

NOTICE TO BIDDERS
PURCHASE: AUTOMATED PASSENGER COUNTER SYSTEM

This serves as official notification that the Michiana Area Council of Governments applied for and received approval for the purchase of specific capital equipment from the Federal Transportation Administration (FTA). These funds are appropriated for the Transit Capital Assistance for the Urbanized Area Formula Grant program authorized by U.S.C. §5307. Notice is hereby given that a Request for Proposals has been issued and responses will be received at the MACOG office, 227 W. Jefferson Blvd., 1120 County-City Building, South Bend, Indiana 46601 until 4:00 pm (EST) December 2, 2010 to purchase an automated passenger counter system and associated software for up to sixteen trolley buses. Specifications may be obtained at the MACOG office between 9:00 am and 4:00 pm (EST) Monday/Friday by phone at 574-287-1829 or by e-mail to macogdir@macog.com after November 5, 2010. A pre-bid conference may be held if requested in writing by 4:00 P.M. by November 15, 2010. Please submit all bids to Ms. Sandra Seanor, MACOG Executive Director.

November 5, 2010

To: All Interested Bidders:

From: Sandra Seanor, Executive Director

Re: Reissue - Request for Proposal - Automatic Passenger Counting System

Dear Interested Parties:

We are soliciting your interest in providing MACOG with a bid quotation for the procurement of an automatic passenger counting system for a fleet of trolley buses operated as the Interurban Trolley fixed route system in Elkhart and Goshen IN. Specifications are enclosed in this information packet.

Please complete the enclosed proposal format outline exactly as formatted.

You must submit all forms provided in the MACOG proposal packet, in the order specified, and filled out completely, with no omitted information. Proposals not following these instructions will not be evaluated or considered for an award.

There are six sections in this bid package:

1. The introductory section includes this cover letter, Instructions to Proposer (Pg. 3-4), and the Evaluation Criteria (Pg. 5) that will be used to evaluate the submitted bids.
2. Attachment A contains the Proposal Form (Pgs. 6-9) and the Vendor Checklist (Pg. 10). Both of these items must be completed on the forms provided, filled out completely, and submitted with your bid.
3. Attachment B contains the specifications for the automatic passenger counting system and starts on Pg. 11. You must use the form provided and complete each section with the same "yes"/"no" format shown. This attachment must be completed, in the same order, with no omissions, and submitted with your bid.
4. Attachment C is the contract for purchase and starts on Pg. 17. The contract must be signed and dated on Pg. 28 and submitted with your proposal.
5. Attachment D contains the Suspension/Debarment certification (Pg. 29) and the Lobbying certification (Pg.30-31) that must be signed, dated, and submitted with your proposal.
6. Attachment E (Pg. 32) includes information on reporting needs and copies of sample reports.

Attachments A, B, C, and D must be completed on the forms provided with no omissions, signed where indicated, and submitted with your bid for it to be considered as complete. Proposals found incomplete will not be evaluated or be considered for an award. Late submissions will NOT be considered.

MACOG reserves the right to develop criteria for each bid package. A sample criteria list for evaluation is enclosed in this RFP package.

The Evaluation Committee will consist of three persons who will review each proposal based on the criteria for the bid. A recommendation for bid award will be made to the Executive Director. The Executive Director will make a final recommendation to the Procurement Liaison. The bid award recommendations may be accepted or rejected by this person. All bidders will be notified by mail regarding the award of a bid.

MACOG reserves the right to waive award of this procurement.

Questions regarding the bid specifications will be addressed at a pre-bid conference if requested in writing by November 15, 2010. Please contact MACOG in writing to request a conference. You may do so by e-mail by contacting all these addresses: macogdir@macog.com and mbmccadams@macog.com. E-mails must be sent to both e-mail addresses. The written request must include the list of questions to be addressed at the pre-bid conference.

Options identified in the Request for Proposals may be added or deleted based on the needs of the transit system or its operators.

Please note that all bids are awarded on the basis of best value to MACOG. Disadvantaged Business Enterprises are encouraged to participate in this procurement. DBE firms must submit certification of this status with their proposal.

All bid submissions must be delivered to MACOG, 227 W. Jefferson, Room 1120, South Bend, IN 46601 by December 2, 2010 before 4:00 p.m. EST. Late submissions will not be considered.

