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UNSOLICITED PROPOSALS POLICY



Unsolicited Proposals & Public/Private Sector Engagement Policy

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Overview

Applicability

This policy and procedure applies to Unsolicited Proposals received by Metro. The Joint Development section of this policy is designed to address unsolicited proposals regarding the acquisition, lease, sale or shared use of Metro real property. Persons interested in submitting an unsolicited proposal for shared use and/or development on Metro-owned property should review that section of this policy, which provides specific details on submitting an Unsolicited Proposal for Joint Development (JD) sites.

What is an Unsolicited Proposal?

A written proposal that is submitted to Metro on the initiative of the submitter for the purpose of developing a partnership that is not in response to a formal or informal request issued by Metro.

What distinguishes an Unsolicited Proposal?

It should be:

- > Innovative and pragmatic;
- > Independently originated and developed by the proposer;
- > If submitted by parties external to Metro, prepared without Metro's supervision, endorsement, direction, or direct involvement; and
- > Sufficiently detailed that its benefits in support of Metro's mission and responsibilities are readily apparent.

An Unsolicited Proposal is distinguishable from a project already part of Metro's long-term budget planning process and plan if it uses innovative but pragmatic solutions that offer added value, such as enhanced financing options, improved customer service outcomes or advanced delivery dates. Sales tax bonds and certificates of participation are not unique and innovative financing tools.

Should proposers interested in a published solicitation submit an Unsolicited Proposal?

No. An Unsolicited Proposal is not any of the following:

- > An offer responding to Metro's previously published expression of need or request for proposals;
- > An advance proposal for property or services that Metro could acquire through competitive methods (submitted within the budget year before release of a published request for proposal); or
- > A replacement for an existing contract that is already in effect; or
- > An opportunity to stipulate the means and methods of an existing contractual relationship.

Unsolicited Proposals Process Overview

All Unsolicited Proposals shall be submitted to the Metro Vendor / Contract Management (V/CM) office, which will log the proposal and within three business days, then officially transfer it to the Office of Extraordinary Innovation (OEI) for evaluation of technical and/or financial merit. Joint Development Unsolicited Proposals will be transferred to the Joint Development Team.

Metro receives and evaluates Unsolicited Proposals using a two-phased approach, as described below. All Unsolicited Proposals, both in general and for Joint Development, will be evaluated using the two-phased approach, however, the JD process is defined in a separate section of this policy. In Phase One, we evaluate conceptual proposals. Conceptual proposals will be reviewed within 90 days of receipt, at which time a determination will be made as to whether to review additional and detailed information in Phase Two. If there is interest in a conceptual proposal, the proposer may be asked to submit a detailed proposal for

evaluation in Phase Two. In the event that the project proceeds beyond Phase Two or otherwise involves a competitive procurement or sole source procurement, Metro's procurement policies and procedures will apply. Metro may, at any time, choose not to proceed further with any Unsolicited Proposal.

Phase One – Conceptual Proposal

The purpose of Phase One is for Metro to receive written, concept-level proposals and to screen those proposals to determine whether to request additional and detailed information in Phase Two.

Threshold Review and Process Overview

Upon receipt of a conceptual proposal, Metro V/CM staff will take the following steps:

- i. Promptly acknowledge receipt of the proposal (letter to proposer); and
- ii. Determine whether the proposal meets the threshold requirements of an Unsolicited Proposal.

Before initiating a Phase One evaluation, the OEI, in cooperation with V/CM staff, will determine if the conceptual proposal meets the following threshold requirements:

- > Satisfies the definition of an Unsolicited Proposal;
- > Includes all required content and attachments;
- > Contains sufficient detail to enable Metro to perform an adequate evaluation;
- > If submitted by parties external to Metro, has been approved by a responsible official or other representative authorized to contractually obligate the proposer;
- > Complies with the marking requirements for use and disclosure of data;
- > If submitted by parties within Metro, has been approved with signature by a departmental Chief.

If the proposal meets the threshold requirements, Metro V/CM and OEI staff will take the following steps:

- i. V/CM: Log the proposal and assign it a number;
- ii. V/CM: Officially transfer the proposal to OEI staff;
- iii. OEI: Assemble an evaluation team as well as technical and financial subject-matter experts related to the Unsolicited Proposal with the oversight of Vendor/Contract Management;
- iv. OEI: Facilitate the evaluation process as needed; and
- v. OEI: Notify the proposer of Metro's decision. The possible outcomes may be to discontinue the process, proceed to Phase Two, or pursue a competitive procurement. OEI will provide a general explanation of the reasons for the decision, communicate regularly with the Office of the CEO, and seek CEO's approval of recommendations related to implementation.

Content – Conceptual Proposal

Conceptual proposals should include the information identified in the Conceptual Proposal Form (Exhibit C to this policy).

Evaluation – Conceptual Proposal

Conceptual proposals will be evaluated promptly in accordance with the criteria set out in this section. At Phase One, the evaluation process will include the following:

- > If a financial evaluation team has been assembled, that team will have access to the technical proposal for purposes of determining the proposed project scope;
- > The proposer(s) will have no interaction with the evaluation team, except at Metro's sole discretion.

Evaluation Criteria – Conceptual Proposal

If the proposal meets the threshold requirements, the evaluation team, including at least one (1) review team member outside of OEI and V/CM, will determine the evaluation criteria, as necessary, to reflect the specific proposal, but generally will consider the following factors:

- i. The proposal offers direct or anticipated benefits to Metro, its passengers and the community;
- ii. The proposal is consistent with Metro's objectives and goals;
- iii. The proposal satisfies a need for Metro that can be reasonably accommodated in Metro's annual long-term capital and operating budgets without displacing other planned expenditures, without placing other committed projects at risk, and without significantly increasing the cost of the proposed items;
- iv. The proposal offers goods or services that Metro may not have intended to procure or provide through the normal Metro contract process;
- v. If the proposal contains significant financial, technical and legal components, those disciplines have approved an action that proceeds to Phase Two; and
- vi. Are within Metro's jurisdiction or control; and
- vii. Other factors appropriate for the particular proposal.

Phase Two – Detailed Proposal

The purpose of Phase Two is for Metro to receive more detailed technical and financial information to fully understand and evaluate the proposal. At the conclusion of this phase, Metro will decide whether to forego the proposal, to proceed to a sole source agreement, or to pursue a competitive solicitation.

Process – Request for Detailed Proposal

If Metro desires to proceed to Phase Two, OEI will issue a Request for a Detailed Proposal that, in coordination with V/CM, formally tells the proposer to proceed to Phase Two. Depending on the circumstances, the request may include the following:

- > A summary of Phase I Project Evaluation;
- > A description of the request for additional information process and purpose;
- > A description of the problem or opportunity being addressed;
- > Relevant background, context, parameters and policies;
- > Functional, technical and legal requirements;
- > Requests for other project related information related to scope, budget, schedule, personnel, risks, data, performance measurement, potential impacts, etc.;
- > Requests for specific modifications or clarifications to the scope of the original proposal.

Metro may, at its sole discretion and with the participation of V/CM, may invite the proposer(s) to present to the review team, ask and answer questions of the review team, and discuss the proposal and context with the review team.

Processing

Once the detailed proposal is received, the OEI staff will keep and share with V/CM, a record of the persons on the evaluation team and record the final disposition of the proposal. Outside advisors will be consulted only if the Metro evaluation team deems it necessary and beneficial.

Content – Detailed Proposal

In addition to the information provided in Phase One, a detailed proposal must, at a minimum, include the following information.

Technical information:

- i. Names and professional information of the proposer's key personnel who would be committed to the project;
- ii. Type of support needed from Metro; e.g., facilities, equipment, materials, or personnel resources; and
- iii. Type of support being provided by the proposer;
- iv. A sufficiently detailed description of the scope of work being offered to allow Metro to evaluate the value received for the price proposed;
- v. Proposed price or total estimated cost for the effort and/or the revenue generated in sufficient detail for meaningful evaluation and cost analysis, including an annual cash flow for the project and annual or future costs to operate and maintain;
- vi. A schedule for the implementation, including specific details for any property and/or services to be provided by Metro; and
- vii. Proposed duration of effort.

Supporting information:

- i. Type of contract being sought by the proposer (the final determination on type of contract shall be made by Metro, should Metro decide to proceed with a contract);
- ii. Description of the proposer's organization, previous experience in the field, and facilities to be used;
- iii. Required statements and disclosures, if applicable, about organizational conflicts of interest and environmental impacts; and
- iv. Information, in the form of Metro's Pre-Qualification Application (see Exhibits D & E) demonstrating to Metro that the proposer has the necessary financial resources to complete the project, as determined by Metro and OEI staff. Such information may include (i) financial statements, including an Auditor's Report Letter or an Accountant's Review Letter, Balance Sheets, Statements of Income and Stockholder's Equity, and a Statement of Change in Financial Position; (ii) un-audited balance sheets; (iii) names of banks or other financial institutions with which the proposer conducts business; and (iv) letter of credit commitments.

Evaluation – Detailed Proposal

Detailed proposals will be evaluated promptly, at a minimum in accordance with the criteria set out in this section, as well as any other evaluation criteria identified in the Request for Detailed Proposal.

Threshold Review: Before initiating a comprehensive evaluation, the Metro V/CM staff in coordination with OEI, will determine if the detailed proposal continues to meet the threshold requirements set out in Phase One and the requirements specifically set out in the Request for Detailed Proposal.

Evaluation Criteria: At Phase Two, the evaluation team will confirm the proposal meets the same evaluation criteria set forth in Phase One, in addition to the following minimum factors, and any additional criteria set out in the Request for Detailed Proposal:

- i. The proposer's capabilities, related experience, facilities, techniques, or unique combinations of these which are integral factors for achieving the proposal objectives;
- ii. The proposer's financial capacity to deliver the goods or services defined in the proposal;
- iii. Viability of the proposed schedule and Metro's ability to meet activities required;
- iv. Metro's capacity to enter into a contract under its current debt authorization;
- v. The qualifications, capabilities and experience of key personnel who are critical in achieving the proposal objectives;
- vi. The relative costs and benefits of the proposal with respect to improving mobility and accessibility in LA County;
- vii. The specific details of the cost/revenue generated; and
- viii. Any other factors appropriate for the particular proposal.

