
1 REQUEST FOR PROPOSALS

RFP # 2009-005

Montgomery Area Transit System/City of Montgomery

Montgomery, Alabama

REQUEST FOR PROPOSALS

SOLICITATION DATA

A. PROCURING AGENCY AND CONTACT

Request For Proposals (RFP) No:	_____
Date:	_____
Procuring Agency:	_____
	City of Montgomery/ Montgomery Area Transit System
	Victoria Belton
	2318 W. Fairview Avenue
	Montgomery, Alabama 36108
	Address
	vbelton@montgomerytransit.com
	Contact
Telephone No.:	334-240-4679
Fax No.:	334-262-7366

B. SCOPE

Procuring Agency requests proposals from qualified firms for the privilege to:

- 1) To place approved advertising materials on the exterior and interior of MATS buses.
- 2) To construct, place and maintain bus shelters, with advertising space, in locations throughout the City of Montgomery.
- 3) To construct, place and maintain bus benches, with advertising space, in locations throughout the City of Montgomery.

Each of the above will be considered as *separate* proposals and will be evaluated as such. The selected contractor will pay a percentage of its gross income inclusive of a minimum guaranteed fee to MATS for this privilege. Proposers can bid on one, two or all, but they have to be submitted separately.

C. SOLICITATION SCHEDULE

The following is the solicitation schedule of for this procurement:

Availability of RFP	September 28, 2009
Deadline for questions to be submitted in writing	October 8, 2009
Proposals Due Date (2:00pm CST)	October 22, 2009

In order to be considered for award, proposals must be received by the due date and time. Any proposal received after the specified date and time will be returned to the Proposer unopened. The receiving time in the MATS lobby located at 2318 W. Fairview Avenue will be governing time for acceptability of proposals. This RFP does not commit MATS or the City of Montgomery to award a contract. MATS will not pay Proposers for any costs associated with preparing responses to this RFP. MATS reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with qualified Proposers, to award contract without discussions/interviews or to cancel in part or in its entirety this RFP if it is in the best interests of MATS to do so.

COMMUNICATIONS AND REQUESTS

A. PROPOSER COMMUNICATIONS AND REQUESTS

All correspondence, communications, contact in regard to any aspect of this solicitation or offers shall be with the Contact Person identified above, or his/her designate representative. Proposers and their representatives shall not make any contact with or communicate with any members of MATS, or its employees and consultants, other than the Contact Person, or designated representative, in regard to any aspect of this solicitation or offers.

At any time during this procurement up to the time specified in "Solicitation Schedule" 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. MATS 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. Any responses to such written requests shall be provided by MATS in the form of addenda only. Only written responses provided as addenda shall be official and all other forms of communication with any officer, employee or agent of MATS shall not be binding on MATS.

If it should appear to a prospective Proposer that the performance of the Work under the Contract, or any of the matters relating thereto, 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 or Procuring Agency law, ordinance, rule, regulation, or other standard or requirement, then the Proposer shall submit a written request for clarification to MATS within the time period specified above.

B. ADDENDA TO RFP

MATS reserve the right to amend the RFP at any time. Any amendments to or interpretations of the RFP shall be described in written addenda. MATS shall provide copies of the 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 in "Procuring Agency and Contracting Officer" or receive same otherwise. Notification of the addendum will be mailed or e-mailed to all prospective Proposers officially known to have received the RFP and to the address provided by each prospective Proposer. 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. Prospective 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 MATS's sole option disqualify the proposal.

If MATS 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 MATS determines will allow Proposers sufficient time to revise their proposals. Any new Due Date shall be included in the addenda.

INSTRUCTIONS TO PROPOSERS

Proposals shall be submitted in a sealed envelope, clearly marked

**TRANSIT ADVERTISING PROPOSAL FOR EXTERIOR AND INTERIOR ADVERTISING
TRANSIT ADVERTISING PROPOSAL FOR BUS SHELTERS
TRANSIT ADVERTISING PORPOSAL FOR BUS BENCHES**

Companies shall submit one original and two (2) copies of the proposal response.

Proposals shall be addressed and delivered to the below address

**Montgomery Area Transit System
2318 W. Fairview Avenue
Montgomery, Al. 36108**

A. LETTER OF TRANSMITTAL

A letter of transmittal shall be addressed to the Contracting Officer and must, at a minimum, contain the following:

1. Identification of the offering firm(s), including name, address and telephone number of each firm;
2. Names of the person(s) representing the firm(s) in the negotiations during the period of the proposal evaluation;
3. A statement to the effect the proposal shall remain valid for a period of not less than 60 days from the date of submittal; and
4. Signature of the person(s) authorized to operate a contract on behalf of the firm.

B. PROPOSAL REQUIREMENTS

Proposals shall be submitted in 8½" X 11" size using a single method of fastening. Offers should be typed, and not include any unnecessary elaborate or promotional material. Lengthy narrative is discouraged, and presentations should be brief and concise. Information should be presented in the order in which it is requested.

Proposals shall be structured as follows, with tabs for each of the numbered items below:

- A. Firm Name
- B. Business Address
- C. Telephone Number
- D. Year business established
- E. Type of Organization - Individual, Partnership, or Corporation and whether firm is a disadvantaged business enterprise (DBE)
- F. Statement of Qualifications - Statement of qualifications and relevant experience in the transit advertising business for the past five years.
- G. Professional Qualifications – Resumes of key personnel to be assigned to this contract.
- H. Work Plan – Provide a brief work plan describing how your firm will provide the required services.
- I. Revenue Proposal – Complete the enclosed Revenue Proposal Bid Form.
- J. References – Provide references with financial results from other transit agencies.
- K. Audited Financial Statement – Audited statement for most recent business year.

D. MODIFICATION OR WITHDRAWAL OF PROPOSALS

A modification of a proposal already received will be accepted by MATS only if the modification is received prior to the Proposal Due Date, or is specifically requested by MATS, or is made with a requested BAFO. All modifications shall be made in writing and executed and submitted in the same form and manner as the original proposal.

A Proposer may withdraw a proposal already received prior to the Proposal Due Date by submitting, in the same manner as the original proposal, to MATS a written request for withdrawal executed by the Proposer's authorized representative. After the proposal Due Date, a proposal may be withdrawn only if MATS 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.

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 MATS's right to reject a proposal.

E. DUE DATE

Sealed proposals in original and five (5) copies must be received at the address shown in "Procuring Agency and Contracting Officer" (Section 1.1; A.) until **2:00pm CST October 22, 2009** for the transit advertising concessions. Proposals and subsequent offers shall be valid for a period of 60 days.

