



**FORT WAYNE PUBLIC TRANSPORTATION  
CORPORATION (CITILINK)**  
**REQUEST FOR PROPOSAL #2026-001**  
**Transit Tomorrow**

**FOR TRANSIT OPERATIONS**

**Long-Range Transit Plan**

**ISSUING OFFICE:**

Fort Wayne Public Transportation Corporation

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## **SECTION 1 - INTRODUCTION**

### **1.1 OVERVIEW**

The Fort Wayne Public Transportation Corporation (Citilink) is seeking proposals from qualified firms to provide consultant services for a Long-Range Transit Plan consistent with the Scope of Work and Master Services Agreement set forth in this solicitation. Citilink reserves the right to award multiple contracts for the various elements identified in the Scope of Work.

### **1.2 PROCURING AGENCY AND CONTRACTING OFFICER**

Procuring Agency: Fort Wayne Public Transportation Corporation  
dba: Citilink  
801 Leesburg Road,  
Fort Wayne, IN 46808

Contract Officers: Matt Morley  
Operations Manager  
E-mail:  
[mmorley@fwcitilink.com](mailto:mmorley@fwcitilink.com)

Pam Schieber  
Chief Operations Officer  
Email:  
[pks@fwcitilink.com](mailto:pks@fwcitilink.com)

### **1.3 SOLICITATION SCHEDULE**

The following is the solicitation schedule for this procurement.

<b>Event</b>	<b>Date and Time</b>
Request for Proposal Issued	February 2, 2026
Questions and Requests for Clarifications Due to Matt Morley via email: <a href="mailto:mmorley@fwcitilink.com">mmorley@fwcitilink.com</a>	March 13, 2026
Citilink responds to Questions and Requests for Clarifications	March 25, 2026
Proposal Due Date	April 15, 2026
Evaluation Period/Vendor Interviews	May 12, 2026
Anticipated Contract Award Date	May 29, 2026 (or next board meeting after scoring is completed)
Scope of Work begins	Estimated June 8, 2026

### **1.4 PROPOSALS**

To be considered, submittals must be received by the due date. This solicitation does not commit Citilink to award a contract. Citilink reserves the right to accept or reject any or all proposals received as a result of this request.

### **1.5 COMMUNICATION**

**All communication, including questions, MUST BE IN WRITING and directed to the Contract Officers identified in Section 1.2 of this RFP. Communication may be made via email only.**

Proposers and their representatives must not make contact, or communicate with, any Citilink employee, representatives, Board members or consultants other than the Contract Officers with regard to any aspect of this RFP or offers. Communication with any Citilink employee, representative, Board member or consultant other than the Contract Officers may result in the offender's proposal being rejected.

### **1.6 LOCATION OF DOCUMENTS AND ADDENDA**

Relevant documents and any updates to this RFP including addenda will be made available to all potential proposers who have contacted CITILINK for a copy of the RFP, and also posted on the CITILINK web site procurement page as linked below:

- [www.fwcitilink.com/resources-plans/](http://www.fwcitilink.com/resources-plans/)

The RFP, addenda, and any updates may also be picked up at CITILINK headquarters, 801 Leesburg Rd, Fort Wayne, IN 46808, Monday-Friday, 8:00 AM – 5:00 PM.

## **1.7 DISCLOSURE**

All information in a proposer's offer is subject to disclosure under the provisions of the Indiana Access to Public Records Act (IC 5-14-3-1 *et seq.*) This act also provides for the complete disclosure of contracts and attachments thereto except as exempted by law.

## SECTION 2 - SCOPE OF WORK

### 2.1 PROJECT EXPECTATION AND MANAGEMENT

#### a. Project Management Plan

The consultant must develop a detailed project schedule that establishes start and end points for each project task, data needed, and submittal dates for draft and final deliverables. This plan must be updated as needed throughout the duration of the project and any activities that have fallen behind will be flagged with mitigations identified. Consultant will share via a SharePoint or similar brand file as a filing system for shared use.

#### b. Project Working Group, Progress Reports, Invoicing

The consultant must work with CITILINK to establish a small project working group that will meet for up to 1-hour by conference calls bi-weekly, where the consultant will document these meetings with agendas and action items. These meetings will serve as opportunities for Citilink and the consultant to present recently completed work, discuss upcoming work, request input/feedback, and project coordination items.

The consultant must provide a monthly progress report to Citilink that will present a summary of work completed, work underway, and work to soon begin. The consultant will also highlight information or decisions needed from Citilink and project challenges and progress related to the schedule. Citilink will create payment milestones and once the milestone is reached a percentage of the overall contract cost will be paid to the consultant.

#### c. Data and Files

The consultant must provide Citilink with all requested data, analyses, maps, graphs, and graphics in a format agreed on by both parties. Citilink has access to Microsoft Office products and Adobe Suite products.

### 2.2 ENGAGEMENT

The scope of work relies heavily on successful communication and collaboration among stakeholders to collectively identify the appropriate path forward and create buy-in. Workshops are to be utilized to foster collaboration among Citilink staff and stakeholders, in addition to public meetings and innovative digital engagement.

#### a. Engagement Plan

The Consultant must develop a comprehensive engagement plan identifying key messaging, target audiences, and communication tools (online and printed) designed to excite and engage the local community. The plan will be designed to increase public awareness about the planning process and obtain feedback to inform recommendations, including any scenario plans that will be developed as part of the study. Mapping and visual

communication tools must be used to clearly communicate potential changes to the transit network and impacts of those changes. Digital and non-digital formats with accessible formats will be available upon request.

**b. Internal Outreach**

The consultant must interact with the Citilink's Board of Directors, an Internal Stakeholder group, and create an outreach plan to employees, including frontline staff. This will include:

- Two to four meetings with Citilink Leadership Staff
- Four meetings with a Citilink Internal Stakeholder group
- Three to six tabling events at operator facilities

**c. External Outreach**

The consultant must facilitate two to three public facing meetings for residents of the Fort Wayne and New Haven communities to have their voices heard and to learn more about the long-range plans. Locations will be determined based on history of previous public meetings, ridership, and equity in collaboration with Citilink.

Deliverables: Public Involvement Plan, Engagement Summary, materials, engagement meetings.

**2.3 EXISTING CONDITIONS**

**a. Visioning and Goals**

The consultant must work with Citilink leadership and staff to establish goals to guide the development of the long-range service plan. This task will be a review of current agency-wide goals, with a key focus on the next ten (10) years. Performance metrics will accompany the agreed upon goals and objectives, designed to be quantifiable using available data.

**b. Existing Service and facilities**

The consultant must prepare a summary of existing transit services including operating and ridership profiles and service facing facilities such as transit centers.

**c. Transit Market Analysis**

The consultant must identify gaps and assess trends of the Fort Wayne region and UZA using data and information provided by stakeholders and Citilink. Citilink will also prioritize future expansion requests from the public, businesses, nonprofits, or elected officials. Census data, analysis software, and forecasts from the Northeastern Indiana Regional Coordinating Council (NIRCC) will be key organization and collaborator to determine how transit demand will be affected.

