

**Fort Wayne Public Transportation Corporation (dba  
CITILINK)**

***Request for Proposals  
Automatic Passenger Counting Technology***



January 29, 2021

Fort Wayne Public Transportation Corporation (dba CITILINK)  
801 Leesburg Road  
Fort Wayne, IN 46808

**FORT WAYNE PUBLIC TRANSPORTATION CORPORATION (dba CITILINK)**

**REQUEST FOR PROPOSALS (RFP)  
AUTOMATIC PASSENGER COUNTING TECHNOLOGY  
HARDWARE/SOFTWARE**

**1. GENERAL**

Date of issue: January 29, 2021

Proposal due date: February 26, 2021 4:00 p.m. EST

Contracting agency: Fort Wayne Public Transportation Corporation (CITILINK)  
801 Leesburg Road  
Fort Wayne, Indiana 46808

Funding: This project is financed through grants from the Federal Transit Administration, and any contract entered into is subject to the provisions of applicable laws governing that grant. The successful proposer and all subcontractors shall be required to comply with all applicable federal, state, and local laws and regulations. Federally required contract clauses are included in Appendix A.

**2. NOTICE TO PROPOSERS**

Proposals will be received by Fort Wayne Public Transportation Corporation (CITILINK) for the provision of automatic passenger counting hardware/software technology. Such proposals shall be received by CITILINK, 801 Leesburg Road, Fort Wayne, Indiana, 46808, until 4:00 p.m. EST, on February 26, 2021 at which time and place all proposals will be publicly opened. An original and five (5) copies shall be submitted by proposers. Any requests for exceptions or deviations to this RFP must be received by CITILINK by February 12, 2021 at 4:00 p.m. EST. Such requests for exceptions or deviations shall be subject to approval by CITILINK. Otherwise, it shall be construed that items offered are in strict compliance with the specifications detailed in this RFP, and the successful offeror shall be held responsible for meeting all aspects of the RFP. CITILINK reserves the following rights: to waive clarifications and exceptions in awarding a contract in the best interest of CITILINK, to accept or reject any or all proposals, to waive any or all irregularities, and to award the contract to the responsive and responsible offeror whose proposal is most advantageous to CITILINK, with price and other factors considered.

**3. BACKGROUND**

**A. Agency & Operating Environment**

Fort Wayne Public Transportation Corporation (CITILINK) is an independent public corporation established under Indiana law to provide fixed route and demand response transit service to the

City of Fort Wayne, Indiana. CITILINK operates two services: fixed route bus service and CITILINK Access paratransit service for persons with disabilities or who may otherwise be unable to access fixed routes. CITILINK is a small urban transit system as classified through the Federal Transit Administration (FTA).

Fort Wayne is a city of approximately 267,633 residents and is home several major employers including Parkview Health Systems, Lutheran Health Network, Fort Wayne Community Schools, Indiana's largest public school system.

In 2020, CITILINK provided over one million passenger trips over its fixed routes, and CITILINK Access provided over forty-seven thousand door-to-door trips. The two services provided a total of 1,104,835 trips in 2020. Due to the impacts of the COVID-19 pandemic ridership is down approximately 34% for fixed Route and 38% for Access. It is anticipated that ridership will consistently recover as the pandemic ends and unemployment returns to pre-pandemic levels. To provide transit service, CITILINK maintains a fleet of 43 vehicles to operate 14 routes, and 19 vehicles to operate complementary paratransit services. The CITILINK fleet is made up mostly of Gillig buses ranging in size between 35' and 40', along with twenty-three (23) Chevrolet cutaway vehicles, and four (4) Ford cutaway vehicles. All CITILINK fixed route vehicles are equipped with Genfare Cents-A-Bill farebox technology through which passengers are manually counted by bus operators according to rider type (full fare, reduced, student, etc.).

CITILINK is in the process of transferring from Routematch automatic vehicle location (AVL) to Double Map. The service transfer is anticipated to be completed by March 2021.

In 2018-2019, CITILINK partnered with a transit consulting firm SRF Consulting Group, to conduct a 10-year Transit Development Plan and Comprehensive Operational Analysis. The study relied on ridership data, local demographic information, and community feedback to produce recommendations for how the CITILINK fixed route system may be updated to better fit the evolving transportation environment in Fort Wayne. Recommendations for service changes derived from the Comprehensive Operational Analysis were finalized in January 2020 and are anticipated to be implemented in 2022. An executive summary of plan can be found here: [Citilink 2030 Plan](#).

Through this project, CITILINK seeks to equip 14 fixed route vehicles with a standalone APC solution integrated with global positioning system (GPS) technology to provide accurate ridership reporting.

## **B. Project Goals**

The goals for CITILINK in deploying a standalone APC solution through this project include the following:

- Generate up-to-date, stop-level on/off ridership data for each route by day of the week for better informed transit planning activities.