Recommendation

The evaluation team will make a recommendation on the disposition of the detailed proposal to Metro's Chief Executive Officer for review and approval. If the Board of Directors' approval is required, the proposer will be notified of the date of the meeting when the proposal will be discussed.

Full and Open Competition Requirements

Metro's receipt of an Unsolicited Proposal does not, by itself, justify a contract award without full and open competition. If the Unsolicited Proposal offers a proprietary concept that is essential to contract performance, it may be deemed a Sole Source (see section below). If not, Metro will pursue a competitive procurement, either through a formal solicitation or by the process outlined below. *See Unsolicited Proposal – Competitive Solicitation Process.*

Proof of Concept

Metro may, at its sole discretion, choose to work with an outside party to prove a concept as a means of better understanding an offering and its application and value to Metro, provided that the work is done at the expense of the outside party, and that the work is mutually agreed upon by Metro and the outside party.

Unsolicited Proposal – Sole Source Award

If it is impossible to describe the property or services offered without revealing proprietary information or disclosing the originality of thought or innovativeness of the property or services sought, as determined by Metro, Metro may make a sole source award, as provided in Metro's Sole Source Award Policy. A sole source award may not be based solely on the unique capability of the proposer to provide the specific property or services proposed.

Unsolicited Proposal – Competitive Solicitation Process

If the Unsolicited Proposal does not meet the criteria of a sole source award, before entering into a contract resulting from an Unsolicited Proposal, Metro will take the following steps. These steps could occur at any phase of the evaluation process, to be determined by the Metro V/CM and OEI staff.

- a. *Receipt:* Metro will publicize its receipt of the Unsolicited Proposal by posting on Metro's website for purchasing opportunities and advertise in the appropriate publications with general circulation, and in any other relevant trade publications that advertise contracting solicitations.
- b. *Adequate Description:* Metro's publication of its receipt of the Unsolicited Proposal will include an adequate description of the property or services offered without improperly disclosing proprietary information or disclosing the originality of thought or innovativeness of the property or services sought.
- c. *Interest in the Property or Services:* Metro also will publicize its interest in acquiring the property or services described in the proposal using the same or similar methods provided above.
- d. *Adequate Opportunity to Compete:* Metro will provide an adequate opportunity for interested parties to comment or submit competing proposals, and/or requests for an opportunity to respond within a time frame (minimum of 21 days) specified by Metro's V/CM staff.
- e. *Contract Award Based on Proposals Received:* Finally, Metro will publicize its intention to award a contract based on the Unsolicited Proposal or another proposal submitted in response to the publication using the same or similar methods provided above.

Contract Resulting from an Unsolicited Proposal

Nothing in this policy or otherwise requires Metro to act or enter into a contract based on an Unsolicited Proposal. Metro, at its sole discretion, may return and/or reject an Unsolicited Proposal at any time during the process.

Prerequisites to Contract Negotiation

The Metro Contracting Officer or other duly authorized Metro representative(s) may commence negotiations only after the following prerequisites have been met.

- i. An Unsolicited Proposal has received a favorable comprehensive evaluation, including in comparison to any proposals received following publication as provided in this policy;
- ii. The Metro technical office sponsoring the contract supports its recommendation, furnishes the necessary funds and provides a sole-source justification (if applicable); and
- iii. Metro CEO or Metro Board of Directors approves (if required).

General Proposal Requirements

Prohibition of Use of Confidential Information

If Metro's decision is to pursue a competitive procurement, Metro personnel shall not use any data, or any confidential patented, trademarked or copyrighted part of an Unsolicited Proposal, or confidential technical or financial proprietary information as the basis, or part of the basis, for a solicitation or in negotiations with any other firm, unless the proposer is notified of and agrees to the intended use. Concepts or ideas are not considered proprietary by Metro but specific implementing methodologies that are unique to the proposer will be recognized.

The V/CM staff shall place a cover sheet (attached as Exhibit B) on the proposal, unless the proposer clearly states in writing that no restrictions are imposed on the disclosure or use of the data contained in the proposal.

Public Records Act

Unsolicited Proposals are subject to the provisions of the California Public Records Act (California Code Government Code §6250 et seq.).

Public Contract Code Section 22164 provides that: information that is not otherwise a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title I of the Government Code) shall not be open to public inspection. Any documents provided by the proposer to Metro marked "Trade Secret," "Confidential" or "Proprietary," or any financial records provided by the proposer to Metro, shall be clearly marked with the proposer's name. Metro will use its best efforts to inform the proposer of any request for any financial records or documents marked "Trade Secret," "Confidential" or "Proprietary" provided by proposers to Metro. Metro will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.

In the event of litigation concerning the disclosure of any records, Metro's sole involvement will be as a stakeholder, retaining the records until otherwise ordered by a court. The proposer, at its sole expense and risk, shall be fully responsible for any and all fees for prosecuting or defending any action concerning the records and shall indemnify and hold Metro harmless from all costs and expenses, including attorney's fees in connection with any such action.

Exhibit A

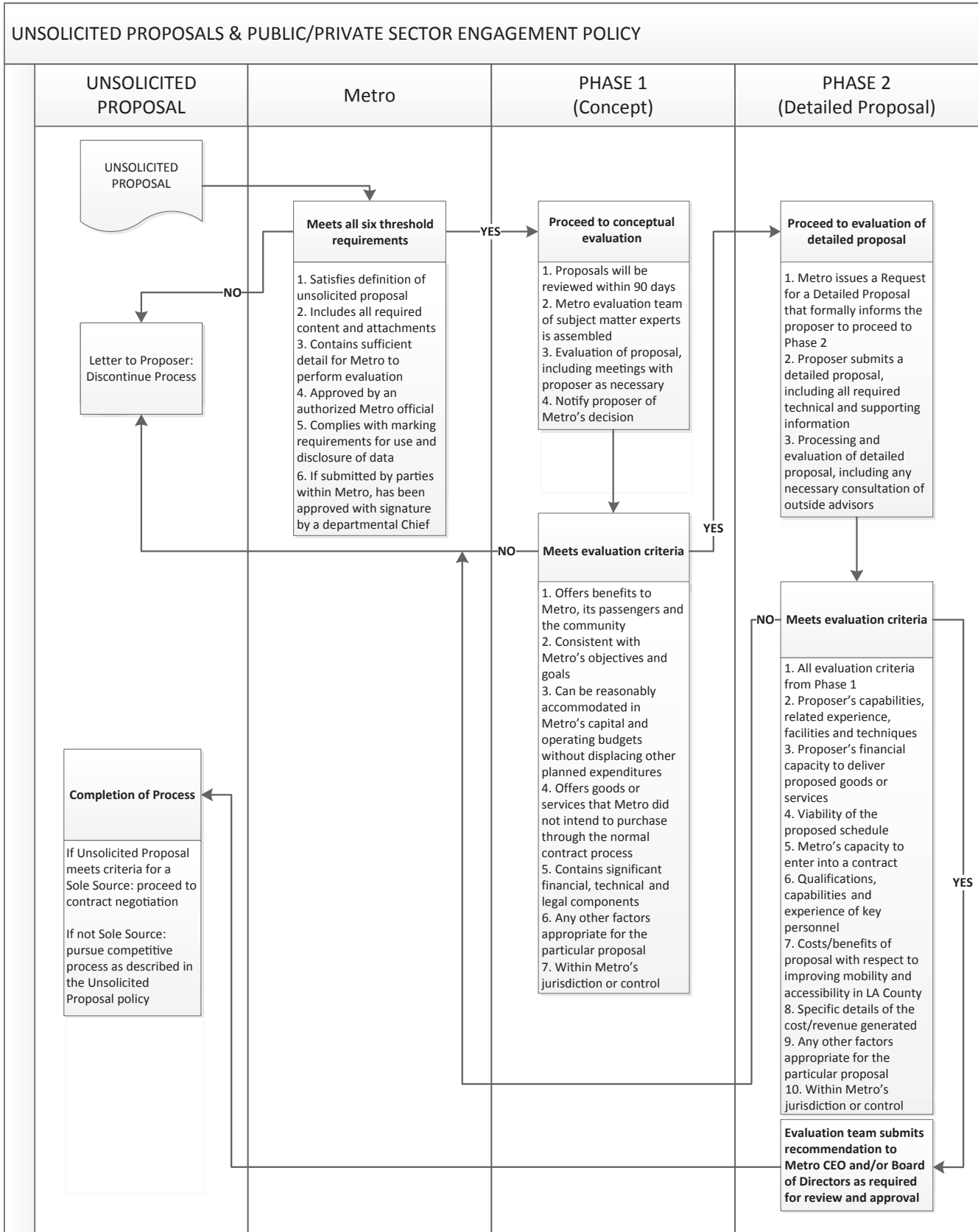


Exhibit B

UNSOLICITED PROPOSAL
USE OF DATA PRIOR TO CONTRACT IS PROHIBITED

All Metro personnel must exercise extreme care to ensure that the information in this proposal is not disclosed to an individual who has not been authorized access to such data and is not duplicated, used, or disclosed in whole or in part for any purpose other than evaluation of the proposal.

Exhibit C

UNSOLICITED PROPOSALS SUBMITTED TO METRO PHASE ONE: CONCEPTUAL PROPOSAL FORM

Phase One of Metro’s Unsolicited Proposal process involves submitting this form. Submit only the information required by this form. If Metro determines that the proposal should proceed to Phase Two, Metro will issue a Request for Detailed Proposal.

PART 1: BASIC INFORMATION

Proposer Information:

Name: _____

Address: _____

Further contact information: _____

Type of organization: _____

Technical personnel names & contact information:

Business personnel names & contact information:

These individuals should be responsible for answering Metro’s technical or business questions concerning the proposal or any subsequent agreement concerning the proposal.

PART 2: TECHNICAL INFORMATION

Title of the proposal: _____

Abstract of the proposal is attached

To move forward in the Unsolicited Proposal process, the abstract must include a brief – but complete – discussion of the following:

1. Objectives
2. Method of approach
3. Nature and extent of anticipated results; and
4. Manner in which the work will help support accomplishment of Metro’s mission.

