

Request for Qualifications (“RFQ”)
September 21, 2010



Developer For New Carrollton Metro Station & Adjoining State of Maryland Property

*“Make no little plans; they have no magic to stir men's
blood...Make big plans, aim high in hope and work.”*

Daniel H. Burnham
US architect & city planner
(1846 – 1912)

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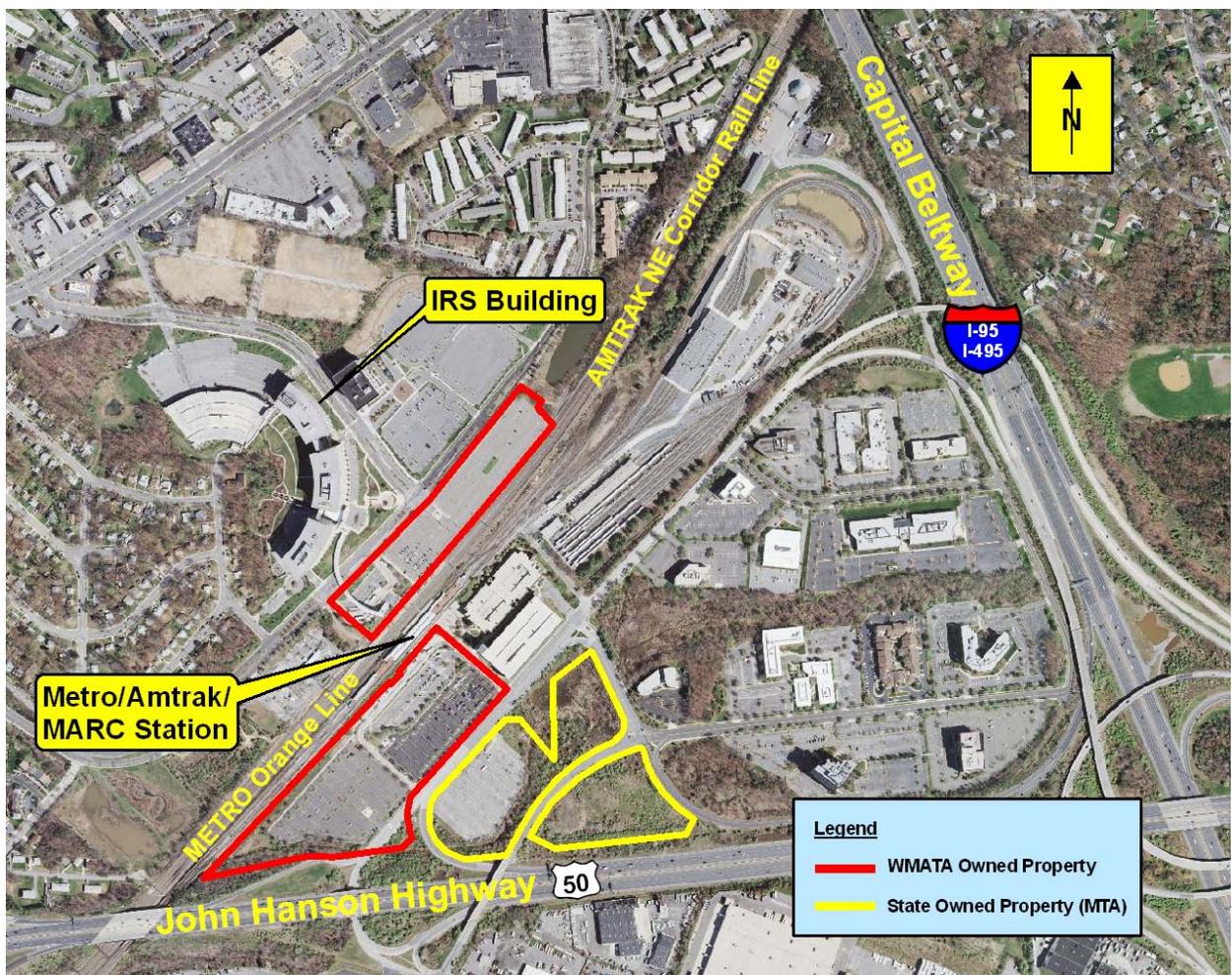
Note to those who may respond to this RFQ. Part One is intended to give background, overview, and set out the process envisioned by the RFQ. Part Two is intended to give further detail as to the process and how to respond, and to set out legal requirements.

PART ONE: OVERVIEW

I. INTRODUCTION

1.1 Summary

The Washington Metropolitan Area Transit Authority (“Metro”) and the State of Maryland acting by and through the Maryland Department of Transportation (“MDOT”) and the Maryland Transit Administration (“MTA”, collectively with MDOT, the “State;” and the State collectively with Metro, the “Public Team,”) seek a highly qualified developer to plan and develop a project located on Metro and State owned properties at the New Carrollton Metro Station in Prince George’s County, Md.



The “Project” will be Transit Oriented Development (“TOD”) of three sites totaling approximately 39 acres: Metro North (approximately 8 acres adjacent to the Internal Revenue Service building), Metro South (approximately 15 acres), and State South (approximately 16 acres) which will include providing transit facilities in suitable locations on site. The Public Team is interested in working with a developer who can collaborate with local stakeholders to create a Project that creates a vibrant sense of place at the New Carrollton Metro Station; creates an urban, walkable mixed use community; enhances and connects with the existing local community; and provides needed transportation infrastructure. The developer will be selected based on qualifications (see “Qualifications” Section 5.2 below), and may be a single developer experienced in all relevant property types or a development team. The Public Team does not want a developer who obtains entitlements and then assigns parcels to others for development. Final agreements will contain restrictions on such assignments.

Submissions in response to this Request for Qualifications (“RFQ”) are due Friday, November 5, 2010 by Noon, EST. For a full schedule of Activities, see Section 5.1.

The developer or development team who is selected pursuant to this RFQ (the “Selected Developer”) will initially collaborate with the Public Team to select an nationally recognized group of consultants, whose work will be initially funded by the Selected Developer and the State, to create a development plan for the station (the “Development Plan”) in conjunction with stakeholders and the Public Team. Stakeholders (as further detailed at the end of this section) will include representatives from the Prince George’s County government, The Maryland-National Capital Park and Planning Commission, community members, landowners, and adjoining businesses. The Development Plan will be based on the 2010 New Carrollton Transit District Development Plan and Transit District Overlay Zoning Map Amendment (“TDDP/TDOZ”), as approved by the Prince George’s County District Council (see “Zoning and Transit District Development Plan” section), and Metro’s Bus Study which will set out the bus facility requirements for the station. The State will fund up to \$350,000 to pay for consultant services. There is no pre-set maximum for the cost of the 3rd party consultants funded by the Selected Developer. However up to \$650,000 of those costs will later be returned to the Selected Developer via an offset to the valuation of development rights (see Section 6.2 for details).

The Public Team seeks innovative ideas and plans that will yield a quality development for the local community, utilize sustainability principles, and adhere to the principles of Transit Oriented Development. TOD projects are walkable, mixed use communities which integrate transit facilities and reduce auto dependency. TOD projects should also facilitate pedestrian/bicycle access to transit, improve community safety and security, enhance transit ridership, and generate revenue for the public and private sectors. TOD communities are typically of higher density when compared to other communities more remote from transit facilities. They should create an attractive sense of place.

The Development Plan will have to integrate multiple transit modes and attractive public spaces with a mix of private buildings. The Selected Developer will provide private sector input

into the design, density, building sizes/floorplates/heights, and mix of uses that will be financially feasible, and lead to a successful Project.

1.2 Stakeholders

The process envisions assembling a team of stakeholders including representatives from Metro, the State (including the MTA's Purple Line Project Team), Prince George's County (the "County"), the Maryland-National Capital Park and Planning Commission ("M-NCPPC"), the National Railroad Passenger Corporation ("Amtrak"), the neighboring communities, and adjoining business and property owners (collectively the "Stakeholders").

2. PROJECT GOALS

The New Carrollton Metro station area should be a prime destination and activity center for the region that can attract and integrate new development and build on the value of the existing transportation infrastructure. The ultimate goal of redevelopment of the New Carrollton Metro Core is to create a vibrant community that is economically and environmentally sustainable for businesses and residents. Project(s) proposed by Developers should:

1. Create Transit Oriented Development in accordance with the TDDP/TDOZ - a walkable, mixed-use community which reduces auto dependency and enhances/promotes the use of public transit services.
2. Utilize mixed-use development of office, retail, hotel, and residential uses with a heavier weighting of non-residential uses.
3. Create quality gateways into the Station area and foster a unique sense of place.
4. Integrate multiple transit modes—including the planned Purple Line-- and attractive public spaces with a mix of private buildings. (The Purple Line is a light rail line planned to connect Bethesda and New Carrollton, both in Maryland.)
5. Deliver high-quality design that significantly improve the physical realm of New Carrollton.
6. Provide suitable high-traffic pedestrian connectivity and emphasize street level activity that is safe, secure and appealing.
7. Create a variety of retail uses that will enhance the new development and complement/appeal to the neighboring commercial and residential communities.
8. Preserve and respect the residential character of the single family neighborhoods abutting the Metro Core.
9. Employ smart growth principles and obtain certification under LEED or comparable standards as provided in section 6.4
10. Provide a path for a future extension of the planned Purple Line to the south and east of New Carrollton.

11. Focus on improving bicycle access to the Metro Core and making the development bicycle friendly.

3. CONTEXT

3.1 The Metro Station Site

The New Carrollton Metro station (the “Station”) address is 4700 Garden City Drive, New Carrollton, MD 20784. It is located west of Garden City Drive, north of John Hanson Highway, east of Harkins Road and South of Ellin Road. The station has entrances at the intersection of Harkins Road and Ellin Road, and Garden City Drive near US Route 50 (Exit 19 on Interstate 495). The New Carrollton Metrorail station north site is approximately 8 acres and includes access roads, 1,010 parking spaces consisting of a surface daily parking lot (825 spaces) and kiss and ride parking (185 spaces including 16 motorcycle spaces), four bus bays, and an elevated pedestrian bridge connecting the station to the three-building IRS complex located immediately northwest of the site. The north site is planned to accommodate the future Purple Line, in addition to other Metro facilities and Joint Development. The New Carrollton Metrorail station south site is approximately 15 acres and includes 983 surface parking spaces consisting of two surface parking lots (947 spaces) and kiss and ride parking (36 spaces), six bus bays, and access roads. The Metro parking garage (1,747 spaces) and the Prince Georges County parking garage (1,017 spaces) are located on the south side of the station but are not included in this solicitation. There are 18 bike racks and 16 lockers available at the station. Taxi stand, car sharing and motorcycle parking are also available and included in the number of kiss and ride spaces. The MTA property contains a 430-space all day surface parking lot.