- Closely monitor changes in ridership activity related to recommended service changes anticipated to be implemented in 2022.
- Relieve administrative workload associated with manually conducting passenger counts.
- Produce ridership data of sufficient accuracy to satisfy FTA reporting requirements to the National Transit Database (NTD).

### C. Ridership Information

<b>CITILINK Fixed Route Ridership 2018-2020</b>			
<b>Month</b>	<b>Total Riders</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
<b>January</b>	133,737	121,990	137,760
<b>February</b>	124,398	125,274	135,422
<b>March</b>	102,762	135,475	145,440
<b>April</b>	55,717	139,412	133,499
<b>May</b>	53,911	139,277	143,397
<b>June</b>	80,454	127,658	141,706
<b>July</b>	85,134	135,980	138,350
<b>August</b>	84,657	144,512	154,608
<b>September</b>	85,556	130,904	135,116
<b>October</b>	92,813	145,965	160,011
<b>November</b>	79,051	128,279	137,015
<b>December</b>	78,589	126,270	130,804
<b>Total</b>	1,057,779	1,600,996	1,693,128

### D. Fixed Route Fleet Information

<b>Fixed Route Vehicles</b>							
<b>CITILINK Vehicle</b>			<b>Vehicle</b>	<b>Seating Capacity/</b>	<b>Vehicle</b>	<b>Engine</b>	<b>APC</b>
<b>Number</b>	<b>Length</b>	<b>Year</b>	<b>Type</b>	<b>Wheelchairs</b>	<b>Manufacturer</b>	<b>Type</b>	<b>Installed</b>
0226	35'	2002	Low Floor	32/2 WC	Gillig	Diesel	No
0227	35'	2002	Low Floor	32/2 WC	Gillig	Diesel	No
0228	35'	2002	Low Floor	32/2 WC	Gillig	Diesel	No
0629	35'	2006	Low Floor	32/2 WC	Gillig	Diesel	Yes
0630	35'	2006	Low Floor	32/2 WC	Gillig	Diesel	No
0831	35'	2008	Low Floor	32/2 WC	Gillig	Diesel	No
0832	35'	2008	Low Floor	32/2 WC	Gillig	Diesel	No
0833	35'	2008	Low Floor	32/2 WC	Gillig	Diesel	No
0834	35'	2008	Low Floor	32/2 WC	Gillig	Diesel	No
0835	35'	2008	Low Floor	32/2 WC	Gillig	Diesel	No

0836	35'	2008	Low Floor	32/2 WC	Gillig	Diesel	No
1040	35'	2010	Hybrid	32/2 WC	Gillig	Diesel	No
1041	35'	2010	Hybrid	32/2 WC	Gillig	Diesel	No
1042	35'	2010	Hybrid	32/2 WC	Gillig	Diesel	No
1043	35'	2010	Hybrid	32/2 WC	Gillig	Diesel	No
1044	35'	2010	Hybrid	32/2 WC	Gillig	Diesel	No
1045	35'	2010	Hybrid	32/2 WC	Gillig	Diesel	No
1046	35'	2010	Hybrid	32/2 WC	Gillig	Diesel	No
1247	35'	2012	Hybrid	32/2 WC	Gillig	Diesel	Yes
1248	35'	2012	Hybrid	32/2 WC	Gillig	Diesel	No
1349	35'	2013	Hybrid	32/2 WC	Gillig	Diesel	No
1350	35'	2013	Hybrid	32/2 WC	Gillig	Diesel	No
1351	35'	2013	Hybrid	32/2 WC	Gillig	Diesel	No
1352	35'	2013	Hybrid	32/2 WC	Gillig	Diesel	No
1353	35'	2013	Hybrid	32/2 WC	Gillig	Diesel	No
1554	40'	2015	Hybrid	38/2 WC	Gillig	Diesel	No
1555	40'	2015	Hybrid	38/2 WC	Gillig	Diesel	No
1556	40'	2015	Hybrid	38/2 WC	Gillig	Diesel	No
1557	40'	2015	Hybrid	38/2 WC	Gillig	Diesel	No
1658	40'	2016	Hybrid	38/2 WC	Gillig	Diesel	No
1759	40'	2017	Hybrid	38/2 WC	Gillig	Diesel	No
1876	40'	2018	Hybrid	38/2 WC	Gillig	Diesel	Yes
1877	40'	2018	Hybrid	38/2 WC	Gillig	Diesel	Yes
1982	40'	2019	Gillig	38/2 WC	Gillig	Diesel	No
1983	40'	2019	Gillig	38/2 WC	Gillig	Diesel	No
1089	26'	2010	Chevy 4500	14/2 WC	Glaval	Diesel	No
1090	26'	2010	Chevy 4500	14/2 WC	Glaval	Diesel	No
1193	26'	2011	Chevy 4500	14/2 WC	Glaval	Diesel	No
1267	26'	2012	Chevy 4500	12/2 WC	Glaval	Diesel	No
1472	26'	2014	Chevy 4500	10/5 WC	Glaval	Diesel	No
1574	26'	2016	Chevy 4500	14/2 WC	Champion	Diesel	No
1575	26'	2016	Chevy 4500	14/2 WC	Champion	Diesel	No
1997	26'	2019	Ford E-450	18/1 WC	Elkhart Coach	Gasoline	No

