENTS
49 U.S.C. § 40118
41 CFR Part 301-10
48 CFR Part 47.4

Applicability to Contracts

Applicable to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation.

Flow Down Requirements

The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

Fly America

a) *Definitions.* As used in this clause--

"International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403.
[State reasons]:

e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

5. SEISMIC SAFETY REQUIREMENTS
42 U.S.C. 7701 et seq. 49
CFR Part 41

Applicability to Contracts

Applicable to all contracts for the construction of new buildings or additions to existing buildings.

Flow Down

The Seismic Safety requirements flow down from FTA recipients and subrecipients to first tier contractors to assure compliance, with the applicable building standards for Seismic Safety, including the work performed by all subcontractors.

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

The certificate entitled *Seismic Safety Certificate of Compliance* (included in the Representations, Certifications and Other Statements of Bidders/Offerors Attachment) must be completed and submitted with the Bid/Proposal.

6. ENERGY CONSERVATION REQUIREMENTS
42 U.S.C. 6321 et seq.
49 CFR Part 622, subpart C

Applicability to Contracts

Applicable to all contracts.

Flow Down

The Energy Conservation requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

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

7. CLEAN WATER REQUIREMENTS
33 U.S.C. 1251

Applicability to Contracts

Applicable to all contracts and subcontracts exceeding \$150,000.

Flow Down

The Clean Water requirements flow down to FTA recipients and subrecipients at every tier.

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251-1387. The Contractor agrees to report each violation to VRE and understands and agrees that VRE will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

10. LOBBYING

31 U.S.C. 1352

49 CFR Part 20

2 CFR 200.450

2 CFR Part 200 Appendix II (J)

Applicability to Contracts

Applicable to all contracts exceeding \$100,000.

Flow Down

The Lobbying requirements mandate the maximum flow down, pursuant to the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b) (5).

Mandatory Clause/Language

Clause and specific language therein are mandated by 49 CFR Part 20.

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b) (5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110 (d).

- Language in Lobbying Certification is mandated by 49 CFR Part 20, Appendix A which provides that contractors file the certification.

- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]

- Contractors who submit a Bid/Proposal for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not

used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

The certificate entitled *Certification of Restrictions on Lobbying* (included in the Representations, Certifications and Other Statements of Bidders/Offerors Attachment) must be completed and submitted with the Bid/Proposal.

11. ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325

49 CFR 18.36 (i)

49 CFR 633.17

2 CFR 200.333

Applicability to Contracts

Applicable to all contracts as listed below.

Flow Down

The record keeping and access requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

Access to Records - The following access to records requirements apply to this Contract:

1. Where VRE is not a State but a Transportation District Commission and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide VRE, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or their authorized representatives including any PMO Contractor access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

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

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

needed.

4. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor agrees to 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 VRE, the FTA Administrator, the US Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i) (11).

12. FEDERAL CHANGES
49 CFR Part 18

Applicability to Contracts

Applicable to all contracts.

Flow Down

The Federal Changes requirement flows down appropriately to each applicable changed requirement.

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

14. CLEAN AIR
42 U.S.C. 7401 et seq
40 CFR 15.61
2 CFR Part 200, Appendix II (G)

Applicability to Contracts

Applicable to all contracts exceeding \$150,000.

Flow Down

The Clean Air requirements flow down to all subcontracts which exceed \$150,000.

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 - 7671q. The Contractor agrees to report each violation to VRE and understands and agrees that VRE will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts

Applicable to all contracts.

(1) VRE and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to VRE, 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 Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

49 CFR Part 31

31 U.S.C. 3801 et seq.

18 U.S.C. 1001

49 U.S.C. 5323

Applicability to Contracts

Applicable to all contracts.

Flow Down

These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

21. TERMINATION
VRE General Provisions

Applicability to Contracts

Applicable to all contracts exceeding \$10,000.

Refer to VRE General Provisions, "Termination for the Convenience of VRE" and "Termination for Default."

22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

2 CFR Part 1200

2 CFR Part 180

Applicability to Contracts

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.

The certificate entitled *Certification of Primary Participants Regarding Debarment, Suspension, and Other Ineligibility and Voluntary Exclusion* (included in the Representations, Certifications and Other Statements of Bidders/Offerors Attachment) must be completed and returned with the Bid/Proposal.

23. PRIVACY ACT

5 U.S.C. 552

Applicability to Contracts

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.

Flow Down

The Federal Privacy Act requirements flow down to each third party contractor and their contracts at every tier.

Contracts Involving Federal Privacy Act Requirements - 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

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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.

24. CIVIL RIGHTS REQUIREMENTS
29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6101, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.

Applicability to Contracts

Applicable to all contracts.

Flow Down

The Civil Rights requirements flow down to all third party contractors and their contracts at every tier.