Lot descriptions are given in Appendix C.

3.2 Multi-Modal Transit Center Data

The station benefits from the best multi-modal transportation infrastructure in the Metrorail system and meets GSA site location criteria for federal buildings. It is the terminus for the Orange Line in Prince George’s County and the planned eastern terminus of the new cross-county Purple Line light rail between Bethesda in Montgomery County and New Carrollton. The Station is at the intersection of the Washington Beltway (I95/I495) and Route 50, the major east west highway connecting Washington, DC with Annapolis, MD and the Chesapeake Bay Bridge. It is served by Amtrak (intercity), MARC Rail (regional commuter), Greyhound/Peter Pan (intercity) Bus, Dillon (commuter bus service) and The Bus (local county bus service), in addition to Metrorail and Metrobus. The Amtrak waiting room is located beneath the Metro station platform. The Amtrak station is the only suburban Washington area stop for the Northeast Corridor rail service between Washington and Boston with service to intermediate major metropolitan areas of Baltimore, Wilmington, and Philadelphia, New York City, New Haven, and Providence. There is also an Amtrak stop at nearby Baltimore/Washington International Thurgood Marshall Airport (“BWI”). The MARC Penn Line commuter train provides morning

and evening peak hour service between Baltimore and Union Station in Washington, DC, with an intermediate stop at BWI airport. Via rail, New Carrollton is approximately 15 minutes From BWI Airport and 15 minutes from downtown Washington, DC.

In addition to the rail service provided by Metrorail, Amtrak and MARC, the New Carrollton station is a major transit bus terminal with 254 bus trips and approximately 2,700 bus boardings on the south side of the station; and 176 bus trips and approximately 1,000 bus boardings on the north side of the station. Specifically, Metrobus operates 19 bus routes, Prince George's County's The Bus operates three routes; MTA operates trips to the station as requested, and Peter Pan and Greyhound provide interstate bus service. A privately operated commuter bus service (Dillon) provides a connection from the New Carrollton Station to Annapolis. Metrorail ridership data shows that the station has an average of 10,200 entries/exits per weekday. Bus passengers, service, operational circulation and staging must be accommodated on this site and as close to the station entrance as possible to adhere to Metro operational standards and meet requirements of the Americans with Disabilities Act. All access modes require sufficient space to function well and must be accommodated in the Development Plan.

3.3 Surrounding Area

The station is located just outside of the City of New Carrollton, a suburban residential community, located in central Prince George's County, Maryland. New Carrollton boasts a prime metropolitan location near Washington DC (approximately eight miles northeast of downtown), Baltimore and Annapolis. A substantial amount of office space already exists in the immediate vicinity of the New Carrollton station. To the south of the MTA property is the Metro East Business Campus, a 16 building office park containing approximately 1.4 million square feet and a Courtyard by Marriott Hotel (150 rooms). To the north is the Internal Revenue Service complex on Ellin Road (approximately 1.2 million square feet and 5,000 employees) and the Computer Sciences Corp. campus on Harkins Road. To the north and east of the station is the Four Points Sheraton Hotel and low-rise retail uses oriented toward MD 450. Immediately to the west of the station are the established residential communities of West Lanham Hills and Hanson Oaks.

3.4 Zoning and Transit District Development Plan

On May 4, 2010, the Prince George's County District Council adopted CR-33-2010, which approved the New Carrollton Transit District Development Plan ("TDDP") and Transit District Overlay Zone ("TDOZ") Map Amendment. Interested developers are encouraged to view the plan and the District Council Resolution of Approval at http://www.pgplanning.org/Projects/Ongoing_Plans_and_Projects/Community_Plans_and_studies/New_Carrollton.htm .

The TDDP envisions a high density, mixed use urban center, with base building heights up to 16 stories and bonus density heights as high as 22 stories. The TDOZ, which includes the Metro

core, is bounded by Annapolis Road (US 450), the Capital Beltway (I-95/I-495), John Hanson Highway (US 50) and Veterans Parkway. The plan anticipates over 5 million square feet of new office/retail/hotel/entertainment space, and up to 5,500 new residential units. The Metro core contains the highest density portion of that development with approximately 2.5 million square feet of office/retail/hotel/entertainment space and up to 3,000 residential units¹. The TDDP vision for development of the New Carrollton Station Metro core includes walkable, high-intensity transit oriented development with active ground-floor uses and direct visual connections to adjacent streets. The County envisions a renovated Metro station as a centerpiece of a new “downtown” location.

4. RFQ PROCESS OVERVIEW

A brief summary of the development process under this RFQ, beginning with the determination of a Selected Developer and ending with obtaining entitlements, including individual leases for each phase of development, is given below. A more detailed explanation of the process of responding to this RFQ and becoming a Selected Developer is given later in this document.

4.1 Selection Phase (See Section 5 for further detail)

1. Issue RFQ
2. Pre-Response meeting & optional site tour
3. Deadline for questions
4. Submission deadline
5. Selection Committee review
6. Oral interviews
7. Selected Developer conditionally identified by Public Team
8. Memorandum of Understanding (MOU) between proposed Selected Developer and Public Team—details responsibilities for the next phase
9. Selection of Selected Developer is ratified

4.2 Planning Phase (See Section 6 for further detail)

1. Developer and Public Team formulate strategy to create the Development Plan
2. Developer implements strategy/ organizes Stakeholder input to create Development Plan
3. Development Plan created; Stakeholder consensus obtained
4. Project Coordination Agreement and Development Plan are ratified

4.3 Execution Phase One (See Section 7 for further detail)

1. Joint Development Agreement
2. Initial Property Valuation

¹ The property being offered comprises a substantial part of the Metro Core.

3. Public Team Approval of the Joint Development Agreement including business terms, and approval by the Federal Transportation Administration (IMPORTANT NOTE: This is the point at which development rights transfer to the Selected Developer)
4. Development entitlement (County) process
5. Phase Lease² for the first phase

4.4 Subsequent Execution Phases (See Sections 7.4 and 8 for further detail)

1. Property Valuation
2. Phase Lease¹ for each phase of the Project

5. SELECTION PHASE

5.1 Schedule of Activities

<u>Item</u>	<u>Date</u>
RFQ Issue Date	September 21, 2010
Mandatory Pre-Response Conference	October 5, 2010
Deadline for Receipt of Inquiries via email	October 12, 2010
Answer to email Inquiries	October 22, 2010
Response Submission Deadline	November 5, 2010
Meetings with developers (if required)	November 30, December 1, 2010
Developer Selection	December 16, 2010

5.2 Qualifications

The criteria for choosing a Selected Developer (which may be a development team) include prior experience in leading and completing large, complex, mixed-use TOD projects, demonstrated financial capacity to complete the Project, prior experience in dealing with communities and other Stakeholders, qualifications and experience of members of the Project Team (see Section 10.3.F), and the specific personnel assigned to the Project. Prior experience in public/private transactions (see Section 10.3F) and the inclusion of disadvantaged/minority business enterprises on the Project Team (see Sections 9.14 and 11.2E) will also be considered. Each developer must self-certify as to its integrity and business ethics (see Appendix F and G). Given that a mix of uses is contemplated, the Project Team should include preferably partners

² Land for residential condominiums has typically been sold, but a sale is subject to Metro Board approval. Also, State land may be sold or leased

who have extensive experience in developing each property type, or alternatively consultants with experience in a property type that the developer may not have.

5.3. Pre-RFQ Response Conference

A mandatory Pre-RFQ Response Conference will be held on **October 5, 2010 at 2 p.m.** at Metro Headquarters, 600 Fifth Street, NW, Washington, D.C. in the lobby level meeting room. The Pre-RFQ Response Conference is intended to give developers the opportunity to ask questions about the RFQ and to request clarifications. It is assumed that those attending will have generally familiarized themselves with the site in advance. Attendance by at least one member of the developer team at the Pre-RFQ Response Conference is mandatory for those who intend to respond to this RFQ. Please allow 15 minutes to get through building security when arriving for the meeting.

5.4. Inquiries

Inquiries concerning this RFQ are to be submitted via email only to:

Contracting Officer
Steven E. Goldin, Director of Real Estate
sgoldin@wmata.com
Office of Station Area Planning and Asset Management
Washington Metropolitan Area Transit Authority
600 Fifth Street, NW (5B-20)
Washington, D.C. 20001

The deadline for receipt of written inquiries is **5:00 p.m. on October 12, 2010**. Any response made by Metro's Contracting Officer to an inquiry will be in the form of an amendment to this RFQ. Oral explanations or responses are not binding.

5.5. Deadline for Response Submission

Six paper originals and 30 CD sets (see section 10.2) of the Response must be received in a sealed package not later than Noon on November **5, 2010** (the "Response Submission Deadline"). The Public Team may subsequently request additional paper copies. For details related to presentation and content of responses see Section 10.

5.6 Selection Committee

The Selection Committee will be comprised of four representatives from Metro and four representatives from the State. For details as to selection criteria and weighting, see Section 11.

5.7 Memorandum of Understanding ("MOU")

The MOU is not intended to be a long or complicated document. It is intended to set out a “roadmap” for the parties to advance to the next stage of this process. While the specific steps will be negotiated between the Selected Developer and the Public Team, the following broad steps leading to the creation of the Development Plan are anticipated to be included in the strategy:

1. Meet with M-NCPPC, the Prince Georges County Executive and District 3 Council member or their respective representatives, and other relevant officials of Prince Georges County and the City of New Carrollton.
2. Develop and execute community outreach and Stakeholder coordination strategy.
3. Specify responsibilities of the Selected Developer and Public Team members with respect to selecting and interacting with consultants retained to assist in preparation of the Development Plan.
4. Conduct site analysis of developable parcels.
5. Identify potential users/tenants.
6. Identify site plan elements including building footprints, transit facilities, public spaces, access, commuter parking, project parking, loading, and storm water management facilities.
7. Survey lots to be subdivided and refine parcel area computations.
8. Develop architectural design concepts.
9. Review plans with Stakeholders.
10. Obtain consensus for final Development Plan – including Prince George’s County officials (Formal approvals required by Metro’s Board of Directors and the Maryland Department of Transportation (see Section 9.9 for further details).

6. PLANNING PHASE

6.1 Strategy to Create Development Plan

This is set out in the MOU above.