**2.4 TRANSIT SERVICES**

The consultant must apply a range of analytical tools and datasets provided by Citilink and Northeastern Indiana Regional Coordinating Council (NIRCC) to construct a full picture of the strengths, weaknesses, and opportunities that face Citilink and the Fort Wayne area. This includes service standards and monitoring, showcasing the characteristics of service, such as frequency,

boardings, population and job coverage, and route purpose.

**a. System Evaluation**

i. Service Monitoring Standards

Citilink's service monitoring standards require a review and update. Consultant will provide guidance and recommendations to these standards, incorporating fixed-route and paratransit.

Once updated, Citilink's services must be applied to the proposed and current service monitoring standard. Consultant will conduct this analysis, coordinating closely with Citilink staff.

ii. Service Design Standards

Citilink's service design standards require review and update. Consultant will provide guidance and recommendations to these standards. Updates can include best practices and newer methods to identify strong indicators of transit success.

The consultant must apply Citilink's current network to the design standards to ensure compliance with the current and updated standards.

**b. Service Projections**

To prepare Citilink for future service changes and expansion, the consultant must lead a discussion with Citilink team members from Finance, Human Resources, Operations, and other relevant team members to develop year-by- year service projection scenarios for fixed-route and paratransit. The projections will be informed by Citilink's current financial model.

The intent is to develop a “most likely” scenario as well as two scenarios that represent more resources than projected and fewer.

**c. Service Scenarios**

The consultant must lead the development of service scenarios considering both current funding, future funding and unmet mobility needs. Each scenario will assume varying levels of service funding. Scenarios can include recommendations for additional service models, such as flexible fixed-route, micro-transit, pre-scheduled services, and other models.

Once a preferred scenario is identified, an implementation and/or priority list will be created for each of the service projection scenarios outlined above.

Deliverables: System Evaluation Memo, Service Projections and Service Scenario summary

**d. Transit System Redesign Review**

The Consultant must evaluate how well the redesigned network has adapted to and served

the changing commuter patterns and community needs in recent year. Coordinating with data and outcomes of other tasks in the long-range service plan process, considerations could include shifts in travel behavior, the impact of remote work, and demographic changes. The assessment will be based on prior planning documents that analyzed the system's effectiveness in providing equitable access, increasing transit ridership, and meeting the mobility needs of Citilink's service area. Considerations include whether the current network remains aligned with the evolving transportation demands of the region, development patterns, and population and jobs projection, and future development.

## **2.5 CAPITAL PROJECTS**

Recommendations for capital improvements over the next ten (10) years must be developed. This will include citing future transit centers, park and rides, and other service facing capital improvements. Citilink will grant the consultant access to the existing 2030 Transit Developmental Plan that was completed in 2020.

Deliverables: Capital project summary and recommendations

## **2.6 FINANCIAL**

The consultant must work with Citilink's Finance team to develop a ten (10) year financial budget that demonstrates Citilink's financial wellness to fund and afford assumed services, projects, and purchases.

The consultant must create a summary of Citilink's fare programs, capital improvement plan and operating plan to be included in the Final Report.

Deliverables: Financial model, Summary of Fare Programs

## **2.7 FINAL REPORT**

The consultant must summarize pertinent details of the operational analysis in a compelling narrative that provides the context, findings, and recommendations of each scenario in a clear and concise report. A draft must be produced and circulated to Citilink as well as available for stakeholder comment.

The consultant must develop the final report consisting of the long-range transit plan that provides Citilink with an actionable roadmap to deliver increased value to its customers and the community.

The consultant must compile key highlights from prior tasks into a concise final report. The final plan will be a visually compelling document. Maps, infographics, and photos must be used to help highlight prioritized recommendations that are easy to understand. A draft must be produced and circulated to Citilink as well as available for stakeholder comment.

Deliverables: Final Report with Operational Analysis and LRTP (Long-Range Transit Plan); Executive Summary; PowerPoint Presentation

## SECTION 3 – PROPOSAL REQUIREMENTS

### 3.1 TECHNICAL PROPOSAL FORMAT AND CONTENT

A. Offers should not include any unnecessarily elaborate or promotional material. Proposals shall be submitted via email (preferred) to [mmorley@fwcitilink.com](mailto:mmorley@fwcitilink.com) or a sealed envelope addressed to:

RFP 2026-001 Transit Tomorrow  
Citilink  
801 Leesburg Rd  
Fort Wayne, IN 46808

Sealed proposals, if hard copies, should include 1 (one) original and three (3) copies (technical proposal) and 1 (one) copy of price proposal must be received by Citilink no later than **the date listed in Section 1.3**. No proposals will be received after this date. If a proposal is delivered after the due date and time, Citilink will return the proposal unopened. All submittals are mandatory and considered part of the evaluation process. Failure to comply with this requirement may result in disqualification.

B. Submit a brief narrative description of the firm. The narrative should contain, but not be limited to the following:

- a. Company name
- b. Address
- c. Telephone number
- d. Branch office locations
- e. Home office locations
- f. Office location that would serve this project
- g. A list of all services performed by the firm.
- h. Length of time in transit planning business
- i. Percent of minority ownership including women and ethnic minorities of the business entity
- j. Any major accounts added in the past 24 months
- k. Listing of key principals and officers
- l. Total number of personnel including an indication of the number of employees expected to work on the project
- m. A discussion of the firm's experience in providing consulting on the Statement of Work.
- n. Highlight relevant experience of key team members and provide the resume of the project manager who will be assigned to this contract

and the project management organizational structure. Also provide resumes of the team members who will work directly with Citilink staff on any aspect of the project.

- o. Supply three references within the last five years, from previous or current clients, with a similar scope of service as Citilink. Include the clients' name, address, contact person, and telephone number, and the type of services performed.
- p. A statement of financial condition of the company including at least one bank reference including contact names, addresses, and telephone numbers.
- q. Documentation of the technical capacity of the organization to complete the proposed project.
- r. A statement regarding why the company would be the most qualified to handle this project, including previous experiences in transit planning.
- s. Provide a narrative on the firm's understanding of Citilink's scope of services, and the agency's proposed approach to fulfilling the requirements. This section shall include specific tasks on how the scope of work will be accomplished.
- t. State any exceptions, to or deviations from, the requirements of the RFP, segregating "technical" exceptions from "contractual" exceptions. Where Offeror wishes to propose alternative approaches to meeting Citilink's technical or contractual requirements, these should be thoroughly explained.

B. Project Approach – describe how the company will complete the long-range planning project and the company's process for the completion of the project. At minimum the following must be included:

- a. Company official assigned to this project
- b. A project schedule including estimated timelines for progress reports, internal engagement with Citilink, external engagement, plan draft timelines, and project completion timelines.

C. Cost Proposal

1. Pricing must be submitted in a separately sealed envelope. Provide costs for each phase with any discounts for accepting multiple phases together
2. All prices expressed by the vendor in its offer must be firm, expressed in U.S. dollars, defined as to be clearly understandable and without ambiguity as to the meaning.

