




EXPOSITION METRO LINE CONSTRUCTION AUTHORITY

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DATE: SEPTEMBER 1, 2005

TO: BOARD OF DIRECTORS

FROM: RICHARD D. THORPE 
INTERIM CHIEF EXECUTIVE OFFICER

ACTION: AUTHORIZE THE CEO TO ISSUE REQUEST FOR PROPOSALS
FOR GENERAL COUNSEL SERVICES

RECOMMENDATION

Authorize the Interim Chief Executive Officer (CEO) to issue Request for Proposals (RFP) for General Counsel Services in accordance with the attached draft RFP.

SUMMARY

At the August meeting, the Board of Directors passed a motion directing the Interim CEO to develop an RFP for solicitation of General Counsel Services for the Authority. A draft RFP has been developed and is provided as an attachment to this Board item. Due to the urgent need for General Counsel services, the Board is being requested to authorize the CEO to issue the RFP when ready, subject to conformance with the basic scope of work and selection process defined in the attached draft.

DISCUSSION

As a new public agency, the Exposition Metro Line Construction Authority requires the services of a General Counsel to assist it with keeping its policy and management activities on a sound legal course both procedurally and substantively as it moves forward to accomplish its goals and objectives. The duties and tasks of the General Counsel include reviewing certain Board agenda items for legal consistency; rendering formal opinions and attending meetings of the Board to advise on the legal effect of actions; providing legal opinions to the CEO and staff regarding contractual issues; drafting, reviewing and negotiating contracts and agreements; and representing the Authority in court and at public hearings and meetings.

ATTACHMENT

Draft Request For Proposals – General Counsel Services

EXPOSITION METRO LINE CONSTRUCTION AUTHORITY

**DRAFT REQUEST FOR PROPOSALS
FOR
GENERAL COUNSEL SERVICES**

September 1, 2005

**NOTICE OF REQUEST FOR PROPOSALS
GENERAL COUNSEL SERVICES**

The Exposition Metro Line Construction Authority (Authority) was created by Senate Bill No. 504, which was signed into law by the Governor in October 2003. The purpose of the Authority is to award and oversee construction contracts for completion of the Los Angeles-Exposition Metro Line light rail project from the Metro Rail Station at 7th and Flower Streets in the City of Los Angeles to the downtown area of the City of Santa Monica.

The Authority hereby invites proposals from qualified legal firms and/or teams to provide professional services in connection with the Authority's needs for a General Counsel. It is the Authority's desire to move with all deliberate speed to obtain the required General Counsel services to assist it in timely accomplishment of its goals and objectives.

SUBMITTAL GUIDELINES

Interested parties shall submit seven (7) copies of their proposal to:

Richard D. Thorpe, Interim CEO
Exposition Metro Line Construction Authority
1 Gateway Plaza
Los Angeles, CA 90012

All proposals shall be submitted no later than (TBD) . Late proposals will not be accepted. All proposals received will be confidential and will be retained by the Authority.

All inquiries regarding this Request for Proposals should be directed to Richard D. Thorpe, Interim CEO, at the above address or by telephone at (213) 922-7267.

PROPOSAL FORMAT AND CONTENT

Presentation

Proposals shall be typed, single spaced, and submitted on standard letter size paper. Offers should not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged, and presentations should be brief and concise. Proposals may not exceed 20 pages in length, excluding resumes, forms, conflict of interest responses as described below, and any appendices.

Letter of Transmittal

The Letter of Transmittal shall be addressed to Richard D. Thorpe, Interim CEO, and must contain the following:

- Identification of the offeror, including name, address and telephone number.
- Proposed working relationship between the offeror and subcontractors, if applicable.
- Acknowledgement of receipt of all RFP Addenda, if any.
- Name, title, address, and telephone number of contact person during the period of proposal evaluation.
- A statement to the effect that the proposal shall remain valid for a period of not less than 90 days from the date of the submittal.
- The signature of the person authorized to bind the offeror to the terms of the proposal.

Technical Proposal

While offerors are given substantial discretion in preparing the contents of their proposals, the following are considered minimum requirements for a proposal to be considered responsible and responsive.