6.2 Creation of the Consultant Team

The Selected Developer, in coordination with the Public Team and a group of nationally recognized consultants (approved by the Public Team) will be responsible for conducting the process that results in the creation of the Development Plan, pursuant to the goals of the TDDP/TDOZ. Consultants will be retained in the following areas: land use planning, architecture, engineering, transit planning, community outreach, cost estimating, public relations, advertising, fiscal impact analysis, survey, and any other areas to which the Selected Developer and the Public Team agree (“the Consultant Team”). To support the creation of a development plan, MDOT intends to make available approximately \$350,000 in consultant resources to the project for pre-development work to be provided by MDOT and MTA on-call consultants, in areas of planning and design, financial and business analysis and environmental and

engineering activities.³ The work of MDOT/MTA's consultants will be coordinated by the Public Team and the Selected Developer, and will be integrated with the work produced by other consultants on the Consultant Team. The Selected Developer will be responsible for funding the cost of the remaining consultants on the Consultant Team.

When development rights are valued, the cost of 3rd party consultants funded by the Selected Developer (over and above the costs funded by the State), not to exceed \$650,000, will be returned to the Selected Developer via an offset to valuation⁴. If for some reason, this process does not lead to a Joint Development Agreement, a provision of the MOU will be that Metro will refund to the Selected Developer its pro rata share of the 3rd party consultant costs (for work deemed usable, up to the point work was stopped) from its available proceeds when a development rights transaction closes with a replacement Selected Developer. All work product produced by the Developer will become the property of the Public Team including but not limited to: plans, surveys, engineering and environmental studies, community presentations, property title work.

6.3 Creation of the Development Plan

As stated in the introduction, the Development Plan should be consistent with the vision, standards and guidelines presented in the recently approved TDDP/TDOZ. This does not mean that the Development Plan will replicate the illustrative site plan proposed by the TDDP. One purpose of the Development Plan is to add detail to the recommendations of the TDDP, recognizing that various Stakeholders may have differing ideas, which will be resolved through the process.

The Development Plan will provide the detail as to the location of new streets, pedestrian/bicycle paths, and public spaces; the location of all transit uses; and the location of new buildings with their projected size, height, and uses intended for each building. This will entail the creation of site plans, attending meetings with Stakeholders and obtaining their input, creating presentation materials and making presentations at such meetings, and revising plans as needed. While the site plans need not be fully engineered drawings, they should take into account the topography of the site, so that the final plans, which must meet ADA requirements, do not cause material changes to the Development Plan.

The Development Plan should include a phasing schedule for the new development. The Development Plan should also include cost estimates for non-Public Team public improvements and a plan showing how the Selected Developer intends to fund those improvements.

³ Funding is allocated within current TOD Implementation Program levels, in the MDOT six-year Consolidated Transportation Program. However, please note that the TOD program is subject to annual appropriations.

⁴ This provision will be submitted to the Metro Board for approval with the MOU. If it is not forthcoming, there will be no obligation to proceed by the Selected Developer. This provision will become part of the Joint Development Agreement (see section 7.1) which is subject to approval by the Federal Transit Administration.

6.4 LEED Certification

Plans should also follow sustainability principles and anticipate LEED ND certification for the entire site and LEED Gold certification for the office component. If the Selected Developer believes that LEED Gold certification is an impediment to development as compared to LEED Silver, the Public Team is willing to consider evidence corroborating that belief. The Public Team may also consider a nationally recognized alternative to the LEED system.

6.5 Project Coordination Agreement (“PCA”)

Once the Development Plan has been created and consensus obtained, the parties will create a Project Coordination Agreement (“PCA”) which will be the “roadmap” for achieving final approvals, and the vehicle for obtaining approval of the Development Plan by the Public team members. While the Metro North, Metro South, and State properties all must be part of the Development Plan, there may be reasons that a Developer responding to this RFQ prefers to have a smaller project. The minimum project that will be approved must include the Metro South and North properties. The State property may be included, but it is not required. If only Metro properties are included in the PCA, the parties to the PCA would be Metro and the Selected Developer. If both Metro and State properties are included, the PCA would be a multi-party agreement among the Selected Developer and the Public Team. A project of the size contemplated by this RFQ will of necessity be a multi-phase project. The PCA will specify:

1. The Development Plan.
2. A plan for the relocation or reconfiguration of Metro and State facilities, and if applicable, a plan for the temporary relocation of Metro and State facilities and their interim operation during construction of the permanent Metro and State facilities. (See Section 7.1 for further explanation.)
3. A statement as to whether the State Property is included.
4. The property to be included in the initial phases including the construction of public facilities and the first privately developed building, and whether any property is proposed to be sold.
5. A proposed development schedule for the remaining phases of the project.
6. Any facilities serving either Metro or State property but located on the property of the other. (Examples: Replacement of State commuter parking on Metro land, or storm water facility serving the Metro property on State land.
7. The timing and methodology of compensation to the applicable members of the Public Team, including a formula for any sharing based on number 6 above.
8. A financing plan for the construction of public facilities other than those of the State or Metro, such as new streets.
9. Identification of perpetual easements or property rights of Public Team members to be reserved for the operation and maintenance of any permanent Public Team member facilities, as well as easements or other rights to be reserved for the operation and maintenance of any interim facilities.

Note that Metro has certain mandatory development requirements, which are given in Appendix E to this document, including the provisions of Metro’s Design Criteria and Adjacent Construction manuals. Mandatory State requirements are given in Appendix F.

The PCA must be approved by the Metro Board, and by the Maryland Secretary of Transportation. To ensure consensus on the process, MDOT will provide notice and comment opportunities with the Board of Public Works staff and the Maryland Department of Legislative Services before finalizing the PCA.

7. EXECUTION PHASE

7.1 Joint Development Agreement (“JDA”)

Subsequent to the PCA, the Selected Developer will negotiate with each Public Team member a Joint Development Agreement (“JDA”) which is the document that sets out the business terms between the parties and transfers development rights. Members of the Public Team have agreed to obtain third party appraisals to value their properties based upon highest and best use. Public Team members are required to obtain fair market value (Metro) and adequate compensation (State) in disposing of their properties. These appraisals will be used by the members of the Public Team in negotiating compensation for its property or properties. The JDA will provide for reservations or easements to be created. If Public Team member facilities are to be relocated, the JDA will also provide for an interim relocation plan. For example, Metro buses operate 365 days per year. If one or both of the current bus bay areas are to be moved or rebuilt as per the Development Plan, there must be a nearby temporary location so that the buses may operate during the interim until a permanent facility is completed.

IMPORTANT NOTES AS TO FINAL APPROVALS: Approval of the Development Plan, MOU, and PCA by the Metro Board are in the nature of interim approvals. Metro is not bound to any of the provisions of the Development Plan and PCA unless and until the Metro Board approves the Joint Development Agreement. The State is not bound until the JDA or a comparable agreement is approved by the Maryland Board of Public Works (“BPW”).

7.2 Valuation

7.2.1 Metro Property

As to Metro property, once the Development Plan has been agreed upon, and development sites identified, the method of valuation is that, for each phase of development and at the time that phase is taken down, Metro and the developer would each hire an appraiser to value the development rights. If the parties cannot agree, the two appraisers would select a third appraiser who would independently value the development rights, without having seen the first two appraisals. As between the first two appraisals, the one with a value closest to the third appraisal (as determined by the third appraiser) would become the agreed upon value. Metro will also participate in capital events and excess cash flow.

There would be two adjustments to market value. One is that the cost of the third party consultants hired by the developer to produce the Development Plan may be deducted as provided in section 6.2. The other is that if the existing Metro facilities are rebuilt or relocated, that cost would be reflected in the appraisals as a deduction from the first development site, and if necessary, from subsequent sites until repaid. Expansions of Metro facilities, including the Metrorail station, would be paid by non-developer sources.

In the case of a property to be sold, the appraisals would relate to sales price.

Metro staff is willing to explore an alternative valuation method, with the caveat that it would be new to Metro and has not been presented to or approved by the Metro Board. It would be a “synthetic joint venture.” This is similar to a traditional joint venture between a landowner and a developer, except that the land will be an unsubordinated ground lease. The guaranteed lease payment to Metro would be lower than in a conventional land lease, and Metro would participate in the profits of the venture. Given that development at New Carrollton will likely occur in multiple phases, this structure would provide greater predictability and flexibility, and allow the Selected Developer to more quickly respond to attractive market conditions.

The choice of valuation method would be decided by the Selected Developer and Metro, and specified in the PCA.

7.2.2 State Property

As to State property, the State is required by law to receive adequate compensation as approved by the Board of Public Works. The Board of Public Works requires that two recent, independent appraisals be conducted and certified by the State Highway Administration’s Appraisal Review Section for any fee simple disposition of MTA-owned property.

7.3 Other Approvals

For Metro, there are two additional steps in the process. First, a public hearing is required to obtain public comment on the relocation or redesign of any Metro facilities (the “Compact Public Hearing”). In this case, the public will have had ample opportunities to participate in the planning phase, but this hearing is nonetheless required by the Compact. The staff report summarizing the comments from the Compact Public Hearing must be approved by the Metro Board. This has typically been done after the JDA is approved, but may possibly be done concurrently with negotiation of the JDA. Second, the transaction also must be approved by the Federal Transit Administration (“FTA”) after the Metro Board approves the JDA. FTA approval is the final step of the Metro process to transfer property rights. Each agreement is contingent on the entire Metro process being completed. It is then the Selected Developer’s responsibility to create detailed plans and obtain County entitlements as it would for any project. Metro retains the right to review and approve subsequent plans to ensure they are consistent with the Development Plan, and to approve any plans related to its facilities. Metro is focused on the

site plan and Metro facilities, and does not review plans for the interior of any private developments. If State property is initially included, and the Selected Developer is not able to reach agreement on business terms with the State, it may revise its plans and, with Metro's consent, go forward on Metro property only. The reverse is not true. If the Selected Developer does not reach agreement with Metro, the RFQ will be terminated and the process ends.

NOTE: The participation of the Public Team in the property disposition or leasing process is limited to its capacity as a property owner (not as a Public Authority) and does not relieve the Private Developer of compliance with all applicable laws and governmental requirements. For example, County site plan approval and building permits are still required.

7.4 Phases

Given the size of the Metro properties, the Project will almost certainly be developed in phases. The JDA will contain as an exhibit a basic form of Phase Lease to be used for each Phase of the project. This form can be customized to the specific details of each site provided the business agreement does not change.

8. SUBSEQUENT EXECUTION PHASES

At the time the Selected Developer is ready to take down a particular phase of the Project, the Selected Developer would notify the relevant Public Team member, and the parties would prepare the relevant documents very much as with any private transaction, except as to Metro, the basic document would be the Phase Lease. The Selected Developer is responsible for obtaining County entitlements (such as site plan approval, building permit), and there would be a settlement statement and closing very similar to a private transaction.