All questions regarding the bids or the process should be directed to "Automatic Passenger Counter Procurement" at macogdir@macog.com.

We thank you for your interest in this procurement.

Procurement of Automatic Passenger Counters

INSTRUCTIONS TO PROPOSERS

PROJECT INTENT

The Michiana Area Council of Governments (MACOG) intends to procure and install an automatic passenger counter system (APCS) on the Interurban Trolley fixed route trolley buses.

TRANSIT SERVICE DESCRIPTION

The Interurban Trolley fixed route service operates in the urbanized area of Elkhart and Goshen Indiana. MACOG administers this transit service under service contracts with private transit operators. Installation of passenger counters will be on up to sixteen trolley buses owned by MACOG. Each trolley bus has two doors: one for traditional boarding at the front of the vehicle and a wheelchair lift at the mid section of the trolley bus. There is also a bicycle rack installed on the rear of each trolley bus. These buses operate on a 12-volt electrical system. MACOG intends to equip each trolley bus with an APCS at the two boarding locations specified above and at the bike rack location. This system will promote accuracy of passenger counting by equipping 100% of the vehicle fleet with the APCS.

Passenger on/off activity is currently done manually by the trolley bus drivers. A monthly ACCESS database report is prepared the documents on off passenger activity by bus stop for each inbound and outbound trip, for each operating day. The fixed route service operates Monday through Saturday. Currently there are five routes that vary in distance. The longest route is approximately 18 miles one-way and the shortest is approximately 8 miles one-way.

All equipment, software and features described in the specifications and other requirements are at the minimum preferred by MACOG. A Proposer may exceed any desired requirement if it would enhance the quality and functional value of the proposed system.

It is the intent of these specifications to describe an APCS that is fully integrated and of industrial quality designed for heavy-duty transit use. The APCS must be able to withstand vibration, shock, acceleration, deceleration and all other environmental conditions typical in a public transit bus. It must be designed for use in the Interurban Trolley operating conditions which include a wide range of operating temperatures and other environmental factors including sun and humidity and snow and ice.

PROPOSER REQUIREMENTS AND FORMS

Each Proposer must submit three (3) copies of their proposal. All required support data that accompanies the bid should be provided as three copies as well. Proposals must completely describe in detail how each requirement of the APCS specifications will be met.

EVALUATION FORM FOR RANKING PROPOSALS

The criteria on the following page will be used by MACOG to evaluate proposals submitted for this procurement. This document is for informational purposes only.

Automated Passenger Counting System

NOT FOR VENDOR USE - EVALUATION COMMITTEE WILL COMPLETE

COMPANY NAME: _____

YES NO Are all Attachments requested in the bid package provided? All items on the Vendor Checklist (Pg. 10) must be completed and included in the Vendor submission. If any item is omitted or the Vendor Checklist is omitted, circle "No," and do not evaluate the Proposer's bid; remove it from any consideration for a contract award; and do not complete

5 points _____ If Vendor is a certified Disadvantage Business Enterprise (DBE).

0- 40 points _____ Extent to which the proposed APCS meets the specifications and objectives for the Request for Proposals based on Yes/No answers in Attachment B. 100% Yes=40 points, 95% Yes=30 points, 90% Yes=20 points, 85% Yes=15 points, others=0 points.

0- 30 points _____ Cost and ease of operations, the add-on or ongoing costs associated or necessary to operation of the APCS, the ease of operation in terms of staff training and learning, and the ongoing operation of the APCS by user staff as documented in Att. B. 100% Yes = 30 points, 95% Yes = 20 points, 90% Yes = 10 points, 85% Yes=5 points, all others = 0 points

0 - 40 points _____ Total cost of the procurement, including purchase and installation of equipment and any other costs to be incurred by MACOG. Proposers meeting a minimum of 90% Yes answers in Att. B are awarded points in this section. Proposers not meeting this 90% standard get 0 points in this area. Lowest cost=40 points, 2nd lowest=30 points, 3rd lowest=20 points, all others=0 points.

0 - 20 points _____ Demonstration of the Proposer to deliver and install the APCS in accordance with the timetable detailed in the RFP. 100%=20 points, 95% Yes=15 points, 90% Yes=10 points, all others=0 points.

0 - 15 points _____ Three company references from the past 12 months. Make phone contacts as required on the Proposal Form. 3 satisfactory references =15 points, 2 = 10 points, 1 = 5 points, 0 = 0 points.