Technical expertise the proposer needs from Metro: _____

PART 3: FINANCIAL INFORMATION

Proposed price or total estimated cost: _____

Revenue: _____

Be concise but provide sufficient detail for Metro to meaningfully evaluate the proposal.

Financial information the proposer needs from Metro: _____

PART 4: PROCEDURAL INFORMATION

Period of time for which the proposal is valid: _____

- Proprietary data has been submitted with this proposal and is deemed confidential by the proposer in the event of a request submitted to Metro under the California Open Records Act. *Any proprietary data must be clearly designated.*
- Other government entities or private parties have received this proposal.
Please explain: _____
- Other government entities or private parties may provide funding for this proposal.
Please explain: _____
- There are patents, copyrights and/or trademarks applicable to the goods or services proposed.
Please explain: _____
- There is additional information not requested in this form that would allow Metro to evaluate this proposal at this conceptual phase.
Describe: _____

PART 5: SIGNATURE

Name: _____

Date: _____

Title: _____

The individual who signs this form must be authorized to represent and contractually obligate the Proposer.

Exhibit D



**Los Angeles County
Metropolitan Transportation Authority
CONTRACTOR PRE-QUALIFICATION APPLICATION**

Construction Related Projects

If this Application is being submitted in response to a Request For Proposal (RFP), Invitation For Bid (IFB), or other procurement action, please reference the RFP or IFB name and number in the spaces provided below.

If this Application is not in response to a specific contracting action and is being submitted for general purposes, please write "GENERAL" in the "Name of Procurement" space.

Name of Procurement: _____

RFP or IFB Number: _____

Name of Applicant Firm: _____

Date Submitted: _____

Preparer's Name: _____

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE APPLICATION

**READ THE INSTRUCTIONS
BEFORE FILLING OUT THE QUESTIONNAIRE**

PRE-QUALIFICATION APPLICATION INSTRUCTIONS

1. This is a Pre-Qualification Application for the Los Angeles County Metropolitan Transportation Authority (LACMTA). There are two different applications to be used for firms seeking contracts of \$100,000 or greater with the LACMTA.
2. **Which application should you use?** Use the Construction Related Projects application if you are a construction company that will be bidding on any type of construction work. Use the Other than Construction Projects application if you are an engineering firm, consultant, legal firm, product vendor, or other business entity seeking a contract with the LACMTA for the furnishing of goods or services.
3. The application should be completed by a person in the firm who is knowledgeable of and duly authorized to attest to the past and present operations of the firm and its policies. A corporate officer of the firm, owner or partner, as appropriate, must sign the Pre-Qualification Certification form (or Validation form if the firm is already approved).
4. All questions must be answered completely and any Yes answers must be fully explained. Disclaimers, general statements with global qualifications, or notations of Not Applicable (N/A) are not acceptable. Please note that a Yes answer to any question does not automatically result in denial of pre-qualification for a particular procurement.

DEFINITIONS

1. **Affiliate** is defined as any one of the following: (1) any Firm other than Applicant Firm which owns 25% or more of Applicant Firm, such as parent companies or holding companies; (2) a subsidiary or a Firm in which Applicant Firm owns 25% or more; (3) a Firm in which a major stockholder or owner of Applicant Firm owns controlling interest; (4) a Firm with which Applicant Firm has or has had an unseverable business or professional identity, and (5) any permanent or temporary common business enterprise relationship in which the parties share operating responsibility and profits such as joint ventures.
2. **Key Person** – For purposes of pre-qualification a key person is (1) any person in Applicant Firm who owns 10% or more of the Firm and/or those who make decisions with respect to its operations, finances, or policies, such as the President, CEO, CFO, COO, and, in the case of partnerships, the General Partner(s); (2) Corporate Secretaries and Treasurers, as well as Directors, if they meet criteria #1, above; (3) Division or Regional Business Managers who operate away and independently from the Applicant Firm, but only if the division or regional office is bidding directly with the LACMTA.

APPLICATION SUBMITTAL

Do not submit applications with bid or proposal, mail or deliver them to:

LACMTA Pre-Qualification Office
Mail Stop 99-9-1
One Gateway Plaza
Los Angeles, CA 90012-2952

If you have questions, call the Pre-Qualification Office at (213) 922-4130.

Applicant Firm: _____
Tax ID No. or SSN: _____

SECTION I: IDENTIFICATION

1. Identification Of Applicant Firm

A. _____
Name of Applicant Firm

B. _____
Address City State Zip Code

C. _____
(Mailing Address, if different from above)

D. _____
(If doing business with the LACMTA under a DBA or other name, include legal name of the company and Tax ID No., if different)

E. Primary Company Telephone No. () _____ Fax No. () _____

F. Applicant Firm's Contact Person for Pre-Qualification Office follow-up:

Print or Type Name	Position	E-Mail	Telephone Number
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G. Has the Applicant Firm changed its address or has the Firm or its owner operated under any other name(s) including other DBAs in the past five years? If yes, explain fully on a separate sheet of paper.
 No Yes

H. Type of business organization: _____

YEAR organization established: _____ NUMBER of current employees: _____

Sole Proprietor Corporation
[Date and State of Incorporation _____]

Limited Liability Corporation (LLC)
[Date and State of Incorporation _____]

Limited Partnership (LP) Limited Liability Partnership (LLP)

General Partnership (GP)
[Date and State of Partnership filing _____]

Other (describe) _____

Applicant Firm: _____
 Tax ID No. or SSN: _____

I. List general type of business in which Applicant Firm is engaged (may include more than one).
 Attach copies of business licenses, if appropriate:

J. List type of product or service to be provided to the LACMTA.

SECTION II: OWNERSHIP/MANAGEMENT, PROJECT TEAM MEMBERS, AND RELATED ENTITIES

1. Owners/Key Persons

List Owners and Key Persons of Applicant Firm. For large publicly traded companies, list only Key Persons. (See DEFINITIONS for clarification if necessary.)

Full Legal Name	Title	Social Security No. (last four digits only)	% Of Ownership

[Use additional sheets if necessary]

2. Related Entities (Affiliates/Subsidiaries/Joint Ventures)

A. List affiliates, subsidiaries, holding companies, joint ventures, etc., of Applicant Firm. If no affiliates, state NONE. N/A is not an acceptable answer. Provide organizational, geographical or functional chart, if it would assist in clarifying the line(s) of authority. (See DEFINITIONS for clarification if necessary.)

Affiliate Name & Address	Tel. #	% Owned	Top Executive's Name	*Type of Relation

*Type of Relationship: 1. Joint Venture (JV), 2. Parent Co (PC), 3. Holding Co (HC), 4. Subsidiary (S), 5. Other (O), please explain.

Applicant Firm: _____
 Tax ID No. or SSN: _____

- B. At any time during the past five years have any Owners or Key Persons of Applicant Firm (if yes, explain fully):
1. Served as Key Person, Officer or Director, in any other Firm not affiliated with Applicant Firm?
 If so, please explain in a separate sheet.
 No Yes

 2. Had any ownership interest in any other Firm other than shares of publicly owned companies? If so, please explain in a separate sheet.
 No Yes

SECTION III: CONTRACTING HISTORY

1. Contracting History

- A. List the applicant Firm's three largest government contracts, subcontracts, or sales. If none, list the three largest contracts with non-governmental entities.

	Contract #1	Contract #2	Contract #3
Agency/Owner			
Contract No.			
Name/Location			
Describe Goods or Services Furnished			
Were you a Prime or Subcontractor?			
Start Date/Complete Date			
Contract Amount			
Agency/Owner Contact to Verify (Name/Telephone No.)			

NOTE: ANY "YES" ANSWERS BELOW MUST BE FULLY EXPLAINED ON A SEPARATE SHEET OF PAPER AND ATTACHED TO THIS APPLICATION.

- B. Is the Applicant Firm currently certified by the LACMTA or other public agency as a disadvantaged business entity, minority-, or woman-owned business?
 No Yes

- C. During the past five years, has Applicant Firm or any of its Key Persons had any certificates or certifications revoked or suspended, including disadvantaged-, minority-, or woman-owned business certifications?
 No Yes

Applicant Firm: _____
Tax ID No. or SSN: _____

In the past five years has the Applicant Firm or any Affiliate been the subject of any of the following actions?

- D. Been suspended, debarred, disqualified, or otherwise declared ineligible to bid?
 No Yes
- E. Failed to complete a contract for a commercial or private owner?
 No Yes
- F. Been denied a low-bid contract in spite of being the low bidder?
 No Yes
- G. Had a contract terminated for any reason, including default?
 No Yes
- H. Had liquidated damages assessed against it during or after completion of a contract?
 No Yes

SECTION IV: CIVIL ACTIONS

**If "Yes" to Sections IV, V or VI, provide details including a brief summary of cause(s) of action, indicate if Applicant Firm, Key Person or Affiliate Firms were plaintiffs (P) or defendants (D); define charges explicitly, by what authority, court or jurisdiction, etc. In the case of tax liens, please indicate whether the liens were resolved with the tax authorities. Please submit proof of payment or agreements to pay the liens.
Complete details are required!**

1. Violations Of Civil Law

In the past five years has Applicant Firm, any of its Key Persons, or any Affiliate been the subject of an investigation of any alleged violation of a civil antitrust law, or other federal, state or local civil law?
 No Yes

2. Lawsuits With Public Agencies

At the present time is, or during the past five years has, the Applicant Firm, any of its Key Persons, or any Affiliate been a plaintiff or defendant in any lawsuit regarding services or goods provided to the LACMTA or to a public agency?
 No Yes

3. Bankruptcy

During the past five years, has the Applicant Firm or any Affiliate filed for bankruptcy or reorganization under the bankruptcy laws?
 No Yes

4. Judgments, Liens And Claims

During the past five years, has the Applicant Firm been the subject of a judgment, lien or claim of \$25,000 or more by a subcontractor or supplier?
 No Yes

Applicant Firm: _____
Tax ID No. or SSN: _____

5. Tax Liens

During the past five years, has the Applicant Firm been the subject of a tax lien by federal, state or any other tax authority?