PART TWO: RFQ PROCESS AND REQUIREMENTS

SECTION 9: ADMINISTRATIVE AND CONTRACTUAL INFORMATION

9.1. Issuing Information

This Request for Qualifications (“RFQ”) is issued in accordance with Metro’s Joint Development Policies and Guidelines, Revised November 20, 2008, and as may be further amended, which is available at http://170.121.12.216/business/joint_development_opportunities/real_estate.cfm.

As stated earlier, the Metro sites included in this solicitation are available primarily under a long-term lease, as Metro’s preference is to lease, rather than sell, its property. If a sale is proposed, the Response must clearly demonstrate that a sale is more advantageous to Metro than a long-term lease. Land on which residential condominiums are built is typically sold.

MDOT has entered into an agreement for WMATA and MDOT to jointly issue an RFQ for the included properties, with WMATA serving in the leading role during the solicitation process. The sale or lease of State properties is governed by applicable State laws and is subject to the approval of the Maryland Board of Public Works.

9.2. Purpose and Scope

This RFQ is intended to provide interested developers with sufficient summary information about the Public Team’s requirements to facilitate Response preparation. It contains instructions on Response content and format, but does not attempt to define all of Metro’s Joint Development contract requirements in detail. Certain contract requirements are non-negotiable as described in Appendix E.

9.3. Amendments and Supplements to RFQ

Metro reserves the right to issue amendments and/or supplements to this RFQ. Developers will be required to acknowledge in writing the receipt of an amendment and/or supplement.

9.4. Acceptance/Rejection of Responses

This RFQ does not commit Public Team to designate a Selected Developer or to enter into a Development Agreement. The Public Team reserves the right to accept or reject any or all Responses.

9.5. Acceptance of Terms and Conditions

By submitting a Response, a developer is deemed to have agreed to and accepted all terms and conditions set forth in this RFQ. Notwithstanding the foregoing, the Public Team reserves the right to amend or modify any of the terms and conditions.

9.6. Developer Status

Developers who respond to this RFQ are responsible for becoming fully informed regarding all circumstances, information, laws and any other matters that might, in any way, affect the developer's roles and responsibilities in the Project. Any failure to become fully knowledgeable of any other matters that might in any way affect the Project shall be at the developer's sole risk. The Public Team assumes no responsibility for any interpretations made by developers on the basis of information provided in this offer or through any other sources. The Public Team makes no representations or warranties regarding the environmental condition of the site.

9.7. Binding Agreement

As to Metro, an executed Joint Development Agreement, approved by the Metro Board of Directors, is the only binding commitment of and by Metro with respect to the Site. Designation of a Selected Developer, Metro's agreement to a Term Sheet, if one is created, or any conduct or oral representations by Metro shall not in any way constitute a binding obligation or commitment by Metro. In submitting a Response, the developer acknowledges it will have no legal or equitable right to, or interest in, the Site except as set forth in an executed Joint Development Agreement.

For the State properties, it should be noted that this RFQ is not conducted under the provisions of Maryland Procurement Law (COMAR Title 21) but it is governed by the Annotated Code of Maryland, State Finance and Procurement Article, Section 10-305. Respondent(s) recommended for award as a result of this solicitation will enter into a written development agreement (JDA or equivalent) with the State. Any formal contract becomes final only upon approval by the Maryland Board of Public Works and, where applicable, the Federal Transit Administration. Standard contract provisions required in any negotiated lease/contract/lease-sale/development agreement will include:

- Officials Not to Benefit
- Right-of-Entry
- No assignment without State prior approval
- No claims for noise/vibration
- Dispute Resolution
- Default and Termination Provisions
- Contamination
- Applicable Terms and Conditions of the solicitation and any amendments
- Standard clauses normally associated with commercial lease agreements, including but not limited to provisions for rent, lease term, condemnation, liens, renewal term, determination of rent, late payment penalty and no subordination of the State's fee interest.

9.8. Costs

The Public Team shall not be liable for any costs incurred by a developer and/or developer team responding to this RFQ or any costs incurred with respect to the negotiation of the Development Agreement and related final documentation.

9.9. Approvals

The chart below gives shows the Public Team approvals that will be required as part of the process contemplated by this RFQ.

Required Approvals Matrix

Developer Selection and MOU	<ul style="list-style-type: none"> • Metro Board • MDOT, after notice and an opportunity for comment from the Maryland Board of Public Works (“BPW”) & Department of Legislative Services (“DLS”) staff
Development Plan and PCA	<ul style="list-style-type: none"> • Metro Board • MDOT, after an opportunity for notice period and comment from BPW and DLS staff
Joint Development Agreement	<ul style="list-style-type: none"> • Metro Board • MDOT • BPW
Initial Phase Lease Execution	<ul style="list-style-type: none"> • Metro Board for WMATA-owned property • MDOT and BPW for State-owned property • Federal Transit Administration
Compact Public Hearing	<ul style="list-style-type: none"> • Metro Board approves staff report of hearing
Subsequent Phases Lease Execution	<ul style="list-style-type: none"> • Metro Board for WMATA-owned property • MDOT and BPW for State-owned property • Federal Transit Administration

Regarding State approvals, the Board of Public Works has approval authority over contracts and the disposition of State property. The Joint Development Agreement and any sale or lease of State property will require BPW approval. Regarding the use of State properties for TOD projects, the State has policies and practices in place to address notification of General Assembly budget committees and coordination with the BPW. MDOT will coordinate with BPW

and DLS staff on the MOU and PCA; though BPW approval is not required at these phases, it will be important to involve the BPW and DLS throughout the process. Depending on the issues and deal structure contemplated, MDOT, BPW and DLS staff may opt to present the agreements to the BPW for their review and/or approval.

The FTA also has oversight approval of the terms of the JDA. Its review has typically been that transit uses and facilities have been properly provided for, and that a fair market valuation has been obtained.

9.10. Late Responses

Any Response received by Metro after the Response Submission Deadline shall be considered a Late Response. A Late Response may be accepted and evaluated by the Public Team at its sole discretion.

9.11. Response Security

A Response Security of \$100,000 must be submitted with each Response. The Response Security is initially refundable and then may become non-refundable according to the provisions of section 12 of this RFQ.

9.12. Metro Facilities

Metro Facilities are critical to the efficient operation of the transit system and must be accommodated in the site plan. If Metro agrees to discount the value of the land to reflect the cost of replacing Metro Facilities as provided in Section 7.2.1, and the Selected Developer is able to obtain another source of public subsidy for replacing the Metro Facilities, then Metro shall be entitled to receive 80 percent of the public subsidy obtained. This provision shall survive execution of the Joint Development Agreement. Metro staff will make public the terms of its agreements insofar as they affect the deliberations that potential subsidy providers may undertake when considering whether and how to provide project funding support beyond that made available through land value discounting by Metro for its replacement facilities.

Metro has a policy of replacing surface parking on a 1:1 basis. Historically, this has been accomplished by the construction of Metro owned garages. The existing surface parking on the Metro South property has already been formally replaced in a Metro garage. Therefore there is no requirement to move the Metro South surface parking into a garage (see also Prince Georges County District Council approval of the TDDP). On a site-specific basis and where compatible with Metro's revenue bond obligations, the Metro Board may consider changes to this policy. The Prince George's County District Council approval of the TDDP encourages shared parking by which, for example, some developer-built parking would be available for use by Metro riders during the business day, and by retail store customers at night and on weekends. If the Selected Developer is interested in shared parking or other concepts, the ideas should be explored with Metro staff.

9.13. State Facilities

Parking will be a significant issue to address when creating a Development Plan for the WMATA and State properties. Because the State is interested in improving access to transit while reducing auto dependency through this TOD project, creative approaches are encouraged to address replacement parking needs for the two sites.

While the WMATA parking spaces on the south site have been formally replaced (as noted above), the State seeks to ensure that access to the Metrorail and MARC systems is not unreasonably compromised for commuters currently parking at either site. In other words, replacement requirements would be driven by expected utilization of the parking facilities at the WMATA and State facilities, at the time of the development. Furthermore, the State encourages the Developer to consider parking needs for the project holistically – for commuters, residents, office users and retail – and explore shared parking, parking districts and other strategies to maintain access while minimizing the need for parking facilities within the project.

The approved New Carrollton TDDP authorizes the establishment of a transportation demand management district (“TDMD”) to promote the use of public transportation and non-motorized forms of transportation while reducing the demand for parking within the TDOZ. The Selected Developer will be strongly encouraged to consult with the Prince George’s County government and M-NCPPC to determine the feasibility and requirements for establishing or helping to establish a TDMD to serve the Metro Core and other parts of the New Carrollton TDOZ area.

9.14. Minority Business Enterprise (“MBE”) Participation

As to State properties only, the State strongly encourages participation by Minority Business Enterprises, when permitted or required by law. If the selected Developer plans to seek financial assistance from Prince George’s County, for example by seeking Tax Increment Financing, it should be assumed that County requirements for participation by Minority Business Enterprises will apply. (The County Council Resolution as to TIF policy is attached as Appendix H.) The County places high emphasis on MBE equity participation. This issue can be discussed in greater detail at the October 5 meeting.

SECTION 10: RESPONSE PREPARATION/ FORMAT/CONTENT/SUBMISSION

10.1. Submission Instructions and Requirements

This section describes RFQ submission requirements necessary for a developer’s response to be deemed ‘responsive’ to this RFQ. Failure to respond with the requisite information may result in a developer being eliminated from consideration. To be considered, a developer must submit a complete response to this RFQ together with the Response Security. The Public Team

encourages creative and innovative Responses which promote Transit-Oriented Development consistent with local land use policies. Do not submit renderings of the future New Carrollton. Responses should be straightforward and contain a concise delineation of the developer's capability to satisfy the requirements of this RFQ. Further, the Public Team is not seeking overly elaborate or lengthy responses. While no page number minimums or maximums are specified, quality of thorough responses is valued more than length of responses. To the extent feasible, all Responses should be printed on both sides of each page.

The submittal must include the elements of sections 10.2 and 10.3 below to be deemed responsive.

10.2. Response Submission Structure

Six paper Responses must be submitted in **two separate**, 8.5 x 11 inch bound Folders with Folder 1 containing the full response to this RFQ except for Financial Information, and Folder 2 containing Financial Information (which is primarily balance sheet information). Names of financial partners and other financial sources, to the extent known, should be in Folder 1, as opposed to audited financial statements which should be in folder 2. The Response should also contain 30 CD sets with Folder 1 and Folder 2 on separate CDs. The contents of Folder 1 will be shared with interested stakeholders. The contents of Folder Two are intended for the Metro and State members of the Selection Team, and their internal experts such as the Chief Financial Officer, or staff member from that office. To the extent permitted by law and regulation, these will be kept confidential.

The contents of each Folder must comply with Section 10.3 of this RFQ. Responses should include the identical titles and numbering for each subsection as set forth in this RFQ.

