

# Metro Board Approved Policy

## Use of Property for Commercial Activities

*Adopted: April 25, 2002*

### Historical Perspective

This policy was amended on August 9, 2011.

Before this policy, there was no formal process that permitted vendors and concessionaires to sell items at public transit facilities. However, there was a pilot vending program, initiated in 1995, which allowed several vendors to open kiosks at two Red Line stations. In 2001, staff evaluated the pilot program and concluded that it had met all expectations.

In September 2001, a management audit firm recommended in its report that we should permit vendors and concessionaires to offer their services at rail stations. The consultants opined that vendors and concession stands would make traveling more convenient for passengers and produce revenues for the agency.

Revised August 2011, permitting process for available vending locations at LACMTA bus and rail facilities. Vendor selection process added to specify a Lottery selection system. Sale or use of alcoholic beverages or tobacco products are prohibited, except in designated areas permitting that activity. Program for small business participation eliminated. Responsibilities and definitions updated. Policy updated into standardized policy format and renumbered from GEN 18 to GEN 47.



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**GENERAL MANAGEMENT**

**Use of LACMTA Property for Commercial Activities**

(GEN 47)

**POLICY STATEMENT**

The Los Angeles County Metropolitan Transportation Authority (LACMTA) permits certain commercial activities to take place at certain designated properties subject to reasonable rules and regulations regarding time, place and manner, for the purpose of generating revenue.

**PURPOSE**

This policy:(1) provides guidelines for the use of LACMTA property for commercial activities; (2) identifies the type of commercial activities that may be conducted by non-LACMTA personnel or by the public; and (3) establishes criteria under which a permit or contract may be obtained that will enable the requestor to use the property for one of the allowed purposes.

**APPLICATION**

This policy applies to requests for use of LACMTA property (as defined in this policy) by individuals, businesses, organizations, non-LACMTA personnel and the general public for eligible commercial activities. This policy does not apply to transit related uses, joint development, leasing agreements (including Union Station), advertising, special events or filming.

  
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Department Head

  
\_\_\_\_\_  
APPROVED: County Counsel or N/A

  
\_\_\_\_\_  
ADOPTED: CEO

Effective Date: 8/9/11

Date of Last Review: \_\_\_\_\_



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#### 1.0 GENERAL

##### 1.1 Allowable Uses

Any authorized commercial activities must be compatible with the construction, operation, maintenance, security, safety and aesthetic treatment of the transit system as well as the surrounding community. Individuals or business entities, which by the issuance of a permit or contract pursuant to this policy, are granted limited use access to LACMTA's Property for the purpose of engaging in allowable activities. Access will only be authorized when the safety of LACMTA employees and transit patrons can be assured, ingress and egress of patrons accommodated, and normal transportation services operated without disruption. The following are examples of the types of activities and services for which permits or contracts for limited use may be granted:

- Retail items such as jewelry, sundries and similar items
- Newsstands to sell newspapers, magazines, paperback books, candy, and related items
- Photography
- Mail collection boxes on a controlled basis at passenger station plazas
- Flower Stands
- Vegetable Stands (i.e. Farmer's Market)
- Food Kiosks (food dispensed in closed or resealable containers)
- Shoe Shine Stands
- Self-service postal units
- Automatic Teller Machines (ATMs)
- Dry Cleaners Services (Drop off and Pick Up only)
- Film Development (Drop off and Pick Up only)

##### 1.2 Prohibited Use and Unauthorized Activities

- Sale or use of alcoholic beverages or tobacco products, except in designated areas permitting that activity
- Sale or use of gums, or nuts in a shell
- Sale of hot food items in the station areas (excluding the plaza level)



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- Other activities that are deemed by LACMTA to be incompatible (or unsafe) with the construction, operation, maintenance, security and aesthetic treatment of the transit system.

## 2.0 PROCEDURES

### 2.1 Permitting Process

LACMTA will determine the number of vending machines, concessions or other uses that may take place on any specific LACMTA location at any given time. The availability of any LACMTA Property for commercial activity is at the sole discretion of LACMTA.