Total Points: _____ (150 possible)

Signature _____

Title: _____ Date: _____

ATTACHMENT A

AUTOMATIC PASSENGER COUNTER SYSTEM (APCS)

PROPOSAL FORM / SCOPE OF WORK

This bid quotation expires: _____
Insert date

Company Name: _____

Contact Person: _____

Company Address: _____

Contact e-mail address: _____

Company website: _____

Is the sale and/or development of the automatic passenger counter system the Company's primary service? _____ Yes _____ No Explain:

Is the Company certified as a Disadvantaged Business Enterprise?

_____ Yes _____ No

If yes, is your DBE Certificate included in your proposal? ____ Yes ____ No

Does the APCS proposed provide the ability to track and report Federal Transit Administration NTD data and other required datasets? ____ Yes ____ No Explain:

Standard Warranty (Please detail very briefly.)

Service Agreement Package: include complete details of proposed service agreement and term (years). Detail type and hours of hardware/software technical assistance provided. Include hourly rate.

The APCS will be delivered and installed by _____

Insert date

Training and Troubleshooting will be complete by _____

Insert date

APCS completion date: _____

Insert date

Please indicate any additional information regarding the Company's ability to provide the APCS.

Please provide three satisfied customer contact names and phone numbers. Each Contact should have completed procurement with your Company within the last six (6) months.

Contact Name _____

Company _____

Phone _____ Date of Procurement _____

Contact Name _____

Company _____

Phone _____ Date of Procurement _____

Contact Name _____

Company _____

Phone _____ Date of Procurement _____

Please provide an itemized APCS system breakdown of costs and time requirements on a separate page, similar to the one shown below.

Software Cost	\$ _____	Hrs. _____
Hardware Cost	\$ _____	Hrs. _____
Installation Cost	\$ _____	Hrs. _____
Training Cost	\$ _____	Hrs. _____
Technical Support	\$ _____	Hrs. _____
Total Package Price	\$ _____	Hrs. _____

Vendor Options:

Item

_____	\$ _____	Hrs. _____
_____	\$ _____	Hrs. _____
Total Options Price	\$ _____	Hrs. _____

Authorized Representative:

(type or print name)

**Vendor Check List for Bid Submission
Automatic Passenger Counting System**

General Information

- Cover Letter
- Vendor Brochure/Promotional Information

Price/Cost Information

- Completed Proposal Form (Attachment A)
- Completed Specifications (Attachment B)
- Signed Contract for Purchase (Attachment C)

Certifications (Attachment D)

- Signed Certification Regarding Lobbying
- Signed Certification regarding Debarment and Suspension

For MACOG USE:

Date/Time proposal was received _____

Insert date / time received

SPECIFICATIONS

Procurement of Automatic Passenger Counters

Please answer “Yes” or “No” to each item in the following sections.

1.1 QUALITY ASSURANCE PROVISIONS

The Proposer has established and maintained an effective quality assurance procedure for the APCS. Yes No

The quality assurance procedure will guarantee quality control over all phases of production from initiation of design through manufacture and preparation for delivery and installation. Yes No

The procedure will also control the quality of materials and supplied items. Yes No

Fully documented tests will be conducted on each system component following manufacture to determine its compliance with these specifications. Yes No

All equipment installed shall be new. Yes No

1.2 SYSTEM OPERATIONAL NEEDS

The Interurban Trolley fleet will be 100% equipped with APCS equipment. This will result in 100% of the passenger miles and ridership counts collected. Yes No

If “No,” what accuracy percentage will be achieved?

_____ %
insert

The APCS will accurately count passengers as they board and alight the trolley bus, with record keeping functions for relationship to individual stops, routes and runs. Yes No

Overall system performance will enable the exact determination of alighting and boarding passengers at each stop.

Yes No

The APCS will be designed and tested to produce highly accurate passenger counts, to demonstrate the ability to effectively discriminate valid passengers from non-passenger objects, and to detect double-backs and re-crossings.

Yes No

The APCS will not interfere electronically with the operation of the trolley bus or its onboard electronic equipment such as security equipment, engine controls, transmission or other electronic equipment.

Yes No

The APCS will be installed according to industry standards and recommended practices.

Yes No

All cables, wiring, interconnections, switches, and circuit breakers/fuses will be heavy duty and specifically designed for their purposes.