10.3. Response Contents

A. Transmittal Letter

The transmittal letter should include the following information:

1. Name, title, telephone number, and e-mail address of the person designated as the primary contact for the lead development company and any development partners.
2. Names and relationships of all companies included in the qualification submittal (e.g., economic consultant, architect, cost estimator, etc.).

Please note that statements in response to this RFQ are sought only from experienced developers of large scale urban, mixed use projects. Professional service providers, building contractors or others should not respond to this RFQ.

The transmittal letter must also include a statement that the firm is not in arrears in the payment of any obligation due and owing to Metro, Prince George’s County and the State of Maryland, including tax payments and employee benefits and that it shall not become so during the term of the agreement if selected; a statement that the Response is valid for a minimum of 240 days from the date of submission; a statement that the developer will negotiate in good faith with the Public Team, and a statement that the firm grants to the Public Team a non-exclusive right to use, or cause others to use the contents of its Response (Part I), or any part thereof, for any purpose.

B. Completed Response Form (3 pages) -- See Appendix D, Affidavits –see Appendix F, and Ethics Certification—see Appendix G.

C. Response Security

D. Table of Contents

E. Executive Summary excluding all financial information (5 pages maximum)

F. Project Team

The “Project Team” is defined as the lead developer plus any other developer team members and any non-developer team members who represent the expertise for a particular property type. Do not include architects, engineers, economists, contractors, etc. since they will be selected in conjunction with the Public Team after a Selected Developer has been approved. Provide complete information that explains the relationship among team members and their respective roles and contributions. An organization chart is a required attachment to the cover letter.

Identify the existing commitments of the Project Team to other development projects, as measured by the number and type of projects (including proposed development projects), expected duration and dollar value. Discuss how the team members would manage the additional work that would result if the team is selected as Selected Developer by the Public Team. Please provide the names and phone numbers of public agency references for completed public/private mixed use development projects for which the Project Team acted as a master developer and that are comparable to the Project envisioned in this RFQ. For each reference, indicate the contact person’s role in the completed project and the time period of his or her involvement. Also provide names and phone numbers for at least two major tenant references that are large “anchor-tenants” in projects developed and managed by the lead developer. While completed projects are preferred, relevant “in process” projects, which are in the construction phase or later, may be included. Proposed projects should not be included. Developers are advised to include a statement that the Project will conform to all applicable Federal, State and County laws and ordinances, and that they accept responsibility to ensure compliance with applicable Federal, State and County laws.

G. Intentionally Omitted

H. Conceptual Approach & Methodology

Developers are requested to demonstrate their understanding of this RFQ by submitting a conceptual approach and methodology for Project implementation. This narrative should articulate the developer's vision for the Project including density and mix of uses, and how the developer's vision would advance the goals described in this RFQ. This vision statement should not be longer than two paragraphs.

The developer should also discuss its approach and methods to ensure a feasible Project design that creates high-quality places, including design excellence, is sensitive to adjacent neighborhoods, includes "green building" design and construction methods for the site and individual buildings, and is sensitive to the needs of special populations such as the disabled. The narrative must include information regarding an approach and methods to involve the Stakeholders in the design of the Project, an approach to community and Stakeholder collaboration, and an approach to predevelopment activities and phasing, construction, marketing and lease-up, and operations.

I. Experience and Background

It is essential for the Public Team to fully understand the experience and capabilities of all key members of the Project Team.

1. Provide a summary of the lead developer's experience in managing large, complex projects that required interaction with a broad range of interested parties from both the public and private sectors. While completed projects are preferred, relevant "in process" projects, which are in the construction phase or later, may be included. "To be built" projects may not be included.
2. The following information is required for each key member of the Project Team and developers are requested to highlight projects where members of the Project Team have previously collaborated:
 - a. Description of experience within the most recent ten-year period related to TOD projects.
 - b. Demonstration of experience in completing projects of the scale and complexity envisioned in this RFQ within budget and on schedule.
 - c. Demonstration of experience, expertise and creativity with sale/leasebacks, capitalized leases, or other structures that allow the developer to obtain private capital, and institutional or public agency owners to realize the value of owned property.

- d. Extent of the experience of specific individuals on the developer's proposed Project Team in public/private development projects, including TOD.
 - e. Demonstrated ability to structure public/private development projects to raise private capital to pay for public improvements.
3. Resumes of all key Project Team members to be involved in the Project are required and should include: relevant experience, details regarding the specific role proposed for the Project, education and professional licensing.
 4. Projects included for reference should be described only once and the description should include: project size in total land and building area; project scope; project location; development value; project length from inception to completion; roles of Project Team member or members during project execution, and client reference name, phone number and authorization to contact given references. Photos, site plans, and renderings are helpful.
 5. Respondents should identify with specificity any other relevant organization, consultant or other available resources that will be committed to the Project.
 6. Provide history of litigation with public entities during the previous 10 years for each developer member of the Project Team.

J. Financial Capability

Given the complex nature of the Project, the Public Team must understand the developer's financial capability to undertake and successfully complete the Project.

1. Describe the master or lead developer's experience in obtaining private equity and debt for public/private developments similar in scale to the Site described in this RFQ.
2. Indicate the source(s) of both debt and equity financing for each referenced project stated above and describe the developer's commitment and capability to provide capital for this Project.
3. Indicate the amount of immediately available financial resources to fund the costs associated with creation of the Development Plan, negotiation of development agreements, obtaining entitlements and other approvals, and other pre-development activities.
4. Provide the names, phone numbers, and email addresses of two commercial bank references, two financial partner references, and two major tenant references.
5. Under separate cover and marked "Confidential" (Folder 2), provide current audited financial statements of the organizations that will comprise the business entity to be

formed for this Project. Indicate available equity capital, and available lines of credit via a letter from each of the financing sources stating total amount of credit line and the amount which is still available to be drawn.

After the Response Submission Deadline, The Public Team will evaluate the responses (sometimes referred to as “Responses”), screening against the qualifications and selection criteria stated in this document, including developer competency and financial capacity. The Public Team may also create a “shortlist” of qualified candidates at any time in the process. After an initial screening, the Public Team may coordinate one or more meetings so that remaining developers may present their Qualifications to Stakeholders. The Public Team may request that developers submit clarifications or additional information. While the Public Team welcomes comments and opinions of Stakeholders, Metro staff is solely responsible for conducting evaluations and making selection recommendations to the Metro Board as to the Metro property, and the MDOT staff is solely responsible for conducting evaluations and making selection recommendations to the Secretary of Transportation as to the MTA property.

SECTION 11: DEVELOPER SELECTION

11.1 Selection Committee

The Selection Committee will be composed of four representatives from Metro and four representatives from the State.

11.2 Selection Criteria/Weighting

The designation of a Selected Developer will be based on: the quality, clarity and thoroughness of the Response and its compatibility with the RFQ’s stated objectives, submission requirements, the results of information gathered from interviews with developers, and reference checks.

The following criteria will be used to evaluate a developer’s submittal. The weighted score for each category follows in parentheses.

A. Prior experience in developing large, complex TOD projects; New Carrollton vision (30%)

1. Demonstrated experience and success as a master or lead developer working with public entities to structure and implement large scale, urban mixed use redevelopment in the past 10 years that are comparable to and include the uses envisioned in this RFQ and the Sector Plan.
2. Demonstrated experience in completing projects of the scale and complexity of the type of Project envisioned in this RFQ in a timely manner and within budget.

3. Vision for New Carrollton in relation to Section 10.3H, the Project Goals and the principles of the TDDP.
4. Strength of recommendations provided by references for the developer.
5. Demonstrated experience with successfully achieving LEED certification for a development site and/or an office project.

B. Financial capacity to complete the Project (40%)

1. Strength and liquidity of balance sheet
2. Demonstrated experience, expertise and creativity with sale/leasebacks, capitalized leases or other structures that allow institutional or public agency owners to realize the value of owned property, and obtain private capital for facility renovation.
3. Demonstrated ability to structure public/private development projects to reduce the public partner's capital investment and associated risk, particularly for infrastructure improvements.
4. Existing institutional investor relationships, the duration of each, and if an established fund, the amount invested and the amount remaining for future investments, or otherwise how future investments such as New Carrollton would be funded. (Does not apply to institutions who may propose as lead developer.)

C. Prior experience in Public/Private Transactions and in dealing with communities and other Stakeholders (10%)

1. Demonstrated experience in creating modern mixed-use development with a combination of public and private uses, and whether any of the public uses were related to transit. The Public Team may also weigh the history of litigation with Public entities of each respondent.
2. Demonstrated experience with successful community/stakeholder outreach programs.
3. Demonstrated ability to reach out and connect with stakeholders from moderate income and minority communities to obtain meaningful input.

D. Qualifications and experience of members of the Project Team (10%)

Completeness of information on proposed Project Team, and explanation of relationships among members that clearly shows the roles and contributions of each.

Availability of Project Team members and the effectiveness of their plans for balancing the workload associated with the Project described in this RFQ and other existing commitments.

Strength of recommendations provided by references.

Extent of the experience of specific individuals on the proposed Project Team in creating successful public/private transit-oriented development projects.

E. Prior experience with Project Teams including Disadvantaged Business Enterprises (“DBE’s”) and Minority Business Enterprises (“MBE’s”) (10%)

Demonstrated experience in assembling Project Teams which include DBE’s and/or MBE’s, specifying whether the DBE’s or MBE’s were equity partners, contractors, or consultants. All are meaningful, but equity participation will be given more weight.

SECTION 12. ADDITIONAL REQUIREMENTS AND PROCEDURES

12.1. Assignment of Response, Change in Selected Developer or Withdrawal of Selected Developer

The Public Team considers the designation of Selected Developer to be in the nature of a personal services contract. The Selected Developer will be designated because of its skills, experience, knowledge and financial standing.

A developer who submits a Response to this RFQ may wish to withdraw, make changes to its Response or change the composition of its Development Team. Such changes will be treated as follows:

A. Prior to the last date shown for developer meetings in Section 5.1

Such changes may be made provided the Response still meets all the criteria of this RFQ. Should the Public Team not approve of the changes, it may reject the Response, or the developer may withdraw the Response. In either case the Proposal Security will be returned without interest.

B. After the last date shown for developer meetings in Section 5.1

Changes may be made only with the written consent of the Public Team. If consent is not granted, and the developer wishes to withdraw the Response, the Proposal Security will be forfeited and retained by the Public Team.

C. After designation as the Selected Developer

After a developer is notified that the Public Team staff intends to recommend it as the Selected Developer, the developer must request the Public Team's written approval to change its composition, the composition of its Project Team, or make other changes to its Response. If the Public Team does not approve the changes, and the developer does not want to proceed in accordance with its Response, the Public Team may withdraw its recommendation of the Selected Developer and retain the Response Security. This shall be the case regardless of whether the staff recommendation has been ratified according to a Public Team member process, or regardless of the date of such notification.

