

# THE SILVERSTEIN LAW FIRM

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January 17, 2023

**VIA EMAIL LAART@metro.net; zelmerc@metro.net**

Cory Zelmer, Deputy Executive Officer  
Los Angeles County Metropolitan Transportation Authority  
One Gateway Plaza, Mail Stop 99-22-6  
Los Angeles, CA 90012

Re: Comments on Draft EIR for Los Angeles Aerial Rapid Transit project (LA ART), SCH # 2020100007

Dear Mr. Zelmer:

This firm represents S&R Partners, LLC, a Riboli Family company. The family has been a stakeholder in the immediate vicinity of the proposed Los Angeles Aerial Rapid Transit project (Gondola Project or Project) for more than a century since the founding of the San Antonio Winery in 1917. The family is proud to be a multi-generational contributor to the local and regional economy in Los Angeles. The family is a proud employer of hundreds of local residents, and participates philanthropically and civically with leading community-based nonprofit organizations. The family members who run the business were raised in the community within walking distance to the Historic State Park, Chinatown, Solano Canyon, and Lincoln Heights.

Please keep this office on the list of interested persons to receive timely advance notice of all hearings, votes and determinations related to the proposed Los Angeles Aerial Rapid Transit project (Project), its DEIR and requested entitlements.

Pursuant to Public Resources Code Section 21167(f), please provide a copy of each and every Notice of Determination issued in connection with the Project.

**A. The Proposed Project's Location on Public and Private Properties.**

According to the DEIR, the Project's stations and towers would range in height from 78 to 195 feet high. The cable for the gondolas would be suspended as high as 175 feet above the ground, and:

- Alameda Station - would be located on Alameda Street adjacent to the planned LAUS Forecourt and Placita de Dolores between Los Angeles

Street and Cesar Chavez Avenue. The station would be approximately 173 feet long, 109 feet wide, and 78 feet high at its tallest point, with the passenger loading platform approximately 31 feet above Alameda Street.

- Alameda Tower - would be 195 feet tall with the cable suspended 175 feet above-ground.
- Alpine Tower - would be 195 feet tall at its tallest point, with the cable suspended 175 feet above ground.
- China Town/State Park Station - would be approximately 200 feet long, 80 feet wide, and 98 feet tall at its tallest point, with the passenger boarding platform approximately 50 feet above-grade.
- Broadway Junction – this non-passenger junction would be approximately 227 feet long, 60 feet wide, and 98 feet high at its tallest point, with the platform approximately 50 feet above the ground.
- The Stadium Tower - would stand 179 feet tall with the cable suspended 159 feet above-ground.
- The Dodger Stadium Station – would be approximately 194 feet long, 80 feet wide, and 74 feet high at its tallest point.

With the exception of its terminus at Dodger Stadium, the Project's stations and towers would be constructed on public land, and the gondolas would pass over both public and private property. As noted on DEIR pages ES4-ES8:

- The proposed Alameda Station would be constructed over Alameda Street between Los Angeles Street and Cesar Chavez Avenue, adjacent to the Placita de Dolores and planned LAUS Forecourt.
- Alameda Tower would be constructed on the Alameda Triangle, a portion of City Right of Way (ROW) between Alameda Street, North Main Street, and Alhambra Street.
- The proposed Alpine Tower would be constructed at the corner of Alameda Street and Alpine Street on city-owned property.

- The proposed Chinatown/State Park Station would be constructed partially on City ROW and partially within the boundaries of the Los Angeles State Historic Park.
- The Broadway Junction would be located at the northern corner of the intersection of North Broadway and Bishops Road (1201 North Broadway) on primarily privately-owned property.
- The proposed Stadium Tower would be located on hillside private property north of Stadium Way between the Downtown Gate entrance road to Dodger Stadium and SR-110.
- The northern terminus of the system would be located in a parking lot at the Dodger Stadium property, where the proposed Dodger Stadium Station would be constructed.