Yes No

The selected wire sizes and insulation will be based on current carrying capability, voltage drop, and flexibility requirements.

Yes No

All installation will be done with tamper proof fasteners whenever possible.

Yes No

A protective filtering device will be installed to protect the APCS, its memory and raw data from electrical fluctuation typically found in a transit bus, including but not limited to, over voltage, under voltage, transient power surge/dip during engine or other transit bus equipment startup, alternator noises, etc.

Yes No

The APCS equipment provided will be transferable to other trolley buses as the need arises.

Yes No

1.3 PASSENGER COUNT SENSORS

The passenger counting sensor features will include, but not be limited to, the following:

Acquisition of passenger numbers by means of infrared sensing devices at both vehicle doors with recording of route and location information, including real time clock / clock synchronization features for accurate time/date stamp mark of data. Yes No

Detection zones will be fully adjustable for the requirements of different trolley bus designs. Yes No

Counting accuracy will not be affected by normal variables, including, but not limited to:

• The reasonable speed at which a person passes under the sensor. Yes No

• by a passenger remaining immobile at the sensor location. Yes No

• by any other obstruction of the sensor. Yes No

• by variations in light and temperature within the operational specifications of the APCS. Yes No

Obstruction of the counter (passengers remaining immobile in the counter sensor field) that could affect the count accuracy will be noted in the data. Yes No

Counting accuracy will also include features to reduce or eliminate counting inaccuracies caused by passengers carrying items such as packages, boxes or briefcases onto the vehicle. Yes No

The sensors will differentiate between boarding and alighting passengers from either door of the vehicle and the bike rack location. Yes No

1.4 GPS/ONBOARD COMPUTER DATA LOGGING SYSTEM

The Global Positioning System (GPS)/onboard computer data logging system features should include, but not be limited to, the following:

The GPS will provide accurate location of the trolley bus as passengers board and exit, in order to identify the trolley bus stop and the route being traveled. Yes No

All gathered information will be stored and be accessible from an onboard microcomputer, with data transmittable by 802.11b (or better) WLAN. Yes No

1.5 COMPUTER/DATA ACQUISITION SYSTEM

Specific requirements for the computer/data acquisition system should be as follows:

Onboard microcomputer system will allow data from APC/GPS to be collected and stored; with generous capacity for storing registered data, and based on time intervals, numbers of stored records, etc. (subject to factors including the number of routes, etc.) Yes No

APCS has provision for wireless data transfer between each trolley bus and a main computer at service operator's garage. Yes No

The receiving equipment will confirm transmission / receipt of the raw data to MACOG and the service operator(s). Yes No

MACOG will have access to raw data by Internet. Yes No

Data output will be available in ASCII or similar format for compatibility with Microsoft Office Suite. Yes No

Standard reports will include the ability to track and report all operational data needed for the Federal Transit Administration (FTA) National Transit Data (NTD) reports, including tracking of passenger miles. Yes No

The APCS will include an error /failure log feature. Yes No

The APCS will include power backup in the event that external power is lost.

___ Yes ___ No

The system shall conform to all applicable Society of Automotive Engineers (SAE) standards.

___ Yes ___ No

1.6 TRAINING

The Proposer will provide training for authorized personnel to ensure satisfactory competence in using the APCS, including the software applications, data processing, report generation, and system administration.

___ Yes ___ No

Adequate training will be provided on the use and maintenance of the APC hardware leading to a satisfactory level of competence by the appropriate MACOG and transit service operator.

___ Yes ___ No

Training will take place at multiple sites to include the service operator and MACOG personnel. All locations are in the South Bend / Mishawaka IN area.

___ Yes ___ No

1.7 SOFTWARE UPDATES AND UPGRADES

The APCS software will be field upgradeable.

___ Yes ___ No

The Proposer will provide software updates for a minimum period of five (5) years from the date of MACOG's acceptance of the installation of the initial procurement, without additional cost to MACOG.

___ Yes ___ No

1.8 INSTALLATION

The Proposer will be responsible for installation of the the APCS described herein on the trolley buses at a location or locations agreed to by MACOG and the Proposer. The associated computer hardware will be located in the South Bend /Mishawaka IN area.

___ Yes ___ No

The Proposer will commence equipment and software installation on first trolley bus for testing within two (2) weeks after MACOG signs an agreement with the Proposer.

