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**SUBMITTAL INSTRUCTIONS**

**AUTOMATED PEOPLE MOVER OPERATING SYSTEM  
SUPPLIER ELIGIBILITY DETERMINATION**

**FOR THE**

**LANDSIDE ACCESS MODERNIZATION PROGRAM**

**AT**

**LOS ANGELES INTERNATIONAL AIRPORT**



**MARCH 17, 2016**



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## 1.0 BACKGROUND

The City of Los Angeles, Department of Airports, known as Los Angeles World Airports, is in the midst of a multi-billion dollar modernization program at Los Angeles International Airport. LAX is the largest commercial service airport in Southern California handling approximately 74.9 million air passengers in 2015. LAX is also the world's busiest origin and destination airport as more passengers begin and end their trip at LAX rather than connecting to another flight. This demand presents a challenge for the LAX ground access system as more than 50 percent of air passenger travel to/from LAX is by automobile, resulting in over 6,000 vehicles per hour entering the LAX Central Terminal Area during peak periods.

As part of the overall modernization program at LAX, LAWA is undertaking the Landside Access Modernization Program. The major elements of LAMP include a Consolidated Rental Car Center, Intermodal Transportation Facilities, parking garages, and an Automated People Mover system.

LAWA's Preliminary APM Project Layout Plan for LAMP is presented in Attachment 4. The APM Project features approximately 11,600 feet of elevated dual lane guideway, six passenger stations and an off-line M&SF. Three stations will be located within the CTA (West, Center, and East) and the off-airport stations will be located adjacent to the West ITF, the East ITF (next to the Metro station at 96th Street) and the CONRAC. In addition to CONRAC passengers, the APM System will also transport passengers going to/from LAX via other modes of traffic.

This Submittal Instructions document sets forth the process for APM Operating System Suppliers to become eligible to participate in the anticipated APM Project procurement.

### 1.1. Defined Terms

Additional terms are defined in Attachment 3 – Select Draft Project Technical Performance Provisions, and such terms shall have the meaning provided therein.

**APM Fixed Facilities** means the fixed structures that represent permanent improvements to the work site that are necessary for the installation and the integrated operation of the APM Operating System, such as but not limited to guideway structure(s), station structures, equipment room structures, maintenance and storage facility structure, propulsion power substation structures, structures within which the central control and administrative offices related to the APM Operating System may be located, and other related components including roadway improvements, pedestrian walkways to the airport passenger terminals and parking garage replacement within the CTA.

**APM Operating System** means the vehicles, running surfaces or track, switches, other guideway equipment, active graphics, any platform barrier doors, platform barrier walls, power distribution, central control and ATC, communications, maintenance equipment, and all other equipment, which when integrated results in the operation of the trains in conformance with the APM Project performance requirements.

**APM Operating System Suppliers** means any single entity, joint venture or group of entities that is capable of designing, building, operating and maintaining an APM Operating System as an optimized life-cycle asset.

**APM Project** means the project for the design, build, finance, operations and maintenance of the APM Operating System and the APM Fixed Facilities.



**APM System** means the APM Operating System, the APM Fixed Facilities, and all ancillary equipment and spare parts that together comprise the fully integrated APM.

**Automated People Mover** means a guided transit mode with fully automated operation, featuring vehicles that operate on guideways with exclusive right-of-way.

**Board** means the Board of Airport Commissioners.

**Business Opportunities Website** means <http://business.connectingLAX.com>.

**City** means City of Los Angeles.

**Close of EDR Review Date** means the date on which LAWA issues the final RFP for the APM Project procurement.

**Conflict of Interest Guidelines** means the “Organizational Conflict of Interest Guidelines for the Consolidated Rent-A-Car-Center and Automated People Mover Projects” posted by LAWA on the Business Opportunities Website.

**EDR Submittal Deadline** means the date that is 60 days after the date LAWA approves the shortlist of proposers capable of delivering all components and aspects necessary for a successful APM Project (except for designing, building, operating and maintaining the APM Operating System) pursuant to the RFQ for the APM Project.