According to the DEIR, the alignment travels over City of Los Angeles right of way, City-owned Property, Metro Property, Caltrans Property, California State Parks Property, and Private Property, as shown in the following Figure reproduced from DEIR Appendix Q. A map should also be provided and coded to show the location of both the public and private land within the full Area of Potential Impact (API) as shown in DEIR Figure 3.1.1. The Project thus involves the use of public land – and the presumed forced taking of private land, not discussed in the DEIR – by a private Project sponsor.<sup>1</sup> DEIR Appendix Q also indicates that the Project requires the acquisition of American National Standards Institute (ANSI) required aerial rights<sup>2</sup> over the following properties, something not disclosed in the Project Description in the body of the DEIR:

- 1028 N. Alameda St.
- 903 N. Main St.
- 901 N. Main St.
- 1251 N. Spring St.
- 1201 N. Broadway
- 455 Savoy St.
- 451 Savoy St.
- 1800 Stadium Way

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<sup>1</sup> DEIR page ES-1.

<sup>2</sup> ANSI Standard B77.1 regulates vertical and horizontal clearances between the ropeway and cabins to elements such as vehicle, pedestrians, vegetation, buildings, and other structures.



**Land Ownership Along the Project Alignment**  
**Source: DEIR Appendix Q**

**B. The DEIR's Lack of Clarity on the Issue of Eminent Domain.**

The DEIR needs to specify if Metro contends that it has the power of eminent domain for use in furtherance of the Project. If yes, then the DEIR should identify the specific statutory bases, if any, that would allow it to exercise the power of eminent domain for the Project.

The DEIR also needs to include a map, keyed to document the mechanisms which would be used within the API, to allow private use of public lands. For example, DEIR pp. 2-81 to 2-82 appears to indicate that in the case of the City of Los Angeles, this would be accomplished via a franchise agreement and a 20-year Development Agreement.

The proposed franchise agreement and Development Agreement must be made available concurrently with a recirculated DEIR.

In addition, the DEIR should inform the public what the proposed mechanism is for acquisition of aerial rights and the associated permitting agency(s). In the absence of clear information regarding the mechanism for allowing private use of public lands, and for acquiring aerial rights over private lands particularly if forcibly taken through eminent domain, the Project description is deficient.

As noted in the Historic Resources Technical Report included in Appendix G of the DEIR, there are 12 previously-identified historical resources within the proposed Project's API. Two of the historical resources are historic districts with contributing resources located within the API. In addition, the historic resource consultants identified the *El Grito* mural as eligible for listing in the National Register of Historic Places (National Register).

The next Figure, reproduced from DEIR Appendix G, shows the Project alignment and API defined for purposes of analyzing the historic resource impacts of the Project.