PROPOSAL EVALUATION, NEGOTIATION AND SELECTION

Proposals will be evaluated, negotiated, selected and any award made in accordance with the criteria and procedures described below. Subject to MATS's right to reject any or all proposals, the Proposer will be selected whose proposal is found to be most advantageous to MATS, based upon consideration of the criteria. The approach and procedures are those which are applicable to a competitive negotiated procurement whereby proposals are evaluated to determine which proposals are within a competitive range.

MATS will consider all the material submitted by the Proposer and related evidence MATS 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 the evaluation team may adequately understand all aspects of the proposal.

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 MATS. Refusal to provide requested information may cause the proposal to be rejected.

Discussions and negotiations may then be carried out with Proposers within the competitive range, after which Best and Final Offers (BAFOs) may be requested. However, MATS may select a proposal for award without any discussions or negotiations or request for any BAFO(s). Subject to MATS's right to reject any or all proposals, the Proposer will be selected whose proposal is found to be most advantageous to MATS.

A. OPENING OF PROPOSALS

Proposals will be publicly opened. All proposals and evaluations will be kept strictly confidential, as allowed by law, throughout the evaluation, negotiations and selection process. Only the members of the Evaluation and Selection Committee and other Procuring Agency officials, employees and agents having a legitimate interest will be provided access to the proposals and evaluation results during this period.

B. EVALUATION AND SELECTION COMMITTEE

An Evaluation and Selection Committee will be established. The Committee will make all decisions regarding the evaluations, determination of responsible Proposers and the competitive range, negotiations and the recommendation of the Proposer, if any, that may be awarded the Contract.

C. PROPOSAL SELECTION PROCESS

The following describes the process by which proposals will be evaluated and a selection made for a potential award. Any such selection of a proposal by a responsible Proposer shall be made by consideration of only the criteria of “**Qualification Requirements**” and “**Proposal Evaluation Criteria**” below specifies the requirements for determining responsible Proposers, all of which must be met by a Proposer to be found qualified. Final determination of a Proposers qualification will be made based upon all information received during the evaluation process and as a condition for the award. An award, if made, will be to a responsible Proposer for a proposal, which is found to be in MATS’s best interest, price and other evaluation criteria considered.

1. Qualification Requirements

The following are the requirements for qualifying responsible Proposers. All of these requirements must be met; therefore, they are not listed by any particular order of importance. The Proposer of any proposal that the Selection Committee finds not to meet these requirements, and cannot be made to meet these requirements, may be determined by the Selection Committee not to be responsible and its proposal to be rejected. The requirements are as follows:

- I. Sufficient financial strength and resources and capability to finance the work to be performed and complete the Contract in a satisfactory manner as measured by:
 - A. Willingness of any parent company to provide the required financial guaranty evidenced by a letter of commitment signed by an officer of the parent company having the authority to execute the parent company guaranty.
 - B. Ability to obtain required insurance with coverage values that meet minimum requirements evidenced by a letter from an underwriter confirming that the Proposer can be insured for the required amount.
- II. Evidence that the human and physical resources are sufficient to perform the contract as specified and assure delivery of all equipment within the time specified in the Contract, to include:
 - A. Organization with sufficient personnel and requisite disciplines, licenses, skills, experience, and equipment to complete the Contract as required.
- III. Evidence of satisfactory performance and integrity on contracts, meeting specifications and steps the Proposer took to resolve any judgments and liens. Evidence shall be by client references.

2. Proposal Evaluation Criteria

MATS will evaluate all of the following factors in appraising the responses to this RFP and will use these criteria in the evaluation process in an effort to select a contractor that can best serve its needs.

The criteria have been established to afford all proposers an opportunity to know the basis upon which their proposals will be evaluated and in order to evaluate all proposals on an equal basis.

Award will be made to the proposer whose final offer is the most advantageous to MATS in accordance with the criteria set forth. MATS reserve the right to accept, reject or to negotiate.

Each proposal will be initially analyzed and judged according to the criteria set forth below. The maximum score is 100 points.

(1) Experience and Capabilities of Proposer: 20 points

The experience and capability of the proposer to undertake this contract with the maximum financial return to MATS. Client references and proposer's financial capacity will also be considered

(2) Experience and Qualification of staff assigned to contract: 20 points

The sales experience of the assigned staff, especially with transit ad sales, will be strongly considered.

(3) Revenue Proposal: 30 points

The revenue bid proposal will be reviewed to determine the bid that is in the best financial interest of MATS

(4) For those proposing for bus shelters: 30 points

The number and quality of shelters to be placed.

(5) For those proposing for benches: 30 points

The number and quality of benches to be placed

B. Basis for Award Criteria (Best Value): This is a competitive source selection. The award will be made to that Proposer who is deemed responsible in accordance with the evaluation procedures, possesses the management, financial and technical capabilities necessary to fulfill the requirements of the contract and whose proposal conforms to solicitation requirements, and is judged by an integrated assessment of the evaluation criteria to be most advantageous to Montgomery Area Transit System. .

3. Evaluation Procedures

All aspects of the evaluations of the proposals and any discussions/negotiations, including documentations, correspondence and meetings, will be kept confidential during the evaluation and negotiation process.

Proposals will be analyzed for conformance with the instructions and requirements of the RFP and Contract documents. Proposals that do not comply with these instructions and do not include the required information may be rejected as insufficient or not be considered for the competitive range. Montgomery Area Transit System reserves the right to request a Proposer to provide any missing information and to make corrections. Therefore, Proposers shall pay close attention to and strictly follow all instructions. Submittal of a proposal will signify that the Proposer has accepted the whole of the Contract documents, except such conditions, exceptions, reservations or understandings explicitly, fully and separately stated on the "Form for Proposal Deviation".

Qualifications of Responsible Proposers

Proposals will be evaluated in accordance with the requirements set forth in “Qualification Requirements” to determine the responsibility of Proposers. Any proposals from Proposers whom Montgomery Area Transit System finds not to be responsible and finds cannot be made to be responsible may not be considered for the competitive range. Final determination of a Proposers responsibility will be made upon the basis of initial information submitted in the proposal, any information submitted upon request by Montgomery Area Transit System, information submitted in a BAFO and information resulting from Montgomery Area Transit System inquiry of Proposers references and its knowledge of the Proposer.