### **3.2 PROPOSER COMMUNICATIONS AND REQUEST**

A. All correspondence and/or contact concerning any aspect of this solicitation or offers shall be with the Contract Officers. Proposers and their representatives shall not make any contact with or communicate with any members of Citilink, or its

employees and consultants, other than the Contract Officers concerning any aspect of this solicitation or offers. Proposers may be disqualified if any unsolicited contact related to this solicitation is made with an employee or representative of Citilink other than the Contract Officers.

- B. At any time during this procurement up to the time specified, Proposers may request in writing, a clarification or interpretation of any aspect, or a change to any requirement of the RFP or any addenda to the RFP. Requests may include suggested substitutes for specified items and for any brand names. Such written requests shall be made to the Contract Officers. The Proposer making the request shall be responsible for its proper delivery to Citilink. Citilink will not respond to oral requests. Any request for a change to any requirement of the contract documents must be fully supported with technical data, test results, or other pertinent information evidencing that the exception will result in a condition equal to or better than that required by the RFP, without substantial increase in cost or time requirements. Any responses to such written requests shall be provided by Citilink in the form of addenda only. Only written responses provided as addenda shall be official and no other forms of communication with any officer, employee, or agent of Citilink shall be binding on Citilink.
- C. The Proposer's Request for Clarifications must be received by **date listed in Section 1.3 by 5:00 PM eastern time.**
- D. If it should appear to a prospective Proposer that the Scope of Services is not sufficiently described or explained in the RFP or Contract documents, or that any conflict or discrepancy exists between different parts thereof or with any federal, state, local law, ordinance, rule, regulation, or other standard or requirement, the Proposer shall submit a written request for clarification to CityBus within the time period specified.

### **3.3 ADDENDA TO THE RFP**

- A. Citilink reserves the right to amend the RFP at any time. Any amendments to or interpretations of the RFP shall be described in written addenda. Citilink shall provide copies of addenda to all prospective Proposers officially known to have received the RFP. Prospective Proposers, or their agents, shall be responsible to collect the addendum at the address provided or receive the same otherwise. Failure of any prospective Proposer to receive the notification or addendum shall not relieve the Proposer from any obligation under its proposal as submitted or under the RFP, as clarified, interpreted, or modified. All addenda issued shall become part of the RFP. Proposers shall acknowledge the receipt of each individual addendum and all prior addenda in their proposals. Failure to acknowledge in their proposals receipt of addenda may, at Citilink's sole option disqualify the proposal. Proposers must notify Citilink promptly in writing of any address changes.
- B. If Citilink determines that the addenda may require significant changes in the preparation of proposals, the deadline for submitting the proposals may be

postponed by the number of days that Citilink determines will allow Proposers sufficient time to revise their proposals. Any new due date shall be included in the addenda.

### **3.4 CONDITIONS, EXCEPTIONS, RESERVATIONS OR UNDERSTANDING**

- A. Proposals stating conditions, exceptions, reservations, or understandings (hereinafter deviations) relating to the RFP may be rejected.
- B. Any and all deviations must be explicitly, fully, and separately stated in the proposal by setting forth at a minimum the specific reasons for each deviation so that it can be fully considered and evaluated by Citilink. All deviations not found to be unacceptable shall be evaluated in accordance with the appropriate evaluation criteria and procedures but may result in the Proposer receiving a less favorable evaluation than without the deviation.

### **3.5 AUTHORIZED SIGNATURES**

Every proposal must be signed by the person or persons legally authorized to bind the Proposer to a contract for the execution of the work and services. Upon request of Citilink, any agent submitting a Proposal on behalf of a Proposer shall provide a current power of attorney certifying the agent's authority to bind the Proposer. If an individual makes the Proposal, their name, signature, and address must be shown. If a firm or partnership makes the proposal, the name and address of the firm or partnership and the signature of at least one of the general partners must be shown. If a corporation makes the proposal, the proposal shall show the name of the state under the laws of which the corporation is chartered, the name and address of the corporation and the title of the person signing on behalf of the corporation. Upon request of Citilink, the corporation shall provide a certified copy of the bylaws or resolution of the board of directors showing the authority of the officer signing the proposal to execute contracts on behalf of the corporation.

### **3.6 MODIFICATION OR WITHDRAWAL OF PROPOSALS**

- A. A modification of any part of a proposal already received will be accepted by Citilink only if the modification is received prior to the Proposal Due Date.
- B. A Proposer may withdraw the entire proposal already received prior to the Proposal Due Date by submitting a written request for withdrawal executed by the Proposer's authorized representative. After the proposed Due Date, a proposal may be withdrawn only if Citilink fails to award the Contract within the proposal validity period or any agreed upon extension thereof. The withdrawal of a proposal does not prejudice the right of a Proposer to submit another proposal within the time set for receipt of proposals.
- C. This provision for modification and withdrawal of proposals may not be utilized by

a Proposer as a means to submit a late proposal and, as such, will not alter Citilink's right to reject a late proposal.

### **3.7 PROPOSAL EVALUATION, NEGOTIATION AND SELECTION**

#### **A. General Information**

1. Proposals will be evaluated, negotiated, selected and any award made in accordance with the criteria and procedures described in this section. Subject to Citilink's right to reject any or all proposals, the Proposer will be selected whose proposal is found to be most advantageous to Citilink, based upon consideration of the criteria. During the initial review of proposals, Citilink reserves the right to request clarification of minor issues from any Proposer to assure a complete understanding of their offer and to adjust any evaluations made with incorrect or unclear information.
2. Citilink will consider all the material submitted by the Proposer and related evidence Citilink may obtain to determine whether the Proposer is capable of and has a history of successfully completing contracts of the type solicited. A clear and complete response to the solicitation is critical so that the evaluation team may adequately understand all aspects of the proposal.
3. Proposers shall furnish acceptable evidence of their ability to perform, such as financial stability and the ability to obtain the necessary personnel when requested by Citilink. Refusal to provide requested information may cause the proposal to be rejected.
4. The evaluation team will make such investigations as are considered necessary for complete evaluation. The evaluation panel will employ those evaluation criteria set forth in this solicitation or in addenda that may be issued. The evaluation criteria shall be deemed to include any unstated sub criterion that logically might be included within the scope of the stated criterion.
5. Citilink reserves the right to select proposals that are in a competitive range, conduct discussions, and request Best and Final Offers. Citilink also reserves the right to make an award without discussions or requesting Best and Final Offers.

#### **B. Opening of Proposals**

Proposals will not be publicly opened. All proposals and evaluations will be kept strictly confidential, as allowed by law, throughout the evaluation, negotiation, and selection process. Only the members of the evaluation team and other Citilink officials, employees and agents that have a legitimate interest will be provided access to the proposals and evaluation results during this period.