D. Other Situations

An assignment or change in the composition of a developer or the Selected Developer and Project Team which is not addressed above is at the sole discretion of the Public Team. For any such assignment or change to be valid, the Public Team's prior written approval is required. Any purported assignment occurring without the Public Team's prior written approval shall be void.

12.2. Termination of Selected Developer Designation

The Public Team may terminate the Selected Developer designation for any of the following reasons and retain any deposit held by the Public Team (except as stated otherwise in subsection I below):

- A. The Selected Developer and Public Team staff cannot agree on the provisions of any agreements specified in this RFQ.
- B. Omitted.
- C. The Selected Developer or any individual or entity holding ownership in or comprising the Project Team declares bankruptcy.
- D. The ownership structure of the Selected Developer changes without the Public Team's prior written approval. Structural changes include changes in percentages of ownership interests or changes in ownership of any entity holding an ownership interest in the Selected Developer.
- E. The Selected Developer assigns its designation or transfers its rights in the Joint Development site without the Public Team's prior written approval.
- F. The Selected Developer or any principal, officer, director, partner, member, manager or equivalent of any person or entity constituting a member of the Selected Developer is the subject or target of an investigation, or is indicted for, or convicted of, a fraud or a felony.

- G. The Selected Developer provided materially incorrect or incomplete information in any of its submissions to the Public Team, as determined in the Public Team's sole and non-reviewable discretion.
- H. The Selected Developer does not comply with this RFQ, its Response or the terms of the Development Agreement as negotiated by the parties.
- I. In accordance with Section 12.4 below, the developer conducts environmental due diligence and as a result of newly discovered information modifies its Response in a manner which is unacceptable to the Public Team. Under such circumstances, the Public Team shall return the Response Security without interest, less site restoration costs incurred by the Public Team.
- J. The Public Team determines (in its sole and non-reviewable discretion) that termination is in its best interest.

12.3. Developer's Research Obligations

A developer is expected to know all information reasonably ascertainable concerning the Site including size and character, quality and quantity of surface and subsurface materials, existing utilities, and obstacles on the Site. Some of this information is available from a visual inspection of the Site and may be available from technical drawings and specifications (as built drawings) which the Public Team will make available upon request, utility companies serving the area and local land records. The Public Team disclaims all responsibility and liability for the completeness or accuracy of any information it provides. The Site is subject to existing physical and legal conditions, whether of record or not.

Additionally, the developer is expected to know the conditions affecting construction on the Site, which include, but are not restricted to, those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads, the topography and conditions of the ground, and the character of equipment and facilities needed before and during prosecution of the work.

12.4. Environmental Matters

The Public Team has undertaken no comprehensive environmental investigations of the presence or absence of contaminated material or other environmental conditions that may affect development except as may be specifically identified in PART ONE. The Selected Developer may request permission to perform a due diligence environmental site assessment after its designation as the Selected Developer. Such due diligence site assessment and all associated costs shall be the sole responsibility of the developer. As to Metro property, permission will be granted by Metro subject to the execution of a Right of Entry Agreement with standard insurance and indemnity provisions. A sample Right of Entry Agreement is available on Metro's website. Click on "Business with Metro," (lower right corner of home

page), "Joint Development & Real Estate," "Real Estate," and "Permit Application for Use of Metro Property " or "Washington Metropolitan Area Transit Authority Real Estate Permit." The shortcut to both documents is:

http://www.wmata.com/business/joint_development_opportunities/real_estate.cfm?

As to MTA property, a Right of Entry Agreement application is available upon request from the MDOT Office of Real Estate. Any inspection or other on-site investigation of State property must be coordinated through the MTA, by contacting George Fabula at 410-767-3908 or gfabula@mtamaryland.com.

The Public Team shall be provided, in a timely manner, a copy of each test result and report addressing the environmental site investigation. In the event that the due diligence environmental site assessment is performed after the designation of the Selected Developer, but prior to the execution of a development agreement, sales or lease agreement as the case may be, the Selected Developer and each Public Team member may negotiate the transaction based upon the levels of contaminated materials or other environmental conditions encountered which would substantially delay development or substantially increase the costs of excavation, removal or disposal of soil/materials, or the treatment of groundwater. If the parties cannot agree upon the resolution of these issues, the Selected Developer may withdraw its Response but the Selected Developer is responsible for site restoration costs, and the Public Team has the corresponding right to terminate the Selected Developer designation in accordance with Section 12.2.

12.5. Protest Policy

The policy and procedure for the administrative resolution of protests involving the designation of a developer arising pursuant to this RFQ are as follows:

- A. Only an Interested Party may submit a protest. An Interested Party is defined as a developer who submitted a Response pursuant to this RFQ.
- B. Protests must be submitted no later than 30 calendar days after the Public Team's designation of the Selected Developer. Any protest submitted subsequent to this time is untimely but may be deemed timely by the Public Team in its sole and unreviewable discretion if the Public Team concludes that the issue(s) raised by the protest involves fraud, gross abuse of the selection process, or otherwise indicates substantial prejudice to the integrity of the selection process. For the purposes of this section 12.6, each member of the Public Team will act thought its Contracting Officer.
- C. The Interested Party wishing to file a protest shall submit a written document to the Public Team's Contracting Officer which contains the following:
 1. The name and address of the Interested Party;

2. Description of the nature of the protest;
 3. Identification of the provision(s) of this RFQ, applicable Joint Development Policies and Guidelines or laws upon which the protest is based;
A statement of the specific relief requested; and
 4. Any documents relevant to the protest.
- D. The Public Team shall carefully review the protest in consultation with Public Team staff. At the discretion of the relevant Contracting Officer, a conference may be held with the Interested Party. The Contracting Officer shall have 30 calendar days to render a written decision on the merits of the protest. A determination by the Public Team member's Contracting Officer that a protest is meritorious may result in a change in the terms, conditions or format of this RFQ in the form of an amendment; the rejection of a Response; the cancellation of this RFQ; or the termination of the designated Selected Developer.
- E. This Protest Policy is not applicable to actions taken by Public Team members in response to legal proceedings filed in the courts, or actions taken by a member of the Public Team in its sole and non-reviewable discretion.
- F. Protests relating to this solicitation or the award of a contract, for the State properties, must be filed in accordance with Title 15, Subtitle 2, Part III of the State Finance and Procurement Article, Annotated Code of Maryland, and COMAR Title 21 (State Procurement Regulations), Subtitle 10, Administrative and Civil Remedies.

12.6 Guaranty

A Public Team member, as to its property, may require a third party to guarantee some or all of the obligations of the Selected Developer including, but not limited to, construction obligations for Metro or State facilities.

APPENEDIX A: DEFINITIONS

Compact Public Hearing. A public hearing required by the WMATA Compact. (see Part 1, Metro Process Overview)

County. Prince George's County, Maryland

Development Plan. The plan created by the Selected Developer in conjunction with the Stakeholders to develop around the Station (see Part 1, Introduction)

DBE's. Disadvantaged Business Enterprises: The U.S. Department of Transportation designation of a for-profit small business concern that is owned at least 51 percent by a socially and economically disadvantaged individuals(s) and/or a tribally owned concern, and who controls the managerial and day-to-day business operations of the business. Sometimes referred to as "federal certification".

Folders. See Part 2, Section 8.2

Joint Development. A Metro program in which Metro engages with the private sector in developing around its facilities

Joint Development Agreement. The legal document transferring development rights to the Selected Developer (typically including as an exhibit, a form of either a lease or sale agreement, subject to certain conditions)

Metro. The Washington Metropolitan Area Transit Authority

Metro Facilities. Facilities utilized by Metro. Examples: Metrorail station, Bus bays, bike lockers, parking lots, information kiosks, traction power substations

Metro Interim Facilities. Facilities constructed to accommodate Metro functions during the time that permanent facilities are being constructed. Example: Temporary location of bus bays while the current site of bus bays is under construction

Metro Replacement Facilities. Facilities constructed to replace existing Metro facilities such as relocated bus bays

MDOT. The Maryland Department of Transportation

MBEs. Minority Business Enterprises: A for-profit business concern that performs a commercially useful function and is legitimately owned and controlled by one or more minorities who are U.S. citizens or lawful permanent residents, or minority business enterprises certified in accordance with State Regulations.

M-NCPPC. The Maryland National Capital Park and Planning Commission

MOU. Memorandum of Understanding (see Part 1, Metro Process Overview)

MTA. The Maryland Transit Administration

Project. A Transit Oriented Development at the New Carrollton Metro Station which will include retaining all transit facilities in suitable locations on site (Note: when used with initial lower case as “project,” the word refers generally to real estate developments except as stated in Appendix C which applies to this Project and generally to projects proximate to Metro facilities)

Project Team. The lead developer plus any other developers and key team members such as architects, engineers, economists, contractors, bankers, etc. who are critical for consideration of the Response by the Public Team.

Public Facilities. Facilities owned by a public entity other than the State or Metro

Public Team. Metro and the State of Maryland

Response. Responses submitted as a result of the RFQ process

Response Security. (see Section 9.11)

Response Submission Deadline. The Deadline for Response submissions is given in Section 5.1

RFQ. A Request for Qualifications issued in accordance with Metro’s Joint Development Policies and Guidelines (revised November 20, 2008 and as may be further amended) by which a developer may be selected to participate with local Stakeholders in planning a Transit Oriented Development project, and then, once a project is agreed upon, to build the project

Selected Developer. The developer selected by Metro as to its property, and MTA as to its property, as a result of the RFQ process (see Section 1.1)

Stakeholders. Representatives from Metro, Prince George’s County, the Maryland-National Capitol Park and Planning Commission, Amtrak, MDOT, MTA, the neighboring communities, and adjoining property owners

State. The State of Maryland acting by and through MDOT and/or MTA

State Facilities. Facilities owned by the State or one of its agencies.

Station. The New Carrollton Metrorail Station

Synthetic Joint Venture. See Valuation—Metro Property, Section 7.2.1

TDDP/TDOZ. Transit District Development Plan/Transit District Overlay Zone. See Section 3.4

TOD. Transit Oriented Development (“TOD”) developments are walkable, mixed use communities which integrate transit facilities and reduce auto dependency. TOD should also facilitate pedestrian/bicycle access to transit, improve community safety and security, enhance ridership, and generate revenue for the public and private sectors. TOD communities are typically of higher density when compared to other communities more remote from transit facilities. They should create an attractive sense of place. Please also refer to the website of the Center for Transit Oriented Development (www.CTOD.org).