#### 4. SCOPE OF WORK

CITILINK seeks proposals from qualified vendors for design, installation, training, hosting, and ongoing technical support for a turnkey standalone automatic passenger counting (APC) system on each vehicle in its fixed route fleet. The selected vendor shall supply software to process and report ridership data gathered through the APC system.

## A. System Specifications

The APC system and reporting software shall meet the following specifications:

### 1. General Requirements

- i. Turnkey standalone APC system outfitted on fourteen (14) fixed route vehicles.
- ii. Proven acceptability of APC system data for purposes of reporting to FTA's National Transit Database in at least three (3) other transit agencies.
- iii. APC ridership data shall be accurate within +/- 5% in concurrence with manual passenger counts.
- iv. System shall startup and operate with no input from bus operator.
- v. Installation at front and rear doors of each fixed route transit vehicle, with the ability to accurately count boarding and alighting at either door.
- vi. CITILINK buses currently have Wi-Fi on-board.
- vii. CITILINK buses will use DoubleMap as our automatic vehicle location (AVL) and automatic voice annunciation (AVA) technology. If proposers propose to use DoubleMap as their GPS platform for purposes of identifying locations of stops and streets, proposers bear full responsibility for coordinating with DoubleMap and gaining DoubleMap's approval for this use without compromising the capabilities or functionality of the DoubleMap AVL and AVA systems.

### 2. Software Requirements

CITILINK prefers a web-based software application for the reporting tool package, including the following requirements:

- i. Next-day reporting.
- ii. Ability to export APC data in various formats, including for use in Excel, GIS, and Google Earth.
- iii. Reporting tools must be able to allow for sorting and identification of ridership activity by route, trip, time of day, location, and total system-wide ridership.
- iv. Capability to merge data gathered through two different buses operating the same route at different times of day.
- v. Incorporate temporary routing detours, as needed, into reporting.

### 3. Technical Requirements

The selected vendor shall work in collaboration with CITILINK's IT provider to install network infrastructure:

- i. APC system shall draw bus power at less than 200 milli-amperes to avoid interference with normal vehicular operation.
- ii. A warranty of one (1) year shall apply to all hardware and software from the date of initial complete installation; proposers shall include options for extending

warranty for an additional three (3) years and five (5) years beyond the installation date as included on the pricing/cost proposal sheet. Such warranties shall cover all hardware/software, materials and supplies, labor and personnel costs, travel and per diem, any subcontractor costs, overhead and per diem, and any profit/fee.

- iii.
- iv. Automatic download of all data shall take place each night. Proposers shall include any systems necessary on buses or at the CITILINK Leesburg Road operations and maintenance facility to successfully complete the download of data from buses on a daily basis.

## **B. Implementation**

The selected vendor shall provide project management services to fully implement the APC system. The vendor shall provide a work plan detailing timelines and project milestones for stages of implementation, including installation of APC system on fixed route vehicles, installation of any required data reporting software, training of CITILINK staff, and calibrating APC system to ensure accuracy of reporting data. The vendor shall provide a detailed plan for extensively testing and calibrating the APC system in comparison with manual passenger counts over the course of the first year of implementation from the point of initial installation. Included in the plan shall be a methodology and process for certifying APC data for official reporting to FTA's NTD. Further plans for ongoing testing and calibration of the APC system should be outlined for the first three years of implementation. The vendor shall assign a project management team who will work closely with CITILINK staff during implementation, and on an ongoing basis for the life of the project. Any changes to the vendor's project management team shall be communicated to CITILINK with reasonable timeliness.

## **C. Training**

The selected vendor shall thoroughly train CITILINK staff to proficiency on use and troubleshooting of the APC system. Vendor shall train CITILINK administrative staff on utilizing APC reporting software; training on any future software feature updates shall be provided by vendor at no additional cost to CITILINK. The vendor shall train CITILINK maintenance personnel on basic troubleshooting of the APC system to be able to report common technical issues encountered in the operation of the APC system.