### C. Evaluation Criteria

The following factors will be used as a guideline to evaluate the proposal:

1. Project Approach
2. Qualifications, Related Experience, Personnel and References
3. Cost Proposal
4. Conformance to Requirements and Specifications

### D. Evaluation Procedures

1. Proposers may be invited to interview with the Evaluation Team. The Evaluation Team reserves the right to interview the Proposer(s) it selects. The Evaluation Team has no obligation to interview any or all Proposer(s).
2. Evaluations will be made in strict accordance with all of the evaluation criteria and procedures. Citilink will select for any award the highest ranked proposal from a responsible, qualified Proposer, which does not render this procurement financially infeasible, and is judged to be most advantageous to Citilink based on consideration of the Evaluation Criteria.

### E. Confidentiality of Proposals

1. Access to government records is governed by the State of Indiana. Except as otherwise required by the State of Indiana, Citilink will exempt from disclosure proprietary information, trade secrets and confidential commercial and financial information submitted in the proposal. Any such proprietary information, trade secrets or confidential commercial information, which a Proposer believes should be exempted from disclosure, shall be specifically identified, and marked as such. Blanket-type identification by designating whole pages or sections as containing proprietary information, trade secrets or confidential commercial and financial information will not assure confidentiality. The specific proprietary information, trade secrets or confidential commercial and financial information must be clearly identified as such.
2. The Proposer shall submit proprietary information, trade secrets or confidential commercial and financial information, which a Proposer believes should be exempted from disclosure, in a separate volume specifically identified and marked as such as an appendix to the proposal.
3. Upon a request for records from a third party regarding this proposal

Citilink will notify in writing the party involved. The party involved shall indemnify Citilink's defense costs associated with its refusal to produce such identified information; otherwise, the requested information may be released.

4. Citilink shall employ sound business practices no less diligent than those used for Citilink's own confidential information to protect the confidence of all licensed technology, software, documentation, drawings, schematics, manuals, data and other information and material provided by Proposer and the Contractor pursuant to the Contract which contain confidential commercial or financial information, trade secrets or proprietary information as defined in or pursuant to the State of Indiana against disclosure of such information and material to third parties except as permitted by the Contract. The Contractor shall be responsible for ensuring that confidential commercial or financial information, trade secrets or proprietary information, with such determinations to be made by Citilink in its sole discretion, bears appropriate notice relating to its confidential character.

### **3.8    RESPONSE TO PROPOSALS**

#### **A.    Notice of Award**

The contract shall be deemed to include all provisions of this RFP, and all provisions required in public contracts by local, state, and federal law.

#### **B.    Notice to Unsuccessful Proposers**

1. Citilink will inform unsuccessful Proposers who were within the competitive range at the time negotiations closed of the following information:
  - a. The number of proposals Citilink received.
  - b. The name of the successful Proposer.
2. Citilink will try to give the notice under this paragraph promptly after contract award. Citilink's failure to give that notice shall not be deemed to affect the validity of the contract.

#### **C.    Acceptance/Rejection of Proposals**

1. Citilink reserves the right to reject any or all proposals for sound business reasons, to undertake discussions with one or more Proposers, and to accept that proposal or modified proposal which, in its judgment, will be most advantageous to Citilink, price and other evaluation criteria considered. Citilink reserves the right to consider any specific proposal that is conditional or not prepared in accordance with the instructions and

requirements of this RFP to be noncompetitive. Citilink reserves the right to waive any defects, or minor informalities or irregularities in any proposal that do not materially affect the proposal or prejudice other Proposers.

2. If there is any evidence indicating that two or more Proposers are in collusion to restrict competition or otherwise engaged in anti-competitive practices, the proposals of all such Proposers shall be rejected and such evidence may be a cause for disqualification of the participants in any future solicitations undertaken by Citilink.
3. Citilink may reject a proposal that includes unacceptable deviations.

**D. Single Proposal Response**

If only one proposal is received and it is found by Citilink to be acceptable, a detailed price/cost proposal may be requested of the single Proposer. A price or cost analysis, or both, possibly including an audit, may be performed by or for Citilink of the detailed price/cost proposal in order to determine if the price is fair and reasonable. The Proposer has agreed to such analysis by submitting a proposal in response to this RFP. It should be recognized that a price analysis through comparison to other similar procurements must be based on an established or competitive price of the elements used in the comparison. The comparison must be made to a purchase of similar quantity, involving similar specifications and in a similar period. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto. Where it is impossible to obtain a valid price analysis, it may be necessary to conduct a cost analysis of the proposed price. A cost analysis is a more detailed evaluation of the cost elements in the Proposer's Offer. It is conducted to form an opinion as to the degree to which the proposed costs represent what the Proposer's performance should cost. A cost analysis is generally conducted to determine whether the Proposer is applying sound management in proposing the application of resources to the contracted effort and whether costs are allowable, allocable, and reasonable. Any such analyses and the results there from shall not obligate Citilink to accept such a single proposal; and Citilink may reject such proposal at its sole discretion.

**E. Cancellation of Procurement**

Citilink reserves the right to cancel the procurement, for sound business reasons, at any time before the Contract is fully approved and executed on behalf of Citilink. Citilink will not pay Proposers any costs incurred in the preparation of a proposal responding to this RFP.

**3.9 PROTEST PROCEDURES**

**a. General Procedures**

- A. Any Proposer or Contractor whose direct economic interest would be affected by the award of the Contract or the failure to award the Contract may file a protest, claim, or dispute with Citilink pursuant to these protest procedures prior to filing any protest, claim or dispute with the FTA.
- B. Protests, claims, or disputes, where applicable, shall be in writing and filed with Citilink directed to the CEO, John Metzinger, 801 Leesburg Rd, Fort Wayne, IN 46825. Failure to comply with any of the requirements may result in rejection of the protest.

b. Protest Before Proposal Opening

- A. Protests shall be submitted in writing prior to the opening of proposals, unless the aggrieved person did not know and could not have known of the facts giving rise to such protest prior to the opening. In that case, the protest shall be submitted within five (5) calendar days after such aggrieved person knows or should have known of the facts giving rise to the protest. The protest shall clearly identify:
  1. The name, address, and telephone number of the protester
  2. The grounds for the protest, any and all documentation to support the protest and the relief sought.
  3. Steps that have been taken to date in an attempt to correct the alleged problem or concern.

c. Protest After Award

- A. Any individual or entity may file a protest with Citilink alleging a violation of applicable federal, state law and/or Citilink policy or procedure relative to seeking, evaluating and/or intent to award a procurement Contract. In addition, any individual or entity may file a protest with Citilink alleging that Citilink has failed to follow its Procurement Protest Procedures. Such protest must be filed no later than five (5) calendar days from the notice of intent to award or non-award of the procurement Contract.
- B. Any protests, disputes, or claims with respect to the award of a Contract through solicitation of proposals shall be submitted in writing within five (5) days of notification of such award to the CEO for a decision. All claims shall clearly identify:
  1. The name, address, and telephone number of the protester
  2. The grounds for the protest, any and all documentation to support the protest and the relief sought.
  3. Steps that have been taken to date in an attempt to correct the alleged problem or concern.

A written decision by the Citilink CEO stating the grounds for allowing or denying the protest will be mailed to the protestor prior to execution of the Contract. Such decision shall be final unless the Board of Directors accepts an appeal of the CEO's decision.