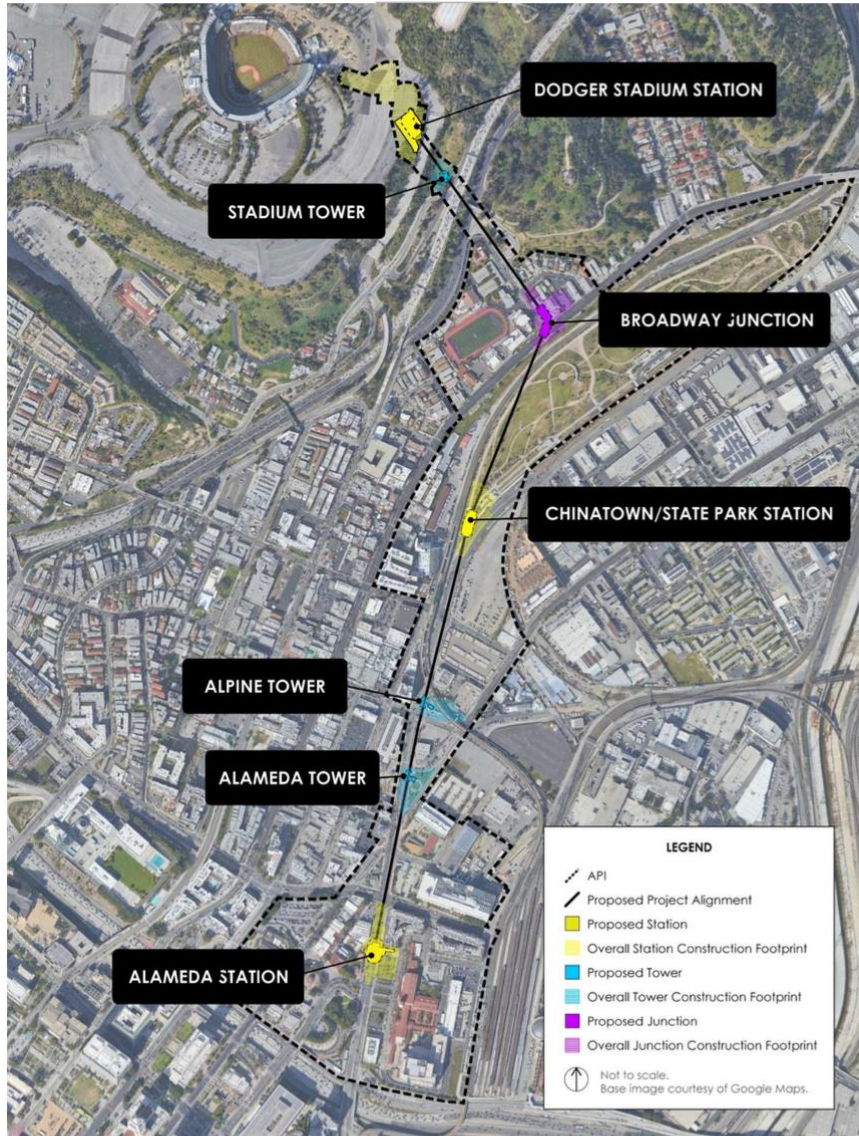


Figure 3: Area of Potential Impact (API). Base image courtesy of Google Maps.

**Project Alignment and Area of Potential Impact**  
**Source: DEIR Appendix G**

The historic resources within the API identified in DEIR Appendix G include:<sup>3</sup>

1. Los Angeles Union Station Passenger Terminal and Grounds
  - 1A. Macy Street Grade Separation
2. Los Angeles Plaza Historic District 2A. Garnier Block
  - 2B. Sanchez Building
  - 2C. Old Plaza Fire House
  - 2D. Hellman-Quon Building
  - 2E. Masonic Hall (Masonic Building)
  - 2F. Merced Theatre
  - 2G. Pico House (Pico Hotel)
  - 2H. Vickrey-Brunswig Building
  - 2I. Plaza House
  - 2J. Plaza (Plaza Area, Plaza Park)
  - 2K. Old Plaza Church (Nuestra Señora Reina de Los Angeles Church [Our Lady Queen of the Angels])
  - 2L. Plaza Community Center (Biscailuz Building)
  - 2M. Plaza Methodist Church
  - 2N. Plaza Substation
  - 2O. Avila Adobe
  - 2P. The Winery
  - 2Q. Machine Shop
  - 2R. Sepulveda House
  - 2S. Pelanconi House
  - 2T. Hammel Building
  - 2U. Italian Hall
3. El Grito (The Cry) Mural
4. Los Angeles Terminal Annex Post Office
5. Philippe the Original
6. Granite Block Paving
7. Capitol Milling Company
8. 1035 N. Broadway
9. St. Peter's Italian Catholic Church
10. Cathedral High School
11. 451 E. Savoy Street
12. Charles B. Wellman Residence

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<sup>3</sup> DEIR Appendix G, page 17.

13. Arroyo Seco Parkway Historic District

DEIR page ES-9 indicates that construction of Broadway Junction requires the demolition of the existing commercial building located at 1201 N. Broadway. Does the Project sponsor own this building, or must it be acquired? If it must be acquired, what is the mechanism of acquisition? In the absence of this information, the Project description is again deficient.