APPENDIX B: ECONOMIC INCENTIVE PROGRAMS

The Developer will be responsible for developing public/private financing structures and obtaining the financing to optimize, if necessary, the use of public funding.

The State and local governments administer programs to incentivize economic development, to attract jobs and grow our tax base. The following programs applicable to the New Carrollton Station area are highlighted:

Designated Transit Oriented Development project - The site is located within a proposed *Designated Transit Oriented Development*, under an MDOT program recently announced by the Governor, pursuant to the Annotated Code of Maryland, Transportation Article 7-101 and 7-102. It is one of 14 sites statewide included in the initial proposed designations.

This program is part of the State's *Smart, Green and Growing* initiative to encourage sustainable development. Designated TODs are prioritized for funding and the location of new or relocated State offices. There is also greater flexibility financing of projects by the Maryland Economic Development Corporation. For more information, visit www.mdot.maryland.gov/Planning/TOD/TOD_Designation or call: Andrew J. Scott, Special Assistant to the Secretary for Economic Development, MDOT at 410-865-1095.

GSA Central Business District – New Carrollton has been designated as a Central Business Area by the Prince George's County Council (CR-71-2007), with the purpose of attracting the location of federal facilities. Under Presidential Executive Order 12072 pertaining to location decisions by the United State government in urban areas, federal agencies are required to give first consideration to central business areas identified by local governments. This designation, coupled with the location of the IRS building and the policy emphasis of the Obama Administration on sustainable locations, makes the site attractive for potential federal tenants.

Enterprise Zone - The Station is within a Maryland Enterprise Zone. Businesses locating in these zones may be eligible for income tax and real property tax credits in return for job creation and investments. These include:

- Real property tax credits – Ten-year credit against local real property taxes on a portion of real property improvements. Credit is 80% the first five years, and decreases 10% annually to 30 percent in the tenth and final year.
- Income tax credits – the one-time \$1,000 credit per new worker. For economically disadvantaged employees, the credit is \$6,000 per employee over three years.

APPENDIX C: LOT DESCRIPTIONS

WMATA – North Parcel

Approximately 8 acres, more or less; also known as Parcels 220 (± 2.1 AC), 55 (± 0.8 AC), 12 (± 0.07 AC), and Lots 10-27 (± 3.5 AC), Block 7 of West Lanham Hills, Tax Map #52, and approximately 1.5 acres to be subdivided from a larger parcel, Prince George's County, Maryland.

WMATA – South Parcel

Approximately 15 acres, more or less; also known as Parcels A (± 7.5 AC) and B (± 8.0 AC), of Garden City, and Portion of Parcel 36 to be subdivided (± 1.6 AC), Tax Maps #51 and 52, Prince George's County, Maryland.

State - MTA Parcel

Approximately 16 acres, more or less; also known as Parcel 122 (15.78 AC), Tax Map # 52, Grid A2, Prince George's County, Maryland.

APPENDIX D: RESPONSE FORM

WMATA/MTA RESPONSE FORM

NEW CARROLLTON RFQ SOLICITATION

Submit this form for each developer on the development team

DEVELOPER:

Name (must be existing entity)

Name of Authorized Representative

Signature of Authorized Representative

Title

Address Including Zip Code

Telephone Number

Fax Number

E-Mail Address

Name of Entity to be Formed (if applicable)

REPRESENTATIONS AND CERTIFICATIONS

REPRESENTATIONS

1. Developer's **existing** operation is as: *(check or complete all applicable boxes)*

- an individual
- a partnership
 - general
 - limited
- Formed under the laws of
- a non-profit organization
- a corporation, incorporated under the laws of
- a limited liability company (LLC) formed under the laws of
- other,

2. Developer's **proposed** operation as set forth in its proposal is as: *(check or complete all applicable boxes)*

- an individual
- a partnership
 - general
 - limited
- To be formed under the laws of _____
- a non-profit organization
- a corporation, incorporated under the laws of
- a limited liability company (LLC), to be formed under the laws of
- other,

CERTIFICATIONS *(check applicable box)*

1. Debarred or Ineligible Contractors:

Developer certifies that its existing operation is, is not included in the "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" maintained by the U.S. General Services Administration.

APPENDIX D
Page 3 of 3

2. Contingent Fee: This section is intended to cover those who might be hired to solicit approval of a developer as the Selected Developer, and not members of the Development Team who contribute to the Response, preparation of the Development Plan or related documents.
- a. Developer [] has, [] has not, employed or retained any company or persons (other than a full-time, bonafide employee working solely for the Developer) to solicit or secure the Selected Developer designation; and
 - b. Developer [] has, [] has not, paid or agreed to pay any company or person (other than a full-time, bona fide employee working solely for the Developer) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of the Selected Developer designation; and
 - c. Developer agrees to furnish information relating to the above as requested by WMATA's or MTA's Contracting Officer.

3. Covenant Against Gratuities:

Neither Developer nor any of its employees, representatives or agents have offered or given gratuities or will offer or give gratuities (in the form of entertainment, gifts or otherwise) to any director, officer or employee of WMATA or the State with the view toward securing favorable treatment in the designation of a Selected Developer or in any determination made with respect to Developer selection, or in the negotiation, amendment or performance of the Joint Development Agreement.

The undersigned Developer certifies that the foregoing is true.

Date

Developer

Authorized Representative

APPENDIX E: METRO MANDATORY REQUIREMENTS

The following requirements and conditions are non-negotiable and the concepts will be included in the Development Agreement executed by the Selected Developer and Metro. By submitting a Response in response to this RFQ, a developer is agreeing to accept and comply with these non-negotiable requirements and conditions. **The provisions of this Appendix E apply to this Project** and all projects proximate to Metro facilities.

1.1. Metro's Reserved Areas and Interests

The location of Metro's Reserved Areas and Interests shall be determined by Metro in its sole and absolute discretion. Additionally, the conveyance or lease of any Metro property shall be subject to a reservation by Metro of permanent, exclusive and irrevocable easement(s) necessary for the operation and maintenance of present and future Metro Facilities, Metro Improvements and Metro Reserved Areas and Interests, including but not limited to easements for vertical and horizontal support, access and utilities.

1.2. Metro's Approval Rights and Adjacent Construction Requirements

A. Approval Rights

Metro shall have the right to approve in its sole and absolute discretion:

1. Matters that affect the integrity, functionality, efficiency, safety, operation, maintenance, legal compliance, cost or profitability of Metro's business, customers, operations or activities;
2. Matters that affect Metro Facilities, Metro Replacement Facilities, Metro Reserved Areas and Interests, ingress/egress to Metro Facilities, etc.;
3. Matters that affect any of Metro's adjacent property;
4. The design and construction of interim and permanent Metro Replacement Facilities; and
5. Matters that affect the Selected Developer's obligations as they relate to timing (changes in project schedule) and performance (changes in what will be constructed, i.e., the product mix).

B. Metro's Comment Rights

Metro shall have the right to comment on the development plan/site plan and on other matters not covered by Section 1.2.A above related to Metro Facilities, Metro Improvements, or Metro Reserved Areas and Interests. The Selected Developer shall be obligated to consider Metro's comments and to respond reasonably.

C. Metro's Construction Requirements

In order to avoid adverse impact on Metro Facilities, projects must be built in compliance with Metro's adjacent construction criteria as contained in Metro's Adjacent Construction Project Manual, Revision 3 and as further revised, and Metro's Manual of Design Criteria, Design/Standard Drawings (Release 9) and Specifications (Release 8) and as further revised. The Adjacent Construction Project Manual is available on Metro's website at: www.wmata.com. Click on "Business with Metro," (lower right corner of home page), then "Adjacent Construction Program" on the lower left side of the screen. The shortcut to this webpage is: http://www.wmata.com/business/joint_development_opportunities/adjacent_construction_information.cfm. Alternatively, one may call the Joint Development Coordinator at 202-962-2043. Additionally, Selected Developers must comply with Metro's requirements for the relocation and maintenance of operations during construction which include the uninterrupted and unimpeded operation of Metro Facilities, including revenue collection. Metro will review and approve Selected Developer plans in accordance with established Metro procedures.

1.3. Relocation or Replacement of Metro Facilities

If a project requires the relocation or replacement of any Metro Facility, on a permanent or interim basis, the Selected Developer shall provide such interim or permanent replacement facilities. No Metro Facility may be taken out of service unless a permanent or interim replacement facility is already available, such that there will be no disruption to Metro operations. Any exception to this requirement is subject to the specific approval of the Metro Board of Directors. The configuration of the interim, relocated, or replaced Metro Facility must be agreed to by Metro in writing.

1.4. Selected Developer's Funding of Metro Compact Public Hearing

A change in Metro Facilities (including parking) may trigger a public hearing requirement under the Metro Compact. The Selected Developer will be required to fund the costs of the Compact Public Hearing, and to that end will deliver Twenty-five Thousand Dollars (\$25,000) to Metro no less than 60 calendar days prior to the date of the Compact Public Hearing. This amount is in addition to the Response Security. If Metro's actual costs are less than the aforesaid amount, Metro will credit the remaining funds to the outstanding amount that it is owed by the Selected Developer.

1.5. No Subordination of Metro's Fee Interest

Metro will not subordinate its fee interest in its property. In a lease situation, Metro will permit lenders to have a leasehold security interest in the Selected Developer Improvements of the project, which security interest will be subordinate to Metro's right to terminate the lease upon a default by the Selected Developer (subject to the lender's right to cure).

1.6. Federal Transit Administration (FTA) Requirements

Metro is subject to the requirements of the FTA. The terms of the Development Agreement negotiated with the Selected Developer, as it pertains to Metro property, are subject to FTA approval. While FTA may impose additional requirements which cannot be known until FTA reviews a specific project, FTA requires that the Selected Developer comply with certain laws and regulations barring discrimination on the basis of race, color, national origin or disabilities; and further requires compliance with FTA requirements regarding conflicts of interest and debarment.

1.7. Americans With Disabilities Act (ADA)

All projects shall be constructed in compliance with Titles II and III of the Americans with Disabilities Act, 42 USCA Section 12101, et seq., as amended, and any regulations promulgated thereunder. Responses must include a plan indicating how access from the project to the Metro station will be provided for persons with disabilities. Additionally, if a project or any subsequent addition, modification or alteration triggers ADA-related improvements to the Metro station, the Selected Developer shall be responsible for the costs of such improvements. The only exceptions are when the ADA-related improvements predate the date of completion of the project and are required to be made regardless of the project, or constitute ADA-related improvements that Metro is implementing at Metro stations in general as part of its system-wide improvements or alterations.