C. FTA Protest Procedures

FTA will only review protests regarding the alleged failure of Citilink to have written protest procedures, or the alleged failure to follow such procedures. An alleged violation on other grounds falls under the jurisdiction of the appropriate State or local administrative or judicial authorities. Alleged violations of a specific Federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with the Federal regulation. FTA will only review protest submitted by an interested party as defined in FTA 4220.1F. FTA's decision on any appeal will be final.

**3.10 PROPOSAL AS A CONTRACT**

Each proposal will be submitted with the understanding that acceptance in writing by Citilink of the offer to furnish the products or services described shall bind the Proposer to furnish and deliver at the proposed price and in accordance with the specifications, terms and conditions, and other requirements detailed in the RFP or subsequent addendum.

**3.11 WAIVER**

The Proposer shall represent and warrant that they have sufficiently informed themselves in all matters affecting the performance of the work called for in the scope of this project; that they have checked the proposal for errors and omissions; that the prices stated in the proposal are correct and as intended by them and is a complete and correct statement of the prices for performing the work required.

**3.12 CONTRACT AWARD AND EXECUTION**

The acceptance of an Offer for award, if made, shall be evidenced by a notice of award of Contract in writing delivered in person or by registered mail to the Offeror whose Offer is accepted. No other act by Citilink shall evidence acceptance of an Offer. Such notice shall obligate said Offeror to commence performance under the Contract as specified in Production of Documents.

**3.13 SPECIFICATIONS AND OFFER OMISSIONS**

- 1 The Contractor shall have the responsibility of providing all services required to meet the requirements of the Scope of Services.
- 2 Any request, condition, exception, reservation, understanding or other deviation by

Contractor not separately stated as required by Instructions to Offerors by completing the specified form(s) shall be invalid and shall not be binding on Citilink.

## **SECTION 4 – GENERAL TERMS AND CONDITIONS**

### **4.1 PAYMENT TERMS**

The Contractor will be compensated only for products/services delivered and accepted within the terms of this agreement. One hundred percent (100%) of each invoice will be paid to the Contractor within forty-five (45) days of acceptance, after appropriate invoices have been submitted and approved.

CITILINK will strive to meet the payment deadlines of a prompt payment discount whenever such a discount is offered.

### **4.2 INSURANCE REQUIREMENTS**

The successful Proposer will have ten (10) calendar days from the date of the contract award to submit proof of insurance.

A. The Contractor shall purchase and maintain, throughout the term of the Contract, insurance from an insurance company authorized to do business in the State of Indiana that will protect contractors, subcontractors, and the owner from all liability claims under the contract. The insurance must state Fort Wayne Public Transportation Corporation as additionally insured. The amount of insurance shall not be less than the following:

1. Workers' Compensation, disability benefit and other similar employee benefit acts in the amount required under State of Indiana law. A nonresident Contractor shall have insurance for benefits payable under Indiana's Workers' Compensation law for any employee resident of and hired in Indiana. The Contractor shall maintain coverage for employees of other states as mandated.

2. Comprehensive General Liability: \$1,000,000

Bodily injury and property damage combined single limit including personal injury and completed operations.

B. The Contractor may not start work until evidence of all required insurance has been submitted and approved by CITILINK. The Contractor must cease work if any of the required insurance is canceled or expires. One copy of the certificate of insurance shall be submitted to and approved by CITILINK prior to the execution of the Contract.

C. All policies providing contractor's insurance shall be endorsed to provide thirty (30) days written notice of cancellation or non-renewal to CITILINK.

D. The limits of liability may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies. But in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required.

E. All policies of insurance presented as proof of compliance shall be on forms and with insurance companies approved by CITILINK. All such insurance policies shall be provided by insurance companies having Best's ratings of B+ or greater and VI or greater (B+/VI) as shown in the most current issue of Best's Key Rating Guide. Policies of insurance insured by insurance companies not rated by Best's or having Best's ratings lower than B+/VI will not be accepted as complying with the insurance requirements of the Contract unless such insurance companies were approved in writing prior to award of the Contract.

#### **4.3 PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS**

In accordance with I.C. 22-9-1-1, *et seq.*, The contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.

The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

The contractor or its collective bargaining representative will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments.

The contractor will comply with all relevant published rules, regulations, directives, and orders of the Indiana Civil Rights Commission, which may be in effect prior to the taking of proposals for any individual state project.

The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Indiana Civil Rights Commission, said forms may also elicit information as the practices, program, and employment statistics of each subcontractor as well as the contractor itself, and said contractor will permit access to its books, records, and accounts by the Indiana Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this Contract and relevant with rules, regulations, and orders of the Indiana Civil Rights Commission.

In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Indiana, which Administrative Board may order the cancellation of the contract

found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Indiana Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

#### **4.4 PUBLIC DISCLOSURE OF PROPOSALS AND MATERIALS**

- A. Access to government records, including those held by CITILINK, is governed by the State of Indiana.
- B. Proposals, documents and material pertaining to this RFP become the property of CITILINK and shall be open to public inspection.
- C. Proposers are advised that **any Proposals, documents and material** it submits to CITILINK in response to this RFP or in pursuit of a government-funded contract are open to public inspection. This includes, but is not limited to, Proposals, documents and material that the Proposer may deem to be confidential or proprietary in nature.
- D. Under the State of Indiana Freedom of Information Act (FOIA), CITILINK is obligated to provide access to, or copies of, material it has in its possession when another party makes a FOIA request. CITILINK is not allowed to withhold or redact material that the Proposer may find sensitive even if the Proposer identifies the material as confidential, propriety, trade secret, etc.
- E. Proposers should assume that any material it submits to CITILINK will be shared with the public.
- F. CITILINK will not notify Proposers or Contractors when a FOIA request is made for information it provided to CITILINK.
- G. In the event that CITILINK needs to view confidential or proprietary information such as, but not limited to, financial statements, schematics, designs, etc., CITILINK will view the material in person. In such cases, the Proposer may be required to bring the material to CITILINK's offices for viewing. At other times, CITILINK staff may view the material in the Proposer's place of business or at another site.
- H. It is the Proposer's responsibility to provide as complete a Proposal as possible so that CITILINK may properly evaluate the Proposer for selection of award. Proposers are invited to indicate in their Proposal or other documents that material pertinent to the

Proposer's ability or capacity is available for viewing. However, Proposals that, in CITILINK's sole opinion, are too heavily dependent on viewing material and provide little written material on which CITILINK may evaluate the Proposer, may receive lower evaluation scores and the Proposer will not be considered further.

- I. CITILINK is under no obligation to meet with or view material from Proposers whose Proposals do not fall within a competitive range after evaluation.
- H. Required Certifications must be completed and submitted with Technical Proposal (See Appendix A).