## **D. Maintenance and Support**

The selected vendor shall provide ongoing maintenance and technical support for the life of the APC system. The successful proposer shall provide ongoing professional customer support 24 hours a day, 7 days a week, as needed either in-person, via telephone, or via the web. Proposers shall include a maintenance plan that details a schedule for preventative maintenance.

## 5. PROJECT SCHEDULE

Date	Project Milestone
January 29, 2021	Issuance of Request for Proposals
February 12, 2021	Questions and Requests for Exceptions, Deviations, or Approved Equals due to CITILINK by 4:00 p.m. EST
February 19, 2021	Responses by CITILINK issued to prospective proposers on questions, Requests for Exceptions, Deviations, or Approved Equals
February 26	Proposals due to CITILINK by 4:00 p.m. EST
March 1-8, 2021	Evaluation of Proposals by CITILINK
March 11, 2021	Contract award
April-July, 2021	Project implementation by selected contractor
August 2, 2021	Go live with hardware and software for ridership data collection purposes.

## 6. INSTRUCTIONS TO PROPOSERS

Proposals shall contain information that is relevant and demonstrates the proposer’s capabilities to successfully undertake the project. Proposers are responsible for meeting all terms and conditions described in this Request for Proposals (RFP). Proposers should endeavor to limit proposals to fifty (50) pages or less. Proposers shall submit an original and five (5) copies of their complete proposal. For proposals to be accepted as responsive, the following items shall be included in all proposals:

- A. Executive Summary. Proposals shall include a summary narrative statement describing the experience of the firm with implementing similar projects and how the proposing firm is capable of fulfilling the Scope of Work.
- B. Firm’s Capabilities and Experience. Proposals shall include a description of the organization or firm including its legal status, authority and/or licenses to operate. The description shall include the major business functions, history, and organizational structure including location of firm’s headquarters and major offices, management organization with names and locations of managing director(s) for this project. Proposals shall include a description of experience and qualifications of the personnel assigned to participate in the project, including the project manager, detailing the positions and the number of employees in each position. The description shall include a list of no less than three (3) current or past clients for which similar services have been provided. Such client list shall be used by CITILINK to conduct background research, and shall include the client organization name, address, contact person, telephone number, email address, proposer’s responsibilities for the client, and years that service was provided.
- C. Products and Services. Describe the products and services to be included in the implementation of the APC system. Include descriptions of the type of sensors to be



used, and how they will best meet the requirements of the Scope of Work. Provide details for the integration of the APC system with GPS AVL technology. Provide a description of features and services not contained in the Scope of Work, which may be added or upgraded in the future. A description of the level and type of assistance which will be needed by the contractor from CITILINK staff in order to complete the project within the schedule and budget.

- D. Installation and Training. Proposers shall describe in detail how they will deliver comprehensive, professional services for the satisfactory installation and implementation of the APC system. Proposers shall submit a detailed work plan and schedule to design, launch, test, and calibrate APC system according to the Scope of Work. Proposers shall describe in detail the methodology and process for certifying the APC system in compliance with standards established by the FTA for reporting APC data to NTD. Proposers shall include a description of any workload to be shared with CITILINK staff for testing, calibrating, and certifying the APC system.

Proposers shall prepare and submit a training plan that details how training for the APC system shall be delivered to CITILINK staff to ensure proficiency in use of hardware, software, data editing, report generation, and any other important feature necessary to ensure proper functionality. Descriptions of training shall include the approximate number of hours required for staff in each relevant department—maintenance, operations, planning—to be competent in the relevant functions of the APC system. Descriptions shall include in what manner training will be delivered.

- E. Support Plan. Each proposer shall demonstrate their capacity to deliver comprehensive, professional services for the life of this project following implementation. Include a description of response times to technical issues reported. Describe the process through which major technical updates or patches are applied through regular maintenance and provide a schedule for regular testing and preventative maintenance to ensure the APC system remains in reliable operation. Describe the technical support provided through basic licensing, and any premium services available. Proposers shall describe ongoing testing and calibrating procedures for the first three (3) years beyond initial implementation.
- F. Cost Proposal. Proposers shall complete and submit the Pricing Sheet (Appendix A) included in this RFP that outlines the costs of the proposer's services to be performed and equipment provided and installed in accordance with the Scope of Work. One-time and non-recurring costs and fees shall be clearly itemized. Annual support costs shall also be clearly stated and itemized. Proposer must fully complete, sign, and date the Pricing Sheet acknowledging that the project can be effectively completed within the budget indicated. Any deviations or exceptions made by a proposer to the Scope of Work included in this RFP and not approved by CITILINK in advance may render the proposer's cost proposal as non-responsive.
- G. Disadvantage Business Enterprise (DBE). Any DBE qualifications shall be submitted including any use of DBE subcontractors. To be considered as a qualified DBE firm,

firms or individuals must have been certified as such by the Indiana Department of Transportation (INDOT). Note: there is no mandatory DBE qualification as part of this project.