- **Discussions with Proposers in the Competitive Range:**

The Proposers whose proposals are found by Montgomery Area Transit System to be within the competitive range, or may be reasonably made to be within the competitive range, will be notified and any questions and/or requests for clarifications provided to them in writing. Each such Proposer may be invited for a private interview(s) and discussions with Montgomery Area Transit System to discuss answers to written or oral questions, clarifications, and any facet of its proposal.

In the event that a proposal, which has been included in the competitive range, contains conditions, exceptions, reservations or understandings to any Contract requirements, those said conditions, exceptions, reservations or understandings may be negotiated during these meetings. However, Montgomery Area Transit System shall have the right to reject any and all such conditions and/or exceptions, and instruct the Proposer to amend its proposal and remove said conditions and/or exceptions; and any Proposer failing to do so may cause Montgomery Area Transit System to find such proposal to be outside the competitive range.

No information, financial or otherwise, will be provided to any Proposer about any of the proposals from other Proposers. Proposers will not be given a specific price or specific financial requirements they must meet to gain further consideration, except that proposed prices may be considered to be too high with respect to the marketplace or unacceptable. Proposers will not be told of their rankings among the other Proposers.

- **Best and Final Offers (BAFO)**

Each of the Proposers in the competitive range will be afforded the opportunity to amend its proposal and make its BAFO. The requests for BAFO’s shall include:

- Notice that discussions/negotiations are concluded;
- Notice that this is the opportunity for submission of a BAFO;
- A common date and time for submission of written BAFO’s, allowing a reasonable opportunity for preparation of the written BAFO’s;
- Notice that if any modification to a BAFO is submitted, it must be received by the date and time specified by Montgomery Area Transit System for the receipt of BAFO’s;
- Notice that if Proposers do not submit a BAFO or a notice of withdrawal and another BAFO, their immediate previous offer will be construed as their BAFO.

Any modifications to the initial proposals made by a Proposer in its BAFO shall be identified in its BAFO. Montgomery Area Transit System will evaluate BAFO’s according to the same requirements and criteria as the initial proposal. Montgomery Area Transit System will make appropriate adjustments to the initial

scores for any sub-criteria and criteria, which have been affected by any proposal modifications made by the BAFO's. These final scores and rankings within each criterion will again be arrayed by Montgomery Area Transit System and considered according to the relative degrees of importance of the "Evaluation Criteria".

A. ACCEPTANCE/REJECTION OF PROPOSALS

MATS 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 MATS, price and other evaluation criteria considered. MATS reserve the right to consider any specific proposal which is conditional or not prepared in accordance with the instructions and requirements of this RFP to be noncompetitive. MATS reserve the right to waive any defects, or minor informalities or irregularities in any proposal which do not materially affect the proposal or prejudice other Proposers.

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 cause for disqualification of the participants in any future solicitations undertaken by MATS.

B. CANCELLATION

MATS reserve the right to cancel the procurement, for sound business reasons, at any time before the Contract is fully executed and approved on behalf of MATS.

C. PROTEST

Protest Procedures

General - Protests may be made by prospective proposers whose direct economic interest would be affected by award of a contract or by failure to award a contract. MATS will consider all protests requested in a timely manner regarding the award of a contract, whether submitted before or after an award. All protests are to be submitted in writing to: General Manager, Montgomery Area Transit System, 2318 West Fairview Ave, Montgomery, Alabama, 36108. Protest submissions should be concise, logically arranged, and clearly state the grounds for protest. A protest must include at least the following information:

- (a) Name, address, and telephone number of protestor,
- (b) Identification of contract solicitation number,
- (c) A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents, and
- (d) A statement as to what relief is requested.

Protests must be submitted to MATS in accordance with these procedures and time requirements, must be complete and contain all issues that the protestor believes relevant.

2. GENERAL CONTRACTUAL PROVISIONS

RFP # 2009-004

Montgomery Area Transit System, City of Montgomery

Montgomery, Alabama-

GENERAL PROVISIONS

A. Marketing and Sales

- The successful proposer will be required to perform complete advertising servicing and sales functions including, but not limited to:
 - The proposer must explain how it will establish and maintain a physical office in the city providing a continuous sales effort within the service area conducted by a professional staff of sufficient size to assure adequate service to all advertising clients.
 - The proposer must submit an explanation of marketing strategies and literature it will use to promote transit advertising.
 - The proposer must state what printing services will be provided to potential customers.

B. Advertising Content and Control

- The proposer must ensure that only displays of a high quality standard with regard to art work, and advertising content will be shown. Proposers must ensure the following:
 - Advertisements shall be of a reputable character, shall conform to recognized business standards and shall not conflict with the laws of the United States or any state or political subdivision thereof.
 - Graphics, art work, and copy of the advertisements are expected to be of high quality and good taste.
 - Vulgar, disreputable or other advertisements that may be offensive to the public shall not be acceptable.
 - All advertising shall be displayed in a neat and workmanlike manner.
 - The successful proposer shall maintain all displayed advertising so as to ensure its neat appearance and promptly remove all advertising which is torn or otherwise unsightly in appearance.
 - The transit system reserves the right to require the successful bidder to promptly remove, at the proposer's own expense, any advertising which in the opinion of the transit system, is unsightly in appearance.

C. On-Site Visitation

Proposers may wish to make an on-site visit to MATS operating site to inspect the vehicles and the space allocated for sign storage. Contact Victoria Belton, Marketing Director, telephone number 334-240-4679 to make arrangements for an inspection

D. Contract Term

The contract for the Advertising Concession is for a five-year period beginning on date of executed contract. MATS shall notify the successful proposer of its determination, in writing at least ninety (90) days prior to the end of the base contract term or option term.

MATS reserves the right to terminate the contract in the event of any default to the terms of the agreement by the selected proposer upon giving thirty (30) days written notice, via certified mail, of intent to do so.

E. Termination of Advertising Concession

MATS reserves the right to terminate the contract upon thirty (30) days written notice, by certified mail, to the successful proposer should MATS wish to discontinue advertising on all or part of the fleet. The successful proposer shall cease all sales efforts immediately upon receipt of the letter of termination. All advertising displays on and in the buses at the time of the advertising prohibition will continue to remain in place through the expiration of the terms of their applicable contracts.

F. Performance Bond

The successful proposer shall provide a performance bond in the amount of 25% of the minimum yearly guaranteed payment, to be forfeited in the event of contractual default, to be renewed annually, and to remain in effect for the full term of the contract. The bonding company shall be licensed in the state of Alabama. MATS reserves the right to waive the bond requirement.