#### **4.5 INDEMNIFICATION**

- 1 The Contractor shall, to the extent permitted by law (1) protect, indemnify and save CITILINK and its officers, employees and agents, including consultants, harmless from and against any and all liabilities, damages, claims, demands, liens, encumbrances, judgments, awards, losses, costs, expenses, and suits or actions or proceedings, including reasonable expenses, costs and attorneys' fees incurred by CITILINK and its officers, employees and agents, including consultants, in the defense, settlement or satisfaction thereof, for any injury, death, loss or damage to persons or property of any kind whatsoever, arising out of or resulting from the Contract, including negligent acts, errors or omissions of its officers, employees, servants, agents, subcontractors and suppliers; (2) upon receipt of notice and if given authority, shall settle at its own expense or undertake at its own expense the defense of any such suit, action or proceeding, including appeals, against CITILINK and its officers, employees and agents, including consultants, relating to such injury, death, loss or damage. Each party shall promptly notify the other in writing of the notice or assertion of any claim, demand, lien, encumbrance, judgment, award, suit, action or other proceeding hereunder. The Contractor shall have sole charge and direction of the defense of such suit, action or proceeding. CITILINK shall at the request of the Contractor furnish to the Contractor all reasonable assistance that may be necessary for the purpose of defending such suit, action or proceeding, and shall be repaid all reasonable costs incurred in doing so. CITILINK shall have the right to be represented therein by advisory counsel of its own selection at its own expense.
- 2 The obligations of the Contractor shall not extend to circumstances where the injury, or death, or damages is caused solely by the negligent acts, errors or omissions of CITILINK, its officers, employees, agents or consultants. Provided, in case of joint or concurrent negligence of the parties hereto giving rise to a claim or loss against either one or both, each shall have full rights of contribution from the other.
- 3 Nothing in this Contract shall be construed to waive CITILINK's immunities or liability limits provided under applicable state or federal law.

#### **4.6 TERMINATION FOR CONVENIENCE**

CITILINK, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this Contract is terminated, CITILINK shall be liable only for payment under

the payment provisions of this Contract for products delivered or services rendered before the effective date of termination.

Contractor may also reserve the right to terminate the Contract Agreement for any, or for no reason within thirty (30) days prior written notice to CITILINK.

#### **4.7 TERMINATION FOR DEFAULT**

- 1 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.
- 2 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 convenience of CITILINK.

#### **4.8 PUBLICITY**

All publicity releases or releases of reports, papers, articles, maps or other documents in any way concerning this Contract, which the Contractor or any of its subcontractors desire to make for purposes of public announcement, in whole or in part, shall be subject to approval by CITILINK's Marketing and Development Manager, prior to release.

#### **4.9 CONFLICT OF INTEREST**

- 1 The Contractor, by entering into the Contract with CITILINK, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services, or materials required to be performed or provided under the Contract and that it shall not employ any person or agent having such interests. In the event that the Contractor or its agents, employees, or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to CITILINK and take action immediately to eliminate the conflict or to withdraw from this Contract, as CITILINK may require.
- 2 The Contractor also certifies that to the best of its knowledge, no CITILINK Board Member or employee, or employee or officer of any agency interested in the Contract has a pecuniary interest in the business of the Contractor or with the Contract and that no person associated with the Contractor has any interest that would conflict in any manner or degree with the performance of the Contract.
- 3 The Contractor, by entering into a Contract with CITILINK further covenants: 1) that no person or selling agency except bona fide employees or designated agents or representatives of the Contractor has been employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and 2) that no gratuities were offered or given by the Contractor or any of its agents, employees or representatives, to any official, member, or employee of CITILINK or other governmental agency with a view toward securing the Contract or securing favorable treatment with respect to the

awarding or amending, or the making of any determination with respect to the performance of this service.

#### **4.10 COMPLETE AGREEMENT**

The Contract resulting from this Solicitation, including exhibits and other documents incorporated in the Contract or made applicable by reference, such as this RFP and the accepted proposal, constitutes the complete and exclusive statement of the terms and conditions of the Contract between the Contractor and CITILINK. The Contract supersedes all prior representations, understandings, and communications. The validity in whole or in part of any term or condition of the Contract shall not affect the validity of other terms or conditions. CITILINK's failure to insist in any one or more instances upon the Contractor's performance of any term or condition of the Contract shall not be construed as a waiver or relinquishment of CITILINK's right to such performance, or to future performance, of such term or condition by the Contractor, and Contractor's obligation for performance of that term or condition shall continue in full force and effect.

#### **4.11 DISPUTES**

1. Disputes arising in the performance of this Contract, which are not resolved by agreement of the parties, shall be decided in writing by the authorized representative of CITILINK's General Manager. 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 the 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 the General Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.
2. Unless otherwise directed by CITILINK, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
3. 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 its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
4. 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 of Indiana.
5. The duties and obligations imposed by the Contract Documents and the rights and remedies available hereunder 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 consent in any breach hereunder, except as may be specifically agreed in writing.

## **SECTION 5 – FEDERAL TERMS AND CONDITIONS**

This Contract is federally assisted, and as such, the following federal terms and conditions apply.

### **5.1 NO OBLIGATION BY THE FEDERAL GOVERNMENT**

1. CITILINK 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 CITILINK, Contractor, or any other party (whether or not a part 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 the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **5.2 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTIONS**

1. The Contractor acknowledges that the provision 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. Accordingly, by signing 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 also 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 awarded by FTA under the authority of 49 U.S.C. § 5301, *et seq.*, the Government reserves the right to impose the penalties of 18 U.S.C. §5301, *et seq.* on the Contractor, to the extent of the Federal Government deems appropriate.
3. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **5.3 ACCESS TO RECORDS**

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government 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 the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. 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.
3. 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.
4. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

#### **5.4 CHANGES IN FEDERAL LAWS AND REGULATIONS**

All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Purchaser request that would cause Purchaser to be in violation of FTA terms and conditions.

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 CITILINK and FTA that funds any part of this Contract, 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.

#### **5.5 CIVIL RIGHTS**

In addition to obligations listed below, Contractor must also abide by all applicable State and

local Civil Rights laws, statutes and ordinances.

The following requirements apply to this 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 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. §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. Part 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 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 or pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  - (B) Age. In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§623 and Federal transit law at 49 U.S.C. §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  - (C) Disabilities. In accordance with Section 102 of the American 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.

## **5.6 DISADVANTAGED BUSINESS ENTERPRISE**

The Contractor, subrecipient or subcontractor 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 C.F.R part 26 in the award and administration of DOT-assisted contracts. 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, which may include, but is not limited to:

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

Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the recipient's written consent; and that, unless the recipient'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).

## **5.7 INCORPORATION OF FTA TERMS**

These terms and conditions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding Contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, as amended, 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 CITILINK requests that would cause CITILINK to be in violation of the FTA terms and conditions.

## **5.8 TERMINATIONS (FEDERAL CLAUSES)**

### **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 CITILINK'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 by 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 be paid only 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 of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

## **5.9 DEBARMENT AND SUSPENSION CERTIFICATION REQUIREMENTS**

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. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or Citilink to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

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 by CITILINK 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 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, 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.