**C. Eminent Domain Concerns and Questions.**

Although the DEIR does not explicitly reference Metro's use of eminent domain, a hidden assumption within the DEIR and Project description is Metro's supposed ability to exercise the power of eminent domain against private property owners for the benefit and advantage of LA ART, the private Project proponent. The DEIR fails as a legal document on this ground.

Although LA ART in response to comments it provided to Metro suggests Metro has the power of eminent domain to forcibly take the private property rights of other parties in furtherance of the Project, the stated statutory "rationale" as supplied by LA ART to Metro was based on Public Utilities Code provisions. (**Exhibit 1** [LA ART Phase II Request for Additional Detailed Information, p. 9].)

However, those cited sections (PUC §§ 130252 and 130254) do not clearly provide Metro with the power of eminent domain for a project such as the Project, which throughout the DEIR and public record concerning the Project has unambiguously been described as being privately funded, privately operated and privately owned. Indeed, contrary to LA ART's assertions and the DEIR's assumptions regarding Metro's alleged ability to use eminent domain for the Project, PUC Section 130521 provides:

The commission may acquire by deed, purchase, lease, contract, gift, devise, or otherwise, any real or personal property, structures, rights, rights-of-way, franchises, easements, air, land, and development rights, and other interests in lands located within this state necessary or convenient for the construction or operation of a project, upon terms and conditions it deems advisable, and to lease, develop, jointly develop, maintain, operate, or dispose of any property, right, or interest in the manner that is necessary or desirable to carry out the objects and purposes of this chapter. **Nothing in this chapter provides eminent domain power.** (Emphasis added.)



Cory Zelmer, Deputy Executive Officer  
Los Angeles County Metropolitan Transportation Authority  
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As a result, we believe the Project and DEIR are based on the false premise that Metro can use eminent domain to seize private property owners' private property rights for the benefit of LA ART and the Project.

In addition to violating our client's constitutional rights under California Constitution Article I, § 19, and the 5th Amendment to the U.S. Constitution, and similarly the rights of other private property owners, the structure of the Project and implied ability of Metro to seize private property for it, implicates a separate violation of CEQA, that of predetermination. "[A]n EIR must be performed before a project is approved, for [i]f postapproval environmental review were allowed, EIR's would likely become nothing more than *post hoc* rationalizations to support action already taken.' (Laurel Heights I, at p. 394, 253 Cal.Rptr. 426, 764 P.2d 278.)" Save Tara v. City of West Hollywood (2008) 45 Cal.4th 116, 130. The DEIR already, implicitly, embodies a determination by Metro that it will attempt to aid LA ART, the private Project proponent, through the use of eminent domain – over the objections of private property owners such as our client. That is a form of precommitment that undermines the legality of the DEIR and shows Metro "failing to proceed in the manner CEQA provides." Id. at 131.

Rather than simply accede to this premise, we ask the following of Metro and request a clear and direct response:

Does Metro contend it has the power of eminent domain to take private property or private property rights for and/or in furtherance of the Project?

This issue has not been openly addressed in the DEIR, but must be as part of this process.

**D. Conclusion.**

If the Project sponsor seeks to proceed with the Project, the DEIR must be rewritten to correct these errors and omissions and then recirculated for public review and comment. Thank you for your review and responses to these comments.

Very truly yours,  
*/s/ Robert P. Silverstein*  
ROBERT P. SILVERSTEIN  
FOR  
THE SILVERSTEIN LAW FIRM, APC

RPS:vl  
Encl.

**The Silverstein Law Firm**  
**January 17, 2023**  
**Comments on Draft EIR for**  
**Los Angeles Aerial Rapid Transit project (LA ART),**  
**SCH # 2020100007**