No

Yes

SECTION V: COMPLIANCE WITH LAWS AND OTHER REGULATIONS

1. Criminal

In the past five years has the Applicant Firm, any of its principals, officers, or Affiliates been convicted or currently charged with any of the following:

A. Fraud in connection with obtaining, attempting to obtain, or performing a public contract, agreement or transaction?

No

Yes

B. Federal or state antitrust statutes, including price fixing collusion and bid rigging?

No

Yes

C. Embezzlement, theft, forgery, bribery, making false statements, submitting false information, receiving stolen property, or making false claims to any public agency?

No

Yes

D. Misrepresenting minority or disadvantaged business entity status with regard to itself or one of its subcontractors?

No

Yes

E. Non-compliance with the prevailing wage requirements of California or similar laws of any other state?

No

Yes

F. Violation of any law, regulation or agreement relating to a conflict of interest with respect to a government funded procurement?

No

Yes

G. Falsification, concealment, withholding and/or destruction of records relating to a public agreement or transaction?

No

Yes

H. Violation of a statutory or regulatory provision or requirement applicable to a public or private agreement or transaction?

No

Yes

I. Do any Key Persons in Applicant Firm have any felony charges pending against them that were filed either before, during, or after their employment with the Applicant Firm?

No

Yes

Applicant Firm: _____
Tax ID No. or SSN: _____

2. Regulatory Compliance

In the past five years, has Applicant Firm, any of its Key Persons, or Affiliates:

- A. Been cited for a violation of any labor law or regulation, including, but not limited to, child labor violations, failure to pay wages, failure to pay into a trust account, failure to remit or pay withheld taxes to tax authorities or unemployment insurance tax delinquencies?
 No Yes
- B. Been cited for an OSHA or Cal/OSHA "serious violation"?
 No Yes
- C. Been cited for a violation of federal, state or local environmental laws or regulations?
 No Yes
- D. Failed to comply with California corporate registration, federal, state or local licensing requirements?
 No Yes
- E. Had its corporate status, business entity's license or any professional certification, suspended, revoked, or had otherwise been prohibited from doing business in the State of California, in the last three years?
 No Yes

SECTION VI: ETHICS

1. Conflict Of Interest

- A. Does the Applicant Firm or any of its Key Persons have any existing relationships that could be construed as either personal or organizational conflicts of interest, or which would give rise to a conflict if Applicant Firm should be a recipient of a contract with the LACMTA?
 No Yes
- B. Has any Owner, Key Person or Project Team member of Applicant Firm ever (if yes, explain fully):
1. Been an employee of the LACMTA, or served as a member of the LACMTA Board of Directors or as an Alternate?
 No Yes
 2. Been related by blood or marriage to an LACMTA employee, LACMTA Board member or Alternate?
 No Yes

2. Political, Charitable, And Other Contributions

Has the Applicant Firm, any of its Key Persons, or Affiliates ever, regardless of amount:

- A. Given (directly or indirectly), or offered to give on behalf of another or through another person, money, contributions (including political contributions), or other benefits, to any current LACMTA Board Member or Alternate?
 No Yes

Applicant Firm: _____
Tax ID No. or SSN: _____

- B. Given, or offered to give on behalf of another, money, contributions, or other benefits, directly or indirectly, to any current or former LACMTA employee?
 No Yes
- C. Been directed by any LACMTA employee, Board member or Alternate Board member, or contractor to offer or give money, contributions or other benefits, directly or indirectly, to any current or former LACMTA employee, Board member or alternate Board member?
 No Yes
- D. Directed any person, including employees or subcontractors, to give money, contributions or other benefits, directly or indirectly, to any current or former LACMTA employee, Board member, Alternate Board member, or to someone else in order to benefit an LACMTA employee, Board member, or Alternate Board member?
 No Yes
- E. Been solicited by any LACMTA employee, Board member, or Alternate Board member to make a contribution to any charitable nonprofit organization?
 No Yes

IF YES TO ANY OF THE ABOVE, SUBMIT LIST OF CONTRIBUTIONS AND FULL DETAILS.

SECTION VII: ADDITIONAL DOCUMENTATION REQUIRED

Copies of the following documents are to be submitted with this application:

1. Applicant Firm's Current Local Business Licenses, if required by city, county or state, and
2. Applicant Firm's Financial Statements (see specific requirements below):
 - A. PUBLICLY TRADED COMPANIES: Financial information will be accessed on-line. However, if additional information is needed, it will be specifically requested from the firm.
 - B. NON-PUBLICLY TRADED COMPANIES WITH AUDITED OR REVIEWED FINANCIAL STATEMENTS: Statements, including balance sheet, statement of earnings and retained income, with footnotes, for the most recent three years.
 - C. NON-PUBLICLY TRADED COMPANIES WITHOUT AUDITED OR REVIEWED FINANCIAL STATEMENTS: Company generated financial statements, including balance sheet, statement of earnings and retained income for the most recent three years. The Chief Financial Officer of the corporation, a partner, or owner, as appropriate, must certify these financial statements.
 - D. SOLE PROPRIETORSHIPS: Refer to C. If financial statements are not generated, please fill out and sign the Financial Statement form (page 10). Submit one form for each of the most recent three years.

NOTE: The LACMTA reserves the right to ask for additional documentation if it is reasonably required to make a determination of integrity and responsibility relevant to the goods or services the Applicant Firm will provide to the LACMTA if awarded a contract.

Financial Statement

To be completed by Applicant Firms that do not produce company generated financial statements, including balance sheet, statement of earnings and retained income for the most recent three years (one sheet per year.)

ASSETS

Cash on Hand and in Banks \$ _____
 Account and Notes Receivable \$ _____
 Fixed Assets (net of depreciation)..... \$ _____
 Other Assets \$ _____
 Total Assets \$ _____

LIABILITIES

Accounts Payable \$ _____
 Notes Payable to Banks (in next 12 months)..... \$ _____
 Notes Payable to Others..... \$ _____
 Taxes Payable..... \$ _____

Long Term Liabilities (more than 12 months)..... \$ _____

Other Liabilities \$ _____

Total Liabilities \$ _____

Net Worth \$ _____

INCOME FROM OPERATIONS

Revenue \$ _____
 Interest from Bank Accounts \$ _____

Cost of Goods Sold (if appropriate) \$ _____

Gross Profit..... \$ _____

General & Administrative Expenses..... \$ _____

Depreciation..... \$ _____

Interest Paid..... \$ _____

Net Gain or Loss..... \$ _____

This information is provided for pre-qualification purposes only. It is considered a confidential document not subject to public disclosure under California law.

I hereby certify that the above information is true and accurate to the best of my knowledge and belief. I understand false statements may result in denial of pre-qualification, and possible debarment for a period of five years.

 Signature of Owner or Officer

 Date Signed

 Company Name

 For the Year Ended

 Federal ID #

Applicant Firm: _____
Tax ID No. or SSN: _____

LACMTA PRE-QUALIFICATION VALIDATION

A copy of this VALIDATION must be completed and signed by at least one General Partner, Owner, Principal or Officer authorized to legally commit the Applicant Firm.

RFP or IFB Name and Number: _____

DECLARATION

I, (printed full name) _____, Social Security Number _____ being first duly sworn, hereby declare that I am the (position or title) _____ of (firm name) _____, and that I am duly authorized to execute this Validation Statement on behalf of this entity. I acknowledge that any false, deceptive or fraudulent statements on this validation will result in denial of pre-qualification. I hereby state:

the Pre-Qualification Application dated _____ on file with LACMTA is correct and current as submitted.

OR

the Pre-Qualification Application dated _____ on file with LACMTA is correct and current as submitted, except as modified by the attached changed pages and/or attachments to said Application. (Applicant may attach additional sheets to describe changes). Attach recent financial statements if previous are more than one year old.

Signature of Person Certifying for Applicant Firm

Date

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

(Notary Seal or Stamp)

\_\_\_\_\_  
Notary Public Signature

My Commission expires \_\_\_\_\_

**NOTICE TO APPLICANTS**

A material false statement, omission or fraudulent inducement made in connection with this pre-qualification application is sufficient cause for denial of the application or revocation of a prior approval, thereby precluding the Applicant Firm from doing business with, or performing work for, the LACMTA, either as a vendor, prime contractor, subcontractor, consultant or sub-consultant for a period of three years. In addition, such false submission may subject the person and/or entity making the false statement to criminal charges. (Title 18 USC 1001, false statements; California Penal Code Section 132, offering altered or antedated or forged documents or records; and Section 134, preparing false documentary evidence).

NOTE: Applicant information submitted to the LACMTA in connection with pre-qualification is considered confidential. All such applicant information is confidential business information and will be afforded protection to the fullest extent permitted by law.

**Validation Submittal**

**Do not submit validations with bid or proposal, mail or deliver them to:**

LACMTA Pre-Qualification Office  
Mail Stop 99-9-1  
One Gateway Plaza  
Los Angeles, CA 90012-2952



**Exhibit E**



**Los Angeles County  
Metropolitan Transportation Authority  
CONTRACTOR PRE-QUALIFICATION APPLICATION**

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**Other Than Construction Projects**

If this Application is being submitted in response to a Request For Proposal (RFP), Invitation For Bid (IFB), or other procurement action, please reference the RFP or IFB name and number in the spaces provided below.

If this Application is not in response to a specific contracting action and is being submitted for general purposes, please write "GENERAL" in the "Name of Procurement" space.

**Name of Procurement:** \_\_\_\_\_

**RFP or IFB Number:** \_\_\_\_\_

**Name of Applicant Firm:** \_\_\_\_\_

**Date Submitted:** \_\_\_\_\_

**Preparer's Name:** \_\_\_\_\_

**THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE APPLICATION**

**READ THE INSTRUCTIONS  
BEFORE FILLING OUT THE QUESTIONNAIRE**

## PRE-QUALIFICATION APPLICATION INSTRUCTIONS

1. This is a Pre-Qualification Application for the Los Angeles County Metropolitan Transportation Authority (LACMTA). There are two different applications to be used for firms seeking contracts of \$100,000 or greater with the LACMTA.
2. **Which application should you use?** Use the Construction Related Projects application if you are a construction company that will be bidding on any type of construction work. Use the Other than Construction Projects application if you are an engineering firm, consultant, legal firm, product vendor, or other business entity seeking a contract with LACMTA for the furnishing of goods or services.
3. The application should be completed by a person in the firm who is knowledgeable of and duly authorized to attest to the past and present operations of the firm and its policies. A corporate officer of the firm, owner or partner, as appropriate, must sign the Pre-Qualification Certification form (or Validation form if the firm is already approved).
4. All questions must be answered completely and any Yes answers must be fully explained. Disclaimers, general statements with global qualifications, or notations of Not Applicable (N/A) are not acceptable. Please note that a Yes answer to any question does not automatically result in denial of pre-qualification for a particular procurement.