G. Operating Contract

The successful proposer will be required, within ten (10) days after receiving written notice to do so, to enter into an operating contract with MATS. The terms and conditions of a final contract between MATS and the successful proposer will be subject to negotiation. The contract will be considered a part of these specifications and is incorporated by this reference.

H. Required Insurance

Contractor shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the contractor, his agents, representatives, employees or subcontractors for the duration of the contract.

Minimum Limits of Insurance

Contractors shall maintain limits no less than:

- **Commercial General Liability:** \$1 million combined single life per occurrence for bodily injury, personal injury and property damage (or higher limits depending on size of contract).
- **Automobile Liability:** \$250,000.00 combined single limit per accident, for bodily injury and property damage.
- **Worker's Compensation and Employer's Liability:** Compensation limits as required by the Labor Code of the State and Employer's Liability Coverage. Exception: Employer's limit is to be \$1 million when work is to be over water and involves maritime exposure.

Verification of Coverage

Contractor shall furnish the transit system with certificates of insurance affecting coverage required. The certificates are to be received and approved by the transit system before work commences. The transit system reserves the right to require complete, certified copies of all required insurance policies, at any time.

I. Hold Harmless Agreement

Each proposer shall submit a document as the enclosed Hold Harmless Agreement, properly signed and completed before a contract is offered as a result of this RFP.

J. Storage Space

MATS will provide a small space in each division, free of charge, to the successful proposer for the handling and storage of advertising signs. The successful proposer is responsible for keeping this work area neat and clean.

K. Sales Office

The successful proposer will maintain and operate from a locally staffed office in Montgomery for the purpose of servicing this contract.

L. Character of Advertisements

All advertisements shall be of a reputable character, shall conform to recognized business standards, and shall not conflict with the laws of the United States, Alabama or political subdivisions thereof. Proposers are specifically advised and hereby notified that the graphics, artwork, and copy of the advertisements are expected to be of high quality and of good taste. MATS will have sole and unquestioned authority to determine what constitutes "high quality and good taste." However, MATS requests the proposers to submit outlines for proposed advertising standards/guidelines and to note how they would strive to limit questionable advertising.

Immoral, vulgar, disreputable or other advertisements that may be offensive to the public shall not be accepted. MATS also expressly reserves the sole right to refuse any advertisement which may be construed to reflect its support for a particular product, service, idea, political viewpoint, or point of view.

Advertising for tobacco products will not be displayed on or in MATS buses.

All advertising shall be printed and displayed in a **neat and workman-like manner**. The successful proposer shall maintain all displayed advertising so as to insure its neat appearance, and promptly remove all advertising that is worn or otherwise unsightly in appearance. MATS reserves the right to require the successful proposer to promptly remove, at the proposer's own expense, any advertising which, in the opinion of MATS, is unsightly in appearance. The successful proposer further agrees to remove dated advertising no later than fifteen (15) days following the final date of an advertised event or offer.

M. Public, Charitable, or Educational Advertisements

The successful proposer shall display in spaces not in use for commercial advertising; public, charitable, or educational advertisements deemed by both the successful proposer and MATS to be proper for the purpose of avoiding unfilled spaces and for promotion of public good will. Such non-commercial advertising will be charged at customary reduced rates.

Contracts between the successful proposer and public, charitable, or educational advertising clients must be executed and processed in the same manner as for-profit advertising clients. MATS reserves the right to offer interior ad space to certain public, charitable or educational entities free of charge. Such clients are responsible for the production costs for said signs.

N. Trade for Advertising

MATS must give prior approval for any trades of advertising space for media time or space (newspaper, billboard, radio or television). It must be guaranteed that any trade time negotiated will not be pre-empted by paid advertising contracted by said media. Certified logs are required to verify the placements made of advertisements. MATS may cancel the provisions of this paragraph at any time, except for previously approved contracts.

MATS reserves the right to use up to four (4) percent of the fleet, on a space available basis, to make its own deals for the trade of advertising space for promotional purposes. The contracting advertiser shall utilize the successful proposer for the production of signs or wrapped buses and the successful proposer will be responsible for posting signs, etc.

O. Monthly Remittance and Report

The successful proposer is required to remit revenues earned each month within twenty (20) calendar days after the end of the month in which they were earned. The revenue must be accompanied by a report that includes details of:

- A. All contracts in effect
- B. Billings for the month
- C. Collections for the month
- D. Past due amounts
- E. Total remaining balances on accounts
- F. Contract expiration dates

The monthly payment and report is to be mailed to:

Victoria Belton
Marketing Director
MATS
2318 West Fairview Avenue
Montgomery, Alabama 36108

The successful proposer shall furnish MATS with copies of all signed contracts and correspondence (including changes in prices, lengths of contracts and cancellation notices) within a month of their execution.

The successful proposer shall maintain all required records for three (3) years after final payment by the successful proposer to MATS under the terms of the operating contract. However, if any audit, claim, or litigation is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

The successful proposer will permit MATS to inspect/audit all records and financial data involved in the operation of the concession during the regular business hours maintained by the successful proposer, and at such other times upon one (1) day's written notice.

P. Contract Expiration

Upon the expiration of the advertising concession contract, the successful proposer will assign and transfer to MATS all contracts for advertising on/in the buses. Said contracts will then become the property of MATS.

Q. Contract Default or Bankruptcy

If the successful proposer shall default in complying with the provisions of this agreement, and such default shall continue beyond thirty (30) days, then MATS may terminate this contract upon thirty (30) days written notice, via certified mail. The contract shall terminate at the expiration of the thirty (30) day period unless the default shall be cured within the thirty (30) day period. In the event of contract termination, neither party shall have any further claim against the other, except that the successful proposer shall be obliged to pay to MATS any monies due to the date of contract termination.

MATS may terminate this agreement forthwith and may remove without liability to it, any advertising matter displayed on its vehicles if the successful proposer shall become bankrupt or insolvent.

3 ADVERTISING PROGRAMS

RFP # 2009-004

Montgomery Area Transit System, City of Montgomery

EXTERIOR/INTERIOR ADVERTISING PROGRAM

The successful proposer, at its own expense, will be responsible for posting advertising signs, removing outdated signs and any signs rejected by MATS. MATS reserves the right to reject any advertising it finds to be offensive, objectionable or in poor taste.