Yes No

The Proposer will complete installation on the entire fleet equipped with APCS within the next 30 days after installation on the first trolley bus.

Yes No

Staff training will take place concurrently during installation to have Staff administration and software users (vendors, and MACOG) fully trained by the time the fleet is fully equipped.

Yes No

The Proposer will provide additional training as necessary during the succeeding twelve (12) months.

Yes No

MICHIANA AREA COUNCIL OF GOVERNMENTS

CONTRACT FOR PURCHASE OF EQUIPMENT

By and Between

MICHIANA AREA COUNCIL OF GOVERNMENTS

AND THE COMPANY

THIS AGREEMENT, entered into on _____, 2010 by the MICHIANA AREA COUNCIL OF GOVERNMENTS (hereinafter called "MACOG) and THE COMPANY (hereinafter called the "Company")

WITNESSETH THAT:

WHEREAS, MACOG desires to engage the Company to purchase an Automatic Passenger Counter System (APCS) which is expected to be partially financed through a grant from the Federal Transportation Administration;

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

1. EMPLOYMENT OF CONTRACTOR. The MACOG hereby agrees to engage the Company and the Company hereby agrees to provide the APCS as specified and hereinafter set forth under Attachment A: Scope of Work. The above-mentioned specifications are referred to herein as the Capital Equipment Project.
2. SCOPE OF SERVICES. The Company shall do, perform, and carry out in a good and professional manner, the services outlined in Attachment B: Specifications that is made a part of this contract.
3. TIME OF PERFORMANCE. The Company shall commence promptly after approval hereof by all necessary agencies and shall be undertaken and completed in such sequence as to assure completion by and receipt, and installation of the APCS in accordance with the schedule described in Attachment A: Scope of Work as part of this Agreement.
4. PAYMENTS. MACOG will provide payment in full for the Automatic Passenger Counting System as agreed to in writing within 30 days of MACOG's written acceptance of completion of the APCS.
5. CHANGES. The MACOG may require changes in the scope of services provided by the Company. Such changes, which are mutually agreed upon by

and between the MACOG and the Company, shall be incorporated in written amendments to this Agreement. No verbal agreement will be binding.

6. DOCUMENTATION OF COST. Properly executed invoices that evidence in proper details the nature and propriety of the charges shall support all costs. All requests for reimbursement must be accompanied by a detailed invoice and a Claim form as required by the State Board of Accounts.
7. MANUFACTURER WARRANTIES. The Company warrants that all equipment will be in working order following installation. Upon full acceptance of the equipment and software, the Company will transfer to MACOG all transferable manufacturer warranties for said items. In the event of a breach of warranty during any applicable warranty period, the Company shall repair or replace the defective product within five (5) working calendar days.
8. TERMINATION FOR DEFAULT. If the Company does not deliver and install the said equipment and software in accordance with the contract delivery schedule, or, if the contract is for services, the Company fails to comply with any other provisions of the contract, the MACOG may terminate this contract for default. Notwithstanding the above, the Company shall not be relieved of liability to the MACOG for damages sustained by the MACOG by virtue of any breach of the Agreement by the Company, and the MACOG may withhold any payments to the Company for the purpose of off-set until such time as the exact amount of damage due the MACOG from the Company is determined.
9. INFORMATION AND REPORTS. The Company shall, at such time and in such form as the MACOG may require, furnish it with periodic reports concerning the status of the project. The Company further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the MACOG, the Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor, involving transactions related to the subcontractor. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

The periods of access and examination described above, for records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation of the settlement of claims arising out of the performance of this contract, or (3) costs

and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

10. CIVIL RIGHTS.

- a. Nondiscrimination in Federal Transit Programs – The Company agrees to comply with the provisions of 49 U.S.C. 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment of business opportunity.
- b. Nondiscrimination – Title VI of the Civil Rights Act – The Company agrees to comply with, and assure compliance by each third party contractor at any tier and such subrecipient at any tier under the Project, with all requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1965, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act” 40 CFR, Part 21, and any implementing requirements FTA may issue.
- c. Equal Employment Opportunity - The Company agrees to comply with, and assures the compliance of each third party contractor at any tier and such subrecipient at any tier, with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, and 59 U.S.C. 5332 and any implementing requirements FTA may issue. Those equal employment opportunity (EEO) requirements include, but are not limited to, the following:

(1) General Requirements. The Company agrees as follows:

- (a) The Company agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age or national origin. The Company 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, sex, disability, age national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Recipient also agrees to comply with any implementing requirements FTA may issue.