# **EXHIBIT 1**



**Metro**

Los Angeles County  
Metropolitan Transportation Authority

One Gateway Plaza  
Los Angeles, CA 90012-2952

213.922.2000 Tel  
metro.net

**This Request for Additional Detailed Information, its Attachments, and any response to it are Strictly Confidential.**

## Unsolicited Proposal – Phase II Detailed Review: Request for Information

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### PROJECT INFORMATION

*To be completed by Metro Staff*

**Project Name:** Los Angeles Aerial Rapid Transit (LAART)

**Project ID:** UP-2018-14

**Date Submitted:** 25 April 2018

**Date Received:** 25 April 2018

**Phase I Response Date:** 11 June 2018

**Phase II RFI issuance:** 10 August 2018

**Requested Response Date:** 12 November 2018

**Review Team:**

- Program Management
- Countywide Planning
- Operations
- Vendor/Contract Management
- Office of Civil Rights
- Office of Extraordinary Innovation

### SUMMARY OF PHASE I PROJECT EVALUATION

The Review Team expressed unanimous interest in gathering more information about this proposal and expressed openness to the three main areas of Metro involvement laid out in the Phase I proposal (location at Los Angeles Union Station (LAUS), responsibility as lead environmental agency, and assistance with aerial easements and land acquisitions) (p. 14). The discussion then focused on the costs, impacts and benefits of this project, and what role Metro would play should the proposal advance to implementation, as it influences what information to request.

#### The costs, benefits and impacts of this project

The review team had some concerns whether this project would deliver noteworthy benefits to local and/or regional mobility, air quality and congestion compared to other potential investments (p. 12). However, the review team discussed other benefits, such as the significant investment being made by the developer, and the intangible benefits of this project as a fun and iconic local attraction that captures the public imagination and instills a sense of civic pride.

This project has the potential to create positive net benefits for the people of Los Angeles County. For its involvement and whenever possible, Metro must work to prevent any potentially negative impacts

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to the people of Los Angeles County and deliver value to the people of Los Angeles County. This includes maximizing the return on investment of the taxpayers who invest in Metro's mission.

There are aspects of this project and the role Metro is being asked to play that will have a cost to Metro and the people of Los Angeles County. These may include the social and political costs of acquiring property; the impacts of construction on local communities; acting as the face of the project and mediating opposition; the opportunity costs of expending limited resources and capacity; and the impact of allowing for an additional transit use on the Union Station property given the myriad of projects, both transit and commercial, in early stages of development. To the extent that Metro will be environmentally clearing the project, claiming property, and substantially involved in other ways, the reputational risks of problems that arise on the project such as delays, mismanagement, or operational incidents, also reflect Metro even if Metro is not paying for the project.

While the risks of this project to Metro and the people of Los Angeles County are lower than most of Metro's planned capital projects, every project has risks that must be explored to ensure that the benefits of the project outweigh those risks. The review team saw great advantages to this investment in the connection between two iconic Los Angeles destinations, but because of the risks, Metro is interested in understanding how risks can be minimized and value can be maximized.

### The role Metro would play

The review team felt that it would be advantageous to simplify Metro's role as much as possible, and to focus this Request for Additional Detailed Information (RFI) on understanding the Project assumptions (ridership, site needs, and similar) to inform the environmental process; the business case for Metro; the role Metro would play; the long-term vision for the project; and the project's interface with Los Angeles Union Station.

Because this project is unprecedented, Metro must answer interrelated questions surrounding how the project would be structured, what Metro policies and procedures would apply, what contractual vehicle would be used, which entities will be involved and in what ways, etc. As Metro collects additional information on this project, it will continue to refine its position on many of these key questions. This RFI invites the proposer to weigh in on these questions as well, and feels that the earlier the answers can be understood and agreed upon, the better.

### The role of this RFI

This RFI requests a substantial amount of supplemental information, and in doing so, makes some assumptions. The reason for asking for such information is to receive the most complete Phase II proposal possible. The more defined the project at the end of Phase II, the more confidently Metro can make its decision to implement the project, and in what manner.

Most of the information requested in Section 3 of this RFI is requested for the following reasons:

To move forward with providing a location at LAUS, Metro needs to understand where the station will go and the potential impacts to projects, parking, and facility use.

To move the project smoothly through the environmental process, Metro needs project details and to understand which policies the proposer believes apply.

To approve the project, Metro needs to ensure the project will be insured and constructed to applicable codes and specifications, and that the proposer has a sound funding plan and business model.