Installation and ongoing maintenance of signs and other necessary activities of the successful proposer must not interfere with MATS operations. Access to vehicles will be provided only at times consistent with the operational hours of the operating facilities. Vehicles will not be removed from service for the purpose of installing or removing advertising signs.

- **Methods of Posting Advertisements**

A fleet profile is provided in Exhibit A.

The successful proposer will be responsible for any paint damage on buses when directly applied signs are removed and shall compensate MATS for the expense incurred to repaint the damaged sections.

- **Interior Advertising**

The advertising space available in the interior of 19 SLF buses consists of slats for standard cards, which are eleven (11) inches in height and twenty-eight (28) inches in length. There is no interior ad space available for the Goshen buses. MATS SLF buses have 14 spaces available for interior advertising per bus. The selling of interior space is included as part of the RFP package. The successful proposer is solely responsible for installing, maintaining and removing all interior advertisements in a timely fashion.

- **Exterior Advertising**

The advertising space available on the buses will be required to be vinyl stick on to avoid damage to the bus' exterior. The exterior ad sizes include:

- King Poster



- King Poster-small



- Rear Window



- Rear Tail light



- Queen Poster



- Queen Poster Small



There will be no bus wraps. The proposer will be responsible for the application of the ad and complete restoration of buses to their original paint/graphic scheme and condition at the conclusion of this contract. If damages occur, the successful proposer will also be responsible for complete restoration of buses to their original paint/graphics scheme and condition whenever advertising on a particular bus is removed. Wheelchair symbol decal (front, top and side) shall remain as standard on all buses participating in the concession.

- **MATS Advertising On/In Buses**

MATS reserves the right to use, without charge, unsold available advertising space for the promotion of its transit services. A minimum of one (1) interior bus signs per bus may be used by MATS for its own use. The successful proposer shall place and remove MATS advertisements without charge. MATS will be responsible for the production costs of any advertising signs used for MATS.

EXHIBIT A

MATS PROFILE

**Exhibit A
MATS Profile**

MATS is a fixed route bus service operator that provides public transit service to the city of Montgomery.

Relevant information is provided by operating division.

Bus Fleet		
SLF 30		15
SLF 35		2
SLF 32		2
Goshen (20 feet only)	*exterior ad only	22
Total SLF- 19		
Total Goshen - 22		

SLF Bus: We have nineteen of these. Fifteen of them are 30 feet long. We also have two that are 32 feet long and two that are 35 feet long



Driver side of the SLF bus.



Passenger side of the SLF bus.

Goshen: We have twenty-two of these. They are all 20 feet in length.



Driver side of the Goshen.



Passenger side of the Goshen.

Service Characteristics:

Days of Service	about 307 per year
Hours of Operation	5:30 am until 9:30 pm Monday through Friday
	7:30 am until 7:30 pm Saturday
Peak Buses	23
Base Buses	19
Buses on Saturday	17
Annual Miles Operated	1.8 million
Annual Hours Operated	89 thousand
Annual Ridership	1.3 million

Data is for FY 2008

BENCH PROGRAM

The proposer must detail how the company will meet the terms and conditions and meet the services requested as follows:

- **Fabrication, Installation and Specifications**
 - Bus benches with advertising panels will be located throughout the service area, adjacent to transit routes operated by the transit system, where agreed upon between the successful proposer and the transit system. The bench design, agreed upon by the transit system and the contractor, shall be installed and maintained by the contractor.
 - Exhibit B shows the dimensions for the bench.
 - Proposer must submit a time schedule for construction and installation. The time schedule should include plans for providing adequate personnel to install and maintain shelters/benches and advertising panels

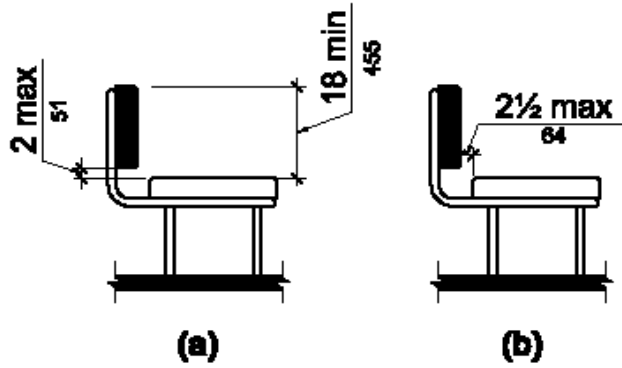
- **Maintenance Plan**
 - The proposer must state, in detail, its plan for cleaning, repairing and addressing vandalism on the benches in the service area.

- **Vendor Bench Deployment and Management**
 - All benches installed by the vendor must meet American with Disabilities Act standards.
 - All benches installed by the vendor must be uniform in style (unless otherwise specified), and their general design must be approved by MATS staff.
 - While benches must be uniform in style, it is expected that they may vary in size, based on the ridership levels at particular stops. MATS reserves the right to request increased-capacity benches where appropriate.
 - Benches that are placed in areas with special design standards will be expected to conform to those standards, and their design must be approved by both MATS and appropriate city staff.
 - Bench placement and site preparation plans for each location must be approved by MATS staff and appropriate city staff.
 - MATS reserves the right to reject inappropriate advertising. All bench displays must be approved by MATS staff.
 - MATS reserves the right to use any unused advertising space for promotional and informational purposes until the space is leased to an advertiser.
 - Maintenance of all benches and areas immediately surrounding each bench will be the responsibility of the vendor.
 - Physical damage to any component of the benches must be repaired within 7 days of notification by MATS.
 - Vandalism such as graffiti must be removed within 48 hours of notification by MATS.
 - Grass and weeds must be kept under control in accordance with municipal standards.
 - Trash must be collected from all benches on a regular basis.

- **All proposals must contain and include the following:**
 - Projections of the number of passenger benches the vendor intends to install within at least the first year of the contract. A minimum number must be guaranteed. Revenue sharing plan for advertising on vendor installed amenities
 - Anticipated revenues from all advertising sales.
 - Anticipated growth in revenues over the next five years.
 - Marketing strategy that will lead to a sustainable advertising program and revenue growth.