H. Affidavits and Certifications. Proposers shall include as part of their proposals properly executed affidavits and certifications as included in Appendix B of this RFP. Such affidavits and certifications must include E-Verify Affidavit, Debarment and Suspension Certification, Lobbying Certification, and completion of the proper section on the Buy America Certification.

## **7. RIGHTS OF REJECTION**

CITILINK reserves the right to postpone the due date for submission of qualifications information for its own convenience and to reject any or all submittals for any reason.

## **8. EVALUATION CRITERIA**

Preferred firm selection will be based on the following weighted criteria:

Qualifications and experience of firm (including references)	25 percent
Technical specifications, system requirements, and product capabilities	25 percent
Cost proposal including one-time and any recurring costs	25 percent
Proposed training plan	15 percent
Project implementation schedule	10 percent

An evaluation committee consisting of CITILINK staff and/or board members reserves the right to preliminarily score proposals, submit questions to proposers, and possibly interview finalists prior to final scoring of proposals. CITILINK assumes no liability for any costs incurred by any individuals or firms responding to this RFP or participating in any interviews. The proposer firm with the highest combined final score from the evaluation committee shall be recommended to the CITILINK Board of Directors for contract award.

## **9. ADDENDUM**

Any change in the conditions or terms of this RFP will be accomplished by an addendum in writing sent to all prospective proposers. All such addenda shall become a part of the contract.

## **10. RESPONSIVE PROPOSERS**

CITILINK shall determine if each proposer is responsive. The responsiveness of each proposal shall be determined by its conformance to the technical scope of work and legal requirements of the RFP. Any proposal that fails to conform to the essential requirements of the RFP shall be deemed non-responsive, and accordingly rejected.

## **11. RESPONSIBLE PROPOSERS**

The CITILINK shall determine if each proposer is responsible. CITILINK shall award contracts only to responsible proposers who possess the potential to perform successfully under the terms and conditions of the Request for Proposals. Consideration shall be given to such matters as proposer integrity, record of past performance, and accessibility to financial and technical resources. The proposer shall affirmatively demonstrate its responsibility and, when necessary, the responsibility of any proposed subcontractors. If information obtained by CITILINK clearly indicates that the proposer is not responsible and CITILINK has doubts about the productive capacity or financial strength of a proposer which cannot be resolved affirmatively, a determination that the proposer is non-responsible shall be rendered.

The selected proposer shall indemnify and hold harmless CITILINK, as well as any of its agents, officials, and employees, from all claims, demands, actions, liabilities, losses, suits, judgments, costs, and expenses, which may directly or indirectly arise from, or be incurred as a result of the consultant's acts or omissions, including acts or omissions of its employees, servants, and agents. CITILINK will give prompt notice of any suits or claims instituted and will give all needed information to the consultant for defending itself through counsel.

To the maximum extent permitted by law the selected vendor or firm shall indemnify, defend and hold harmless CITILINK, their elected officials, officers, officials, agents, and employees, from and against any and all claims, suits, actions, losses, costs, penalties, and damages of any kind or nature whatsoever arising out of, in connection with, or incident to the goods and/or services provided by or on behalf of the selected vendor or firm unless caused by the sole negligence of CITILINK, its agents, employees, assigns, or otherwise. In addition, selected vendor or firm shall, at CITILINK's option, assume the defense of CITILINK and its officers and employees in all legal or claim proceedings arising out of, in connection with, or incident to such goods and/or services, and shall pay all defense expenses, including reasonable attorney's fees, expert fees, and costs incurred by CITILINK on account of such litigation or claims. This indemnification obligation shall include, but is not limited to, all claims against CITILINK by an employee or former employee of selected vendor or firm or its subcontractor, and selected vendor or firm, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects CITILINK only, under any industrial insurance act, other Worker's Compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. This indemnification obligation shall also obligate selected vendor or firm to protect, indemnify, defend, and save harmless CITILINK, its officers, officials, agents, and employees from any and all claims or lawsuits alleging a violation of a third party's copyright or patent rights arising out of or in connection with selected vendor's or firm's provision of goods and/or services under this Contract. Notwithstanding anything provided in this section, CITILINK retains the right to provide its own defense against any suits, claims, or actions, and to assess any costs of such defense to selected vendor or firm, including attorney's fees, expert witness fees, and court costs.

The selected vendor or firm is responsible for paying all license fees, royalties, or the costs of defending any and all claims for the infringement of any intellectual property that may be used in performing this project. Before final payment is made on this project, selected vendor or firm shall, if requested by CITILINK, furnish acceptable proof of a proper release from all such fees or claims.