**Eligibility Determination Process** means the process by which LAWA will determine the eligibility of APM Operating System Suppliers to participate in the procurement for the APM Project, as set forth in Section 9 to this Submittal Instructions.

**Eligibility Determination Request** means the submittal(s) made by Respondents in response to this Submittal Instructions.

**LAMP Website** means <http://www.connectingLAX.com>.

**Metro** means the Los Angeles County Metropolitan Transportation Authority.

**Respondent(s)** means APM Operating System Suppliers that have responded to this Submittal Instructions.

**Submittal Instructions** means this “Submittal Instructions – Automated People Mover (APM) Operating System Supplier Eligibility Determination for the Landside Access Modernization Program (LAMP) at Los Angeles International Airport (LAX)”, including any and all attachments and addenda issued by LAWA.

## 1.2. Acronyms

APM – Automated People Mover  
APM OS – APM Operating System  
ATC – Automatic Train Control  
CONRAC - Consolidated Rental Car Center  
CTA – Central Terminal Area  
DBFOM – Design, build, finance, operate and maintain



EDR – Eligibility Determination Request  
ITFs - Intermodal Transportation Facilities  
LABAVN - City of Los Angeles Business Assistance Virtual Network  
LAMP – Landside Access Modernization Program  
LAWA – Los Angeles World Airports  
LAX – Los Angeles International Airport  
M&SF - Maintenance and Storage Facility  
OS (O/S) – Operating System  
RFP – Request for Proposals  
RFQ – Request for Qualifications

## 2.0 OVERVIEW OF APM PROJECT DELIVERY

The APM Project is expected to be delivered through a DBFOM approach.

### 2.1. Overview of Team Selection for APM Project Delivery

Key steps leading to the anticipated selection of the team for the DBFOM APM Project delivery are noted below. These steps provide an overview of the participation of APM Operating System Suppliers in the separate anticipated APM Project procurement.

1. LAWA will determine the eligibility of APM Operating System Suppliers seeking to participate in the procurement for the APM Project through the Eligibility Determination Process.
2. Prior to the DBFOM APM Project RFP, LAWA expects, through a RFQ process, to establish a shortlist of proposers capable of delivering all components and aspects necessary for a successful APM Project except for designing, building, operating and maintaining the APM Operating System. The terms upon which eligible APM Operating System Suppliers team with such shortlisted proposers, including the terms of any financial/equity participation by the eligible APM Operating System Suppliers, is a teaming issue to be addressed by the eligible APM Operating System Suppliers and shortlisted proposers, provided the shortlisted proposers comply with any requirements set forth in the APM Project procurement documents. LAWA does not represent, nor warrant, that eligible APM Operating System Suppliers will become part of any shortlisted proposer team or that they shall have any particular scope of work within such team(s).
3. The Eligibility Determination Process does not commence the procurement process for the APM Project, which will begin upon LAWA's issuance of the separate RFQ. As part of the shortlisting process for that RFQ, LAWA will not consider the technical qualifications of APM Operating System Suppliers.
4. The shortlisted proposers and eligible APM Operating System Suppliers will, without LAWA's involvement, decide whether to team, resulting in the addition of an eligible APM Operating System Supplier to a shortlisted proposer team. Only APM Operating System Suppliers that are deemed eligible by LAWA through the Eligibility Determination Process will be permitted to join a shortlisted proposer team as that team's APM



Operating System Supplier. The process for an eligible APM Operating System Supplier to join a proposer team may, among other things, require the submittal of the eligible APM Operating System Supplier's financial information demonstrating its financial strength and capabilities to perform the work. LAWA anticipates that the DBFOM APM Project RFP will include evaluation of the proposer team's capability and approach to delivering the APM Operating System, among other factors, that are more detailed than those factors used in the Eligibility Determination Process.

## **2.2. Overview of Eligibility Determination Process**

An overview of the Eligibility Determination Process is provided below.