- (b) If the Company is required to submit and obtain Federal Government approval of its EEO program, the EEO program approved by the Federal Government is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement. Failure by the Company to carry out the terms of that EEO program shall be treated as a violation of the Grant Agreement or Cooperative Agreement. Upon notification to the Company of its failure to carry out the approved EEO program, the Federal Government may impose such remedies as it considers appropriate, including termination of Federal financial assistance in accordance with Section 11 of this Master Agreement, or other measures that may affect the Recipient's eligibility to obtain future Federal financial assistance for transportation projects.
- (2) Equal Employment Opportunity Requirements for Construction Activities. With respect to construction activities, the Recipient agrees to comply with all applicable EEO requirements of U.S. Department of Labor (US DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. 2000 (e), and any Federal statutes, executive orders, regulations, and Federal policies pertaining to construction undertaken as part of the Project.
11. DISADVANTAGED BUSINESS ENTERPRISES - This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A separate contract goal has not been established for this procurement.
12. CONFLICT OF INTEREST. Interest of Members of Governing Body of the Locality and Officials and Employees of the Locality. No member of the governing body of the locality and no other public official or employee of the locality in which the Capital Equipment Project is situated or being carried out who exercises any functions or responsibilities in connection with the review or approval of the undertaking or carrying out the project shall, prior to the completion of the Capital Equipment Project, voluntarily acquire any personal interest, direct or indirect, which is incompatible, or in conflict, with the discharge or fulfillment of these functions or responsibilities with respect to the carrying out of the Capital Equipment Project.

13. INTEREST OF MEMBERS OF GOVERNMENT BODY OR PERSONNEL OF THE MACOG. No member of the governing body of the MACOG shall, prior to the completion of this project, voluntarily acquire any personal interest, direct or indirect, which is incompatible, or in conflict, with the discharge or fulfillment of the functions and responsibilities of his position with the MACOG. If any member of the governing body of the MACOG, who, prior to the execution of this Contract, acquires any such personal interest in this Capital Equipment Project, or after the effective date of this Contract, involuntarily acquires any such personal interest, the Company shall immediately disclose said interest to the MACOG in writing.
14. IMPLEMENTATION BY COMPANY. The Company will adopt and enforce measures appropriate to ensure that the provisions of paragraphs (10) and (11) above are complied with.
15. INTEREST OF CERTAIN FEDERAL OFFICIALS. No member of or Delegate to the Congress of United States of America, and no Resident Commissioner, shall be admitted to any share or part hereof or to any benefit arising there from.
16. CERTAIN PROVISIONS IN CONTRACTS WITH THIRD PARTIES. In addition to the requirements of this section, the Company will incorporate in each contract entered into by it with any party with respect to this Capital Equipment Project, such provisions and conditions, not inconsistent with applicable law, as may be necessary to enable the Company to perform and carry out the Capital Equipment Project and to observe, require appropriate observance of, perform, and carry out the applicable provisions of this Contract, including but not limited to the provisions and conditions of sections (14), (15), and (16).
17. COVENANT AGAINST CONTINGENT FEES. The Company warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the MACOG shall have the right to annul this contract without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

18. NO FEDERAL OR STATE OBLIGATIONS. Neither this contract nor any acts in pursuant hereof shall obligate the United States or the State of Indiana to enter into any contract with the Company or any other entity, nor shall the United States or the State of Indiana have any financial responsibility to the Company as a result of this Contract.
19. PROVISIONS CONCERNING CERTAIN WAIVERS. Subject to applicable law, any right or remedy which the MACOG may have under this Contract may be waived in writing by the MACOG by a formal waiver, if, in the judgment of the MACOG, this Contract, as so modified, will still conform to the terms and requirements of pertinent laws.
20. NOTICES. Any notice permitted or required under the provisions of this Contract to be given or served by any of the parties hereto shall be in writing and signed in the name or on behalf of the party giving or serving the same.
21. MATTERS TO BE DISREGARDED. The titles of the several sections, subsections, and paragraphs as set forth in this Contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Contract.
22. FEDERAL OR STATE LAW. Notwithstanding any other provisions hereof, nothing herein shall require the MACOG to observe or enforce compliance with any provisions hereof, perform any other act, or do any other things, in contravention of any applicable Federal or State law.
23. COMPLETENESS OF CONTRACT. This Contract and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Contract or any part thereof, shall have any validity or bind any of the parties hereto.
24. MACOG NOT OBLIGATED TO THIRD PARTIES. The MACOG shall not be obligated or liable hereunder to any party other than the Company.
25. WHEN RIGHTS AND REMEDIES NOT WAIVED. In no event shall the making by the MACOG of any payment to the Company constitute or be construed as a waiver by the MACOG, and the making of any such payment by the MACOG of any breach of covenant, or any default which may then exist, on the part of the MACOG, and the making of any such payment by the MACOG while any such breach or default shall exist shall in no wise impair or prejudice any right or remedy available to the MACOG in respect to such breach or default.