I. Qualifications, Related Experience, and References of the Offeror

This section of the proposal should establish the ability of the offeror to satisfactorily perform the required work by reasons of: Experience in performing work of a similar nature; Demonstrated competence in the services to be provided; Strength and stability of the team; Staffing capability; Current and/or projected workload; and Supportive client references.

The offeror shall:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization; number, size, and location of offices; and number of employees.
- (2) Provide a general description of the firm's financial condition; identify any conditions (e.g. bankruptcy, pending litigation, planned office closures, impending merger) that may impede the offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP; highlight the participation in such work by the General Counsel and key personnel proposed for assignment to this project. Describe the experience, if any, in working with various governments and agencies identified in this RFP as well as other transportation agencies within the State.
- (4) Identify subcontractors, if any, by company name, address, contact person, telephone number and the project-related specialty areas they will be involved in and describe the offeror's experience in working with each subcontractor.

- (5) A minimum of three (3) references should be given for each project cited as related experience. Furnish the name, title, address, and telephone number of the person(s) at the client organization who is most knowledgeable about the work performed. The offeror also may supply references from other work not cited in this section as related experience.

II. Management Approach

This section of the proposal should establish the method(s) that will be used by the offeror to manage the contract as well as to identify the key personnel assigned.

The offeror shall:

- (1) Provide education, experience, and applicable professional credentials of the proposed General Counsel and staff.
- (2) Furnish brief resumes (not more than two (2) pages each) for the proposed General Counsel and other key personnel.
- (3) Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work, if any.
- (4) Include a project organization chart, which clearly delineates communication and reporting relationships among the proposed General Counsel and project staff, including subconsultants.
- (5) Include a statement that the proposed General Counsel and other key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed and/or replaced without the prior written concurrence of the CEO and/or the Board of Directors.

III. Technical Approach and Work Plan

The offeror shall provide a narrative, which addresses the Scope of Work, and shows the offeror's understanding of the needs and requirements of the Authority in this RFP.

The offeror shall:

- (1) Describe the approach to performing the duties and tasks specified in the Scope of Work.
- (2) Identify the methods and procedures the offeror will use to ensure quality control as well as budget and schedule control of their work.
- (3) The offeror also is encouraged to propose enhancements or procedural and technical innovations to the Scope of Work that do not materially deviate from the objectives of the Authority in this project.

Cost Proposal

As part of its proposal the offeror shall develop a detailed cost proposal using the Contract Pricing Proposal form provided as Attachment A and the Bid Response Sheet provided as Attachment B to the RFP. All cost elements must be fully identified and adequately documented. All costs and methods of calculating costs shall be in accordance with the generally accepted billing practices to public agencies in California.

CONFLICT OF INTEREST

The Authority is desirous of obtaining the best possible General Counsel and the specialized legal services identified in the Scope of Work. At the same time the Authority recognizes that many of the highly qualified firms and individuals may have worked for or have ongoing contractual relationships with the Cities of Los Angeles, Culver City, Santa Monica, Los Angeles County, and the MTA that would potentially compromise their independence. Conversely, the relationships, if any, may not constitute a conflict of interest in terms of the work of the Authority.

In the event that an offeror (firm or team of firms) has at present or has had an ongoing contractual relationship with any of the governments or agencies identified above during the past two years providing general counsel services or specialized legal services the offeror must include in its proposal the following:

Disclosure of the Relationships with Agencies

The offeror must fully disclose each of the relationship(s) with the government or agency including the type of services, the compensation received, the individuals performing the services, the duration of the services, whether or not the services were competitively procured, and whether or not the services are ongoing at the present time.

Develop Argument(s) Why No Conflict of Interest Exists

After fully disclosing the relationships, if any, with the above governmental agencies, the offeror is to develop a rationale and a convincing argument as to why there is, in fact, no conflict of interest in the specific case(s) at point. The offeror is expected to use its knowledge of the applicable conflict of interest statutes in California as the basis for developing its rationale and argument.

Determination of Conflict of Interest

The Authority shall, at its sole discretion, determine whether or not a conflict of interest exists, and qualify or disqualify firms accordingly. The Authority reserves the right to investigate the facts disclosed as well as others that may come to light in its review and to confirm any part of the information furnished by the offeror(s) and to require further information and/or evidence which is considered necessary for an accurate determination of the facts at issue.