## **5.10 RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION**

### **Rights and Remedies of CITILINK**

CITILINK shall have the following rights in the event that CITILINK deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as Citilink for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

For purposes of this Contract, breach shall include failure to honor the Contract in any respect.

### **Rights and Remedies of Contractor**

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by CITILINK, the Contractor expressly agrees that no default, act or omission of CITILINK shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless CITILINK directs Contractor to do so) or to suspend or abandon performance.

### **Remedies**

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, CITILINK will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before CITILINK takes action contemplated herein, CITILINK will provide the Contractor with sixty (60) days written notice that CITILINK considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

### **Disputes**

CITILINK and the Contractor intend to resolve all disputes under this Agreement to the best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate that the Alternative Dispute Resolution process will include, at a minimum, an attempt to resolve disputes through communications between their staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within CITILINK and the Contractor's organization.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with CITILINK's direction or decisions made thereof.

#### **Performance during Dispute**

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

#### **Claims for Damages**

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 its employees, agents or others for whose acts it 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.

#### **Rights and Remedies**

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.

### **5.11 LOBBYING CERTIFICATION AND DISCLOSURE STATEMENTS**

In accordance with 31 U.S.C. §1352, and U.S. DOT regulations, ("New Restrictions on Lobbying", 49 C.F.R., Part 20), the Contractor must have provided a certification to CITILINK that the Contractor has not and will not use Federal appropriated funds to pay any person or organization to influence or attempt to influence an 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.

### **5.12 CONTRACTOR E-VERIFY PROGRAM**

Contractor must verify through Affidavit that it does not knowingly employ any unauthorized aliens. Pursuant to Indiana Code I.C. §22-5-1.7 the Contractor is required to utilize the U.S. Department of Homeland Security's **E-Verify** system to verify the employment eligibility of all new employees hired by the Contractor during the Contract term. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the Contract utilize the E-Verify system to verify employment eligibility of all new employees hired by the subcontractor during the Contract term.

## **5.13 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

### Clean Air Act

- (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.*
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

### Federal Water Pollution Control Act

- (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.*
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.”

## **5.14 CLEAN WATER**

- (a) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§1251 – 1377 *et seq.*
- (b) The contractor agrees to report each violation to CITILINK and understands and agrees that CITILINK will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office in compliance with the notice of violating facility provisions in section 508 of the Clean Water Act, as amended, 33 U.S.C. §1368
- (c) The contractor agrees to protect underground sources of drinking water in compliance

with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §300f – 300j-6.

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

## **5.15 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.

## **5.16 TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS**

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. **U.S. DOL Certification.** Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.
2. **Special Warranty.** When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.
3. **Special Arrangements.** The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

## **5.17 ADA ACCESS**

The Contractor shall comply with 49 U.S.C. §5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights 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. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 U.S.C. §794, which prohibits discrimination on the basis of handicaps, and 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 persons with disabilities, including any subsequent amendments thereto.

## **5.18 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 Contract.

## **5.19 DOMESTIC PREFERENCE FOR PROCUREMENTS**

- a. The recipient or subrecipient should, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards, contracts, and purchase orders under Federal awards.
- b. For purposes of this section:
  - (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
- c. Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR 184.

## **5.20 FLY AMERICA**

- a) Definitions. As used in this clause—
  - 1) "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.
  - 2) "United States" means the 50 States, the District of Columbia, and outlying areas.
  - 3) "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, Agencies, 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. 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.

c) 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]:

d) 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.

## **5.21 PATENT RIGHTS AND RIGHTS IN DATA**

Intellectual Property Rights

This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT.

The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions:

Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA 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.

For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software,

standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes,” any subject data or copyright described below. For “Federal Government Purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.
  - a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
  - b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.
2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA’s license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.
6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

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

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

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

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

(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

## **5.23 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

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

- 1) Extend or renew a contract to procure or obtain covered telecommunications equipment or services; or
- 2) Procure or obtain covered telecommunications equipment or services;
- 3) Enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services.

(b) As described in section 889 of Public Law 115-232, “covered telecommunications equipment or services” means any of the following:

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment;
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country;

(c) For the purposes of this section, “covered telecommunications equipment or services” also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(d) In implementing the prohibition under section 889 of Public Law 115-232, heads of executive agencies administering loan, grant, or subsidy programs must prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered telecommunications equipment or services, to procure replacement equipment or services, and to ensure that communications service to users and customers is sustained.

(e) When the recipient or subrecipient accepts a loan or grant, it is certifying that it will comply with the prohibition on covered telecommunications equipment and services in this section. The recipient or subrecipient is not required to certify that funds will not be expended on covered telecommunications equipment or services beyond the certification provided upon accepting the loan or grant and those provided upon submitting payment requests and financial reports.

(f) For additional information, see section 889 of Public Law 115-232 and 200.471.

## **5.24 PROMPT PAYMENT**

*(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)*

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. 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.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work

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

## **5.25 SOLID WASTES (RECOVERED MATERIALS)**

- (a) Recipient or subrecipient that is a State agency or agency of a political subdivision of a State and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- (b) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

## **5.26 CONFORMANCE WITH ITS NATIONAL ARCHITECTURE**

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

## **5.27 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 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any

Third Party Agreement with the Third Party Participant without FTA's written approval.

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

## **5.28 TRAFFICKING IN PERSONS**

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- A. Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- B. Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- C. Use forced labor in the performance of the Recipient's Award or subagreements thereunder

## **5.29 CONFLICT OF INTEREST**

- A. The Contractor, by entering into the Contract with CITILINK, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services, or materials required to be performed or provided under the Contract and that it shall not employ any person or agent having such interests. In the event that the Contractor or its agents, employees, or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to CITILINK and take action immediately to eliminate the conflict or to withdraw from this Contract, as CITILINK may require.
- B. The Contractor also certifies that to the best of its knowledge, no CITILINK Board Member or employee, or employee or officer of any agency interested in the Contract has a pecuniary interest in the business of the Contractor or with the Contract and that no person associated with the Contractor has any interest that would conflict in any manner or degree with the performance of the Contract.
- C. The Contractor, by entering into a Contract with CITILINK further covenants: 1) that no person or selling agency except bona fide employees or designated agents or representatives of the Contractor has been employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and 2) that no gratuities were offered or given by the Contractor or any of its agents, employees or representatives, to any official, member, or employee of CITILINK or other governmental agency with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this service.

## **5.30 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 leading 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.); and
- 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.

### **5.32 PRIVACY ACT**

Should CITILINK or Contractor, or any of its third-party contractors, sub-recipients, or their employees administer any system of records on behalf of the Federal Government, the Privacy Act of 1974, 5 U.S.C. § 552(a), imposes information restrictions on the party managing the system of records. For purposes of the Act, when the Contract involves the operation of a system of records on individuals to accomplish a government function, the recipient and any third-party contractors, sub-recipient and their employees involved therein are subject to the Act. The requirements of the Act, including the civil and criminal penalties for violation of the Act, apply to those individuals involved. Failure to comply with the terms of this Act will make this Contract subject to termination.