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To move from Phase II to implementation, Metro prefers to have as much project definition as is practicable.

If information requested will not be known or available in Phase II, the proposer should explain its reasoning as well as at what point during the process the information would become available.

## **Purpose of this Document**

The purpose of this Request for Information (RFI) is to gain greater understanding of your firm's Unsolicited Proposal and enable Metro to conduct a Phase II Detailed Review of your proposal. It also allows Metro to communicate key needs, challenges, opportunities, and aspirations in a way that should allow you to reiterate your proposal to more adequately fit these parameters.

This RFI will serve as a tool to gather more information about the conceptual proposal to aid Metro's Review Team in making a Phase II determination. The RFI is drafted based on the feasibility assessment previously conducted and approved for the project during the Phase I Review. *The information you provide to respond to this request should help Metro to understand the business case for implementation of your proposal.*

If Metro ultimately chooses to advance your Proposal, and to issue procurement documents, the information provided in response to this RFI will strengthen the procurement document (whether RFP or sole source). Any information received in response to this RFI may assist Metro's Unsolicited Proposal Review Team, Office of Extraordinary Innovation, and Office of Vendor/Contract Management in finalizing the scope of work and requirements which may be used at a future date in the issuance of a Request for Proposals (RFP), or other contracting mechanism. Submitting a response to this RFI is not a guarantee in any way that a supplier will be selected for any subsequent RFP or contracting mechanism, nor does it preclude any supplier from responding to future procurement opportunities.

The issuance of this RFI does not constitute a commitment to issue a request for bids/proposals, award a contract, or pay any costs incurred in preparation of a response to this RFI. Cost and price information provided in proposals will be held in confidence and will not be revealed or discussed with competitors, except to the extent required by law.

## **PART I: PROBLEM STATEMENT AND KEY REQUIREMENTS**

*To Be Completed by Metro Staff*

### **1. Problem Statement**

*Describe the gap/problem(s), its magnitude (i.e., which mission/functional areas, people, organizations, processes, etc. are affected) and the primary mission or business impacts if not corrected.*

Sports venues draw large crowds that overwhelm transportation systems before and after events. Because Dodger Stadium is the largest Major League Baseball stadium (capacity 56,000), is located on a hill in Chavez Ravine, is adjacent to several bustling neighborhoods, and sits within traffic congested Los Angeles, traffic getting to and from Dodger Stadium is notoriously challenging. Dodger Stadium draws regional crowds, the vast majority of whom drive their personal vehicles to access the venue. These vehicles converge and bottleneck on the surface streets leading up the Stadium, especially Sunset Boulevard/Cesar Chavez from Union Station and into the communities West of Echo Park. This traffic is exacerbated by a lack of high quality transit options which could more efficiently shepherd people in and out.

As part of the Phase II response, Metro would benefit from hearing more about how the proposer defines the problem statement and solution.

### **2. Background and Context**

*Provide additional context that explains the current situation (e.g., policy, process, environmental factors). Identify root causes (if known) and contributors to the observed problem(s). Include relevant research and information on industry or market conditions as appropriate. Keep the focus strategic.*

#### Metro's Responsibility

Because this project is envisioned to be privately designed, built, operated, maintained, funded, insured, and financed, Metro does not envision taking a hands-on, prescriptive, or performance minded approach to this project, instead focusing on the elements of the project for which Metro would be responsible.

Under the structure proposed in Phase I, Metro still needs additional information about each of the above-mentioned aspects of the project to better understand and evaluate it, the case for it, and its impacts, and in order to serve as the agency lead on environmental planning and clearance. Metro also has a significant interest and role to play as the property owner of the LAUS site and a steward of taxpayer investment, which includes better understanding the station location, impact to the immediate site and LAUS facilities, and feedback/approval rights of station designs and operating plans.