REQUIRED FORMS

Party and Participant Disclosure Forms

In conformance with the statutory requirements of the State of California Government Code, Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Boards of Directors and governing bodies, offerors, as part of their proposals, are required, if applicable, to complete and submit the forms provided as Attachments C, D, E, and F to this RFP. Offerors are required to submit only one copy of the completed form(s) as part of their proposal which should be included only in the original proposal.

Requirements for Completion of the Forms

The prime consultant and all subcontractors, if any, must complete the form entitled "Party Disclosure Form" (Attachment C) and the form entitled "Gift Disclosure Form" (Attachment E). Lobbyists and/or agents representing the prime consultant in this solicitation must complete the form entitled "Participant Disclosure Form" (Attachment D) and the form entitled "Participant Gift Form" (Attachment F). If the prime consultant had no "disclosures" as defined, he/she should enter "None" on the first line, sign the forms in the designated spaces, and include them only in the original proposal. The same guidance applies to lobbyists and/or agents working for the prime or subcontractors.

ATTACHMENTS

Information considered by the offeror to be pertinent to this project and which has not been specifically solicited in any of the sections of this RFP may be placed in a separate attachment section. Offerors are cautioned, however, that this is not an invitation to submit large amounts of extraneous materials. Attachments should be relevant and directly tied to some specific section or subsection of the offeror's proposal.

EVALUATION AND AWARD

EVALUATION CRITERIA

The Authority will evaluate the proposals received from offerors based on the criteria in this RFP. Score sheets, based on a maximum score of 100 points, will be completed by the evaluation team members for each of the proposals submitted. The criteria listed below are described in terms of the evaluation factors and a maximum score in parenthesis is shown as follows:

Qualifications and Related Experience (25 points)

Technical experience in performing work of a similar nature; experience in working with public agencies on major projects; strength and stability of the firm; strength, stability, experience, and technical competence of subcontractors; assessments rendered by client references.

Generally, proposers should consider addressing the specific experience of the proposed General Counsel in working with clients performing similar purposes, the resources of the firm or team that the General Counsel will have available to support his/her work, the character and standing before the California Bar Association, and the prior history of the firm and/or team members of service to similar agencies.

Management Approach (35 points)

Qualifications of the proposed project principal or General Counsel and key legal staff; key personnel's level of involvement in performing related work cited in the "Qualifications of the Firm" section; logic of project organization; adequacy of labor hours commitment; and concurrence in the limitations on changes in key personnel.

Generally, proposers should address their qualifications in terms of their background and experience in public contract law, prior history of service to other clients performing similar purposes, experience in working with transportation agencies in California, and the availability to the Authority for service.

Technical Approach and Work Plan (20 points)

Overall quality of the work plan; depth of the offeror's understanding of the requirements of the Scope of Work; logic, clarity, and specificity of the work plan; appropriateness of the labor distribution among tasks; ability and capacity to meet the project deadlines; reasonableness of the proposed schedule, value of suggested technical or procedural innovations.

Cost Proposal (20 points)

Reasonableness of the total price and competitiveness of the amount compared with other proposals received; adequacy of the data in support of the figures quoted; basis on which prices are quoted (Retainer Amount, CPFF, or T & E).

EVALUATION PROCEDURE

After a review of all proposals for responsiveness and responsibility, the Interim CEO will review and evaluate all proposals in accordance with the above criteria. The evaluators in applying the major criteria to the proposals may consider additional sub-criteria beyond those listed. During the proposal evaluation period, the Interim CEO may interview, or may form an independent panel to interview,

some or all of the offeror firms or teams. The Authority has established the dates of (TBD) as the time in which interviews will be conducted.

All prospective offerors are asked to keep these dates available. No other interview dates will be provided. Therefore, if the offeror is unable to attend the interview on the date of its scheduled interview, its proposal shall be eliminated from further consideration. Offerors are advised, however, that an award may be made without interviews or further communication with proposers after all proposals are received on the date as specified above.