### **5.34 VETERANS EMPLOYMENT PREFERENCE**

On a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

### **5.35 SEVERABILITY**

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

## **APPENDIX A**

**REQUIRED FORMS and CERTIFICATIONS**  
**(Must be completed and included in package with Technical Proposal)**

## **PROPOSAL FORM**

Proposer:

---

Name

---

Name of Authorized Representative

---

Signature of Authorized Representative

---

Title

---

Address, including Zip Code

---

Telephone Number

---

Fax Number

Please note if a prompt payment discount is offered.

\_\_\_\_\_ % @ \_\_\_\_\_ days

## PRICING

Citilink is seeking pricing for each phase of the COA as a “not-to-exceed” amount to complete that phase. Billing should be by project task, with details in the billing as to hours spent by various consultant staff, with the total amount not to exceed the proposal, unless agreed to in writing by both parties in advance. Consultant should also include a cost per hour for additional services, by type of work (principal, engineer, planner, etc). Consultant should also include a price to complete Phase 1 and 2 and a price to complete all three phases.

Phase 1

Hours (estimate) \_\_\_\_\_

Not to exceed \$ \_\_\_\_\_

Phase 2

Hours (estimate) \_\_\_\_\_

Not to exceed \$ \_\_\_\_\_

Phase 3

Hours (estimate) \_\_\_\_\_

Not to exceed \$ \_\_\_\_\_

Phase 1 and 2

Not to exceed \$ \_\_\_\_\_

Phase 1, 2, and 3

Not to exceed \$ \_\_\_\_\_

Additional Hours by type (insert additional rows as needed)

Type	Hourly Rate			

## REPRESENTATIONS AND CERTIFICATIONS

### REPRESENTATIONS

Proposers firm is as: (check or complete all applicable boxes)

- an individual
- a partnership
- a non-profit organization
- a corporation, incorporated under the laws of the State of \_\_\_\_\_
- a limited liability corporation (LLC)
- other, \_\_\_\_\_

### CERTIFICATIONS

(check applicable box)

#### 1. Covenants Against Gratuities:

Neither Proposer nor any of its employees, representatives or agents have offered or given gratuities or will offer or give gratuities (in the form of entertainment, gifts or otherwise) to any director, officer, or employee of Citilink with the view toward securing favorable treatment in the awarding, amending, or the making of any determination with respect to Proposer selection or the performance of the Contract.

The undersigned Proposer certifies that the foregoing is true.

Proposer

---

Authorized Representative

---

Date

## **PROPOSAL ADDENDA**

Addenda:

The undersigned acknowledges receipt of the following addenda to the document:

Addendum No. \_\_\_\_\_, Dated \_\_\_\_\_

Addendum No. \_\_\_\_\_, Dated \_\_\_\_\_

Addendum No. \_\_\_\_\_, Dated \_\_\_\_\_

Failure to acknowledge receipt of all addenda may cause the proposal to be considered non-responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the offer.

The undersigned understands that any conditions stated above, clarifications made to above or information submitted on or with this form other than that requested, will render proposal unresponsive.

---

(Name of Individual, Partnership or Corporation)

---

(Address)

---

---

(Authorized Signature)

(Title)

---

---

(Date)

(Telephone)

## **AGREEMENT OF SERVICES**

TO: Fort Wayne Public Transportation Corporation 801  
Leesburg Rd  
Fort Wayne, IN 46825

The undersigned hereby agrees to furnish the services as listed below in accordance with the specifications on file with the Fort Wayne Public Transportation Corporation, which have been carefully examined and attached hereto.

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

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

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

For (Company): \_\_\_\_\_

Address: \_\_\_\_\_

## CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT

All primary participants in contracts over \$25,000 shall be required to execute the certification listed below.

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential contractor for a major third-party contract), certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for 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 statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(If the primary participant (applicant for an FTA grant, or cooperative agreement, or potential third-party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT (APPLICANT FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTACT), CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 *ET SEQ.* ARE APPLICABLE THERETO.

The undersigned chief legal counsel for the \_\_\_\_\_ hereby certifies that  
(entity)  
the \_\_\_\_\_ has authority under State and local law to comply with the subject  
(entity)  
assurances and that the certification above has been legally made.

## LOBBYING

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. §1601, *et seq.*]

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 C.F.R. §20.110(d)

Language in Lobbying Certification is mandated by 49 C.F.R. Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 C.F.R. Part 20.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

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

Byrd Anti-Lobbying Amendment, 31 U.S.C. §1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. §1601, *et seq.*] - Contractors who apply or proposal for an award of \$100,000 or more shall file the certification required by 49 C.F.R. 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 or State legislature, 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 CityBus.

## 49 C.F.R. PART 20--CERTIFICATION REGARDING LOBBYING

### Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned [Contractor] 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 or State Legislature, 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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts 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 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 Contractor, accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. §3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official: \_\_\_\_\_

Name and Title of Contractor's Authorized Official: \_\_\_\_\_

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

#### DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352. For this RFQ, in Boxes 1, 2 and 3 – circle A; in Box 4 – put the Bidding firm's name and address; Boxes 5, 7, 8 and 9 – leave blank; Box 6 has already been completed; Box 10 – put NA if Bidding firm does NOT participate in lobbying; Box 11 - read and complete neighboring box.

1. Type of Federal Action: (circle one) a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: (circle one) a. bid/offer/application b. initial award c. post-award
3. Report Type: (circle one) a. initial filing b. material change  For Material Change Only: year _____ quarter _____ date of last report _____	4. Name and Address of Reporting Entity:  Prime  Sub-awardee Tier _____, <i>if known:</i> Congressional District, <i>if known:</i>
5. If Reporting Entity in No. 4 is a Sub-awardee, Enter Name and Address of Prime:  Congressional District, <i>if known:</i>	6. Federal Department/Agency:
a. Federal Program Name/Description: CFDA Number, <i>if applicable:</i>	8. Federal Action Number, <i>if known:</i>
9. Award Amount, <i>if known:</i> \$ _____	10. a. Name and Address of Lobbying Registrant ( <i>if individual, last name, first name, MI</i> ):  b. Individual Performing Services ( <i>including address if different from No. 10a</i> ) ( <i>last name, first name, MI</i> ):

<p>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure</p>	<p>Signature: _____        Print Name: _____        Title: _____        Telephone No.: _____        Date: _____</p>
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<p>shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>	
<p>Federal Use Only:</p>	<p>Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)</p>

## INDIANA E-VERIFY AFFIDAVIT

Contractor shall, in accordance with I.C. § 22-5-1.7, enroll and verify work eligibility status of all newly hired employees of Contractor through the E-Verify program or any other work authorization program approved by the United States Department of Homeland Security or the Department of Homeland Security. Contractor further understands that it is not required to verify work eligibility status of newly hired employees of Contractor through the E-Verify program if the E-Verify program no longer exists. Contractor certifies that it does not knowingly employ any unauthorized aliens.

Signature of Contractor's Authorized Official: \_\_\_\_\_

Name and Title of Contractor's Authorized Official: \_\_\_\_\_

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