For the purposes of this RFI, Metro intends to focus its involvement, and its questions, on the following categories:

1. Metro's mission, financial and business interests, including its role in improving mobility and providing transportation services and return on taxpayer investment for Los Angeles County

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2. Metro's role as the lead agency during the environmental review (California Environmental Quality Act) process, for which it will be helpful to have a better understanding of future development plans at Dodger Stadium and/or associated projects; project design and definition; and assumptions and their basis.
3. Metro's role in acquiring property for this project, per CPUC's explanation of the "Powers and Functions of District"
4. Metro's role in approving this project, per CPUC § 130252
5. Current and future plans for Los Angeles Union Station, impacts, and associated concerns as property owner of this regional hub.

### LAUS Spatial Context

*Information about ongoing and planned projects for LAUS are included in Attachment J*

### **3. Functional Requirements**

*Summarize functional requirements. Focus particularly on requirements necessary to achieve desired outcomes and measurable performance objectives.*

#### Planning

- The proposal should describe the impacts of the project to Metro and LAUS throughout the lifecycle of the project
- The project should include a conceptual project plan, as well as a high-level schedule, scope and budget, or an explanation of when this information would become available in relation to environmental clearance and/or negotiations
- The proposal should describe the footprint of the facilities, including how much space would be needed for a station, where the preferred station sites are located, and why. The proposal should show how each station area would influence the alignment alternatives. If the alignment alternatives are well known, the proposer should provide some insight into how many properties and aerial easements may need to be acquired, which properties may need to be acquired or operated above, and for what reason.
- The proposal should describe Aerial Rapid Transit Technologies (ARTT), LLC's preferred approach to the environmental process, including but not limited to alternatives analysis, visual impacts, technical analysis, emergency response, feasibility, impact to parking, etc. This should include an interpretation of whether site/economic development plans that rely on this project will also need to be environmentally cleared, and if their clearance would occur separately from this project. With this in mind, the proposal should include any information relevant to the environmental process.
- The proposal should explain which Metro policies ARTT believes should not apply to this project, be waived or granted exemption, or would conflict with this project, and why; a worksheet template has been included in Attachment B
- The proposal should indicate what coordination would be required with other jurisdictions, such as the City of Los Angeles and Caltrans, and who would be responsible for that coordination and its associated outcomes
- The proposal should validate its assumptions, whenever possible corroborating assumptions with comparable, existing projects



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- The proposal should not assume that Metro's Dodger Stadium Express would continue to operate when an aerial tram began serving Dodger Stadium (see attachments G and H for more information on the Dodger Stadium Express)
- The proposal should assume that if the project were to proceed on the LAUS property, Metro would be involved in community engagement, outreach, and construction relations and mitigations, and should explain ARTT, LLC's approach to community outreach, including what, if any, outreach would be done, and by whom, during the environmental review process.
- Based on ridership assumptions, how much parking would the project require and where is the parking assumed to be?
- The proposer should consider if the project could/might create transit connectivity or walkability between the north and south sides of the Gold Line tracks near Los Angeles Historic Park
- The proposer should indicate whether they would prefer that TAP be available as a form of payment

### Business Model and Finance

- The business plan should be informed by the planning assumptions above, and outline the following:
  - Business model
  - Project budget and the available funding envelope for the project
  - Future plans at Dodger Stadium site
  - How would Metro be compensated for using Metro-owned land and facilities and Metro's authority, for company profit? This should include consideration of assumptions on ground lease payments and/or revenue sharing and/or usage fees, and any other financial payment to Metro for use of the Union Station site and facilities as part of a negotiated agreement; as well as other Metro responsibilities such as right of way acquisition, staff time, etc.
  - Staffing assumptions throughout the lifecycle of the project
    - The proposal should include the expected level and number of Metro Full Time Equivalent staff (FTEs), and percentage of staff time required and the proposed considerations related to reimbursement
    - The proposal should propose how the environmental contractor would be procured, if determined by the proposer, and how ARTT would procure these services
    - The proposal should include proposed staffing assumptions of additional Union Station personnel required in support of, but not direct operation of, the tram
- The proposal should directly acknowledge that financing, funding, and insuring the project and its operation will be the responsibility of Aerial Rapid Transit Technologies, LLC and its partners, including decommissioning and deconstruction of the facilities should they become non-operational
- The proposal should include letters of interest from key financial partners
- The proposal should include a term sheet

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- The proposal should explain how the proposer would indemnify Metro from any and all liabilities that may result from the environmental process through construction, operation and decommissioning of the project by a private party.