## DEFINITIONS

1. **Affiliate** is defined as any one of the following: (1) any Firm other than Applicant Firm which owns 25% or more of Applicant Firm, such as parent companies or holding companies; (2) a subsidiary or a Firm in which Applicant Firm owns 25% or more; (3) a Firm in which a major stockholder or owner of Applicant Firm owns controlling interest; (4) a Firm with which Applicant Firm has or has had an unseverable business or professional identity, and (5) any permanent or temporary common business enterprise relationship in which the parties share operating responsibility and profits such as joint ventures.
2. **Key Person** – For purposes of pre-qualification a key person is (1) any person in Applicant Firm who owns 10% or more of the Firm and/or those who make decisions with respect to its operations, finances, or policies, such as the President, CEO, CFO, COO, and, in the case of partnerships, the General Partner(s); (2) Corporate Secretaries and Treasurers, as well as Directors, if they meet criteria #1, above; (3) Division or Regional Business Managers who operate away and independently from the Applicant Firm, but only if the division or regional office is bidding directly with the LACMTA.

## APPLICATION SUBMITTAL

Do not submit applications with bid or proposal, mail or deliver them to:

LACMTA Pre-Qualification Office  
Mail Stop 99-9-1  
One Gateway Plaza  
Los Angeles, CA 90012-2952

**If you have questions, call the Pre-Qualification Office at (213) 922-4130.**



Applicant Firm: \_\_\_\_\_  
 Tax ID No. or SSN: \_\_\_\_\_

- I. List general type of business in which Applicant Firm is engaged (may include more than one). Attach copies of business licenses, if appropriate:

\_\_\_\_\_  
 \_\_\_\_\_

- J. List type of product or service to be provided to the LACMTA.

\_\_\_\_\_  
 \_\_\_\_\_

**SECTION II: OWNERSHIP/MANAGEMENT, PROJECT TEAM MEMBERS, AND RELATED ENTITIES**

**1. Owners/Key Persons (Pres, CEO, COO, CFO, etc)**

List Owners and Key Persons of Applicant Firm. For large publicly traded companies, list only Key Persons. (See DEFINITIONS for clarification if necessary.)

| Full Legal Name | Title | Social Security No. (last four digits only) | % Of Ownership |
|-----------------|-------|---------------------------------------------|----------------|
|                 |       |                                             |                |
|                 |       |                                             |                |
|                 |       |                                             |                |

[Use additional sheets if necessary]

**2. Affiliations**

- A. List Affiliates, subsidiaries, holding companies, joint ventures, etc., of Applicant Firm. If no affiliates, state NONE. N/A is not an acceptable answer. Provide organizational, geographical or functional chart, if it would assist in clarifying the line(s) of authority. (See DEFINITIONS for clarification if necessary.)

| Affiliate Name & Address | Tel. # | % Owned | Top Executive's Name | *Type of Relation |
|--------------------------|--------|---------|----------------------|-------------------|
|                          |        |         |                      |                   |
|                          |        |         |                      |                   |
|                          |        |         |                      |                   |
|                          |        |         |                      |                   |

\*Type of Relationship: 1. Joint Venture (JV), 2. Parent Co (PC), 3. Holding Co (HC), 4. Subsidiary (S), 5. Other (O), please explain.

Applicant Firm: \_\_\_\_\_  
Tax ID No. or SSN: \_\_\_\_\_

- B. At any time during the past five years have any Owners or Key Persons of Applicant Firm (if yes, explain fully):
1. Served as Key Person, Officer or Director, in any other Firm not affiliated with Applicant Firm? If so, please explain in a separate sheet.  
 No  Yes
  2. Had any ownership interest in any other Firm other than shares of publicly owned companies? If so, please explain in a separate sheet.  
 No  Yes

### SECTION III: CIVIL ACTIONS

**If "Yes" to Sections III, IV, or V, provide details including a brief summary of cause(s) of action, indicate if Applicant Firm, Key Person or Affiliate Firms were plaintiffs (P) or defendants (D); define charges explicitly, by what authority, court or jurisdiction, etc. In the case of tax liens, please indicate whether the liens were resolved with the tax authorities. Please submit proof of payment or agreements to pay the liens.**

**Complete details are required.**

**1. Violations Of Civil Law**

In the past five years has Applicant Firm, any of its Key Persons, or any Affiliate been the subject of an investigation of any alleged violation of a civil antitrust law, or other federal, state or local civil law?  
 No  Yes

**2. Lawsuits With Public Agencies**

At the present time is, or during the past five years has, the Applicant Firm, any of its Key Persons, or any Affiliate been a plaintiff or defendant in any lawsuit regarding services or goods provided to the LACMTA or to a public agency?  
 No  Yes

**3. Bankruptcy**

During the past five years, has the Applicant Firm or any Affiliate filed for bankruptcy or reorganization under the bankruptcy laws?  
 No  Yes

**4. Tax Liens**

During the past five years, has the Applicant Firm been the subject of a tax lien by federal, state or any other tax authority?  
 No  Yes

## SECTION IV: COMPLIANCE WITH LAWS AND OTHER REGULATIONS

### 1. Criminal

In the past five years has the Applicant Firm, any of its principals, officers, or Affiliates been convicted or currently charged with any of the following:

- A. Fraud in connection with obtaining, attempting to obtain, or performing a public contract, agreement or transaction?  
 No  Yes
- B. Federal or state antitrust statutes, including price fixing collusion and bid rigging?  
 No  Yes
- C. Embezzlement, theft, forgery, bribery, making false statements, submitting false information, receiving stolen property, or making false claims to any public agency?  
 No  Yes
- D. Misrepresenting minority or disadvantaged business entity status with regard to itself or one of its subcontractors?  
 No  Yes
- E. Non-compliance with the prevailing wage requirements of the California or similar laws of any other state?  
 No  Yes
- F. Violation of any law, regulation or agreement relating to a conflict of interest with respect to a government funded procurement?  
 No  Yes
- G. Falsification, concealment, withholding and/or destruction of records relating to a public agreement or transaction?  
 No  Yes
- H. Violation of a statutory or regulatory provision or requirement applicable to a public or private agreement or transaction?  
 No  Yes
- I. Do any Key Persons in Applicant Firm have any felony charges pending against them that were filed either before, during, or after their employment with the Applicant Firm?  
 No  Yes

### 2. Regulatory Compliance

In the past five years, has Applicant Firm, any of its Key Persons, or Affiliates:

- A. Been cited for a violation of any labor law or regulation, including, but not limited to, child labor violations, failure to pay wages, failure to pay into a trust account, failure to remit or pay withheld taxes to tax authorities or unemployment insurance tax delinquencies?  
 No  Yes

Applicant Firm: \_\_\_\_\_  
Tax ID No. or SSN: \_\_\_\_\_

- B. Failed to comply with California corporate registration, federal, state or local licensing requirements?  
 No  Yes
- C. Had its corporate status, business entity's license or any professional certification, suspended, revoked, or had otherwise been prohibited from doing business in the State of California, in the last three years?  
 No  Yes
- D. During the past five years, has Applicant Firm or any of its Key Persons had any certificates or certifications revoked or suspended, including disadvantaged-, minority-, or woman-owned business certifications?  
 No  Yes
- E. Been suspended, debarred, disqualified, or otherwise declared ineligible to bid?  
 No  Yes

**SECTION V: ETHICS**

**1. Conflict Of Interest**

- A. Does the Applicant Firm or any of its Key Persons have any existing relationships that could be construed as either personal or organizational conflicts of interest, or which would give rise to a conflict if Applicant Firm should be a recipient of a contract with the LACMTA?  
 No  Yes
- B. Has any Owner, Key Person or Project Team member of Applicant Firm ever (if yes explain fully):
  - 1. Been an employee of the LACMTA, or served as a member of the LACMTA Board of Directors or as an Alternate?  
 No  Yes
  - 2. Been related by blood or marriage to an LACMTA employee, LACMTA Board member or Alternate?  
 No  Yes

**2. Political, Charitable, And Other Contributions**

- Has the Applicant Firm, any of its Key Persons, or Affiliates ever, regardless of amount:
- A. Given (directly or indirectly), or offered to give on behalf of another or through another person, money, contributions (including political contributions), or other benefits, to any current LACMTA Board member or Alternate?  
 No  Yes
  - B. Given, or offered to give on behalf of another, money, contributions, or other benefits, directly or indirectly, to any current or former LACMTA employee?  
 No  Yes

Applicant Firm: \_\_\_\_\_  
Tax ID No. or SSN: \_\_\_\_\_

- C. Been directed by any LACMTA employee, Board member or Alternate Board member, or contractor to offer or give money, contributions or other benefits, directly or indirectly, to any current or former LACMTA employee, Board member or alternate Board member?  
 No  Yes
- D. Directed any person, including employees or subcontractors, to give money, contributions or other benefits, directly or indirectly, to any current or former LACMTA employee, Board member, Alternate Board member, or to someone else in order to benefit an LACMTA employee, Board member, or Alternate Board member?  
 No  Yes
- E. Been solicited by any LACMTA employee, Board member, or Alternate Board member to make a contribution to any charitable nonprofit organization?  
 No  Yes

IF YES TO ANY OF THE ABOVE, SUBMIT LIST OF CONTRIBUTIONS AND FULL DETAILS.