## **12. WITHDRAWING PROPOSALS**

Prior to the date/time set for the proposal opening, proposals may be modified or withdrawn by the proposer's authorized representative in person, or by written or emailed or faxed notice. If proposals are modified or withdrawn in person, the authorized representative shall make his identity known and shall sign a receipt for the bid. Written notices shall be received in the CITILINK office no later than the exact date/time for proposal opening. A faxed or emailed modification or withdrawal received in the designated office no later than the date/time set for proposal opening shall be considered if such message is received by the CITILINK Maintenance Manager at [JAR@fwcitilink.com](mailto:JAR@fwcitilink.com).

## **13. COMMUNICATIONS WITH PROPOSERS**

Communications with proposers and potential proposers after the RFP is issued will only be done in writing. After release of the RFP, all other communication must be in writing to CITILINK Maintenance Manager. The Maintenance Manager's written response will be sent to all proposers and prospective proposers. Contact with the Maintenance Manager shall be done in writing via email at [JAR@fwcitilink.com](mailto:JAR@fwcitilink.com).

## **14. ERRORS IN PROPOSALS**

Proposers or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and scope of work before submitting proposals. Failure to do so shall be at the proposer's own risk and he/she cannot secure relief on the plea of errors. In case of error in the extension of price in the proposal, the unit price shall govern.

## **15. FINANCIAL RESPONSIBILITY**

Proposers may be required to demonstrate financial responsibility, qualifications, and performance before a contract can be awarded.

## **16. TAXES**

CITILINK is exempt from payment of federal, state, and local taxes. As such, taxes shall not be included in proposal prices. CITILINK shall furnish the necessary tax exemption certificates.

## **17. TIMELY COMPLETION**

All proposers by virtue of submitting a proposal agree to meet the project schedule as described herein.

## **18. ASSIGNMENT OF CONTRACT**

This contract may not be assigned in whole or in part without the written consent of CITILINK.

## **19. APPLICABLE LAW AND VENUE**

The work performed by the successful proposer in response to this RFP shall be in compliance with all applicable Federal, state and local laws and their respective rules and regulations. This compliance shall be at the successful proposer's expense.

Venue for any legal action arising out of this contract and between the parties hereto shall be exclusively in Allen County, Indiana.

## **20. PROTEST PROCEDURES**

Protests may be made by prospective proposers or proposers whose direct economic interests would be affected by the award of a contract or by failure to award a contract. CITILINK will consider all protests requested in a timely manner regarding the award of a contract, whether submitted before or after an award. All protests are to be submitted in writing to CITILINK General Manager, 801 Leesburg Road, Fort Wayne, Indiana, 46808. Protest submissions shall be concise, logically arranged, and clearly state the grounds for the protest. Protests alleging restrictive specifications, scope of work, or improprieties which are apparent prior to proposal opening must be submitted in writing to the CITILINK Maintenance Manager and must be received seven (7) days prior to proposal opening or closing date for receipt of proposals. Protests against the making of an award must be submitted in writing to CITILINK Maintenance Manager within seven (7) days following the proposal award which is expected on March 11, 2021.

## **21. DEVIATIONS, APPROVED EQUALS, AND EXCEPTIONS**

Requests for deviations, approved equals or exceptions to the Request for Proposals and Technical Specifications must be received by CITILINK, in writing, using the attached "Deviation, Approved Equal, Exceptions Request Form" (Appendix C), not later than February 12, 2021, 4:00 p.m. local time. Such requests for deviations, approved equals and exceptions shall be emailed to the CITILINK Maintenance Manager at [JAR@fwcitilink.com](mailto:JAR@fwcitilink.com).

Any such request must be fully supported with technical data, test results, or other pertinent information as evidence to support that such exception is equal or superior to the specification requirement. CITILINK shall notify in writing those firms submitting such requests of their specific acceptance or rejection, item by item, at least 7 days prior to the bid opening. Any revisions or additions to the RFP document will be made only by addendum with a copy of such addendum mailed, emailed or delivered to each firm receiving the RFP. If formal requests for deviations, approved equals, or exceptions are not received in writing by February 12, 2021, 4:00 p.m., local time, submitted proposals will be interpreted to comply with, and meet exactly, each and every CITILINK specification.

## **22. SHIPPING, FREIGHT CHARGES AND DELIVERY**

All shipping, freight, and handling charges shall be prepaid by the successful proposer and included in the cost proposal. Delivery shall be to Fort Wayne Public Transportation Corporation, 801 Leesburg Road, Fort Wayne, Indiana, 46808. Delivery shall only be accepted Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays.

## **23. WARRANTY**

The successful proposer shall warrant their products and services from defects in workmanship and materials for a period of at least one (1) year from the date of project acceptance by Citilink. Such warranty shall guarantee that any defect in workmanship or materials, as determined by CITILINK, discovered within one (1) year of the date of project acceptance shall be promptly repaired or replaced by the proposer at no expense to CITILINK.