26. HOW CONTRACT AFFECTED BY PROVISIONS BEING HELD INVALID. If any provision of this Contract is held invalid, the remainder of this contract shall not be affected thereby if the remainder is in conformity with the terms and requirements of applicable law.
27. PERSONNEL. The Company represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the MACOG. All of the services required hereunder will be performed by the Company or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the MACOG.
28. INTEREST OF THE COMPANY. The Company covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Company further covenants that in the performance of this Agreement, no person having any such interest shall be employed.
29. ASSIGNABILITY. The Company shall not assign any interest in this Agreement, and shall not transfer any interest in the same, without the prior written consent of the MACOG; provided, however, that claims for money due or to become due to the Company from the MACOG under this Agreement may be assigned by the Company to a bank, trust company, or other financial institution without such approval.
30. LIABILITY OF THE PARTIES. The Company agrees to hold harmless the MACOG and its officers, agents, officials, and employees, from any and all claims, actions, and causes of action, judgments, and liens arising out of the Company's performance under this Agreement. The MACOG shall not become obligated or liable hereunder to any party other than the Company.
31. PROJECT IMPLEMENTATION. c. Application of Federal, State and Local Laws and Regulations.
 - I. Federal Laws and Regulations – The Federal law or laws authorizing Project approval identified in the FTA Award section of the Grant Agreement or Cooperative Agreement control Project implementation. The Recipient acknowledges that Federal laws, regulations, policies, and related administrative practices applicable to the Project on the date the authorized FTA official signs the Grant Agreement or Cooperative Agreement may be

modified from time to time. The Recipient agrees that the most recent of such Federal requirements will govern the administration of the Project at any particular time, except if FTA issues a written determination otherwise. Such written determination might take the form of a Special Condition or Requirement within the Grant Agreement or Cooperative Agreement or a letter signed by the Federal Transit Administrator, the language of which modifies or otherwise conditions the text of a particular provision of this Master Agreement. In particular, new Federal laws, regulations, policies, and administrative practices may be promulgated after the date when the Recipient executes the Grant Agreement or Cooperative Agreement, and may, by their terms, apply to that Grant Agreement or Cooperative Agreement. To accommodate changing Federal requirements, the Recipient agrees to include notice in each agreement with subrecipient and with each third party contractor under the Project that Federal requirements may change and the changed requirements will apply to the project as required, unless the Federal Government determines otherwise. All standards or limits within this Master Agreement has no expiration date and remains in effect even if certain provisions are modified or superseded by subsequent Federal requirements.

32. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES. The Recipient agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any subrecipient, any third party contractor, or any other person not a party to the Grant Agreement or Cooperate Agreement in connection with the performance of the Project. Notwithstanding, any concurrence provided by the Federal Government in or approval of any solicitation, subagreement or third party contract, the Federal Government continues to have no obligations or liabilities to any party, including the subrecipient and third party contractor.
33. FALSE OR FRAUDULENT STATEMENTS OR CLAIMS. The Recipient agrees:
(1) The Recipient acknowledges that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. And U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR, Part 31, apply to its actions pertaining to the Project. Accordingly by signing the Grant Agreement or Cooperative Agreement, the Recipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make pertaining to the Project covered by the grant Agreement or Cooperative Agreement. In addition to other penalties that may apply, the Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Federal Government reserves the right to impose the

penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Recipient to the extent the Federal Government deems appropriate.

(2) The Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with Federal assistance authorized by 49 CFR USC 5307, the Government reserves the right to impose on the Recipient the penalties of 18 USC 1001 and 49 USC 5307 (n)(1), to the Federal Government.