1. LAWA intends to commence the Eligibility Determination Process for APM Operating System Suppliers prior to advertising the RFQ for the APM Project. LAWA anticipates that it will advertise the RFQ in April 2016, with Statements of Qualifications due in June 2016.
2. Respondents may submit Eligibility Determination Requests until the EDR Submittal Deadline. LAWA will not review any EDRs it receives after the EDR Submittal Deadline. However, LAWA will review additional information/submittals it receives after the EDR Submittal Deadline in support of in-process EDRs that it received prior to the EDR Deadline.
3. Based on its review of the EDRs, LAWA expects to issue written notices of eligibility on a rolling basis until the Close of EDR Review Date; reviews of in-process EDRs will be discontinued on that date.
4. Only entities that have received a written notice of eligibility from LAWA will be permitted to participate in the APM Project procurement as an APM Operating System Supplier.

## **3.0 WEBSITE**

LAWA utilizes three publicly accessible websites related to the Eligibility Determination Process:

1. LABAVN is the official site for the Submittal Instructions for APM Operating System Supplier Eligibility Determination and associated addenda.
2. The LAMP Website is the LAMP specific site where certain environmental and other project information is posted.
3. The Business Opportunities Website is the site where LAWA posts certain information regarding LAMP-related business opportunities.

## **4.0 CONFLICTS OF INTEREST**

Respondents are advised to review the Conflict of Interest Guidelines carefully, since it includes provisions that preclude certain firms from participation in the APM Project procurement.



Failure to comply with the Conflict of Interest Guidelines in any respect, including the failure to disclose any actual, perceived or potential conflict of interest, may result in serious consequences as described in Section V(2) of the Conflict of Interest Guidelines.

LAWA shall only issue a notice of eligibility to a Respondent whose objectivity is not impaired and who has not gained an unfair competitive advantage due to any past, present, or planned organizational conflict of interest, financial or otherwise. If any such conflict of interest is determined to exist, LAWA may:

1. Reject the Respondent from participation in the Eligibility Determination Process and APM Project procurement, or
2. Determine that it is otherwise in the best interests of LAWA to continue the Eligibility Determination Process and APM Project procurement with such Respondent and include appropriate provisions to mitigate or avoid such conflict in any contract awarded for the APM Project.

Each Respondent shall fully disclose any actual, potential, or perceived organizational conflict of interest in its EDR, using Form B. A Respondent's refusal to provide the required disclosure (or any additional information required in relation to that disclosure) or misrepresentation of the actual, potential, or perceived organizational conflict of interest may result in LAWA's preclusion or disqualification of the Respondent from the Eligibility Determination Process and APM Project procurement.

By submitting an EDR, each Respondent agrees that, if an organizational conflict of interest is discovered following submittal of an EDR, the Respondent shall make an immediate and full written disclosure to LAWA that includes a description of the action that Respondent has taken or proposes to take to avoid or mitigate such conflicts.

Additional provisions, if any, regarding organizational conflicts of interest may be contained in the RFQ and RFP for the APM Project procurement.

## 5.0 COMMUNICATION PROTOCOLS

LAWA's single point of contact and source of information for the Eligibility Determination Process is Mr. Allen Rad, Procurement Manager. The communication protocols set forth in this Section 5 shall apply beginning on the date of LAWA's issuance of this Submittal Instructions and remain in effect through the Close of EDR Review Date. These rules are designed to promote a fair, unbiased, and legally defensible procurement process. Communications include face-to-face, telephone, electronic mail (e-mail) or other written communications, including submittals. Failure to comply with these communication protocols or any contact by a Respondent determined to be improper, at the sole discretion of LAWA, may result in disqualification of the involved firm.