EXHIBIT B

BENCH DIMENSIONS



SHELTER PROGRAM

The proposer must detail how the company will meet the terms and conditions and meet the services requested as follows:

- **Fabrication, Installation and Specifications**
 - A design agreed upon by the transit system and the contractor, shall be installed at locations agreed upon by the company and the transit system. The shelters will be maintained by the contractor.
 - Exhibit C shows shelter dimensions
 - Proposer must submit a time schedule for construction and installation. The time schedule should include plans for providing adequate personnel to install and maintain shelters/benches and advertising panels

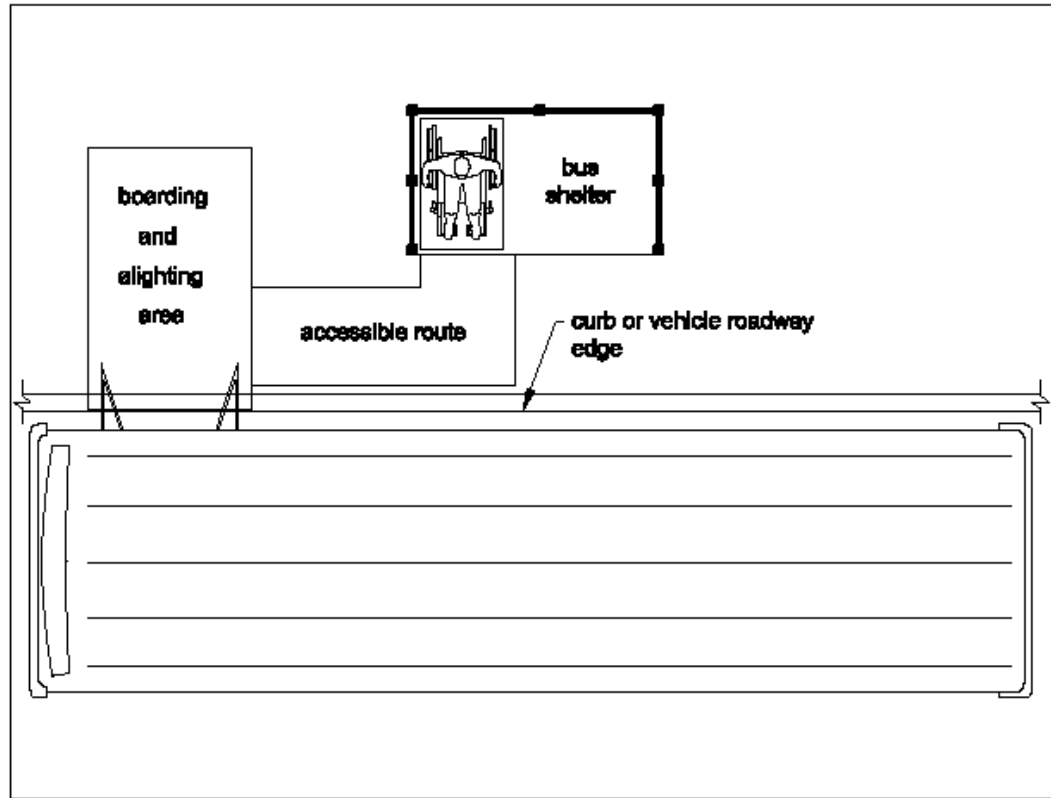
- **Maintenance Plan**
 - The proposer must state, in detail, its plan for cleaning, repairing and addressing vandalism on the shelters in the service area.

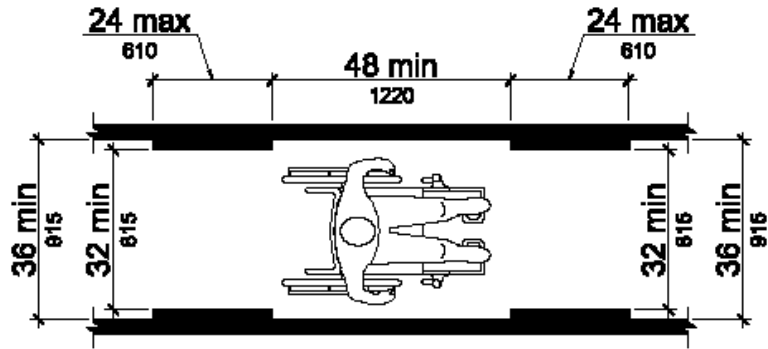
- **Vendor Shelter Deployment and Management**
 - All passenger shelters installed by the vendor must meet American with Disabilities Act standards.
 - All passenger shelters installed by the vendor must be uniform in style (unless otherwise specified), and their general design must be approved by MATS staff.
 - While shelters must be uniform in style, it is expected that they may vary in size, based on the ridership levels at particular stops. MATS reserves the right to request increased-capacity shelters where appropriate.
 - Passenger shelters that are placed in areas with special design standards will be expected to conform to those standards, and their design must be approved by both MATS and appropriate city staff.
 - Shelter placement and site preparation plans for each location must be approved by MATS staff and appropriate city staff.
 - MATS reserves the right to reject inappropriate advertising. All shelter displays must be approved by MATS staff.
 - All shelters must provide adequate space and provisions for the display of transit system information.
 - MATS reserves the right to use any unused advertising space for promotional and informational purposes until the space is leased to an advertiser.
 - Shelter lighting is encouraged but not required.
 - Maintenance of all shelters and areas immediately surrounding each shelter will be the responsibility of the vendor.
 - Physical damage to any component of the shelter must be repaired within 7 days of notification by MATS.
 - Vandalism such as graffiti must be removed within 48 hours of notification by MATS.
 - Grass and weeds must be kept under control in accordance with municipal standards.
 - Trash must be collected from all shelters on a regular basis.
 - At each shelter vendors are encouraged to place trash receptacles.

- **All proposals must contain and include the following:**
 - Projections of the number of passenger shelters that the vendor intends to install within at least the first year of the contract. A minimum number must be guaranteed. Revenue sharing plan for advertising on vendor installed amenities and on MATS owned facilities and fleet.
 - Anticipated revenues from all advertising sales.
 - Anticipated growth in revenues over the next five years.
 - Marketing strategy that will lead to a sustainable advertising program and revenue growth.

EXHIBIT C

SHELTER DIMENSIONS





4 REQUIRED FORMS

RFP # 2009-004

Montgomery Area Transit System, City of Montgomery

REVENUE PROPOSAL FOR TRANSIT ADVERTISING FOR MATS

Proposers are to present their **Revenue Bid Proposal** in the following format:

EXTERIOR/INTERIOR BUS ADVERTISING

Share of Revenue:

- ____% of Annual Income payable to MATS in FY 2010
- ____% of Annual Income payable to MATS in FY 2011
- ____% of Annual Income payable to MATS in FY 2012
- ____% of Annual Income payable to MATS in FY 2013
- ____% of Annual Income payable to MATS in FY 2014

Minimum Guarantee:

- Minimum Annual Revenue Guarantee in FY 2010 \$ _____
- Minimum Annual Revenue Guarantee in FY 2011 \$ _____
- Minimum Annual Revenue Guarantee in FY 2012 \$ _____
- Minimum Annual Revenue Guarantee in FY 2013 \$ _____
- Minimum Annual Revenue Guarantee in FY 2014 \$ _____

Proposer is to complete this Revenue Proposal form in compliance with Section 3, Revenue Proposal, of the RFP.