CONTRACT AWARD

Based on review of proposals and interviews, if required, the Interim CEO will make a recommendation for award to the Board of Directors of the Authority. The Board of Directors will be responsible for making the decision to award the contract. Negotiations may or may not be conducted with offerors. Therefore, the proposal submitted should contain the offeror's most favorable terms and conditions since the selection and award may be made without discussion with any offeror.

Prior to the negotiations and/or award of contract, the selected offeror may be required to submit a pre-award audit of its financial records to confirm claims of financial stability and ascertain the capacity of the firm's accounting systems to meet the internal controls necessary to account for federal, state and local funds from various transportation sources.

NOTIFICATION OF AWARD AND DEBRIEFING

Each offeror that submits a proposal in response to this RFP shall be notified in writing regarding the offeror that was awarded the contract. Such notification shall be made within three (3) days after the date the contract is awarded.

Offerors that are not awarded the contract may obtain an explanation and/or response concerning the strengths and weaknesses of their proposal(s).

Unsuccessful offerors, who wish to be debriefed, must request the debriefing in writing, and the Interim CEO of the Authority must receive the request by U.S. mail or fax within three (3) working days of their notification of the contract award to another firm or team.

EQUAL EMPLOYMENT OPPORTUNITY AND DISADVANTAGED BUSINESS ENTERPRISE

POLICY

It is the policy of the Authority that Disadvantaged Business Enterprises (DBEs) as defined in the federal regulations published at 49 CFR 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. The offeror shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.

DBE OBLIGATION OF THE OFFEROR

In connection with its proposed performance under this RFP, the offeror agrees to cooperate with the Authority in meeting the Authority's commitments with regard to maximum utilization of Disadvantaged Business Enterprises (DBEs). The offeror agrees to use its best efforts to ensure that DBEs are certified by SCAG, CALTRANS, or the LACMTA have the maximum opportunity to participate in the performance of the Scope of Work as defined in this RFP.

EQUAL OPPORTUNITY OBLIGATION OF THE OFFEROR

In connection with its proposed performance under this RFP, the offeror shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. The offeror shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, age or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

SCOPE OF WORK

The Scope of Work consists of General Counsel Services required by the Authority.

PROJECT BACKGROUND

The Exposition Light Rail Transit Project (Expo LRT Project) was adopted as a project by the LACMTA Board of Directors as a result of an alternative analysis completed for the Mid City/Exposition Corridor in 2001. The adopted project

consists of a light rail transit line from 7th/Flower Metro Center Station in downtown Los Angeles on the existing Long Beach Blue Line to downtown Santa Monica. The line uses the existing Blue Line from 7th and Flower to the vicinity of Washington Boulevard and then follows a Flower Street or Hill Street alignment until it reaches the LACMTA owned abandoned railroad right-of-way within the median of Exposition Boulevard. It then follows that right-of-way west.

The Expo LRT Project is planned to be constructed in two phases: Phase I consists of the alignment from downtown Los Angeles to Culver City; Phase II consists of the line segment from Culver City to Santa Monica. The Final Environmental Impact Statement/Environmental Impact Report (Final EIS/EIR) for Phase I has been completed and submitted to the Federal Transit Administration (FTA) for approval for public release. Sufficient Preliminary Engineering for Phase I has been completed to support the scheduled release in September 2005 of a Request for Proposals for a Design-Build Contract for final design and construction of Phase I with a projected opening date of June 2010. Phase II still requires additional planning and Preliminary Engineering to establish a definitive alignment and schedule for final design and construction. In April 2005, the LACMTA Board adopted a Funding Plan for Phase I of the Expo LRT Project with a total project budget of \$640 million.

Senate Bill 504 passed by the State Legislature in 2003 and signed by the Governor in October of that year created the Exposition Metro Line Construction Authority for the purpose of awarding and overseeing final design and construction contracts for completion of the Expo LRT Project. This bill established a Board of Directors consisting of seven voting members appointed to terms of 4 years consisting of one member each appointed by the City Councils of the Cities of Culver City and Santa Monica, two members appointed by the City Council of the City of Los Angeles, two members appointed by the Los Angeles County Board of Supervisors, and one member appointed by the LACMTA. The Chief Executive Officer of the LACMTA was designated to serve as an ex officio, non-voting member. All required appointments were completed in July 2005 and the Authority Board of Directors began holding monthly meetings that month.