The specific communication protocols are as follows:

1. Unless otherwise specifically noted in this Submittal Instructions or authorized by LAWA's point of contact in writing, all Respondent communication with LAWA will be between LAWA's point of contact and an authorized representative of the Respondent. All such communication (including questions regarding the Eligibility Determination



Process and the requests for individual meetings contemplated in Section 9) shall follow the instructions in this Submittal Instructions and be in writing or via email to:

**Mr. Allen Rad**  
**Procurement Manager**  
**Los Angeles World Airports**  
**7301 World Way West, Los Angeles CA 90045**  
[arad@lawa.org](mailto:arad@lawa.org)

2. Following submittal of an EDR, LAWA's point of contact may contact a Respondent through that Respondent's authorized representative identified in the EDR.
3. Unless authorized or requested by the Procurement Manager in writing, Respondents shall not be allowed to alter a submitted EDR, or submit clarifications and additional information in support of an EDR.
4. Respondents may withdraw their EDR(s) at any time prior to LAWA's issuance of a notice of eligibility or the Close of EDR Review Date. Withdrawals of EDRs must be by written request to LAWA made by the Respondent's authorized representative identified in the EDR. A Respondent may submit another EDR at any time up to the EDR Submittal Deadline.
5. Commencing on the date LAWA issues this Submittal Instructions and continuing until the Close of EDR Review Date, neither a Respondent nor its agents shall have communications with any City employee or staff, elected official, or any LAWA consultant on the APM Project or LAMP regarding (i) this Submittal Instructions, or (ii) the Eligibility Determination Process. The foregoing restriction shall not, however, preclude or restrict communications regarding matters unrelated to (i) and (ii), or from participating in public meetings or any public or LAWA workshops related to the APM Project or LAMP.
6. LAWA will disseminate written or email communications regarding the Eligibility Determination Process and APM Project via the LAWA point of contact.
7. Any and all addenda to this Submittal Instructions will be published on LABAVN and the Business Opportunities Website. Addenda so issued are to be considered part of this Submittal Instructions. It shall be the Respondent's responsibility to ensure that it has received and reviewed all such addenda, and to check LABAVN, the LAMP Website and the Business Opportunities Website to keep up to date with information regarding LAMP.
8. Unless confirmed in writing by the LAWA point of contact, LAWA will not be responsible for or bound by (i) any oral communication or (ii) any other information or contact that occurs outside the communications protocols specified in this Submittal Instructions.

## 6.0 CONTENTS OF THE ELIGIBILITY DETERMINATION REQUESTS

The Eligibility Determination Request submission shall consist of the following two (2) parts:



- PART A – Administrative Requirements
- PART B – Technical Capabilities Requirements

### 6.1. Part A – Administrative Requirements

The Respondent shall complete all the Administrative Requirements Forms enclosed herein in Attachment 1 – APM Operating System Supplier Eligibility Determination Administrative Submittal Requirements. The Respondent shall initial any and all interlineations, alterations or erasures in its submissions, provided that the Respondent shall not delete, modify or supplement the Administrative Requirements Forms or make substitutions thereon.

### 6.2. Part B – Technical Capabilities Requirements

Respondents shall prepare the contents of the Part B Technical Capabilities Requirements Submittal in accordance with the instructions in Attachment 2 – APM Operating System Supplier Eligibility Determination Technical Capabilities Submittal Requirements.

## 7.0 EDR SUBMITTAL FORMAT REQUIREMENTS

The EDR shall be in writing and Respondents shall complete and return all applicable documents. The contents of the EDR shall be complete in description and concise in volume. The EDR shall be in the format of a written report. Respondents are requested to refrain from providing supplementary artwork, visual aids, films, and other extraneous materials unless they specifically address the eligibility requirements.

### 7.1. Part A – Administrative Requirements Format Instructions

Respondents are required to submit one (1) original and three (3) copies of the **PART A – Administrative Requirements**, as well as an electronic PDF version (searchable) on CD or DVD. The hard copies of Part A shall be bound in three-ring binders using 8½” by 11” (single-sided) pages with no staples. Part A shall address all the items identified in Attachment 1 of this Submittal Instructions.

The Respondent shall ensure that each page of its submittal is identified with the Project name, Respondent’s name, and page number.