Company Name

Date

Name of Authorized Official

Signature of Authorized Official

Title

REVENUE PROPOSAL FOR TRANSIT ADVERTISING FOR MATS

Proposers are to present their **Revenue Bid Proposal** in the following format:

BENCH ADVERTISING PROGRAM

Share of Revenue:

- ____% of Annual Income payable to MATS in FY 2010
- ____% of Annual Income payable to MATS in FY 2011
- ____% of Annual Income payable to MATS in FY 2012
- ____% of Annual Income payable to MATS in FY 2013
- ____% of Annual Income payable to MATS in FY 2014

Minimum Guarantee:

- Minimum Annual Revenue Guarantee in FY 2010 \$ _____
- Minimum Annual Revenue Guarantee in FY 2011 \$ _____
- Minimum Annual Revenue Guarantee in FY 2012 \$ _____
- Minimum Annual Revenue Guarantee in FY 2013 \$ _____
- Minimum Annual Revenue Guarantee in FY 2014 \$ _____

Number of Benches

- FY 2010 _____
- FY 2011 _____
- FY 2012 _____
- FY 2013 _____
- FY 2014 _____

Proposer is to complete this Revenue Proposal form in compliance with Section 3, Revenue Proposal, of the RFP.

Company Name

Date

Name of Authorized Official

Signature of Authorized Official

Title

REVENUE PROPOSAL FOR TRANSIT ADVERTISING FOR MATS

Proposers are to present their **Revenue Bid Proposal** in the following format:

SHELTER ADVERTISING PROGRAM

Share of Revenue:

- ____% of Annual Income payable to MATS in FY 2010
- ____% of Annual Income payable to MATS in FY 2011
- ____% of Annual Income payable to MATS in FY 2012
- ____% of Annual Income payable to MATS in FY 2013
- ____% of Annual Income payable to MATS in FY 2014

Minimum Guarantee:

- Minimum Annual Revenue Guarantee in FY 2010 \$ _____
- Minimum Annual Revenue Guarantee in FY 2011 \$ _____
- Minimum Annual Revenue Guarantee in FY 2012 \$ _____
- Minimum Annual Revenue Guarantee in FY 2013 \$ _____
- Minimum Annual Revenue Guarantee in FY 2014 \$ _____

Number of Bus Shelters and Benches

- FY 2010 _____
- FY 2011 _____
- FY 2012 _____
- FY 2013 _____
- FY 2014 _____

Proposer is to complete this Revenue Proposal form in compliance with Section 3, Revenue Proposal, of the RFP.

Company Name

Date

Name of Authorized Official

Signature of Authorized Official

Title

THIRD PARTY CONTRACT CLAUSES

A. Notice of Federal Requirements

This procurement is subject to a financial assistance contract between the Federal Transit Administration (FTA), the State of Alabama, Department of Transportation, and MATS. The contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed herein, 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.

B. No Government Obligation to Third Parties

1. MATS and contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the purchaser, contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
2. The contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

C. Civil Rights

1. Equal Employment Opportunity - In connection with the execution of this contract, the contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin.

The contractor shall take affirmative actions to insure that applicants employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2. Disadvantaged Business Enterprise - In connection with the performance of this contract, the contractor will cooperate with the project sponsor in meeting their commitments and goals with regard to the maximum utilization of disadvantaged business enterprises (DBE's) and will use its best efforts to ensure that DBE's shall have the maximum practicable opportunity to compete for the subcontract work under this contract.
 - Policy - It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 C.F.R. Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this agreement. Consequently, the DBE requirements of 49 C.F.R. Part 23 apply to this agreement.
 - DBE Obligation - The supplier or contractor agrees to ensure that disadvantaged business enterprises as defined in 49 C.F.R. Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take necessary

and reasonable steps in accordance with 49 C.F.R. Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, creed, color, national origin, age or sex in the award and performance of DOT-assisted contracts.

- DBE Non-Discrimination - The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract or agreement. The requirements of C.F.R. Part 23 and the Recipient's U.S. DOT-approved disadvantaged business enterprise (DBE) program (where applicable) are incorporated in this contract or agreement by preference. Failure by the contractor, subrecipient or subcontractor to carry out these requirements is a material breach of the contract or agreement, which may result in the termination of this contract or agreement or such other remedy as the recipient deems appropriate.
3. Title VI of the Civil Rights Act of 1964 - During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:
- Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations), which are herein incorporated by reference and made a part of this contract.
 - Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.
 - Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, account, other sources of information, and its facilities as may be determined by the recipient or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information is required or a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Recipient, or the Federal Transit Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.
 - Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Recipient shall impose such contract sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to:
 - a) Withholding of payments to the contractor under the contract until the contractor complies, and or,

b) Cancellation, termination or suspension of the contract, in whole or in part.

- The contractor shall include the provisions of paragraphs (1) through (6) of this section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Recipient or the Federal Transit Administration may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided however, that in the event a contractor becomes involved in, or is threatened with, litigation with a Subcontractor or Supplier as a result of such direction, the contractor may request the Recipient, and in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

D. Federal Changes

Contractor shall at all times comply with all applicable FTA regulation, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement between the State of Alabama, Department of Transportation, MATS and the FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

E. Program Fraud and False or Fraudulent Statements or Related Acts

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate
3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

F. Termination

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

2. Termination for Default (Breach or Cause) (General Provision): 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, MATS may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by MATS 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, MATS, 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.
3. Opportunity to Cure (General Provision): MATS in its sole discretion may, in the case of a termination for breach or default, allow the Contractor (an appropriately short period of time) in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to MATS satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten days after receipt by Contractor or written notice from MATS setting forth the nature of said breach or default, MATS shall have the right terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude MATS from also pursuing all available remedies against Contractor and its sureties for said breach or default.
4. Waiver of Remedies for any Breach: In the event that MATS elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by MATS shall not limit MATS remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
5. Termination for Convenience (Professional or Transit Service Contracts): MATS, 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, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

G. Privacy Act

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

H. Breaches and Dispute Resolution

1. Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by MATS General Manager. This decision shall be final and conclusive unless within ten 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. Performance During Dispute - Unless otherwise directed by MATS, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
3. 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 their employees, agents or others for whose acts they are 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.
4. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in questions between MATS and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which MATS is located.
5. 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 MATS, 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.

I. Incorporation of Federal Transit Administration 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 4220.1D, dated April 15, 1996, 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 MATS requests which would cause MATS to be in violation of the FTA terms and conditions.

J. Interest of Public Officials

No member, officer or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

K. Bid Protest Procedures

Proposers wishing to protest any MATS procurement shall submit their pre-award protest in writing no less than 8 calendar days before proposal submittal date. Proposers wishing to protest a MATS contract award must submit their protest in writing no less than 7 calendar days after the award of the contract.

The protest will be handled as follows:

1. The protest shall be delivered to the General Manager and shall state all issues and facts applicable to the protest. Issues and facts not stated in the protest will not be considered.
2. A meeting(s) may be called following receipt of the protest that will include representatives from MATS and the protester to discuss the issue related to the protest. The meeting may be conducted by telephone conference with recorded conversation.
3. A decision on the pre-award protest will be made by the General Manager at least five calendar days before the proposal submittal date and at the time the protester shall be notified of the decision in writing by MATS by regular mail or by facsimile transmission.
4. The General Manager may at his/her discretion, extend the limits of time outlined above.
5. The decision of the General Manager shall be final and not subject to appeal except as required by FTA, if applicable, and must be in accordance with FTA Circular 4220.1D as periodically updated.
6. Failure of the protester to specify their objections in writing and in accordance with the specific time deadlines shall constitute a waiver of all rights to protest.

L. Certifications Required with this Proposal are listed Below (copies attached)

1. Eligible Contractor's Certificate
2. Affidavit of Non-Collusion
3. Certification Regarding Debarment, Suspension and Other Ineligible and Voluntary Exclusion
4. Certification Regarding Lobbying
5. Disadvantaged Business Enterprises Certification
6. State of Connecticut Employer Report of Compliance Staffing

THIRD PARTY CONTRACT CERTIFICATIONS

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements
(To be submitted with each bid or offer exceeding \$100,000)

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 or 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," 61Fed. 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 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, subgrants, 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 Section 1352, Title 31, U.S. Code (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. Section 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, _____, certifies or affirms the truthfulness and 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. Section 3801, et seq., apply to this certification and disclosure, if any.

Name of Individual, Partnership, or Corporation

Address

Authorized Person

Signature

Title

Date

(Failure to complete this form and to submit it with your bid will render this bid non-responsive).

CERTIFICATION
DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

The Lower Tier Participant (potential sub-grantee or sub-recipient under an FTA project, potential third party contractor, or potential subcontractor under a major third-party contractor, _____, certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency.

If the Lower Tier Participant (potential sub-grantee or sub-recipient under FTA project, potential third party contractor or potential contractor under a major third-party contract) is unable to certify to any of the statements in this certification, such participant shall attach an explanation of this proposal.

The Lower Tier Participant (potential sub-grantee or sub-recipient under an FTA project, potential third-party contractor, or potential subcontractor under a major third-party contract), _____, 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.

Signature and Title of Authorized Official

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

Signature of Contractor's Attorney

Date

(applies to contractors/subcontractors with contracts in excess of \$100,000)

(Failure to complete this form and to submit it with your bid will render this bid non-responsive).

DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATION

- (1) Policy – It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 C.F.R. part 23 shall have the maximum opportunity to participate in the performance or contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 C.F.R. Part 23 apply to this agreement.

- (2) DBE Obligation – The supplier or contractor agrees to ensure that disadvantaged business enterprises as defined in 49 C.F.R. part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take necessary and reasonable steps in accordance with 49 C.F.R. Part 23 to ensure that disadvantages business enterprises have the maximum opportunity to compete and perform contracts. Recipients and the their contractors shall not discriminate on the basis of race, creed, color, national origin, age or sex in the award and performance of DOT-assisted contracts.

DBE Certification

The contractor hereby agrees to subcontract a minimum of ____% of the contract to disadvantaged business enterprises.

Firm Name: _____
Signature: _____
Title: _____
Date: _____

Note: This form is to be submitted with the proposal. Please attach the names and addresses of any and all DBE eligible subcontractors who will perform work on this project, and the approximate dollar amounts to be paid to them.

(Failure to complete this form and to submit it with your bid will render this bid non-responsive).

ELIGIBLE CONTRACTORS CERTIFICATE

_____ (name of the third-party contractor) hereby certifies that it **IS / IS NOT** (circle one) included on the U.S. Comptroller General's Consolidated List of Person or Firms Currently Debarred for Violations of Various Public Contracts Incorporating Labor Standards Provisions.

Firm Name: _____

Signature: _____

Title: _____

Date: _____

(Failure to complete this form and to submit it with your bid will render this bid non-responsive).

AFFIDAVIT AND INFORMATION REQUIRED OF BIDDERS

AFFIDAVIT OF NON-COLLUSION

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

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

Firm Name: _____

Address: _____

Authorized by: _____

Signature: _____

Title: _____

Date: _____

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

Notary Public

My commission expires _____, 20__ .

(Failure to complete this form and to submit it with your bid will render this bid non-responsive).

Hold Harmless Agreement

Company shall indemnify and hold harmless MATS/City of Montgomery against any liability to which it may be subjected by reason of the advertising material and/or construction, placement of the shelter/bench under this contract, including but not limited to liability for infringement of trademarks, trade names, copyrights, invasion of rights of privacy, defamation, illegal competition or trade practices, as well as all reasonable costs, including attorney's fees, in defending any such action(s).

The proposer shall and does, assume responsibility and liability for damages, loss or injury (including death) of any kind whatsoever to persons or property, including employees and property of the City, caused by or resulting from any act or omission of the proposer, its employees, agents, servants, or employees or its subcontractors or any of their officers, agents, servants, or employees arising from the performance of the work under this contract. The proposer shall indemnify and hold harmless MATS/ City of Montgomery, its officers, agents, servants and employees and the Federal and State and County governments from and against any claims, loss, damage, charge or expense to which they or any of them may be put or subjected to by reason of any such act or omission of the proposer

Company Name

Date

Name of Authorized Official

Signature of Authorized Official

Title