## **24. REQUIRED CLAUSES, AFFIDAVITS, AND CERTIFICATIONS**

The selected firm hereinafter known as the "Contractor" shall comply with the following clauses required for participation in the project as shown on the following pages. Affidavits and certifications contained in the following pages must be executed and submitted with qualification statements.

**With submission of a proposal in response to this RFP, proposers agree to all of the requirements summarized in the following required clauses:**

**Access to Records and Reports** - (1) The Contractor agrees to permit any of the following parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed: CITILINK, FTA, the Comptroller General of the United States or any of their authorized representatives, the Secretary of Transportation of the United States or any of their authorized representatives, and the Indiana State Board of Accounts.

(2) - The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the

performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11). Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

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

**No Obligation by the Federal Government.** -(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(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.

**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. § 5307(n)(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.

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

**Termination for Convenience** - CITILINK may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to CITILINK to be paid the Contractor. If the Contractor has any property in its possession belonging to CITILINK, the Contractor will account for the same, and dispose of it in the manner CITILINK directs.

**Termination for Default** - If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, CITILINK may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by CITILINK that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, CITILINK, after setting up a new delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, CITILINK may terminate this contract for default. CITILINK shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.



If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of CITILINK.

**Opportunity to Cure** - The CITILINK in its sole discretion may, in the case of a termination for breach or default, allow the Contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to CITILINK's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor or written notice from CITILINK setting forth the nature of said breach or default, CITILINK shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude CITILINK from also pursuing all available remedies against Contractor and its sureties for said breach or default.

**Waiver of Remedies for any Breach** - In the event that CITILINK elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by CITILINK shall not limit CITILINK's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

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

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

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action

shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 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.

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

**Buy America** - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide 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.

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

**Certification requirement for procurement of steel, iron, or manufactured products.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror 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.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1), but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(B) or (j)(2)(D) and the regulations in 49 CFR 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

**Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E 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 Fort Wayne Public Transportation Corporation requests which would cause Fort Wayne Public Transportation Corporation to be in violation of the FTA terms and conditions.

**Rights in Data** - The following requirements apply to each contract involving experimental, developmental or research work:

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

identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

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

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser

or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

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

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

**Patent Rights** - The following requirements apply to each contract involving experimental, developmental, or research work:

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

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education,

individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

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

### **Disadvantaged Business Enterprises**

a. 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*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%.

b. The contractor 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 CITILINK deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

c. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from CITILINK. 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.

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

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

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

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by CITILINK. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to CITILINK, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**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.

**Recycled Products** - 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.

**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 General Manager of CITILINK. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to CITILINK General Manager. 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 CITILINK General Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

Unless otherwise directed by CITILINK, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between CITILINK 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 in which CITILINK is located.

The duties and obligations imposed by the Contract Documents 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 CITILINK 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.

### **Prompt Payment**

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

- A. If the prime bidder or firm fails to pay the subcontractor or firm within thirty (30) days, the prime bidder or firm must notify CITILINK and the subcontractor or firm, in writing, of its intention to withhold all or a part of the subcontractor or firm's payment with the reason for nonpayment.
- B. The bidder or firm is obligated to pay interest to the subcontractor or firm on all amounts owed by the bidder or firm that remain unpaid after thirty (30) days following receipt by the bidder or firm of payment from CITILINK for work performed by the subcontractor or firm under that contract, except for amounts withheld as allowed in subdivision (A) of this section. Unless otherwise provided under the terms of the contract, interest shall accrue at the rate of one percent (1%) per month, except for the amounts withheld. Notification of failure by the bidder or firm to make prompt payment to the subcontractor or firm hereinbefore provided will result in notification to the bidder or firm's bonding company by CITILINK.
- C. Should either the prime bidder or firm or subcontractor or firm advise CITILINK of a payment issue involving a DBE bidder or firm, the DBE officer shall be notified so as to investigate, as appropriate.
- D. CITILINK may conduct prompt payment audits that require prime bidder or firm to submit appropriate documentation to verify compliance with this provision.

**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 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser 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 \$100,000 financed in whole or in part with Federal assistance provided by FTA.



**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 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

**Americans with Disabilities Act and ADA Access** - The contractor agrees to comply with the requirements of 49 U.S.C. 5301(d) which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. 1201 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto. In addition, the contractor agrees to comply with all applicable requirements of the following regulations and any subsequent amendments thereto:

(1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)", 49 C.F.R. Part 37;

(2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance", 49 C.F.R. Part 27;

(3) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services", 28 C.F.R. Part 35;

(4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodation and in Commercial Facilities", 41 C.F.R. Subpart 101-19.