Civil Rights - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

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

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment,

without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with the Age Discrimination in Employment Act of 1967, as amended, 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, 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.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

25. BREACHES AND DISPUTE RESOLUTION **VRE General Provisions**

Applicability to Contracts

Applicable to all contracts exceeding \$100,000.

Refer to VRE General Provisions, "Contractual Disputes."

28. DISADVANTAGED BUSINESS ENTERPRISE (DBE) **49 CFR Part 26**

Applicability to Contracts

Applicable to all DOT-assisted contracting activities.

Flow Down

The DBE contracting requirements flow down to all third party contractors and their contracts at every tier.

Disadvantaged Business Enterprises

a. It is the policy of VRE and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBEs"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of

VRE to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

b. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. VRE shall make all determinations with regard to whether or not a Bidder/Offeror is in compliance with the requirements stated herein. In assessing compliance, VRE may consider during its review of the Bidder's/Offeror's submission package, the Bidder's/Offeror's documented history of non-compliance with DBE requirements on previous contracts with VRE.

c. VRE's overall goal for DBE participation is set at ~~0.00%~~ **14.7%**. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling ~~0.00%~~ **not less than 14.7%** of the total Contract price.

d. The contractor and subcontractor(s) shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as VRE deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidates damages; and/or
4. Disqualifying the Contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

e. The Contractor is required to pay its subcontractors performing work related

to this contract for satisfactory performance of that work no later than seven (7) days after the Contractor's receipt of payment for that work from VRE. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

1. The Contractor shall be obligated to pay interest to a subcontractor on all monies owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from VRE for work performed by a subcontractor under the Contract, except for amounts withheld for retainage under subsection (e) of this section.

2. The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the provisions of this section may not be construed as an obligation by VRE. A contract modification may not be made for the purpose of providing reimbursement for any such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

f. The Contractor shall utilize the specific DBEs listed unless the Contractor obtains VRE's written consent; and that, unless VRE's consent is provided, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

g. The contractor must promptly notify VRE, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without the prior written consent of VRE.

30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
FTA Circular 4220.1G

Applicability to Contracts

Applicable to all contracts.

Flow Down

The incorporation of FTA terms has unlimited flow down.

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by the USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth 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 contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any VRE requests which would cause VRE to be in violation of the FTA terms and conditions.

33. ACCESS FOR INDIVIDUALS WITH DISABILITIES

Applicability to Contracts

Applicable to all contracts.

The Contractor agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Contractor agrees to comply with applicable implementing Federal regulations and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing.

34. SAFE OPERATIONS OF MOTOR VEHICLES

23 U.S.C. part 402

Executive Order No. 13043

Executive Order No. 13513

U.S. DOT Order No. 3902.10

Applicability to Contracts

The Safe Operation of Motor Vehicles requirements apply to all federally funded third party contracts. In compliance with Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project. Additionally, recipients are required by FTA to include a Distracted Driving clause that addresses distracted driving, including text messaging in each of its third party agreements supported with Federal assistance.

Flow Down

The Safe Operation of Motor Vehicles requirements flow down to all third party contractors at every tier.

Seat Belt Use- The Contractor is encouraged to adopt and promote 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. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or VRE.

Distracted Driving- The Contractor 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 the Contractor owns,

leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this contract.

35. NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE OR OTHER LEGAL MATTERS

Applicability to Contracts

Applicable to all contracts exceeding \$25,000.

Flow Down

This requirement flows down to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify VRE, which will promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which VRE is located.

The Contractor must 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.

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.

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 between the FTA and VRE, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

Additional Notice to U.S.DOT Inspector General. - The Contractor must promptly notify VRE, which will promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which VRE is located, if the Contractor 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 with VRE involving a principal, officer, employee, agent, or Third-Party Participant of the Contractor. It also applies to subcontractors at any tier.

Knowledge, as used herein, 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 Contractor. In this provision, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Contractor, including divisions tasked

with law enforcement or investigatory functions.

**36. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE
SERVICES OR EQUIPMENT**

Applicability to Contracts

Applicable to all contracts.

Flow Down

This requirement flows down to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) 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).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) 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.

(b) In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall 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 communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is

sustained.

(c) See [Public Law 115-232](#), section 889 for additional information.

(d) See also [§ 200.471](#).

38. FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

(1) The contractor certifies that it:

(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 twenty-four (24) months.
If the Contractor cannot so certify, VRE will refer the matter to FTA and not enter into any Third-Party Agreement with the Third-Party Participant without FTA's written approval.

The Contractor agrees to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

The certificate entitled *Federal Tax Liability and Recent Felony Convictions* (included in the Representations, Certifications and Other Statements of Bidders/Offerors Attachment) must be completed and submitted with the Bid/Proposal.