Selection of individuals or business entities to occupy space in selected LACMTA transit facilities may be on the basis of either of the following processes:

- Issuance of a Request for Proposal for commercial activities at selected LACMTA properties - This process will be used to select a master tenant to manage multiple spaces at LACMTA properties. An individual or business selected under this process will enter into a contract to operate a commercial activity for a specified period of time not to exceed five (5) years. Contracts will be entered into between LACMTA and individuals or business entities in accordance with LACMTA's procurement regulations.
- Issuance of a Notice advising the public of the availability of vending locations at certain LACMTA bus and rail facilities - This process will be used to select commercial vendors who will be issued a permit to operate a retail vending cart at a specific location for a specific period of time not to exceed two (2) years. A Station Retail Permit will be entered between LACMTA and the individual or business entity in accordance with these policies and the Implementing Procedures and Regulations for Use of LACMTA Property for Commercial Activities ("Implementing Procedures") (Attachment 1).
- Review of a Request to Use LACMTA Property form submitted by an individual or business entity for a specified use of a particular LACMTA Property for a limited time - This process will be applied on a "first come, first serve" basis and shall be limited in duration in accordance with the demand schedule for the requested property. An individual or business selected under this process will be issued a Permit to Use LACMTA Property for a limited period of time not to exceed one (1) year.

### 2.2 Selection Process for Vendors Using the Lottery System

The vendor selection process will be divided into two (2) categories: (1) vendors selling food and drink products; and (2) vendors selling general merchandise. Due to



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the high demand for certain rail station locations and to assure equality and transparency due to the high demand for food products, the selection of vendors for the various bus and rail stations may be based on a lottery system.

Pursuant to the Implementing Procedures and Regulations for Use of LACMTA Property for Commercial Activities (“Implementing Procedures”), the Real Estate Department may issue a general Notice advising the public of the availability of vending locations at certain LACMTA bus and rail facilities. The Notice shall specify the process and deadline for submitting a Vending Service Permit Application (“Application”). Upon receipt of responses to the Notice, the Real Estate Department will determine if the number of responses requires that the vendor selection be made by Lottery. If it is determined that it is necessary to conduct a Lottery to select the vendors that will be permitted to operate a retail vending cart at a specific location, a date will be established to implement a Lottery. Those vendors who submit a complete Application by the established deadline will be invited to participate in the Lottery.

Prior to final award of a location, all applicants must pass a criminal background check administered by LACMTA. LACMTA will process the background check of the applicant and their employees. Payment of a processing fee will be the responsibility of the applicant.

A Station Retail Permit to Use LACMTA Property will be issued for a limited period of time not to exceed a two (2) year period. No vendor will be permitted to operate at any one specific location for more than 2 consecutive years. For example, a vendor may draw a food location and be issued a contract for a 2 year term. If at the next lottery drawing, the vendor draws the same location, the vendor will not be eligible to operate at that location and would be required to redraw for another location.

#### **2.3 Fees**

In consideration for use of LACMTA Property for commercial activity, the individual or business entities shall pay LACMTA an administrative fee as determined by the LACMTA. Additional fees may be charged to offset LACMTA’s maintenance and security costs associated with the commercial activity.

#### **2.4 Indemnity**

Each individual or business entity who undertakes an approved activity on LACMTA Property shall agree to indemnify and hold harmless the LACMTA against any and all liability arising out of its activities.

#### **2.5 Insurance**

Prior to commencing activities on LACMTA Property, each individual or business entity that undertakes an approved activity shall provide an acceptable policy of insurance coverage appropriate to the activity in accordance with the insurance levels established by LACMTA’s Risk Management Department. Insurance coverage shall



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include the minimum levels established for General Liability insurance and Workers' Compensation insurance.

#### 2.6 Licenses and Permits

Any individual or business entity operating on LACMTA Property must obtain and provide a copy to LACMTA of any and all required licenses and permits before commencing operation on LACMTA Property.