### **Safe Operation of Motor Vehicles –**

**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 Agency.

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

## APPENDIX A: PRICING SHEET AND COST PROPOSAL

The following table is required to be filled out by vendors as part of the proposer’s cost proposal to CITILINK for provision of full and complete system technology for Automatic Passenger Counters on 14 CITILINK fixed route buses. The Pricing Sheet is divided into four sub-categories to clarify prices for equipment and services. For each item, service, equipment, etc. please indicate whether it is a recurring cost, and if so with what frequency the price is to be charged (e.g. monthly, annually).

Service Type	Recurring? (Y/N) If yes, provide frequency	Price \$
Hardware & Equipment/Materials & Supplies		
Software & Licensing		
Training		
Personnel & Labor Including Any Subcontractors		

Annual Maintenance & Support	Year 1	Year 2	Year 3	Year 4	Year 5
Maintenance and support for all hardware, software, license fees, and any other costs.					

Extended Warranty Options	Cost
Three (3) Year Extended Warranty (beyond initial 1-year warranty period)	
Five (5) Year Extended Warranty (beyond initial 1-year warranty period)	

This pricing sheet represents the proposer’s cost proposal to CITILINK for this project and includes all materials, supplies, hardware and software, training, support and maintenance, labor and benefits, profit and fees, subcontractor costs, overhead and administration, travel and per diem, and any other items necessary for the successful implementation of this project.

\_\_\_\_\_  
**Signature of Authorized Official**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**

## **APPENDIX B: Required Affidavits and Certifications**

All proposers shall fully complete the following affidavits and certifications and include them as part of your proposal.

**E-Verify Affidavit**

Pursuant to Indiana Code 22-5-1.7-11, the Business Entity entering into a contract with the Fort Wayne Public Transportation Corporation (CITILINK) is required to enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program. The Business Entity is not required to verify the work eligibility status of all its newly hired employees through the E-Verify program if the E-Verify program no longer exists.

The undersigned, on behalf of the Business Entity, being first duly sworn, deposes and states that the Business Entity does not knowingly employ an unauthorized alien. The undersigned further affirms that, prior to entering into its contract with the Agency, the undersigned Business Entity will enroll in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify program. Business Entity shall submit documentation to CITILINK which evidences that the business entity has enrolled in and is participating in the E-Verify program.

Business Entity: \_\_\_\_\_

By (Written Signature): \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Important – Notary Signature and Seal Required in the Space Below

STATE OF \_\_\_\_\_

SS:

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

My commission expires: \_\_\_\_\_

Signed: \_\_\_\_\_

Residing in \_\_\_\_\_ County,

State of \_\_\_\_\_

## **Debarment and Suspension Certification**

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Lower Tier Covered Transactions (Third Party Contracts over \$25,000).**

### **Instructions for Certification**

**1. By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.**

2. The certification in this 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, CITILINK may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to CITILINK 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 transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact CITILINK 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 is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by CITILINK.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in 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 Nonprocurement 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 Paragraph 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, CITILINK may pursue available remedies including suspension and/or debarment.

### **"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"**

(1) The prospective lower tier participant certifies, by submission of this bid or proposal, 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 participation in this transaction by any Federal department or agency.

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

Signature of Contractor's Authorized Official:

\_\_\_\_\_

Name and Title of Contractor's Authorized Official:

\_\_\_\_\_

Date: \_\_\_\_\_

## Lobbying Certification

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

(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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member 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 making lobbying contacts to an officer or employee of any agency, a Member of Congress, 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. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(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 subcontractors shall certify and disclose accordingly.

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

Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

The \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Authorized Official

\_\_\_\_\_ Name and Title of Authorized Official

\_\_\_\_\_ Date

**Buy America Certificate**  
**Fort Wayne Public Transportation Corporation**  
**Automatic Passenger Counting Technology**

**Certification requirement for procurement of steel, iron, or manufactured products.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror 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.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1), but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(B) or (j)(2)(D) and the regulations in 49 CFR 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_



**APPENDIX C**

**FORT WAYNE PUBLIC TRANSPORTATION CORPORATION  
AUTOMATIC PASSENGER COUNTING HARDWARE/SOFTWARE PROPOSAL  
REQUEST FOR DEVIATIONS, APPROVED EQUALS, OR EXCEPTIONS FORM  
Submission Due Date: February 12, 2021 at 4:00 p.m.**

RFP SECTION NO.: \_\_\_\_\_ DATE OF REQUEST: \_\_\_\_\_

RFP TITLE: \_\_\_\_\_ PAGE \_\_\_\_ OF \_\_\_\_

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DESCRIPTION OF REQUEST FOR DEVIATION, APPROVED EQUAL OR EXCEPTION:

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Approved: \_\_\_\_\_

Denied: \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_