## SECTION VI: ADDITIONAL DOCUMENTATION REQUIRED

**Copies of the following documents are to be submitted with this application:**

1. Applicant Firm's Current Local Business Licenses, if required by city, county or state, and
2. Applicant Firm's Financial Statements (see specific requirements below):
  - A. PUBLICLY TRADED COMPANIES: Financial information will be accessed on-line. However, if additional information is needed, it will be specifically requested from the firm.
  - B. NON-PUBLICLY TRADED COMPANIES WITH AUDITED OR REVIEWED FINANCIAL STATEMENTS: Statements, including balance sheet, statement of earnings and retained income, with footnotes, for the most recent three years.
  - C. NON-PUBLICLY TRADED COMPANIES WITHOUT AUDITED OR REVIEWED FINANCIAL STATEMENTS: Company generated financial statements, including balance sheet, statement of earnings and retained income for the most recent three years. The Chief Financial Officer of the corporation, a partner, or owner, as appropriate, must certify these financial statements.
  - D. SOLE PROPRIETORSHIPS: Refer to C. If financial statements are not generated, please fill out and sign the Financial Statement form (page 9). Submit one form for each of the most recent three years.

**NOTE: The LACMTA reserves the right to ask for additional documentation if it is reasonably required to make a determination of integrity and responsibility relevant to the goods or services the Applicant Firm will provide to the LACMTA if awarded a contract.**







Applicant Firm: \_\_\_\_\_  
Tax ID No. or SSN: \_\_\_\_\_

**LACMTA PRE-QUALIFICATION VALIDATION**

A copy of this VALIDATION must be completed and signed by at least one General Partner, Owner, Principal or Officer authorized to legally commit the Applicant Firm.

RFP or IFB Name and Number: \_\_\_\_\_

**DECLARATION**

I, (printed full name) \_\_\_\_\_, Social Security Number \_\_\_\_\_ being first duly sworn, hereby declare that I am the (position or title) \_\_\_\_\_ of (firm name) \_\_\_\_\_, and that I am duly authorized to execute this Validation Statement on behalf of this entity. I acknowledge that any false, deceptive or fraudulent statements on this validation will result in denial of pre-qualification. I hereby state:

the Pre-Qualification Application dated \_\_\_\_\_ on file with LACMTA is correct and current as submitted.

OR

the Pre-Qualification Application dated \_\_\_\_\_ on file with LACMTA is correct and current as submitted, except as modified by the attached changed pages and/or attachments to said Application. (Applicant may attach additional sheets to describe changes). Attach recent financial statements if previous are more than one year old.

