

Master Station Retail Vendor RFQ - January 19, 2010
Questions and Answers and Revised Exhibit 2

1. Under this solicitation, will existing station retail permits be assigned to a Master Vendor?

No, existing permits are not part of the solicitation's offering. The term of existing retail permits, including any extensions, will be honored by the District.

2. Are you asking us as a current permittee to open additional locations or revise our business operation under our current permit?

No. As an existing permittee, you are not required to respond to this Request for Qualifications but may do so if you wish

3. Would a Master Vendor be required to fund Tier 1 and Tier 2 in the manner discussed in the RFQ? Judging from the RFQ, desired Tier 1 studies could be roughly \$60,000 for some stations.

Yes. As reflected in the RFQ, a selected Master Vendor will be required to fund the analyses attributable to its proposed retail concept. Necessary capacity and passenger flow analyses may vary from station to station. The studies required will depend in part on the number of stations and those stations in which you are interested. Analyzing Tier 1 and 2 items would be more expensive in an underground San Francisco station than a suburban station. Information related to the estimated cost for these analyses appear on pages 6 through 9 in the RFQ.

4. Can a Master Vendor be selected for either one, several or all available stations?

Yes.

5. Can a Master Vendor provide space for other retailers?

Yes.

6. What will the terms be for a Master Vendor to occupy a site?

Specific terms will be negotiated with the selected Master Vendor. It will depend on what is being proposed. Fees will be negotiated based on fair market value. BART will expect to secure both a monthly or yearly fee as well as participation revenue.

7. When an existing permit expires in the future, will the permit automatically go to a Master Vendor?

No. Ultimately, it will be up to the Master Vendor to determine what and how much retail they would like to control at a station, subject to BART approval. In some

instances, negotiations between an existing permittee whose permit is about to expire and a Master Vendor could result in the existing permittee being accommodated by the Master Vendor. If this happens, BART would no longer directly issue permits to the permittee, who would then be covered under the Master Vendor's permit or other agreement with BART. If this does not happen, BART may or may not elect to issue a new permit to such permittee.

8. Will BART cover utility hook-up costs to service new station retail available?

No. Utility needs will largely depend upon the improvements being proposed. In some cases entirely new utilities may be needed to support new retail – that would be the responsibility of the Master Vendor. In cases where BART determines that it has excess capacity that would not be needed in the future, the excess capacity could be sold to the Master Vendor.

9. The RFQ seems to require funding for Tier 1 analyses before it can conclusively be determined if a retail opportunity is even viable at a particular location. Can this be further explained?

Tier 1 addresses BART's station capacity and passenger flow needs. Until BART has examined and determined how best to fulfill those needs we are not in a position to accommodate additional retail. We acknowledge that there is some risk to the Master Vendor in investing funds to perform these BART studies – after the studies there may be some stations that cannot accommodate any additional retail. It is critical that BART first identify and then set aside sufficient station space to accommodate BART's needs before considering additional retail.

10. Certain existing station retail permits provide the permittee with exclusive rights to sell certain items at particular stations or provide the permittee with the right to establish operations at specific stations that they do not currently occupy. Will this information be made available to potential RFQ respondents?

Please see attached revised Exhibit 2, which identifies permits with options to extend.

11. Can a permittee be allowed to continue to operate in a manner independent from a Master Vendor at a station incorporating a Master Vendor?

See response to Question 7 above.

12. May there be more than one Master Vendor per station?

No.

13. Are the costs for Tier 1 studies reflected as estimates in the RFQ the maximum that a Master Vendor would be required to contribute for the stations preliminarily selected?

These figures are only estimates. We expect to determine the Tier 1 study costs before staff requests the BART Board to authorize any negotiations. Consequently, potential vendors should know what the cost of Tier 1 studies will be to accommodate their concepts before they are asked to enter into formal negotiations. In their Statement of Qualifications, a submitter may elect to place caps on the funding that they are willing to provide for Tier 1 studies. However, placement of caps may lower a submitter's evaluation score.

14. Is local or past experience in conducting business with BART required?

No.

15. Is the intended vision for this solicitation to create fixed or semi-fixed facilities?

Yes.

16. What is the earliest date that a Master Vendor can open for business?

Page 14 of the RFQ provides some estimated time frames for post Master Vendor selection events. The actual time it will take for a Master Vendor to establish itself at BART will depend on a variety of variable factors such as the number of stations selected, and the remaining terms of then-existing station retail permits.

17. Can a submitter conduct the required Tier 1 and Tier 2 studies, with BART approved vendors and methodology?

Tier 1 studies will be performed by BART and BART's consultants under BART supervision. Station capacity and passenger flow issues must remain under the complete control of BART. Tier 2 studies, however, may be accomplished in a number of different ways. As noted in the RFQ, the Tier 2 studies include: Impacts on Station Utilities, Access Improvements, Station Wayfinding, Station Facility Needs, Station Advertising, Existing Station Retail, and Retail Facility Support. Certain of these topics, such as Station Facility Needs and Station Advertising, cannot be handled by a submitter and/or their vendor; identifying impacts on these needs must be done in collaboration with other BART Departments, existing vendors or BART staff. Some topics may be addressed by a submitter's vendor in consultation with BART staff. For example, it may be acceptable to BART to have the submitter retain a utility consultant to explicitly examine impacts on BART utilities at specific locations in consultation with BART staff. If a submitter would like to suggest any specific approach to conducting the Tier 2 analyses they should so indicate in their submittal.

Attachment to BART Response to Master Station Retail Vendor RFQ Questions/Clarifications

Some of our existing Station Retail Permits provide their respective permittees with exclusive rights for the sale of certain products and /or allow the permittee with conditional rights to locations at stations where they do not maintain a retail presence at this point in time. The following is a brief summary:

Metropolitan Coffee & Concessions – Permit No. 232

Permit conditionally allows for locations of approximately 400 square feet at Daly City, Downtown Berkeley, Balboa Park and Civic Center Stations in addition to the four permitted stations where Permittee already has established a retail presence, (a "Center"). Upon Permittee's request and BART's concurrence prior to a Center opening, any of these stations may be substituted with another station on a one-for-one basis.

The following excerpts relate to exclusive rights and are quoted directly from Permit No. 232, as amended:

- Sale of Food and Beverages
“Permittee shall have the exclusive right to sell coffee-based beverages at those stations listed in Article 2 [currently Embarcadero, Montgomery, Daly City, Pittsburg/Bay Point, Downtown Berkeley, Balboa Park, Civic Center, Pleasant Hill] except at those locations where coffee was already being sold as of July 1, 2007. Permittee's exclusive rights, as set forth herein, shall only apply with respect to other concessionaries that directly secure a Concession or Station Retail Permit from the District.”
- Services
“With the exception of Downtown Berkeley Station, Permittee shall have the exclusive rights to offer the following services at stations in which it has Centers: the rental of audio/visual recordings and the fulfillment of all e-commerce orders that pertain to the entertainment industry including, but not limited to, books compact discs, DVD format, CD-ROM format, VHS format, and digitally produced items. At the Downtown Berkeley Station and any station in which the District elects to issue a permit for a library vending machine, said rights shall be non-exclusive. Permittee's exclusive rights, as set forth herein, shall apply only with respect to other concessionaries that directly secure a Concession or Station Retail Permit from the District. Nothing [sic] in this agreement shall prevent the District from electing to issue a permit for a library vending machine in any station.”
- Sale of Merchandise
“Permittee shall have the exclusive right to sell the following merchandise at stations which it has Centers. Audio or visual recordings, excluding those rated “x” or unrated; blank format for recording either audio or visual (microcassette, VHS, metal, compact disc, audio cassette); audio/visual recording and playback machines (AM-FM stereo cassette, compact disc, microcassette, digital video

disc, VHS cassette); systems for downloading digital music from the internet; hand held electronic games; media storage; and, periodicals, posters, toys, hats, t-shirts, and other promotional materials which directly target the motion picture/music industry for 60 days from format release date.”

The Gift House – Permit No. N209-05
(BART has consented to the assignment of this permit to Metropolitan Coffee & Concessions)

The following excerpt relates to exclusive rights and is quoted directly from Permit No. N209-05, as amended:

- “Permittee shall have the exclusive right to operate a flower and gift shop, with pre-packaged snacks, bottled water, and automated DVD rentals on the Premises at the Berkeley BART Station. Permittee shall use the Premises for the permitted [sic] use only and no other use. The sale of alcoholic beverages and tobacco products is strictly forbidden.”

CDS Net – Permit No. 215 (now month to month)

Pursuant to Permit No. 215, now a month to month tenancy under the same terms, conditions and covenants, the following pertain to Permittee’s Powell, Embarcadero, Civic Center and Montgomery locations. The excerpts below relate to exclusive rights and are quoted directly from Permit No. 215:

- Sale of Merchandise
“Permittee shall have the exclusive right to sell the following merchandise in District passenger stations in which said premises are located: Magazines, books, drugs/sundries, stationery, hosiery, sunglasses, greeting and postcards, writing implements, gifts, gift[s] baskets, jewelry, souvenirs, toys, souvenir apparel, novelties, leather goods, packaging materials and boxes, photographic supplies, electronics, audio and video tapes and discs; tickets for sports games, theater and other functions; California Lottery tickets. Nothing in the Section shall preclude the right of the District to allow its florist Permittees to sell flowers, balloons, and related card and gift items. The exclusive right to sell the listed items shall not extend to the sidewalks or other areas outside of the enclosed free area of the Stations.”
- Services
“Permittee shall have the exclusive right to offer the following services in the District passenger stations in which said premises are located.
 1. Photo processing services.
 2. The following mail and communication services that are similar to services offered at Mail Boxes Etc. and Business Centers: copies, packaging, notary, post box rentals and mail services, office supplies, shipping and gift certificates. No provision herein precludes the right of the District to issue

permits allowing express delivery drop boxes to be placed at stations in which Permittee operates.

3. Drop-off and pick-up and delivery services for the following functions: printing, copying, computer related services, shopping services, personal care services such as eye glasses and hearing aids and tax return preparation
4. Drop-off services for: repair of small appliances, shoes and watch repairs (excluding shoe shine services), alterations, catalog sales and mail order sales, key duplicating, knife and scissor sharpening services.
5. Personalizing of merchandise including signs and banners.
6. Rental of video tapes, video discs, video games, video equipment and video services. The exclusivity of the services offered in this subsection shall be limited to the first two-and-a-half (2 ½) years of the Base Term. If such services are not offered during this time-period the right to offer such services shall become non-exclusive.”

The above summary has been prepared with the intention of providing helpful information to prospective Master Vendors and is not intended to summarize the cited permits. Also, to the extent that there is a conflict between terms in this summary and actual terms in a cited permit, the latter shall prevail.

It should be noted that the status of BART station retail permits change over time. Since the formulation of the listing of active permits appearing as Exhibit 2 in the October 30, 2009 RFQ, certain existing permits have been subject to fee increases and / or upon their expiry replaced with new permits with new permit terms. The fee increases that have occurred are generally the result of scheduled annual increases preset in specific permits and are not summarized in this attachment.

Attached is a revised Exhibit 2 of the RFQ, which supersedes and replaces the Exhibit 2 that was issued with the RFP. Revised Exhibit 2 identifies permits with options to extend.

Revised Exhibit 2

ACTIVE PERMITS (All information is believed to be accurate but not guaranteed. Fees may be based on current monthly fees.)				
Station	Permit #	Company Name	Annual Fees (total as of 10/09)	Permit Term
EL CER DEL NORTE	F101-05	AK'S FOOD CORNER	\$4,728	1/1/05-12/31/10 + 2 1- yr. options
16TH STREET PLAZA	F106-08	ANTOJITOS SAN MIGUEL (Food Cart)	\$3,960	10/1/09 - 9/30/14 + 2-1 yr. options
DUBLIN / PLEASANTON	164	CAFÉ XPRESS (Kiosk)	\$4,212	1/1/08-12/31/12 + 2-1 yr. options
NORTH CONCORD	F104-06	CALIFORNIA INTERNET CAFÉ (Kiosk)	\$3,816	1/1/08 - 12/31/12 + 2-1 yr. options
NORTH CONCORD	N216-06	CALIFORNIA INTERNET CAFÉ (2nd kiosk / Storage)	\$3,816	1/1/08 - 12/31/12 + 2-1 yr. options
CASTRO VALLEY	M310-06	CASTRO VALLEY FARMERS' MKT (Seasonal)	\$2,623	7/1/07-4/30/12
EMBARCADERO, MONTGOMERY, POWELL, CIVIC CENTER, BAY FAIR, COLISEUM, WALNUT CR	215	CDS NET (Transit Ticket Sales & Exchange)	\$18,684	mo. to mo. since 08/01/06
DALY CITY, BALBOA, MACARTHUR, ASHBY, ROCKRIDGE, FRUITVALE, N BERK, EL CERRITO PL GLEN PARK, W OAKLAND	216	CITY CARSHARE (Car Sharing / Rental)	\$15,876	10/1/03 - 9/30/06 expired mo. to mo.
DUBLIN/PLEASANTON	N215-06	CLEANER'S XPRESS	\$3,816	1/1/08-12/31/12 + 2-1 yr. options
DUBLIN/PLEASANTON	N217-06	CAFÉ & CLEANER'S XPRESS STORAGE	\$3,816	1/1/08-12/31/12 + 2-1 yr. options
ASHBY	65	COMMUNITY SERV. UNITED / BERKELEY FLEA MARKET	\$23,652	no stated expiry
DALY CITY	N203-05	COMMUTER CLEANERS c/o Mills Park Cleaners	\$6,288	1/1/05-12/31/10 + 2-1 yr. options
PITTSBURG/BAYPOINT	M318-09	Contra Costa County (GoLibrary)	\$1,020	1/1/10-12/31/14 + 2-1 yr. options
COLMA	N204-05	CYAN SHOP (Sundries)	\$5,328	1/1/05-12/31/10 + 2-1 yr. options
EL CERRITO PLAZA	F105-05	EL CERRITO SNACK BAR (Food & Bev)	\$4,392	1/1/05-12/31/10 + 2-1 yr. options
BALBOA PARK	N206-05	ELEGANT FLOWERS	\$5,904	1/1/05-12/31/10 + 2-1 yr. options
DALY CITY	N207-05	ELEGANT FLOWERS	\$5,124	1/1/05-12/31/10 + 2-1 yr. options
SAN LEANDRO	C001-05	FRESH HOT DOGS (Cart)	\$5,736	1/1/05-12/31/10 + 2-1 yr. options
GLEN PARK	N208-05	GLEN PARK FLOWERS	\$5,316	1/1/05-12/31/10 + 2-1 yr. options

ACTIVE PERMITS (All information is believed to be accurate but not guaranteed. Fees may be based on current monthly fees.)				
Station	Permit #	Company Name	Annual Fees (total as of 10/09)	Permit Term
FREMONT	234	HERTZ CORPORATION (Car Rental)	\$10,008	expired mo. to mo.
CONCORD	C003-05	JERSEY HOT DOGS (Cart)	\$6,192	1/1/05-12/31/10 + 2-1 yr. options
WALNUT CREEK	C004-05	JERSEY HOT DOGS (Cart)	\$10,020	1/1/05-12/31/10 + 2-1 yr. options
LAFAYETTE	M301-05	LAFAYETTE PARK HOTEL (Courtesy Phone)	\$908	1/1/05-12/31/10 + 2-1 yr. options
12TH STREET	N210-05	LOVELY BLOOM (Flowers)	\$6,084	1/1/05-12/31/10 + 2-1 yr. options
FREMONT	C005-05	MARCO POLO HOT DOGS (Cart)	\$10,896	1/1/05-12/31/10 + 2-1 yr. options
MONTGOMERY	232	METROPOLITAN COFFEE & CONCESSIONS (Peet's Coffee Shop)	\$7,560 + % of gross	7/1/02 - 6/30/12 + 5 year option
EMBARCADERO	232	METROPOLITAN COFFEE & CONCESSIONS (Peet's Coffee Shop)	\$7,560 + % of gross	7/1/02 - 6/30/12 + 5 year option
PITTSBURG/BAY POINT	232	METROPOLITAN COFFEE & CONCESSIONS (Food & Bev)	\$7,560 + % of gross	7/1/02 - 6/30/12 + 5 year option
PLEASANT HILL	232	METROPOLITAN COFFEE & CONCESSIONS (Food & Bev)	\$7,944 + % of gross	7/1/02 - 6/30/12 + 5 year option
DALY CITY, BERKELEY, BALBOA PARK, CIVIC CENTER		METROPOLITAN COFFEE & CONCESSIONS (Permitted unopened locations)		7/1/02 - 6/30/12 + 5 year option
24TH STREET PLAZA	M319-08	MISSION COMMUNITY COUNCIL / ARRIBA JUNTOS (Weekly Artisan Fairs)	\$8,400	1/1/10-12/31/14 + 2-1 yr. options
MONTGOMERY	N211-05	MONTGOMERY FLOWERS	\$13,428	1/1/05-12/31/10 + 2-1 yr. options
EMBARCADERO	N218-07	NEMATODE HOLDINGS, LLC (Visitor Information Booth)	\$6,000	10/1/09-6/30/12
MONTGOMERY	M320-08	OVERNITE EXPRESS (Mail Drop-off Box)	\$1,600	10/1/09 - 9/30/14 + 2-1 yr. options
SOUTH SAN FRANCISCO	M319-09	PACIFIC COAST FARMERS' ASSOCIATION (Seasonal Farmers Market)	\$5,200	5/1/10-10/31/14 + 2-1 yr. options
DALY CITY	C006-05	PLUS HOT DOGS (Cart)	\$10,896	1/1/05-12/31/10 + 2-1 yr. options
EMBARCADERO	N212-05	SF FLOWERS AND GIFTS	\$12,048	1/13/05-12/31/10 + 2-1 yr. options
MACARTHUR	N214-05	SONIA'S FLOWERS	\$4,776	1/1/05-12/31/10 + 2-1 yr. options
MACARTHUR	C008-05	SUPER HOT DOGS (Cart)	\$5,472	1/1/05-12/31/10 + 2-1 yr. options
BERKELEY	N209-05	THE GIFT HOUSE* (Gifts / Sundries) * has been assigned to Metropolitan Coffee & Concess.	\$5,004	1/1/05-12/31/10 + 2-1 yr. options

ACTIVE PERMITS (All information is believed to be accurate but not guaranteed. Fees may be based on current monthly fees.)				
Station	Permit #	Company Name	Annual Fees (total as of 10/09)	Permit Term
COLISEUM	C009-05	UNITED HOT DOGS (Cart)	\$10,896	1/1/05-12/31/10 + 2-1 yr. options
HAYWARD	C010-05	UNITED HOT DOGS (Cart)	\$6,924	1/1/05-12/31/10 + 2-1 yr. options
SOUTH HAYWARD	C011-05	UNITED HOT DOGS (Cart)	\$10,896	1/1/05-12/31/10 + 2-1 yr. options
POWELL & 12TH ST	M302-05	UNITED PARCEL SERVICE	\$3,283	1/1/05-12/31/10 + 2-1 yr. options
HAYWARD	C007-05	WEST HOT DOGS (Cart)	\$6,924	1/1/05-12/31/10 + 2-1 yr. options
FRUITVALE	C012-05	WEST HOT DOGS (Cart)	\$11,976	1/1/05-12/31/10 + 2-1 yr. options
BAYFAIR	C013-05	WEST HOT DOGS (Cart)	\$10,908	1/1/05-12/31/10 + 2-1 yr. options
FREMONT	C014-05	WEST HOT DOGS (Cart)	\$16,356	1/1/05-12/31/10 + 2-1 yr. options
WEST OAKLAND	C015-05	YUMMY'S HOT DOGS - #1 (Cart)	\$5,472	1/1/05-12/31/10 + 2-1 yr. options
ASHBY	C016-05	YUMMY'S HOT DOGS - #2 (Cart)	\$5,472	1/1/05-12/31/10 + 2-1 yr. options
BALBOA PARK	C017-05	YUMMY'S HOT DOGS - #3 (Cart)	\$5,472	1/1/05-12/31/10 + 2-1 yr. options
DALY CITY, GLEN PARK, LAKE MERRITT, ASHBY, MACARTHUR, NORTH BERKELEY, ROCKRIDGE	M311-06	ZIPCAR (Car Sharing / Rental)	\$12,600	7/1/06-6/30/07 expired mo. To mo.
		Newspapers / Pay Phones		
COLISEUM	M317-07	BAY AREA NEWS GROUP (Newspaper Hawker Permit)	Varies	11/1/7 - 10/31/17
ALL STATIONS (except SFO)	6G5533	PACIFIC TELEMANAGEMENT SERVICES (Pay Telephones)	Varies	6/1/07 - 5/31/08 exp. mo. to mo.
ALL STATIONS (except SFO)	M304-05	SAN FRANCISCO CHRONICLE (Newspaper Sales Booths)	Varies	11/1/05-10/31/15 + 5 year option
W OAKLAND, 24TH ST, S HAYWARD, COLISEUM	M307-05	SAN FRANCISCO CHRONICLE (Newspaper Hawkers)	Varies	11/1/05-10/31/15
MILLBRAE & DALY CITY	M308-06	SF WEEKLY (Newspaper Hawkers)	Varies	2/1/06 - 1/31/16