34. **PROCUREMENT.** Access to Third Party Contract Records – The Recipient agrees to require its third party contractors and third party subcontractors at as many tiers as may be required to provide access to third party procurement records to comply with the requirements of 49 U.S.C. 5325 (a), which requires that the Secretary of Transportation and the Comptroller General of the United States, or their duly authorized representatives, be permitted to audit and inspect all records related to any third party contract for a capital project or improvement that was not awarded on the basis of competitive bidding. In addition, the Recipient agrees to require its third party contractors and third party subcontractors at as many tiers as may be required to provide sufficient access to third party procurement records to ensure compliance with 49 C.F.R. 18.36 or 49 C.F.R. 19.48.
35. **INCORPORATION OF FTA TERMS.** The terms used in this contract have the meaning defined in FTA C.4220.1E, Third Party Contracting Requirements.
36. **TERMINATION.** Termination Provisions for all contracts that are for more than \$10,000 must meet 49 CFR Part 18.
37. **ETHICS.**
 - A. **Debarment and Suspension** – The Recipient agrees to comply with the requirements of Executive Orders Nos. 12549 and 12689, “Debarment and Suspension,” U.S.C. 6101 note, and U.S. DOT regulations on Debarment and Suspension at 49 C.F.R. Part 29.
 - B. **Lobbying Restrictions.** The Recipient agrees to:
 - (1) Refrain from using Federal assistance funds to support lobbying, and,
 - (2) Comply with applicable requirements of U.S. DOT regulations, “New Restrictions on Lobbying,” 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. 1352.

38. BUY AMERICA. The Company agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.
39. ENERGY CONSERVATION – the Company 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.
40. CLEAN WATER - The Company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Company agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
41. CLEAN AIR - The Company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Company agrees to report each violation to the MACOG and understands and agrees that the MACOG will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
42. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

(1) The Company acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Company 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 Company further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal

Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

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

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

43. FEDERAL CHANGES – The Company shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between MACOG and FTA, as they may be amended or promulgated from time to time during the term of this contract. Company's failure to so comply shall constitute a material breach of this contract.
44. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.
45. DISPUTES, BREACHES, DEFAULTS. The Recipient agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:
 - a. Notification to FTA – The Recipient agrees to notify FTA of any current or prospective major dispute, breach, default, or litigation pertaining to the Project. If the Recipient seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Recipient agrees to inform the FTA before doing so.

IN WITNESS WHEREOF the MACOG and the Company have executed this

Agreement on _____.
(insert date)

MACOG: Michiana Area Council of Governments

By: _____

Sandra M. Seanor, Executive Director

COMPANY: **THE COMPANY**

By: _____

**Debarment, Suspension, and Other Responsibility Matters:
Primary Covered Transactions**

As required by U.S. DOT regulations on government wide Debarment and Suspension at 49 CFR 29.510:

- (1) The Company certifies to its best knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted 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;
 - (c) 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 listed in paragraph (b) of this certification; and
 - (d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, state, or local) terminated for cause or default.
- (2) The Company also certifies that if, later it becomes aware of any information contradicting the statements of paragraphs (a) through (d) above, it will promptly provide this information to the Federal Transit Administration (FTA).
- (3) If the Company is unable to certify to the statements within paragraphs (1) and (2) above, it shall indicate so on its Signature Page and provide a written explanation to FTA.

Company Name: _____

Signature: _____

Title: _____

Date: _____

Certification Regarding Lobbying

The undersigned, _____, certifies, to the best of its knowledge and belief, that

(1.) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2.) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*.)]

(3.) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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 undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Company understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, *apply* to this certification and disclosure, if any.

Company: _____

Signature: _____

Title: _____

Date: _____

ATTACHMENT E

The following reports are included as separate documents to this RFP:

- The 2008 MACOG FTA Profile of National Transit Data (NTD)
- A sample of the MACOG fixed route ridership report

Note: The passenger counts are currently done manually by the trolley bus drivers.

The contracted service operator's office staff then manually prepares a monthly ACCESS data report that shows on and off passenger activity by bus stop for each inbound and outbound vehicle trip for each operating day.

The fixed route service operates Monday-Saturday. Currently there are five routes that vary in distance: the longest route is 18.05 miles and the shortest is approximately 9.0 miles.