#### 2.7 Design Criteria

LACMTA may at its discretion provide kiosks, vending carts or built-out retail space at certain LACMTA property that will be available to rent or lease for commercial activity. If LACMTA facilities are not provided, each vendor shall provide a vending cart or kiosk that is approved by LACMTA.

#### 2.8 Safety

As a public transportation agency, LACMTA is committed to promote safety in all activities occurring on all LACMTA Property. Therefore, Permittees are prohibited from the use, sale, distribution, consumption or receipt of any controlled or illegal substances.

Any persons operating a commercial activity in or around a transit facility must attend an LACMTA Rail Safety Training session for both light and heavy rail operating lines.

### 3.0 RESPONSIBILITIES

**Facilities Engineering** is responsible for developing, reviewing and approving compliance with the design criteria for kiosks, vending carts and built-out spaces used for commercial activity.

**Facilities Maintenance** is responsible for providing maintenance services at LACMTA facilities and to determine compliance with maintenance standards by approved vendors.

**Procurement Department** is responsible for issuing Requests for Proposals when required to identify and select concessions that will be permitted to occupy space inside LACMTA facilities.

**Risk Management Department** is responsible for determining insurance requirements to be provided by individuals or business entities occupying LACMTA Property.

**Real Estate Department** administers this policy and is responsible for developing, implementing issuing and monitoring permits, lease agreements or management agreements with individuals, business entities and vendors occupying space in LACMTA facilities. The Real Estate Department is also the central contact for all requests under this policy and the liaison for coordinating with appropriate LACMTA departments and for



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determining the number and location of commercial activities permitted at transit stations in collaboration with Planning, Security, and Rail Operations. The Real Estate Department will plan and implement the lottery system for the selection of vendors described in section 2.2.

Transit Security is responsible for assuring the safety and security of patrons, employees and the public occupying LACMTA facilities.

#### 4.0 DEFINITIONS

**Advertising** - a printed or electronic media display for the purpose of conveying a message.

**Automatic Teller Machine** - electronic banking equipment that permits patrons' access to routine banking functions.

**Commercial Activity** - any enterprise or venture by a group or individual for the purpose of promoting or selling products or services to transit patrons or the public in exchange for money.

**Employee** - any part-time or full-time, temporary or permanent, exempt or non-exempt, represented or non-represented individual including interns who is compensated by the LACMTA or Public Transportation Services Corporation for his or her services by wages, salary or other compensation.

**Joint Development Use or Joint Development** - the close physical integration of transit facilities with real estate development, and the disposition and/or development of LACMTA-owned or controlled real property interests at or near mass transit facilities that have significant development potential.

**LACMTA Property** - refers to operating bus and rail transit facilities.

**Newspapers/Magazines** - any publication, intended for general circulation, published regularly or at short intervals, and containing information and editorials on current events and news of general interest. Publications are restricted and prohibited from containing pornography or sexually explicit materials.

**Public Service** - the objects and enterprises that specifically serve the needs of the general public or are conducive to the comfort and convenience of the entire community.

**Space Available** - when sufficient square footage is available so that the activity will not adversely affect the safety or security afforded the general public nor will the activity interfere in the normal operation of LACMTA's public transportation system.

#### 5.0 FLOWCHART

Not Applicable



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**6.0 REFERENCES**

California Penal Code Section 602.7

Use of LACMTA Facilities for Meetings and Special Events (GEN 45) policy

Use of Public Areas of LACMTA Property for Public Events (GEN 46) policy

**7.0 ATTACHMENTS**

1. Implementing Procedures and Regulations for Use of LACMTA Property for Commercial Activities

**8.0 PROCEDURE HISTORY**

04/18/02 New Policy

08/03/11 Revised permitting process for available vending locations at LACMTA bus and rail facilities. Vendor selection process added to specify a Lottery selection system. Sale or use of alcoholic beverages or tobacco products are prohibited, except in designated areas permitting that activity. Program for small business participation eliminated. Responsibilities and definitions updated. Policy updated into standardized policy format and renumbered from GEN 18 to GEN 47

**LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY****IMPLEMENTING PROCEDURES AND REGULATIONS FOR  
USE OF LACMTA PROPERTY FOR COMMERCIAL ACTIVITIES****POLICY STATEMENT**

The Los Angeles County Metropolitan Transportation Authority (LACMTA) Board of Directors adopted a policy that regulates the Use of LACMTA Property for Commercial Activities. The policy provides that "subject to reasonable rules and regulations regarding time, place and manner, LACMTA property may be used for certain commercial and non-commercial activities that may provide revenue to LACMTA." The policy is necessary to preserve the facilities of LACMTA for their dedicated purpose, to provide for safe and efficient operation of the transit system and to further the equitable distribution of licenses and contracts to the public for the allowable activities.

The policy permits the following types of activities: sale of retail items such as jewelry, sundries and similar items, newsstands to sell newspapers, magazines, paperback books, candy and related items, photography, mail box collection boxes, flower stands, vegetable stands (i.e., Farmer's Market), food kiosks (limited to food in resealable containers), shoe shine stands, self-service postal units, automated teller machines (ATMs), dry cleaner services (drop off and pick-up only), and film development (drop-off and pick-up only). These procedures and regulations do not apply to transit related uses, joint development, leasing arrangements (including Union Station), advertising, meetings, special events, public events or filming (movies).

The policy prohibits the use of LACMTA property for the following purposes: sale or use of alcoholic beverages (except in designated areas permitting that activity), tobacco products, gums, or nuts in shells; sale of food items in areas other than plaza levels of stations; sales or distribution of pornographic or sexually explicit newspapers, magazines or books and any other activities that are deemed by LACMTA to be unsafe or incompatible with the construction, operation, maintenance, security and aesthetic treatment of the transit system.

**USE OF LACMTA PROPERTY FOR COMMERCIAL ACTIVITIES**

Individuals or corporations, who by the issuance of a permit or contract pursuant to these procedures and regulations, are granted limited use permits to LACMTA property for the purpose of engaging in allowable commercial activities. The LACMTA expressly reserves the right to deny permission to use LACMTA property if the proposed use would endanger the safety of transit patrons or LACMTA employees, would impede the ingress or egress of patrons, or disrupt the operation or maintenance of transportation services. The LACMTA also expressly reserves the right to, without notice, temporarily deny permission to use LACMTA property by permittees or contractors for operational or safety reasons.

## **PROCEDURES FOR USE**

### **1.0 Permits**

1.1. Issuance of a Notice advising the public of the availability of vending locations at certain LACMTA bus and rail facilities. Subject to the availability of space, a Vending Service Permit (Attachment "A") may be issued giving the applicant permission to conduct a specific allowable activity on LACMTA property. The Real Estate Department may issue a general Notice advising the public of the availability of vending locations at certain LACMTA bus and rail facilities. The Notice shall specify the process and deadline for submitting a Vending Service Permit Application (Attachment "B"). Upon receipt of responses to the Notice, the Real Estate Department may conduct a Lottery to select the vendor(s) that will be permitted to operate a retail vending cart at specific locations. Vendors who meet the minimum requirements will be invited to participate in the Lottery and must be present to be in the selection process.

The following general guidelines will govern the Lottery process:

- A written notice will be sent to each eligible applicant who submitted an Application advising of the date and location of the Lottery drawing.
- The applicant or an authorized representative is required to be present on the designated day of the lottery drawing.
- Participation in the lottery will be limited to those vendors whose application meets the minimum qualifications.
- The first drawing will be for vendors selling food and drink products.
- Upon arrival at the LACMTA location where the lottery will take place, each Vendor's name will be placed in a container. The LACMTA employee conducting the lottery, will then pull the name of each vendor to determine the order that the lottery will take place.
- Each bus or rail location available for a food service vendor will be identified by a number on a master list of locations. Each eligible vendor will have the opportunity to draw a number which corresponds to a bus or rail facility. The drawing will proceed in the order that the vendor names were drawn.
- The number drawn by the vendor will identify the location that will be offered to the vendor for vending services.
- A vendor may choose to accept or reject the assigned location at the time of the drawing. If the vendor rejects the location, the Vendor will be permitted to have a second drawing at the end of the drawing after all other vendors have complete their drawing and confirmed their selection.
- A second drawing will be held in the same format as the food vendor process if necessary to determine the assignment of the General Merchandise vendors.