### 7.2. Part B – Technical Capabilities Requirements Format Instructions

Respondents are required to submit one (1) original of **PART B – Technical Capabilities Requirements** signed in ink and three (3) hard copies, as well as an electronic PDF version (searchable) on a CD or DVD. The Part B Submittal shall address all items identified in Attachment 2 of this Submittal Instructions.

The Respondent shall ensure that each page of its submittal is identified with the Project name, Respondent’s name, and page number and must be completed as follows:

- Use 8 ½” x 11” paper, bound on the long side. 11” x 17” fold-out sheets may be included.
- Use no less than 11 point font, excluding captions for graphics.
- Include a table of contents.



- Include tabbed sections.
- All text shall be clear of binding.
- The EDR table of contents shall include all documents of the submittal.

**7.3. Only One EDR Accepted Per Proposed APM Operating System**

Respondents may seek an eligibility determination for multiple APM Operating Systems that they may offer; however, each unique APM Operating System will require a separate EDR.

**8.0 EDR SUBMISSION INSTRUCTIONS**

The EDR packages shall be *clearly* identified and addressed as follows:

Respondent Name \_\_\_\_\_  
 Contact Name \_\_\_\_\_  
 Contact Email \_\_\_\_\_  
 Contact Phone Number \_\_\_\_\_

***Label in Upper Left-Hand Corner***

**LAWA LAMP PROGRAM OFFICE  
 EDR – APM Operating System  
 Attn: Allen Rad, Procurement  
 Manager  
 7301 World Way West, Los Angeles,  
 CA 90045**

***Label in Center***

**9.0 ELIGIBILITY DETERMINATION PROCESS**

The following outlines the steps that comprise the Eligibility Determination Process:

**Step 1: APM Operating System Suppliers may request individual meetings with LAWA**

- APM Operating System Suppliers may request individual meetings with LAWA prior to or after their submittal of an EDR to discuss the process and requirements relating to the Eligibility Determination Process. To make such requests, APM Operating System Suppliers shall comply with the communications protocols set forth in Section 5. LAWA shall, in its sole discretion, determine whether to accept such meeting requests and hold such meetings.

**Step 2: APM Operating System Suppliers submit EDR in accordance with this Submittal Instructions**

- An APM Operating System Supplier may seek an eligibility determination for one or multiple APM Operating Systems. Each unique APM Operating System will require a separate EDR submission.
- There is no limit to the number of EDRs that an APM Operating System Supplier may submit before the EDR Submittal Deadline.



**Step 3: LAWA receives EDRs**

- EDRs may be received by LAWA at any time prior to the EDR Submittal Deadline.
- No new EDRs will be accepted after the EDR Submittal Deadline. However, additional information/submittals in support of in-process EDRs will be accepted by LAWA thereafter.
- Upon receipt of an EDR, LAWA shall review the EDR and respond to the Respondent as expeditiously as possible, in accordance with the communication protocols set forth in Section 5.

**Step 4: Communication between LAWA and Respondent(s) seeking clarifications and/or additional information in support of eligibility determination**

- Throughout the Eligibility Determination Process, LAWA may, in accordance with the communication protocols set forth in Section 5, communicate with Respondent(s) to seek any necessary clarifications, additional information and/or submittals in support of determining eligibility.

**Step 5: EDRs evaluated (including clarifications and/or additional information)**

- LAWA expects to review and evaluate EDRs based on the evaluation criteria in Section 9.1 and otherwise in accordance with the processes set forth in this Submittal Instructions.
- An EDR must obtain a pass for each of the evaluation criteria in Section 9.1 in order for LAWA to successfully complete the review and evaluation and deem a Respondent eligible.
- If information or documents are missing, LAWA may, in accordance with the communication protocols set forth in Section 5, communicate with the Respondent and request that missing information be provided expeditiously to support the EDR review. The consequences of failure to timely provide sufficient information shall be solely borne by the Respondent.

**Step 6: LAWA makes eligibility determination**

- LAWA makes the eligibility determination on all EDRs in its sole discretion based on the evaluation criteria in these Submittals Instructions. LAWA's determination may include conditions to the Respondent's eligibility.

**Step 7: Notification of eligibility**

- LAWA expects to issue written notices of eligibility to Respondents on a rolling basis until the Close of EDR Review Date. LAWA may also periodically post a list of APM Operating System Suppliers found eligible to LABAVN/Business Opportunities Website.

**Step 8: Close of EDR Review**

- The evaluation of in-process EDRs will cease on the Close of EDR Review Date and any ongoing review of in-process EDRs will be suspended.



## 9.1. EDR Evaluation Criteria

### 9.1.1. Administrative Evaluation Criteria

Respondent's EDR must include the following completed and properly executed forms:

- Supplier Eligibility Determination Request Letter (Form A from Attachment 1)
- Organizational Conflicts of Interest Disclosure Statement (Form B from Attachment 1)
- Campaign Contribution Restrictions (CEC 55 Forms) (Form C from Attachment 1)
- Municipal Lobbying Ordinance (Form D from Attachment 1)

### 9.1.2. Technical Evaluation Criteria

The technical evaluation criteria for EDRs are identified below:

1. Technical Maturity of the APM Operating System technology. This criterion considers both (a) and (b) below.
  - a. Respondent must demonstrate that the Technical Maturity of the proposed APM Operating System technology satisfies the requirements of TP 3.3 in Attachment 3 – Select Draft Project Technical Performance Provisions.

Evaluation based on data and documentation submitted in response to Attachment 2, Section I.1 and Project Experience Forms in Attachment 2.

- b. Respondent must demonstrate its capabilities to successfully design, construct, operate and maintain the APM Operating System as an optimized life-cycle asset.

Evaluation based on data and documentation submitted in response to Attachment 2, Section I.2, Section I.3 and Project Experience Forms in Attachment 2.

2. Ability of the Respondent to adapt and deliver the proposed APM Operating System to meet anticipated project performance requirements as defined in Attachment 3 – Select Draft Project Technical Performance Provisions.

Evaluation based on data and documentation submitted in response to Attachment 2, Section II.

3. Ability of the Respondent to adapt the proposed APM Operating System to the physical constraints defined in Attachment 4 – Preliminary APM Project Layout Plan.

Respondent must demonstrate that it can adapt the proposed APM Operating System to the physical constraints defined in Attachment 4, or that proposed adjustments to identified physical constraints are minimal and should be considered acceptable by LAWA.



Evaluation based on data and documentation submitted in response to Attachment 2, Section III. Any and all adjustments to the project physical plant constraints may be evaluated and accepted by LAWA in LAWA's sole discretion.

## 10.0 APPEALS PROCESS

### 10.1. Purpose

This Section 10 sets forth the sole and exclusive process for resolving appeals regarding this Submittal Instructions and the Eligibility Determination Process. The procedures will enable the Board to ascertain all of the facts necessary to make an informed decision regarding any such appeal.

### 10.2. Appeal Submission Requirements

LAWA will only consider appeals from APM Operating System Providers that address the topics described in Sections 10.3 and 10.4. In addition, an APM Operating System Supplier may only file an appeal after it has informally discussed the nature and basis of the appeal with LAWA in accordance with the communications protocols set forth in Section 5 in an effort to remove the grounds for appeal.

The appeal shall contain a full and complete statement specifying, in detail, the factual grounds and legal basis of the appeal. The appeal shall refer to the specific portion of this Submittal Instructions, any submitted EDR, or other related document which forms the basis for the appeal. The appeal must include the name, address, and telephone number of the appellant and appellant's representatives. The appeal must be submitted in writing and signed by the appellant or by a representative of the appellant.

All appeals, including any accompanying documentation, must be delivered to:

**The Office of the City Attorney, Airport Division,  
1 World Way, Room 104  
Los Angeles, CA 90045**

**with a copy to the:  
Secretary of the Board  
1 World Way  
Los Angeles, CA 90045**

### 10.3. Appeal of Submittal Instructions

Any appeals regarding this Submittal Instructions, including all processes described herein (except appeals described in Section 10.4), must be received in the Office of the City Attorney, Airport Division, and the office of the Board, prior to the APM Operating System Supplier's submittal of an EDR or before 3:00 P.M. on the tenth business day after LAWA's issuance of this Submittal Instructions, whichever comes first. Notwithstanding the prior sentence, any such appeal related to an addendum to the Submittal Instructions must be received before 3:00 P.M. on the tenth business day after LAWA's issuance of the addendum.



#### **10.4. Appeal of Eligibility Determination Process Decisions**

Any appeal regarding Eligibility Determination Process decisions must be received in the Offices of the City Attorney, Airport Division, and the office of the Board, before 3:00 P.M. on the fifth business day after the Close of EDR Review Date.

#### **10.5. Appeals Considered**

Only appeals meeting the requirements in this Section 10 will be reviewed and submitted to the Board. The Board will only consider appeals by any appellant who appears to have a reasonable prospect of being determined eligible through the Eligibility Determination Process. Appellants will be notified of the time and date that the appeal will be discussed in a public session of the Board. Appealing parties will be given an opportunity to present their arguments at the public session.

#### **10.6. Board Decision; Frivolous Appeals**

Following the public discussion of the appeal, the Board will issue its written decision regarding the appeal. If the Board determines that the appeal was frivolous, the Board may determine that the party originating the appeal is non-responsible and is ineligible for future contract awards.

#### **10.7. Appeal Costs**

If the appeal is granted, LAWA shall not be liable for payment of the appellant's costs unless LAWA acted fraudulently or in bad faith in opposing the appeal. Except as provided in the previous sentence, LAWA shall not be liable for any damages to the entity filing the appeal or to any participant in the appeal, on any basis, express or implied.

#### **10.8. Schedule Impact**

LAWA has no obligation to modify the Eligibility Determination Process or the separate APM Project procurement to allow for completion of an appeal process.

#### **10.9. Waiver**

By submitting an EDR, each Respondent expressly recognizes and agrees to the limitation on its rights to appeal provided in this Section 10, and expressly waives all other rights and remedies that may be available to the Respondent under law. These provisions are included in this Submittal Instructions expressly in consideration for such waiver and agreement by Respondents. If a Respondent disregards, disputes or does not follow the exclusive appeal remedies provided in this section, it shall indemnify and hold LAWA and its officers, employees, agents, and consultants harmless from and against all liabilities, fees and costs, including legal and consultant fees and costs, and damages incurred or suffered as a result of such Respondent's actions. Each Respondent, by submitting an EDR, shall be deemed to have irrevocably and unconditionally agreed to this indemnity obligation.



## **11.0 PROPERTY OF THE CITY/PROPRIETARY MATERIAL**

### **11.1. Property of City; Subject to Public Records Act**

All EDRs and other materials submitted in response to this Submittal Instructions shall become the property of the City and LAWA and subject to the State of California Public Records Act (California Government Code Section 6250 et seq.). Respondents must specifically identify any portion of the EDRs or other materials submitted in response to this Submittal Instructions that the Respondents claim are exempt from the California Public Records Act and identify the specific provisions of the Act providing the claimed exemption from disclosure for each such item. The validity of each identified exemption shall be the sole responsibility of each Respondent to determine and assert and LAWA specifically disclaims any and all related responsibility including, without limitation, any responsibility to analyze a claimed exemption or supporting authority.

### **11.2. Requests for Disclosure of Exempt Information**

If a request is made for disclosure of information that a Respondent claims is exempt, LAWA will endeavor to provide any Respondent who submits any portion of the EDRs or other materials claimed as exempt with reasonably timely notice of any demand for inspection or copying of such information under the California Public Records Act to allow any such Respondent to seek protection from disclosure by a court of competent jurisdiction.

LAWA shall endeavor to limit distribution of information that Respondent claims is exempt only to those individuals within LAWA and other third-party advisors and consultants that LAWA determines are reasonably necessary to participate in the review and evaluation of the EDRs. LAWA shall not be, under any circumstances, responsible or liable to any Respondent or any other person for the disclosure of any information claimed as exempt whether such disclosure is required by law, by an order of court, or as a result of inadvertence, mistake or negligence on the part of LAWA, or its elected or appointed officials, officers, employees, agents, contractors, representatives or consultants.

LAWA, by issuance of this Submittal Instructions or receipt of any EDRs, shall not, nor be deemed to, undertake or assume any obligation for protection or to seek protection for a Respondent's claim that information is exempt and LAWA cannot and does not purport to determine whether any information claimed as exempt is in fact exempt from disclosure under the California Public Records Act. Absent the granting of a court order prohibiting LAWA from releasing the requested information, LAWA may release the requested information as required by applicable law.

### **11.3. Statement on Exemption from Public Records Act**

In the event a Respondent claims an exemption from the California Public Records Act, the Respondent is required to state in the EDR the following: "The Respondent will indemnify the City and its officers, employees and agents, and hold them harmless from any claim or liability and defend any action brought against them for their refusal to disclose copyrighted material, trade secrets or other proprietary information to any person making a request therefore." Failure to include such a statement shall constitute a waiver of a Respondent's right to exemption from this disclosure.



## 12.0 ADDITIONAL LEGAL INFORMATION

### 12.1. Reproduction and Personal Use of Information

LAWA shall be free to use as its own, without payment of any kind or liability therefore, any idea, scheme, technique, suggestion, layout, or plan received during this Eligibility Determination Process.

### 12.2. Ownership and Disposition

The EDR and related submittals, including all drawings, plans, photos, and narrative material, shall become the property of LAWA upon receipt by LAWA. LAWA shall have the right to copy, reproduce, publicize, or otherwise dispose of each submittal in any way that LAWA selects.

## 13.0 LAWA RESERVED RIGHTS

LAWA reserves to itself all rights available to it under applicable law, including without limitation, the following rights, with or without cause and with or without notice:

1. To withdraw or cancel the Eligibility Determination Process in whole or in part at any time, without incurring any cost obligations or liabilities;
2. To issue a new Submittal Instructions;
3. To accept or reject any and all EDRs and other submittals;
4. To modify dates set or projected in this Submittal Instructions;
5. To reject any EDR from a Respondent who has previously failed to timely and satisfactorily perform any contract with the City;
6. To terminate review and evaluation of EDRs received;
7. To waive any informalities, irregularities or omissions in an EDR;
8. To permit clarifications or supplements to an EDR, or accept and review a non-conforming EDR;
9. To verify any and all information submitted in relation to the Eligibility Determination Process;
10. To require confirmation of information furnished by a Respondent, require additional information from a Respondent concerning its EDR and require additional evidence of qualifications to perform the work described in this Submittal Instructions or a subsequent RFP for the APM Project; and
11. To revise this Submittal Instructions and issue addenda to this Submittal Instructions at any time.



LAWA assumes no obligations, responsibilities, and liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties responding to this Submittal Instructions. All such costs shall be borne solely by the Respondent. In no event shall LAWA, the Board or the City be bound by, or liable for, any obligations with respect to the APM Project until such time (if at all) as a contract, in form and substance satisfactory to LAWA, has been authorized and executed by the Board and, then, only to the extent set forth in the contract. LAWA, the Board and the City make no representations that any contract will be awarded based on the results of this Eligibility Determination Process or the APM Project procurement.

### **13.1. Disclaimers**

In issuing this Submittal Instructions, LAWA, the Board and the City specifically disclaim the following:

1. Any obligation to reimburse a Respondent for any costs it incurs responding to this Submittal Instructions; and
2. A notice of eligibility issued by LAWA does not imply a certification or “guarantee” of the APM Operating System performance.

In submitting an EDR in response to this Submittal Instructions, Respondent is specifically acknowledging these disclaimers.