\_\_\_\_\_  
Signature of Person Certifying for Applicant Firm

\_\_\_\_\_  
Date

~~~~~  
Subscribed and sworn to before me this _____ day of _____,

(Notary Seal or Stamp)

Notary Public Signature

My Commission expires _____

NOTICE TO APPLICANTS

A material false statement, omission or fraudulent inducement made in connection with this pre-qualification application is sufficient cause for denial of the application or revocation of a prior approval, thereby precluding the Applicant Firm from doing business with, or performing work for, the LACMTA, either as a vendor, prime contractor, subcontractor, consultant or sub-consultant for a period of three years. In addition, such false submission may subject the person and/or entity making the false statement to criminal charges. (Title 18 USC 1001, false statements; California Penal Code Section 132, offering altered or antedated or forged documents or records; and Section 134, preparing false documentary evidence).

NOTE: Applicant information submitted to the LACMTA in connection with pre-qualification is considered confidential. All such applicant information is confidential business information and will be afforded protection to the fullest extent permitted by law.

Validation Submittal

Do not submit validations with bid or proposal, mail or deliver them to:

LACMTA Pre-Qualification Office
Mail Stop 99-9-1
One Gateway Plaza
Los Angeles, CA 90012-2952

1. Definition of Unsolicited Proposal for Joint Development

An unsolicited proposal (“Unsolicited Proposal” or “proposal”) is a written proposal that is submitted to Metro on the initiative of a prospective offeror (organizations or individuals) (“Offeror”) for the purpose of developing a partnership that is not in response to a formal or informal request issued by Metro. For the purposes of the Unsolicited Proposals & Public/Private Sector Engagement Policy (“UP Policy”), as well as the Metro Joint Development Program: Policies and Process document (“JD Policy”), a Joint Development (“JD”) Unsolicited Proposal would seek the right to develop or improve property owned by Metro.

A valid Unsolicited Proposal must:

- a. Be innovative and unique, offering a development proposal with unique characteristics or benefits;
- b. Be independently originated and developed by the Offeror;
- c. Be prepared without Metro’s supervision, endorsement, direction, or direct involvement;
- d. Be sufficiently detailed that its benefits in support of Metro’s mission and responsibilities are apparent;
- e. Not be an advance proposal for property development that Metro could acquire through competitive methods;
- f. Not be an offer responding to Metro’s previously published expression of need or request for Joint Development proposals.

The Unsolicited Proposal is submitted by the Offeror with the objective of obtaining an Exclusive Negotiation Agreement and Planning Document (ENA) with Metro. (See Section 2 of this JD UP Policy for expected contents of Unsolicited Proposals).

Note that Unsolicited Proposals for all other Metro services, programs or efforts should follow the guidance in Metro’s Unsolicited Proposals & Public/Private Sector Engagement Policy (as opposed to this JD UP Policy).

2. Submission Process and Evaluation

Similar to the UP Policy, all JD Unsolicited Proposals shall be submitted to the Metro Vendor / Contract Management (V/CM) office, which will log the proposal and within three business days, officially transfer it to the Joint Development Team for evaluation of technical and/or financial merit.

Metro receives and evaluates Unsolicited Proposals using a two-phased approach, followed by any publication requirements as described below. Phase One includes a basic threshold review and evaluation of conceptual proposals. Conceptual proposals will be reviewed within 60 days of receipt, at which time a determination will be made as to whether to request additional and detailed information in Phase Two. If a Proposer is requested to submit information for Phase Two and the project proceeds beyond Phase Two, Metro’s procurement policies and procedures will apply. This process is described further below. Metro may, at any time, choose not to proceed further with any Unsolicited Proposal.

A. Phase One – Conceptual Proposal

The purpose of Phase One is for Metro to receive written, concept-level proposals and to screen those proposals to determine whether to request additional and detailed information in Phase Two.

1) *Threshold Review*

Upon receipt of a conceptual proposal, Metro V/CM staff will take the following steps:

- a. Promptly acknowledge receipt of the proposal (letter to Offeror); and
- b. Determine whether the proposal meets the threshold requirements of a JD Unsolicited Proposal.

Before initiating a Phase One evaluation, the Metro JD Team, in cooperation with V/CM staff, will determine if the conceptual proposal meets the following threshold requirements:

- a. Satisfies and meets the elements of a JD Unsolicited Proposal as defined in Section 1 of this JD UP Policy;
- b. Contains sufficient technical and cost information to permit a meaningful evaluation (see Conceptual Proposal Requirements below);
- c. Has been approved by an authorized representative of the Offeror or a person authorized to contractually obligate the Offeror;
- d. Includes a general project concept that meets Metro and JD objectives as stated in the JD Policy; and
- e. Complies with the marking requirements for use and disclosure of data.

If the JD Conceptual Proposal does not meet the preliminary requirements above, the Offeror may be given the opportunity to provide the required data and/or may be advised that Metro is not interested in pursuing further action with respect to the proposal.

If the proposal meets the threshold requirements, Metro V/CM and JD staff will take the following steps:

- a. V/CM: Log the proposal and assign it a number;
- b. V/CM: Officially transfer the proposal to JD staff;
- c. JD and V/CM: Set and notify the Offeror of the schedule for internal evaluation;
- d. JD: Assemble an evaluation team that includes a V/CM staff member, as well as technical and financial subject-matter experts related to the JD Unsolicited Proposal;
- e. JD: Facilitate the evaluation process as needed;
- f. V/CM: If the evaluation team deems necessary, V/CM will issue a written request for clarification to the Offeror;
- g. JD: Conduct outreach to impacted stakeholders as needed; and
- h. JD and V/CM: Notify the Office of the CEO and then the Offeror of Metro's decision. The possible outcomes may be to discontinue the process, proceed to Phase Two, or pursue a competitive procurement. JD staff will provide a general explanation of the reasons for the decision.

2) *Content – Conceptual Proposal*

Conceptual proposals should include the information identified in the Conceptual Proposal Form (Exhibit 2 to this JD UP Policy).

3) *Evaluation – Conceptual Proposal*

Once it is determined that the JD Conceptual Proposal is complete and is determined to be a project of interest to Metro, the proposal will be evaluated promptly in accordance with the criteria set out in this section.

4) *Consideration of an Unsolicited Conceptual Proposal* – An Unsolicited Proposal is more likely to be considered for further action if the Unsolicited Proposal is (1) adjacent to a Metro property that is small or constrained by transit infrastructure or other nearby development; and/or (2) from an adjacent landowner(s) (or Offeror with site control of adjacent properties) that make the Metro site feasible for development or better able to achieve Metro's Transit Oriented Communities objectives. Other criteria for consideration of the proposal will include but is not limited to:

- a. It offers an added benefit, beyond the proposed development, that Metro had either not planned for or had considered but had not budgeted for, such as a transit improvement or an expansion of transit services;
- b. It provides public improvements that support active transportation (beyond what would be required in a regular development process);
- c. The Offeror is, or has partnered with, a community-based organization with a track record of community engagement, investment and provision of services within the community where the proposed project is located;
- d. It includes uses that provide significant community benefit or meet desired community uses. The proposed benefit or uses should be documented by a recent (within five years) plan – a land use plan, vision plan, or other study or report that cites the need for the proposed use;
- e. The Offeror (and/or Offeror's development team) shows a clear commitment to a robust community engagement process in the further development of their project plans; and
- f. It includes unique or innovative methods, approaches, financing mechanism or an idea that have originated with or are assembled by the Offeror.

During this Phase One evaluation, the process may include review of the technical proposal by a financial consultant, as well as an urban design/architectural consultant. During the evaluation process, the Offeror(s) will have no interaction with the evaluation team. If Metro desires to proceed to Phase Two, Metro V/CM will issue a Request for a Detailed Proposal that formally invites the Offeror to submit a Phase Two proposal. This request will include expected timelines for submission and evaluation, and offer the opportunity to request a meeting with Metro staff. A copy of Metro's standard Exclusive Negotiation Agreement and Planning Document (ENA) will also be provided.

5) *Rejection of an Unsolicited Conceptual Proposal* – Metro shall return an Unsolicited Proposal to an Offeror, citing reasons, when its substance meets any of the following criteria:

- a. It is available to Metro without restriction from another source;
- b. It closely resembles a pending competitive requirement; or
- c. It does not demonstrate an innovative and unique method, approach, or concept, or if it does, another method, approach, or concept may be available to Metro on the basis of competitive proposals.

If it is determined that the proposal is unacceptable, the proposal shall be returned to the Offeror together with the reasons for the return.

B. Phase Two – Detailed Proposal

The purpose of Phase Two is for Metro to receive more detailed technical and financial information to fully understand and evaluate the proposal. At the conclusion of this phase, Metro will decide whether to forego the proposal, to proceed to a sole source agreement, or to pursue a competitive solicitation.

1) Content – Detailed Proposal

Phase Two of the JD Unsolicited Proposal should contain the following information in order to permit consideration in an objective and timely manner.

- a. **Basic Information.** Identify the legal entity that would serve as the principal in the proposed development and indicate the type of entity (e.g. for-profit, non-profit, LLC, etc.); provide names, telephone numbers and email addresses of the Offeror’s technical and business personnel whom Metro may contact for evaluation or negotiation purposes; indicate the date of submission and the period of time for which the proposal is valid (a minimum of six months is suggested); ensure the proposal is signed by a responsible official or representative of the Offeror, or a person authorized to contractually obligate the Offeror.
- b. **Project Description and Development Program.** This includes a concise title and description of the proposed project (approximately 200 words); a clear description of the proposed development program (square footage for each use, including open space and parking); description of community benefits associated with the project, such as affordable housing, open space or plazas, new community-serving amenities, etc.; description of how the proposed project interfaces with the transit facility (if applicable) and the active transportation environment within the community.
- c. **Development Team.** Include a list of key team members and their particular role in the project. Provide a brief history of the experience of key team members, focused only on related project work.
- d. **Preliminary Design Concept.** Include site plans, site sections, circulation/public realm plan, program/use diagrams and renderings consistent with the project description and development program.
- e. **Community Engagement.** Describe the proposed community engagement process for the project, and any community engagement that may have occurred leading up to the Unsolicited Proposal.
- f. **Development Proforma.** Provide a predevelopment budget, development budget, 15-year operating proforma and capital structure. Provide a financing plan that clearly indicates anticipated funding sources, both debt and equity. Describe proposed funding of transit improvements as may be contemplated in the Offeror’s plans.

- g. Offeror's Financing Capacity. Submit information that fully demonstrates the team's financial capacity and readiness to develop the proposed project. This includes a demonstrated track record in structuring public/private partnerships (if this model is applicable to the proposal), relationships with financial institutions and access to predevelopment funding. To demonstrate this capacity, provide three examples of transactions the team has completed in the last 10 years that are similar/relevant to the proposed project. For these examples: (1) Indicate the sources and uses of both debt and equity financing for each component of the project; (2) Describe experience with public financing sources (if applicable to the proposed project), such as the Economic Development Administration, New Markets Tax Credits, US Department of Housing and Urban Development Financing, etc; and (3) Provide any other relevant information that demonstrates capacity to structure and finance the proposed project.
- h. Development Timeline. Provide a timeline for the entitlement and completion of development, noting community engagement efforts. If applicable, note how access to transit facilities would be maintained during construction.
- i. Financial Offer to Metro. It is in the best interest of Offerors to submit their best financial offer. Describe areas to be ground-leased and associated square footages; include length of lease, base and percentage rents and the basis of periodic escalations and adjustments. Regardless of the proposed ground lease structure, Metro expects to receive a fair market value (FMV) rent for the project site. To the extent that a discounted FMV is being requested, pursuant to the JD Policy's allowance for affordable housing, the discount must be to reduce a justified financial "gap" in the overall project pro forma. State any offer of participation in a percentage rent of gross revenue from all income-producing land uses. Metro requires a \$50,000 ENA Fee. Annual holding rent as a percent of annual base rent for each development phase according to a predetermined schedule, until the start of construction is also required. Metro requires an annual construction rent as a percent of annual base rent for the period of time that the project is under construction until such time as the permanent base rent commences. State any offer of participation in sale or refinancing proceeds.
- j. ENA. If the Offeror desires any modifications to the standard ENA, this request should be included in the Phase Two submission.
- k. Proprietary Data. Identify any proprietary data which the Offeror intends to be used by Metro only for evaluation purposes (see Section 5 below).

2) *Evaluation Criteria – Detailed Proposal*

Before initiating a comprehensive evaluation, Metro V/CM staff in coordination with JD staff, will determine if the detailed proposal continues to meet the threshold requirements set out in Phase One and the requirements specifically set out in the Request for Detailed Proposal. In addition the following minimum factors will be considered:

- a. Qualifications, related experience or unique combination of those, of the Offeror;
- b. The qualifications, capabilities and experience of the proposal team leader or key personnel who are critical to achieving the proposal objectives;
- c. Integration with transit facilities and active transportation infrastructure;
- d. Opportunity for transit improvements associated with the proposal;

- e. Economic and regulatory feasibility of the proposed project;
- f. Quality of design;
- g. Provision of community benefits;
- h. Inclusion of SBE/DBE/DVBE and CBOs on project team;
- i. The proposal offers innovative and unique characteristics;
- j. Financial offer; and
- k. Any other factors appropriate for the particular proposal.

3) *Evaluation Process – Detailed Proposal*

Detailed proposals will be evaluated promptly, at a minimum in accordance with the criteria set out in this section, as well as any other evaluation criteria identified in the Request for Detailed Proposal. Outside advisors will be consulted if the Metro evaluation team deems it necessary and beneficial. The evaluation team may also request clarification, which V/CM will submit in writing to the Offeror.

Upon completion of the Phase Two evaluation, JD staff will keep and share with V/CM, a record of the persons on the evaluation team and record the final recommendation for the proposal. If the evaluation team determines that the Phase Two proposal is unacceptable, the proposal shall be returned to the Offeror together with the reasons for the return. If Metro determines that the Phase Two proposal should continue in the process, JD staff will prepare a memo to the CEO summarizing the evaluation results and recommending the appropriate further action. Section 3 below describes the next steps.

3. Full and Open Competition / Stakeholder Outreach / Final Recommendations

A. *Full and Open Competition*

Metro’s receipt of an Unsolicited Proposal does not, by itself, justify a contract award without full and open competition. If the Unsolicited Proposal offers a proprietary concept that is essential to contract performance, it will be deemed a Sole Source (see section below). If not, Metro will respond to the Unsolicited Proposal by following federal procurement guidelines for competitive procurement. In addition, Metro is committed to engaging stakeholders in the JD Process. For JD Unsolicited Proposals that have been recommended to move beyond Phase Two, Metro will take the following steps.

- 1) *Unsolicited Proposal – Sole Source Award*: If it is impossible to describe the property or services offered without revealing proprietary information or disclosing the originality of thought or innovativeness of the property or services sought, as determined by Metro, Metro may make a sole source award, as provided in Metro’s Sole Source Award Policy. A sole source award may not be based solely on the unique capability of the Offeror to provide the specific property or services proposed.
- 2) *Unsolicited Proposal – Competitive Solicitation Process*: If the Unsolicited Proposal is not determined to be a sole source, Metro staff will notify the Board of Directors and the Offeror before publishing the Unsolicited Proposal in accordance with guidance from FTA Circular 4220.1.F, as it may be amended from time to time:
 - a. Publicize the Unsolicited Proposal. The publication shall follow Metro’s standard procurement practices (as established by Metro Vendor/Contract Management

Department) and shall clearly state that Metro received the Unsolicited Proposal, and provide an adequate description of the proposal, without improperly disclosing proprietary information or disclosing the originality of thought or innovation of the proposal.

- b. Interest in the Property or Services. The publication shall make clear Metro's interest in the specifics of the proposed project.
- c. Adequate Opportunity to Compete and/or Submit Comments. Provide an adequate opportunity for interested parties to comment or submit competing proposals. In most instances, the Unsolicited Proposal will be posted for 30 days.
- d. Contract Award Based on Proposals Received. Publicize its intention to award a contract based on the Unsolicited Proposal or another proposal submitted in response to the publication (provided that Metro reserves its right to take any of the actions set forth in Section 3C below).

The purpose of this publication process is to ascertain whether other parties may desire and be able to offer a project within a scope that is similar to that contemplated within the original Unsolicited Proposal. Metro's publication will give notice of the basic business elements of the original Unsolicited Proposal and inform interested parties that they may provide comment on the proposal or submit competing proposals within the comment/submission dates provided. The publication shall not disclose proprietary information as defined in Section 3A. The publication will instruct parties to follow the Phase One submission instructions and requirements.

Any proposals received, including the original Unsolicited Proposal, shall be evaluated based on the criteria listed in Section 2B above, as well as the objectives listed in the JD Policy. Metro will make clear the evaluation criteria prior to publicizing the Unsolicited Proposal.

There are four potential outcomes for this publication. These are described below in Section 3C.

B. Stakeholder Outreach

If Metro intends to move forward with the Unsolicited Proposal after the Phase Two evaluation, JD staff will conduct preliminary outreach to targeted stakeholders, including local elected officials, staff of municipalities where the subject property is located, and key community and business stakeholder groups. This outreach will be focused on informing stakeholders of the Unsolicited Proposal received and Metro's intended next steps – whether it is a Sole Source or the Competitive Procurement process.

C. Final Review and Recommendation

After posting ends, Metro staff will negotiate and make recommendations based on one of four scenarios:

- 1) *Metro receives no additional proposals and decides to pursue the original Unsolicited Proposal.* In this case, Metro may conduct a secondary review of the original Unsolicited Proposal and reserves the right to request additional material that will assist Metro in determining that the Offeror has the technical capability and financial resources to perform the contract and meet Metro's requirements for negotiating and executing an ENA. Once all evaluation is complete and ENA terms are negotiated, Metro staff may bring a recommendation forward to the Board of Directors to authorize execution of the ENA.
- 2) *Metro receives additional proposals and desires to further evaluate and negotiate with one of the Offerors, be it the original Offeror or one of the new proposals received as a result of the publication.*

New proposals will be evaluated in accordance with the Phase One evaluation process described in Section 2A. If a new Offeror is invited to submit a Phase Two proposal, they shall be granted the same period of time given to the original Offeror to submit a Phase Two proposal. The new Offeror shall be provided with the same information if any, as the original Offeror. Metro may also conduct a secondary review of the original proposal and reserves the right to request additional material that will assist Metro in determining that the Offeror has the technical capability and financial resources to perform the contract and meet Metro's requirements for negotiating and executing an ENA. Once all evaluation is complete Metro staff may proceed with negotiations with one of the new Offerors or the original Offeror and bring a recommendation forward to the Board of Directors to authorize execution of the ENA. Offerors will be notified of such decision and proposal materials returned.

- 3) *Metro receives additional proposals and, based on this evidence of interest, determines that it is in Metro's best interest to conduct a full competitive procurement.* In this case, all proposals received under this policy would be rejected and returned to the submitting parties and Metro shall inform all Offerors (including the original Offeror) of its intentions regarding a subsequent competitive solicitation process. The new solicitation process shall be conducted in accordance with the process set forth in the JD Policy.
- 4) *Regardless of the number of proposals received, Metro may determine that it is in its best interests not to move forward with any proposal.* All Offerors will be notified of such decision and proposal materials returned.

4. Submission Instructions and Time for Submission

JD Unsolicited Proposals shall be submitted to:
Vendor/Contract Management
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza, 99-9-55
Los Angeles, CA 90012

Offeror shall submit four (4) hard copies of the proposal, along with an unalterable electronic version on CD or flash drive. Phase One proposals shall not exceed 15 pages. There are no page requirements on Phase Two submissions, but proposals should be reasonable in length to allow for a meaningful evaluation. Vendor / Contract Management shall log in receipt of the Unsolicited Proposal and provide written confirmation of receipt to the Offeror.

JD Unsolicited Proposals should be submitted well in advance of the Offeror's desired commencement of the proposed effort or activity in order to allow Metro sufficient time to evaluate the proposal, publicize it, and negotiate a contract if the proposal is accepted. Anticipate at least six months before any negotiation could begin.

5. General Requirements

A. Prohibition of Use of Confidential Information

If Metro's decision is to pursue a competitive procurement, Metro personnel shall not use any data, or any confidential patented, trademarked, or copyrighted part of an Unsolicited Proposal or confidential technical or financial proprietary information as the basis, or part of the basis, for a solicitation or in negotiations with any other firm, unless the Offeror is notified of and agrees to the intended use.

Concepts or ideas are not considered proprietary by Metro but specific implementing methodologies that are unique to the Offeror will be recognized.

V/CM staff shall place a cover sheet (attached as Exhibit 2) on the proposal, unless the Offeror clearly states in writing that no restrictions are imposed on the disclosure or use of the data contained in the proposal.

B. Public Records Act

Unsolicited Proposals are subject to the provisions of the California Public Records Act (California Code Government Code §6250 et seq.).

Public Contract Code Section 22164 provides that: information that is not otherwise a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title I of the Government Code) shall not be open to public inspection. Any documents provided by the Offeror to Metro marked "Trade Secret," "Confidential" or "Proprietary," or any financial records provided by the Offeror to Metro, shall be clearly marked with the Offeror name. Metro will use its best efforts to inform the Offeror of any request for any financial records or documents marked "Trade Secret," "Confidential" or "Proprietary" provided by Offeror to Metro. Metro will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.

In the event of litigation concerning the disclosure of any records, Metro's sole involvement will be as a stakeholder, retaining the records until otherwise ordered by a court. The Offeror, at its sole expense and risk, shall be fully responsible for any and all fees for prosecuting or defending any action concerning the records and shall indemnify and hold Metro harmless from all costs and expenses including attorney's fees in connection with any such action.

Exhibit 1

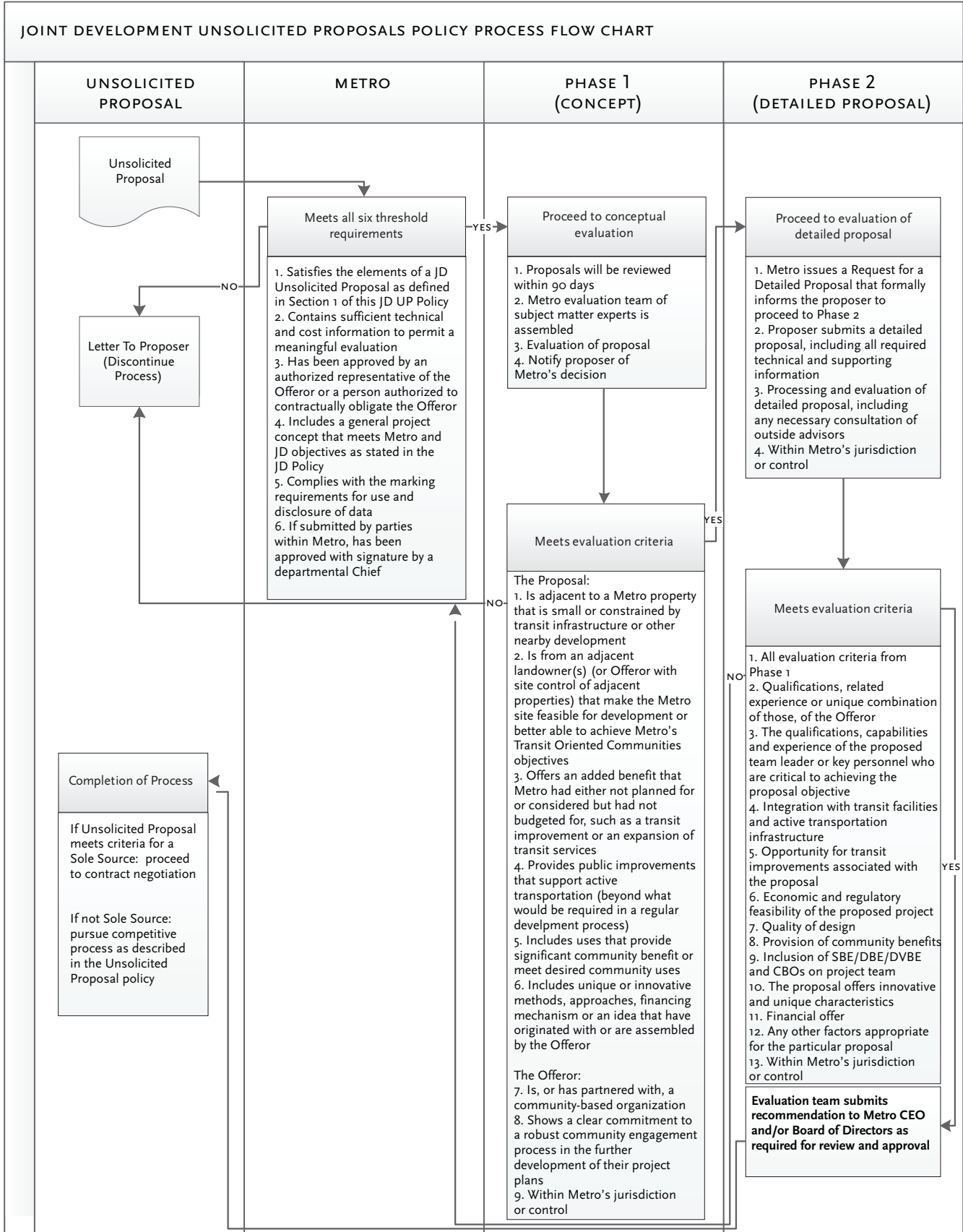


Exhibit 2

JOINT DEVELOPMENT UNSOLICITED PROPOSALS SUBMITTED TO METRO PHASE ONE: CONCEPTUAL PROPOSAL FORM

Phase One of Metro’s JD Unsolicited Proposal process involves submitting this form. Submit only the information required by this form. If Metro determines that the proposal should proceed to Phase Two, Metro will issue a Request for Detailed Proposal.

PART 1: BASIC INFORMATION

Proposer Information:

Name: _____

Address: _____

Type of organization: _____

Primary contact for the proposal: _____

Names of additional firms/partners in the proposal:

Technical personnel names & contact information for each firm involved*:

* These individuals should be responsible for answering Metro’s technical or business questions concerning the proposal or any subsequent agreement concerning the proposal.

PART 2: TECHNICAL INFORMATION

Title of the proposal: _____

Abstract of the proposal is attached

To move forward in the Unsolicited Proposal process, the Abstract must include a brief – but complete – discussion of the following:

1. Proposal summary, including:
 - a. Vision for the project
 - b. Program for proposed project and proposed uses of Metro-owned property
2. Brief summary of the experience of the proposal team with similar/relevant projects
3. A justification for the Unsolicited Proposal Approach (see Section 2A of the JD UP Policy)
4. Manner in which the work will help support accomplishment of Metro’s TOC mission.
5. Specific Access/Property Rights the Offeror needs from Metro (i.e. Long Term Ground Lease, sale of property, etc.). Note if there are several options.

PART 3: FINANCIAL INFORMATION

Proposed price or total estimated cost, in the form of a Sources and Uses Table: _____

Public funding anticipated for the project, if any: _____

Description of financing capacity – briefly describe current relationships with debt and equity providers that demonstrate the team’s capacity to finance the proposed project: _____

Be concise but provide sufficient detail for Metro to meaningfully evaluate the proposal.

PART 4: PROCEDURAL INFORMATION

Period of time for which the proposal is valid: _____

- Proprietary data has been submitted with this proposal and is deemed confidential by the Offeror in the event of a request submitted to Metro under the California Open Records Act. Any proprietary data must be clearly designated.
- Other government entities or private parties have received this proposal.
Please explain: _____
- There are patents, copyrights and/or trademarks applicable to the project or services proposed.
Please explain: _____
- There is additional information not requested in this form that would allow Metro to evaluate this proposal at this conceptual phase.
Describe: _____

PART 5: SIGNATURE

Name: _____
Date: _____
Title: _____

The individual who signs this form must be authorized to represent and contractually obligate the Offeror.