GENERAL DESCRIPTION OF THE SERVICES

A critical element in the efforts of the Board of Directors to initiate its activities and move the project forward on schedule is to bring on board a permanent General Counsel.

In approaching this job potential offerors are encouraged not to overly complicate the requirements. The Authority is a single purpose agency focused entirely on the completion of construction of the Expo LRT Project. The Board of Directors meets once each month in regular meetings. Special meetings can be called by the Chairperson as required.

SPECIFIC SCOPE OF SERVICES

The Specific Scope of Services defines the General Counsel tasks to be refined and expanded upon by offerors in their proposals to provide assistance to the Authority. The tasks described below are intended as a framework for the activities of the firms and teams in scoping their proposals to perform the required services. Each offeror is encouraged to develop unique approaches and innovations that might lead to a higher quality of services being put in place in a more expeditious and economical manner.

The General Counsel Services consist of those legal tasks associated with keeping the Authority's policy and management activities on a sound legal course both procedurally and substantively as it moves forward rapidly to accomplish its goals and objectives. One week prior to the Board Meeting, the CEO and staff will prepare an agenda. Certain items will need to be reviewed with the General Counsel. Some responses may be verbal; others may need to be in writing. In addition, other likely duties and tasks of the General Counsel include:

- (1) Serving as General Counsel to the Authority's Board of Directors, rendering formal opinions and attending meetings of the Board to advise on the legal effect of actions proposed and taken;
- (2) Providing legal opinions to the CEO and staff regarding contractual and development issues during the course of the design and construction period of approximately five years;
- (3) Directing the research, analysis, and development of legal opinions;
- (4) Drafting, reviewing, and negotiating contracts and agreements, and reviewing and approving all contracts as to form and content;
- (5) Working with the CEO and staff to represent the Authority with filings related to grade crossings and/or permit approvals required of the California Public Utilities Commission and approve as to form all agreements for grade crossing and grade separation matters;
- (6) Representing the Authority in court and at public hearings and meetings; and
- (7) Supervising subordinate staff and coordinating legal consultants.

It is estimated by the Authority that these tasks will require on average over a 12-month period no more than one and one-half to two days per week on the part of the General Counsel with the exception of the first three months of service when additional time may be required to support preparation and negotiation of the Agreements between the Authority and the LACMTA as required by SB-504.

SCHEDULE OF PERFORMANCE

The Authority intends to make an award to the successful offeror on or about (TBD). A Notice-to-Proceed could be anticipated by the successful offeror as of (TBD).

MATERIALS AND SERVICES TO BE PROVIDED BY THE AUTHORITY

The Authority will make available all of the studies, reports, and other documents in its files that may be requested by the successful offeror. The Authority will not make available office space, furniture, telephones, office supplies and other materials that will be required of the successful offeror to perform the requirements of this RFP.

ATTACHMENTS

Attachments A-F below are a series of forms that constitute an important part of an offeror's proposal. Attachments A, B, C, and E must be completed, signed, and incorporated as part of all proposals. Attachments D and F must be incorporated by proposers only if he/she has one or more agents and/or lobbyists working for them in connection with the project. In completing each of the forms, as required, please follow the instructions as contained in the text of this RFP. The titles of each of the Attachments are as follows:

ATTACHMENT A - BID RESPONSE FORM (This form must be completed and signed by all proposers)

ATTACHMENT B - CONTRACT PRICING PROPOSAL (This form must be completed and signed by all proposers)

ATTACHMENT C - PARTY DISCLOSURE FORM (This form must be completed and signed by all proposers)

ATTACHMENT D - PARTICIPANT DISCLOSURE FORM (This form is to be completed by proposers only if they have agents and/or lobbyists working for them on the project)

ATTACHMENT E - GIFT DISCLOSURE FORM (This form must be completed and signed by all proposers)

ATTACHMENT F - PARTICIPANT GIFT FORM (This form is to be completed by proposers only if they have agents and/or lobbyists working for them on the project)