### Operations

- The proposal should indicate the level of service expected to run, and how changes to levels of service impact relevant requirements above
- The proposal should comment on the capacity of the system and anticipated wait times during peak loads
- The proposal shall address how ADA compliance will be achieved, and identify any impacts on proposed capacity

## 4. Statutory, Regulatory and other Compliance Requirements

*Identify any statutory, regulatory, compliance requirements and/or organizational strategic goals and objectives this project/initiative must satisfy. Include as a reference all known statutory and regulatory requirements.*

In this RFI, Metro has included a list of policies and laws that it believes may apply to this project. This list is not intended to be comprehensive, nor does it intend to be binding. Attachment B includes a worksheet in which the proposer can describe various policies and laws, including those listed below, and explain whether they consider them applicable and why or why not.

### Laws and Policies

- [Americans with Disabilities Act](#)
- Metro Adjacent Development Handbook and Adjacent Construction Design Manual (Attachments D, E, F)
- [Metro Green Construction Policy](#)
- [Construction Careers Policy](#)
- The proposal should outline the preliminary terms of a [Project Labor Agreement](#) (PLA) to which LAART would commit, or otherwise argue that the PLA is not applicable to this project
- The review team recommends adherence to the American National Standards Institute (ANSI) Ropeway Standard as best practice (Attachment I)
- Metro Equity Platform Framework (Attachment C)
- LAUS Agreements (Covenants, Conditions & Restrictions and Easement Agreements between LACMTA, MWD, First 5 LA and Mozaic Apartments) to be provided should a formal agreement be entered between LACMTA and AART, LLC.)
- Laws, policies and procedures associated with crossing freeways, if applicable
- Laws, policies and procedures associated with operating ropeways in California

On Metro projects, Metro follows these Fire/Life Safety Policies:

- National Fire Protection Association NFPA 130 Standard for Fixed Guideway Transit and Passenger Rail Systems
- NFPA 101 Life Safety Code

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- NFPA 70 National Electric Code
- NFPA 72 National Fire Alarm Code
- Los Angeles Fire Department Chief's Regulation #4 Standards
- Long Beach Fire Department Fire Protection and Life Safety Certification Program
- Metro Fire/Life Safety Design Criteria

### Approval from the Board of Directors

Based on Metro's interpretation of its authority under the CPUC, which establishes Metro and its powers, including the powers of eminent domain, the Metro Board of Directors must approve all plans for the design, construction and implementation of public mass transit projects in LA County, including this one.

### Rationale

PUC § 130252 states, in relevant part: "All plans proposed for the design, construction, and implementation of public mass transit systems or projects, including exclusive public mass transit guideway systems or projects . . . shall be submitted to the commission [now Metro] for approval. No such plan shall be approved unless it conforms to the appropriate adopted regional transportation plan . . ."

CPUC General Order 164-3 (Eff. 01 May 2018) further defines its authority over Rail Fixed Guideway System, which are defined as "any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, cable car, automatic people mover, or automated guideway transit system used for public transit and not regulated by the Federal Railroad Administration or not specifically exempted by statute from Commission oversight."

Based on these code sections, the Aerial Tram from LAUS to Dodger Stadium is a public mass transit project, and therefore Metro must approve all plans for its design, construction, and implementation.

Metro is also the statutory designated transit guideway operator in Los Angeles County (see, PUC §130254), although Metro is likely able to delegate this function to a third party.

## **5. Technical Requirements or Limitations**

*Identify any technical requirements or limitations.*

- The station site may not interfere with planned capital projects outlined in this RFI and Attachment J

*For the purposes of continuity, some Technical Requirements were included in the Functional Requirements section*

## **6. Other Project Information**

*Identify any other relevant project information.*

N/A

Attachments: