



4/16/2021

Re: Long-Term Parking Request for Proposal (“RFP”)

To whom it may concern:

Jones Lang LaSalle Brokerage, Inc. (“JLL”) has been authorized by our client San Francisco Bay Area Rapid Transit District (BART) (“Tenant”) to submit the following outline of terms (the “Parking Agreement”) pursuant to which it would enter into parking agreement negotiations. Tenant is seeking to accommodate parking within a 2-block radius of 2150 Webster St (“BART HQ”) and is prepared to enter into parking agreement negotiations based upon Landlord’s response to this RFP. Please note that we are submitting similar RFPs to competing properties.

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| <u>Landlord</u> | Please specify the landlord entity. |
| <u>Tenant</u> | San Francisco Bay Area Rapid Transit (BART). |
| <u>Commencement Date</u> | July 1, 2021. |
| <u>Term</u> | Ten (10) years. |
| <u>Premises</u> | <p>Parking facility to accommodate 24/7 unreserved parking for a preference of 90 standard-size BART vehicles.</p> <p>If Landlord can accommodate more stalls than the required minimum, please outline the additional capacity.</p> |
| <u>Rental Rate</u> | Please provide the rental rate for the Premises on a per stall per stall basis. |
| <u>EV Charging</u> | Please address the number of EV charging stations available for Tenant’s use. |
| <u>Extension Options</u> | Tenant shall have two (2) five (5) year extension options. |
| <u>Termination Option</u> | Landlord shall have a one-time right to terminate the Parking Agreement with 12 months’ prior notice to Tenant in the event the Property is to be redeveloped. |
| <u>Security</u> | Please outline current security arrangements for the Property and Premises including card-key access, surveillance equipment and security personnel. |
| <u>Non-Discrimination Program for Subcontracting:</u> | <p>It is the policy of the San Francisco Bay Area Rapid Transit District to ensure that Proposers who enter into agreements with the District do not discriminate or give a preference in the award of Subagreements, or subcontracts, on the basis of race, national origin, color, ethnicity, or gender.</p> <p>Proposer is not required to subcontract any portion of the Services to be performed under this Agreement. If the Proposer does not subcontract any portion of the services, this Non-Discrimination Program for Subcontracting shall not apply. If the Proposer does subcontract a portion</p> |

of the services to be performed under this Agreement and if the dollar amount of the Subagreements listed for Minority Business Enterprises ("MBEs") and Women Business Enterprises ("WBEs") reflects the Availability Percentage of MBEs and the Availability Percentages of WBEs as stated below, it shall be presumed that the Proposer has not discriminated on the basis of race, national origin, color, ethnicity, or gender.

The Availability Percentages for this Agreement for MBEs is 5.5% and WBEs is 2.8%. The Availability Percentages shall apply to the Subcontracted portion of services to be performed under this Agreement. Such Availability Percentages for MBEs and WBEs is the level of MBE and the level of WBE Subcontractor participation that is expected for this Agreement in the absence of discrimination on the basis of race, national origin, color, ethnicity, or gender.

The terms of the Non-Discrimination Program for Subcontracting are more particularly set forth in Exhibit A, attached hereto.

Tenant
Representation:

Tom Maloney and Francisco Torres of JLL shall solely represent the Tenant's interest in the negotiations. Landlord shall pay JLL \$10,000 upon execution of a parking agreement ("Brokerage Fee").

On behalf of our client, we look forward to your response to the above terms and conditions. In the meantime, however, please advise if you have any questions regarding this Request for Proposal. **We ask that you red line your response to this RFP.**

We agree that we do not intend this Request for Proposal to be a contract or to be bound by it. A contract to lease will not exist unless and until a lease has been executed between the Landlord and Tenant. We agree that this Request for Proposal does not set-forth, and that we have not agreed upon, all essential terms of the lease. We also agree that the above terms will be subject to further negotiation.

Kindly respond to the foregoing no later than **5:00 p.m., April 23, 2021**. We look forward to discussing this requirement in further detail.

Sincerely,

JLL



Thomas B. Maloney
International Director
RE License #: 0967243



Francisco Torres
Vice President
RE License #: 02031635

cc: Client Distribution

Exhibit A

Non-Discrimination Program for Subcontracting

It is the policy of the San Francisco Bay Area Rapid Transit District to ensure that Proposers who contract with the District do not discriminate or give a preference in the award of Subagreements on the basis of race, national origin, color, ethnicity, or gender.

A. Definitions For purposes of this Agreement:

1. "Minority Business Enterprise (MBE)" - a business enterprise that is at least 51% owned and controlled by a minority person(s).
2. "Women Business Enterprise (WBE)" - a business enterprise that is at least 51% owned and controlled by a woman or women.
3. "Minority Persons" - African Americans (i.e. persons having origins in any of the Black African racial groups), Hispanic Americans (i.e. Cuban, Mexican, Puerto Rican, Latin American, European Spanish (but not Portuguese), and other Hispanic origins and cultures), Asians and other minorities (i.e. Asian and Pacific Islander, ancestral groups of Asian Indians, Chinese, Japanese, Filipino, Hawaiian, and other Asian or Pacific Islander), and Native American ancestral groups of Aleut, Eskimo, and American Indian.

A list of available certified M/WBE firms can be downloaded from the District's website, www.bart.gov/ocr or may be obtained by contacting the District's Office of Civil Rights at 16th Floor, 300 Lakeside Drive, Oakland, California, telephone (510) 464-6100. In addition, Form A, Application for Certification as a Minority or Woman Owned Business Enterprise (M/WBE) for Non-Discrimination Program for Subcontracting, can be downloaded from www.bart.gov/ocr. All California Unified Certification Program (CUCP) certified minority and women-owned DBE firms, except brokers and manufacturers' representatives, are automatically qualified to be M/WBE firms for this Program and do not need to complete Form A. All other firms must complete the Form A. Brokers and manufacturers' representatives are not eligible for certification under this Program.

4. "Availability Percentage" - MBE and WBE availability shall be equal to the percentage of MBEs and the percentage of WBEs in the pool of all Subcontractors within the relevant market area that are available to bid on Subcontractor work in the absence of discrimination or preference.
5. "Broker"— A firm that arranges or expedites transactions and does not maintain a store, warehouse or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
6. "Manufacturers' Representative" – A firm that arranges or expedites transactions and does not maintain a store, warehouse or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

B. MBE and WBE Availability Percentages The Availability Percentages for this Agreement are for MBEs 5.5% and for WBEs 2.8%. The Availability Percentages shall apply to the subcontracted portion of Work.

C. MBE and WBE Participation

1. MBE and WBE participation includes agreements (other than employee contracts) between MBEs and WBEs and the Proposer for services specifically required for the completion of the Work under this Agreement except Subagreements with brokers and manufacturers' representative. The Proposer assumes responsibility for accurately identifying the first-tier status of MBE and WBE firms proposed in the Designation of Subcontractors and MBE/WBE Participation Form below.

2. If as firm is owned and controlled by a Minority Woman or Minority Women, then the firm may be counted towards both the MBE and WBE Availability Percentages.

3. MBE and WBE Participation Example

Agreement Amount \$100,000

Percent of Work to be completed by Proposer's own Work Force (varies) 75%

Dollar amount of Work to be completed by Proposer's own Work Force (varies) \$75,000

Subcontracted Dollar Amount (\$100,000-\$75,000) \$25,000

Availability Percentage for M/WBE 5.5%/2.8%

MBE Availability Percentage for 1st tier Subagreements $(\$25,000 \times .055)$ \$1,375

WBE Availability Percentage for 1st tier Subagreements $(\$25,000 \times .028)$ \$700

D. Presumption of Non-Discrimination

1. The Availability Percentages for MBEs and for WBEs set forth in Section B are the level of MBE and the level of WBE Subcontractor participation which would be expected in a proposal in the absence of discrimination on the basis of race, national origin, color, ethnicity, or gender.

2. Proposer is not required to subcontract any portion of the Work. If the Proposer does not subcontract any portion of the Work, this Non-Discrimination Program for Subcontracting shall not apply. If the Proposer does subcontract a portion of the Work and if the dollar amount of Subagreements listed for MBEs and WBEs reflects the Availability Percentage of MBEs and the Availability Percentage of WBEs, it shall be presumed that the Proposer did not discriminate on the basis of race, national origin, color, ethnicity, or gender.

3. If the dollar amount of MBEs listed for Subagreements is less than the MBE Availability Percentage, no presumption of non-discrimination exists and District staff shall undertake an investigation, as provided herein, to determine if the Proposer discriminated on the basis of race, national origin, color, or ethnicity.

4. If the dollar amount of WBE listed for Subagreements is less than the WBE Availability Percentage, no presumption of non-discrimination exists and District staff shall undertake an investigation, as provided herein, to determine if the Proposer discriminated on the basis of gender.

5. No Proposer shall be found non-responsive solely based on a Proposer's failure to list MBEs and WBEs for Subagreements in dollar amounts which reflect the Availability Percentages of MBEs and WBEs. A finding of non-responsiveness may be based only on

a finding, made after the Proposer is afforded an opportunity for a hearing, that the Proposer discriminated on the basis of race, gender, national origin, color, or ethnicity in the selection of Subcontractors; or on a finding that the Proposer did not provide the information or did not otherwise cooperate, as required herein, in the investigation of possible discrimination. At a hearing on the issue of discrimination, the hearing officer may consider, where deemed relevant, a Proposer's failure to list MBEs and WBEs for Subagreements in dollar amounts which reflect applicable Availability Percentages.

E. Information Required From Proposer Regarding Non-Discrimination

1. If the Proposer has listed MBEs and WBEs for Subagreements in dollar amounts it contends are reflective of the respective MBE and WBE Availability Percentages, the Proposer shall provide the following information at the time it submits its Proposal, or where applicable, within the time permitted by Section E.3.b below:
 - a. The dollar amount of each Subagreement and a statement of the scope of Work to be performed under the Subagreement.
 - b. Separately for each Subagreement, the name, address, telephone number, race, national origin, color, ethnicity, or gender of the owner of each business entity that was listed for the Subagreement.
2. If a Proposer has not listed MBEs and WBEs for Subagreements in dollar amounts reflective of their respective Availability Percentages, the District will notify the Proposer in a manner that provides verification of receipt, that the Proposer has not listed MBEs and WBEs for Subagreements in dollar amounts reflective of their respective Availability Percentages. This notice will include a summary of the calculations used by the District. In addition to the information listed in Section E.1. above, the Proposer shall provide the following information not later than the time prescribed in the notice from the District. If a Proposer has listed MBEs for Subagreements in dollar amounts reflective of MBE but not WBE availability percentages, or vice versa, the Proposer is required to submit the information listed below only as it relates to the Availability Percentage which was not achieved:
 - a. Separately for each Subagreement, the name, address, telephone number, race, national origin, color, ethnicity, or gender of the owner of each business entity that bid but was not listed for the Subagreement.
 - b. Separately for each Subagreement, the name, address, telephone number, race, national origin, color, ethnicity, or gender of the owner of each business entity that expressed an interest, on the telephone or in writing, in bidding for the Subagreement, but did not do so.
 - c. For each Subagreement that did not list an MBE or WBE, copies of the Proposals submitted by the non-MBE/WBE, who was listed for the Subagreement, and the Proposals submitted by each MBE and WBE. The Proposal documents covered by this paragraph shall contain at least the following information: the Proposal amount and a description of the scope of Work. If no written Proposals were submitted by some or all of the Subcontractors who bid the job, the Proposer shall provide a written statement containing the amount of each oral Proposal.
 - d. Separately for each Subagreement that listed a non-MBE/WBE firm, a full and complete statement of the reason(s) that the non-MBE/WBE firm was listed for this Subagreement and not an MBE or WBE. If the reason is based on relative qualifications, the statement must address the particular qualifications at issue. If the reason is the respective dollar amounts bid, the statement must state the

amounts and describe the similarities and/or dissimilarities in the scope of Work covered by the Proposals.

- e. A statement describing any efforts made by the Proposer to ensure Non-Discrimination in Subcontracting, including a description of any advertising and any other out-reach efforts.
 - f. Such other information as may be requested by District which is relevant to the issue of possible discrimination by the Proposer in subcontracting. This information may include the Proposer's record with respect to MBE and WBE subcontractor participation on other general agreements awarded to the Proposer in the previous 12 months.
3. Where paragraphs A and B require information on MBEs or WBEs, the Proposer shall:
- a. Submit, at the time it submits its Proposal, a completed Designation of Subcontractors and MBE/WBE Participation Form covering those MBEs and WBEs who are currently certified as such by the District.
 - b. Submit, within the time prescribed in the notice from the District described in Section E.2., a completed Form A - Application for Certification for those businesses which are claimed to be MBEs or WBEs, but which are not currently certified as such by the District. Firms who are currently certified by the California Unified Certification Program ("CUCP") as a DBE shall be presumed to meet all requirements for qualifying as an MBE or WBE and will not be required to submit an application for certification as an MBE or WBE, provided they are a member of a Presumptive Group as defined by 49 Code of Federal Regulations Part 26. A sample Application for Certification form can be obtained from the District's Office of Civil Rights, telephone (510) 464-6100 or downloaded from the District's internet website. The website address is **www.bart.gov/ocr**.

F. Enforcement/Hearing Procedures

1. If at any time during the solicitation process a Proposer fails to timely provide any requested information, including the information required by Sections E.1., E.2. and E.3., the District shall issue a Finding of Non-Compliance that sets forth the deficiencies in the Proposer's response. The Finding of Non-Compliance shall be transmitted to the Proposer in a manner that provides verification of receipt.
2. Where a Proposer submits information which it contends shows that it listed MBEs and WBEs for Subagreements in dollar amounts which reflect the Availability Percentages for MBEs and WBEs, the District shall determine if the Proposer is correct. If the Proposer is correct, the District shall issue a Finding of Non-Discrimination. If the District determines that the Proposer is incorrect, the District shall notify the Proposer in writing that the Proposer must provide the information set forth in Section E.2., within the time prescribed in the notice from the District.
3. A Proposer, given notice to provide additional information pursuant to Sections E.2., shall provide the information in a timely manner, even if the Proposer disputes the District's decision that the Proposer did not list MBEs and WBEs for Subagreements in dollar amounts which reflect the MBE and/or WBE Availability Percentages. If the Proposer does not provide all of the required information in a timely manner, the District shall issue a Finding of Non-Compliance.
4. If a Proposer does not contest the Finding of Non-Compliance within five (5) Days of the date of issuance of the Finding of Non-Compliance, the District shall issue a Final

Determination of Non-Compliance and a Finding of Non-Responsiveness. If the Proposer disagrees with the District's Finding of Non-Compliance, it may, within five (5) Days of the issuance of the Finding of Non-Compliance, request, in writing, a hearing before a hearing officer appointed by the District. Unless otherwise agreed by the District and the Proposer, the hearing shall be held within fourteen (14) Days of the request. The only issue to be addressed by the hearing officer is whether the Proposer timely provided the required information. At the hearing, the Proposer and the District may be represented by counsel and may present relevant witnesses and documents. The rules of evidence need not be observed. The hearing officer shall exercise all powers relating to the conduct of the hearing. Regardless of the outcome, the Proposer and the District shall bear their own costs and attorneys' fees. The District shall pay the hearing officer's fees. The hearing officer shall issue a written recommendation within ten (10) Days of the completion of the hearing. If following receipt of the hearing officer's recommendation the District determines that the required information was timely provided by the Proposer, the finding of Non-Compliance shall be withdrawn. However, if the District determines that the required information was not timely provided by the Proposer, the District shall issue a Final Determination of Non-Compliance and a Finding of Non-Responsiveness.

5. Where a Proposer submits, in a timely manner, the information required by Sections E.1., E.2, and E.3., the District shall review the information and any other information the District considers pertinent. In this regard, the Proposer shall not unreasonably refuse to provide additional information requested by the District. Based on this review and investigation, the District shall make a determination, within fifteen (15) Days of Bid opening, either that the Proposer did not discriminate in the award of Subagreements, or that a hearing is needed to determine if the Proposer discriminated. If the District determines there was no discrimination, the District shall issue a Finding of Non-Discrimination.
6. If the District determines that a hearing is needed on the issue of discrimination, the District shall notify the Proposer of this decision within five (5) Days of the date the determination is made. This written notice shall include the following: the date, time and location of the hearing; the name and address of the hearing officer; and a statement of the reasons the District has determined that a hearing is necessary.
7. Unless otherwise agreed in writing by the District and the Proposer, the hearing shall be held no later than fourteen (14) Days after the date of the notice given pursuant to Supplementary Section F. 5 above.
8. The hearing officer shall be selected by the District.
9. The only issue to be resolved by the hearing officer is whether the Proposer discriminated in its selection of one or more Subcontractors. If contested by the Proposer, resolution of this issue shall include a determination whether the Proposer's award of Subagreements reflected the Availability Percentages of MBEs and/or WBEs and/or whether the Availability Percentages stated in the Agreement are accurate.
10. At the hearing, the Proposer and the District may be represented by counsel and may present relevant witnesses and documents. The rules of evidence need not be observed. The hearing officer shall exercise all powers relating to the conduct of the hearing. Regardless of the outcome, the Proposer and the District shall bear their own costs and attorneys' fees. The District shall pay the hearing officer's fees.
11. The hearing officer shall issue a written recommendation within ten (10) days of the completion of the hearing.

12. Following receipt of the hearing officer's recommendation, the District will issue a Final Determination of Non-Discrimination or a Final Determination of Discrimination, and, if appropriate, a Finding of Non-Responsiveness.

G. Agreement Provisions Relating to Non-Discrimination Program for Subcontracting

If this Non-Discrimination Program for Subcontracting applies to a proposal, and the District accepts such proposal, any resulting Agreement will contain the following provisions:

1. MBE and WBE Participation

The Availability Percentages for this Agreement are for MBEs 5.5% and for WBEs 2.8%. The Availability Percentages shall apply to the subcontracted portion of Work.

2. Substitution of MBE/WBE Subcontractors

The Contractor is required to show that it has not discriminated or has not given a preference in substituting a MBE or WBE with a non-MBE or non-WBE. As used in this Section, the Contractor must document non-discrimination in the substitution of MBEs and/or WBEs as required in Section E.2, as relevant.

3. MBE/WBE Records

To ensure that the Contractor does not discriminate or give a preference in the performance of this Agreement, the Contractor shall maintain records to verify MBE or WBE participation as set forth in the Contractor's proposal and as modified in any way during the course of the Agreement. Such records shall show the name and business address of each MBE and/or WBE participating in the Agreement and the total dollar amount actually paid each MBE and/or WBE and the date of payment. A monthly report based on these records and certified to be correct by the Contractor shall be submitted with the monthly invoice. No invoice will be approved for payment unless the current report and all required attachments have been furnished.

4. Change Orders

The Contractor shall not discriminate or give a preference in the performance or administration of change orders that may be issued under this Agreement.

5. Noncompliance

Failure to comply with the above requirements shall be grounds for termination of this Agreement in whole or in part, or, at the discretion of BART, for withholding payments due Contractor during the period of non-compliance.

6. Protest of Award of Agreement

Award of an Agreement is subject to the District's protest procedures, as applicable. For Agreements not subject to the District's protest procedures, all findings, including the findings of the hearing officer, shall be final.

Designation of Subcontractors and MBE/WBE Participation Form

DESIGNATION OF SUBCONTRACTORS AND
MBE/WBE PARTICIPATION FORM

Name, Address and Telephone Number of All Subcontractors	Check if MBE	Check if WBE	Work Description	Total Dollar Amount
Name _____ _____ Address _____ _____ Phone Number _____ Age of Firm: _____ Annual Gross Receipt as of Last Tax Year: \$ _____				
Name _____ _____ Address _____ _____ Phone Number _____ Age of Firm: _____ Annual Gross Receipt as of Last Tax Year: \$ _____				
Name _____ _____ Address: _____ _____ Phone Number: _____ Age of Firm: _____ Annual Gross Receipt as of Last Tax Year: \$ _____				