Prior to final award of a location, all applicants must pass a criminal background check administered by LACMTA. LACMTA will process the background check of the applicant and its employees. A processing fee of \$35.00 will be the responsibility of the applicant.

After permits are issued to the initial Vendor applicants, any remaining locations will be available to subsequent Vendor applicants on a first-come first-served basis. Permits may be issued for a two-year term and are not transferable. Should the LACMTA determine that the number of applications for permits exceeds the number of Vendor spaces available at any location, no new permit will be issued until one of the existing permits expires or is terminated. A Vendor will be issued a permit to operate at only one location at a time.

1.2. Extensions. The specified duration of the permit will not be automatically extended unless LACMTA determines that it is necessary to extend the vendor selection process. A permit holder may file an application for a new permit, however the application will be considered along with other requests for use of the site. In such a case, the applicant may incorporate by reference any required documentation filed with a previous permit application.

1.3. Denial of Permit. An application for a permit will be denied if the LACMTA determines that a proposed activity is not allowed, the requested space is unavailable, the Vendor applicant fails a criminal background check, or that the proposed activity would create an unsafe condition. Such denial will be prompt. Revocation of a prior permit is a basis for the denial of a subsequent application for a reasonable period of time as determined by the LACMTA. Any previous Vendor terminated by LACMTA for non-performance or receipt of three complaints concerning customer service or behavior may be denied a permit.

1.4. Revocation. A permit may be revoked if the permit holder violates the terms and conditions of the permit.

1.5 Vendor Minimum Requirements. To obtain a vending permit, an individual or business must (1) be an owner/operator; (2) be financially able to acquire the products to be sold; (3) be financially able to provide an LACMTA approved cart, stand or other means of displaying their products in a neat, clean and presentable manner; (4) attend safety training; and (5) pass a criminal background check (including employees) and pay fees as specified by LACMTA.

1.6 Fees. Each vendor will be required to pay an annual fee established by the Real Estate Department. The fee shall be a minimum of \$ \$3,000. The fee may be increased based on the size of space occupied, location, and foot traffic as determined by LACMTA.

1.7 Appeal. An applicant for a Vending Permit may appeal the Real Estate Department's denial of a Permit or the revocation of a Permit.

1.8 Safety Training. The LACMTA requires a minimum of four hours of safety training every two years for any vendor or vendor employee. The LACMTA will not

reimburse any cost of travel expenses or loss of wages and revenue to the Vendor for attendance at this training.

## **2.0 Insurance and Indemnification**

2.1. Indemnification. Each applicant who requests to undertake an approved activity on LACMTA property shall agree to fully defend, indemnify and hold harmless the LACMTA against any and all liability arising out of its activities.

2.2. Insurance. Each Vendor shall provide an acceptable policy of insurance that conforms to the insurance coverage required by LACMTA (Attachment "C"). LACMTA may at its sole discretion provide a blanket insurance policy to cover all vendors operating on LACMTA property.

## **3.0 Standards of Conduct**

3.1. Time and Number of Individuals. The allowed activity shall be conducted within the time period stated in the permit, and with the maximum number of individuals permitted to occupy the property stated in the permit.

3.2. Interference with Transit Riders, the Public, and Other Activities. No vendor activity, otherwise approved and acceptable to LACMTA, shall interfere with the safety of transit riders or the public, the efficient operation of the transit system, or other activities being conducted on LACMTA property.

3.3. Owner/Operator Requirements. No sub-leasing of the sites is permitted. The LACMTA approved applicant must be physically at the vending location a minimum of eighteen hours per week. All operators and their employees must display LACMTA approved identification badges at all times. LACMTA issued vending permits with the approved location must be displayed at all times. Failure to display identification or permits is grounds for immediate removal from LACMTA property.

## **4.0 Violation of Regulations**

4.1. Unauthorized Activity. If LACMTA determines that any organization or individual is conducting an unauthorized activity on LACMTA property, the LACMTA shall so notify the violator and the activity shall be stopped or the violators shall immediately leave the LACMTA property. Failure to cease the unauthorized activity or to leave the LACMTA property when so requested shall constitute a trespass and the violators may be subject to arrest, fine, imprisonment, or both, in accordance with local criminal laws and ordinances.

4.2. Unauthorized Performance of an Authorized Activity. If LACMTA determines that any organization or individual is conducting an authorized activity in an unauthorized manner in violation of these regulations, the permit, or the contract, LACMTA shall so notify the violator. The violator will then either perform in an authorized manner, or will be stopped and required to immediately leave the LACMTA property.

Failure to cease the unauthorized performance of the authorized activity when so requested shall constitute a trespass and the violators may be subject to arrest, fine, imprisonment, or both, in accordance with local criminal laws and ordinances.

4.3. LACMTA shall notify an Owner/Operator of a violation in writing with sufficient detail as to identify the violation. After an Owner/Operation receives three (3) written notices of violations, LACMTA may in its sole discretion terminate the Permit and prohibit the Owner/Operator from operating on the LACMTA Property.

## **5.0 ALLOWABLE ACTIVITIES**

5.1 Commercial activities (vendors) will initially be allowed only at the plaza level of approved rail and bus station locations. LACMTA, in its sole discretion, will identify specific locations at the plaza level where a vendor will be allowed to operate.

5.2 Commercial activities may take place between the hours of 6:00 a.m. and 7:00 p.m. (8:00 p.m. during the summer months). Vendors will be permitted to enter the area designated for vending one (1) hour prior to the approved start time and must clear the area, including clean up of the area, one (1) hour after the close of business.

5.3 All vending stands, carts, or kiosks, intended for use at any designated location, shall be approved by LACMTA, comply with applicable state and local ordinances and regulations and be compatible with the aesthetic quality and character of the property. Prior to constructing or setting any activity, the approved vendor shall submit drawings, photographs or other such material as requested by LACMTA detailing the design, specified color, signage, power system, lighting or other conditions that may affect the appearance or operation of the vending device or LACMTA's operational system. LACMTA will provide written acceptance of an approved design. No variation of the approved design will be allowed prior to written approval from the LACMTA. Deviation from this condition is grounds for termination of vending privileges.

The total cost of the construction and installation of the vending facilities shall be borne by the vendors. Design Guidelines will be developed for major concessions that may be permitted inside the Stations.

## **6.0 IMPLEMENTATION**

6.1 Facilities Engineering Department – responsible for developing, reviewing and approving compliance with the Design Criteria for vending stands, carts, kiosks, and built-out spaces used for commercial activity.

6.2 Facilities Maintenance Department and Rail Operations Maintenance Group – responsible for providing maintenance services at LACMTA facilities and for determining compliance with maintenance standards by vendors.

6.3 Risk Management Department – responsible for determining insurance requirements to be provided by individuals or business entities occupying LACMTA Property.

6.4 Real Estate Department – responsible for administering this policy, determining the number and location of commercial activities permitted at transit stations in collaboration with Planning, Security, and Rail Operations, and for setting permit fees, issuing and monitoring permits, lease agreements or management agreements with individuals, business entities and vendors occupying space in LACMTA facilities. The Real Estate Department is also the central contact for all requests under this policy and the liaison for coordinating with appropriate LACMTA departments.

6.5 Transit Security – responsible for assuring the safety and security of patrons, employees and the public occupying LACMTA facilities.

### **ATTACHMENTS**

- A. Vending Service Permit
- B. Vending Service Permit Application
- C. Insurance Requirements

Revised April 14, 2011