1.8. Direct Connections

If a direct connection to a Metro station is part of the overall project, then in accordance with Section 4.6 above, FTA may determine that the National Environmental Policy Act, 42 USCA 4321, et seq., as amended, is applicable to the project. Additionally, the following laws and their implementing regulations are also applicable to a direct connection:

- A. Rehabilitation Act of 1973, 29 USCA Section 794;
- B. Architectural Barriers Act, 42 USCA Section 4151, et seq.; and
- C. Planning and Design for the Elderly and Handicapped, 49 USCA Section 5301, et seq.

1.9. Davis-Bacon Act/Fair Labor Standards Act

Any Metro Replacement Facility or Metro Improvement must be built in compliance with the Davis-Bacon Act, 40 USC Section 276a, et seq., and overtime compensation must be paid in

compliance with Section 64 of the Metro Compact, and the Fair Labor Standards Act, 29 USCA Section 201, et seq. (1978), as amended.

1.10. Other Laws, Regulations and Requirements

Selected Developers are responsible for being fully informed of, and complying with, the requirements of applicable federal, state and local jurisdictional laws and regulations. Additionally, the Selected Developer shall be responsible for obtaining, at its own cost and expense, all requisite approvals, licenses and permits.

1.11. Metro's Indemnification Policy

The terms of any Development Agreement and final documentation will require that the Selected Developer and its contractors and subcontractors (and subtenants, where applicable) indemnify Metro against all claims, liabilities and costs of whatsoever kind and nature including environmental claims which may be imposed upon, or incurred by, or asserted against Metro in connection with the Selected Developer's performance under the Development Agreement or related agreements.

Metro will accept financial responsibility for environmental damage to the Joint Development site caused by Metro prior to the transfer of the Joint Development site to the Selected Developer and known by Metro at that time.

To the extent that the Selected Developer is a single-purpose-entity; single-asset-entity or other corporate form that has limited capital or liquidity, WMATA will require a monetary guaranty to support the indemnification obligations under the Joint Development Agreement. The form of the funding source (i.e., letter of credit) under the guaranty will be negotiable; however the amount of the guaranty will be determined by WMATA in accordance with the nature of the project and the construction-related obligations under the Joint Development Agreement. In lieu of or in combination with a monetary guaranty, WMATA may accept (but is not required to accept) an indemnification from a parent corporation or other entity (or person) determined by WMATA to have sufficient capital or liquidity to insure payment associated with the required indemnification.

1.12. Metro's Insurance Requirements

The terms of any Development Agreement and final documentation will require that the Selected Developer, its contractors and subcontractors procure and maintain insurance coverage in amounts determined by Metro, which may include, but is not limited to: General Liability, All Risk Property, Builder's Risk, Worker's Compensation, Automobile Liability, Contractors' Pollution Legal Liability, Railroad Protective Liability, Rental Value Insurance, Professional Errors and Omissions Liability and Boiler and Machinery (during operations only).

1.13. Payment, Performance and Completion Bonds

Metro requires that the Selected Developer secure and file with Metro a payment bond equal to 100% of the value of each phase of the project from a federally approved surety company, with sufficient assets. The payment bond must name Metro for the benefit of laborers, subcontractors, material suppliers and others that have or may have claims or liens against the project or the realty.

Metro also requires the Selected Developer to secure and file with Metro a performance bond equal to 100% of the value of each construction phase of the project from a federally approved surety company, with sufficient assets and which bond names Metro for the completion of the planned construction in that phase.

Additionally, if there are Metro Replacement Facilities being constructed, Metro requires the Selected Developer to secure and file with Metro a completion bond equal to 100% of the value of the Metro Replacement Facilities from a federally approved surety company, with sufficient assets, and which bond names Metro as the sole obligee for the completion of the Replacement Facilities.

All bonds must be in a form acceptable to Metro and countersigned by a resident agent of the surety for the jurisdiction in which the Joint Development site is located, with a copy of the agent's license, as issued by the appropriate Insurance Commissioner.

1.14. Metro's Disclaimer of Liability

Metro disclaims all responsibility and liability for the completeness or accuracy of any information that it provides.

1.15. Inspection of Accounting Records

The Selected Developer will be required to permit Metro, or any of its duly authorized representatives, at reasonable times and places, access to any books, documents, papers and records, including certified financial statements, which are directly pertinent to the Development Agreement. Metro shall be permitted to audit, inspect, examine, copy and transcribe such books, documents, papers and records. The Selected Developer shall retain all records for three years after submission of any statement required for determining any payment obligations under the Development Agreement or related agreements.

1.16. Metro's Tax Exempt Status

Metro is tax exempt pursuant to the Metro Compact. Any taxes, assessments or impositions on the project or the real estate shall be assumed by the Selected Developer. In no event shall the Selected Developer assert or attempt to assert for its own benefit, an exemption or immunity available to Metro under the Metro Compact.

1.17. Financing Requirement

The Selected Developer shall be obligated to obtain the requisite financing to consummate the lease/sale of the Metro Joint Development Site, and the development, construction and final completion of the project by a reasonable date certain, or Metro may terminate the Development Agreement.

APPENDIX F: STATE MANDATORY REQUIREMENTS

Respondents must complete the two affidavits in this appendix as part of their Response

MDOT AFFIDAVIT 1: AFFIRMATIONS
SUBMIT THIS AFFIDAVIT WITH STATEMENT

STATEMENT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE
I HEREBY AFFIRM THAT:

I am the [title] _____ and the
duly authorized representative of [business]
_____ and that I possess the
legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. AFFIRMATION REGARDING BRIBERY CONVICTIONS

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing agreements with public bodies, has been convicted of, or has had probation before judgment imposed pursuant to Article 27, Section 641 of the Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland Law, or the law of any other state or federal law, **except as follows** [indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official, or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business]:

C. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing agreements with public bodies, has:

(a) been convicted under state or federal statute of a criminal offense incident to obtaining, attempting to obtain, or performing a public or private agreement or contract, fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;

(b) been convicted of any current violation of a state or federal antitrust statute;

(c) been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §§1961, et seq., or the Mail Fraud Act, 18 U.S.C. §§1341, et seq., for acts arising out of the submission of statements for a public or private agreement or contract;

(d) been convicted of a violation of the State Minority Business Enterprise Law, Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(e) been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (a), (b), (c), or (d) above;

(f) been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of statements for a public or private agreement or contract;

(g) admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described above, **except as follows** [indicate reasons why the affirmation cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment]:

D. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing agreements with public bodies, has ever been suspended or debarred (including being issued a limited denial of partnership) by any public entity, **except as follows** [list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension]:

E. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

1. The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

2. The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, **except as follows** [you must indicate the reason(s) why the affirmations cannot be given without qualification]:

F. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

1. Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

G. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

1. Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Statement that is being submitted; and
2. participated in the formation of this RFQ.

FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with a requirement that every business that enters into contracts, leases or other agreements with the State of Maryland or its agencies during a calendar year shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of Article 33, Sections 14-101 through 14-104 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, shall file with the State Administrative Board of Election Laws a statement disclosing contributions in excess of \$500 to a candidate for elective office in any primary or general election.

DRUG AND ALCOHOL FREE WORKPLACE

I CERTIFY THAT:

1. By submission of its Statement, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under any contract resulting from the solicitation, the business shall:
 - a. Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - b. Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited;
 - c. Prohibit its employees from working under the influence of drugs or alcohol;

- d. Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
 - e. Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
 - f. Establish drug and alcohol abuse awareness programs to inform its employees about:
 - (i) The dangers of drug and alcohol abuse in the workplace;
 - (ii) The business' policy of maintaining a drug and alcohol free workplace;
 - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace.
 - g. Provide all employees engaged in the performance of the contract with a copy of the statement required by §J(2)(b), above;
 - h. Notify its employees in the statement required by §J(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
 - i. Notify the contract officer within 10 days after receiving notice under §J(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
 - j. Within 30 days after receiving notice under §J(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
 - (i) Take appropriate personnel action against an employee, up to and including termination; or
 - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
 - k. Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §(2)(a)-(j), above.
2. If the business is an individual, the individual shall certify and agree as set forth in §J(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.
3. I acknowledge and agree that:
- (a) The award of the contract is conditional upon compliance with this certification;
 - (b) The violation of the provisions of this certification shall be cause to terminate the contract or agreement for default. The violation of the provisions of this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business.

**CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT
I FURTHER AFFIRM THAT:**

1. The business named above is a (Maryland _____) (foreign _____) corporation registered in accordance with the Corporations and Associations Action, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: Name: _____ Address: _____

[If not applicable, so state]

2. Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Employment Security Administration, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

CONTINGENT FEES

I FURTHER AFFIRM THAT:

A. The business warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide salesperson, or commercial selling agency, any fees or other consideration contingent on the making of this Agreement.

B. For breach or violation of this warranty the Administration shall have the right to terminate this Agreement without liability and, in its discretion, add to the price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee. [no fee proposed until after selection]

ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any Agreement resulting from the submission of this Statement shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the Agreement, and (3) other Affidavits comprising part of this Contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____

(Authorized Representative and Affiant)

Printed or Typed Name

MDOT AFFIDAVIT 2: SUBMITTAL FORM

SUBMIT THIS AFFIDAVIT WITH STATEMENT TO MDOT

STATE OF MARYLAND - DEPARTMENT OF TRANSPORTATION AND
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
REQUEST FOR QUALIFICATIONS
NEW CARROLLTON
P R O P O S A L F O R M

Date of Solicitation: September 2010

Project: Request for Qualifications, New Carrollton

In compliance with your General Solicitation of the above date, the undersigned hereby proposes to furnish all services, labor, equipment and materials to perform all work for completion of a proposed Project at New Carrollton in strict accordance with the terms of this Request for Qualifications for the consideration herein proposed, and agreed that, upon written acceptance of this Statement, mailed or otherwise furnished in compliance with this Solicitation, (s)he will within the times required by this Solicitation, execute all agreements and other documents required by the solicitation to be executed, and furnish and maintain such security for performance and payment as required in this Solicitation.

The undersigned agrees that if awarded a contract(s), (s)he will meet all requirements set forth in the Solicitation as may be amended and any resultant contract including all aspects of appendices.

The undersigned acknowledges receipt of the following amendments to the Solicitation (give number and date of each).

Amendment Number _____, dated _____.

Amendment Number _____, dated _____.

Amendment Number _____, dated _____.

Failure to acknowledge receipt of all amendments may cause a Statement(s) to be considered not responsive and would require rejection of the Statement.

By signing and dating this Statement form, each respondent certifies that:

- It is not included in any Federal, State or local listings of debarred or ineligible contractors;
- It has not employed or retained any company or persons other than bona fide employees working for the respondent and its subcontractors as identified in the Statement to solicit or secure this contract;
- It has not paid or agreed to pay any company or person other than bona fide employees working for the respondent and its subcontractors as identified in the Statement any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract;
- Neither it nor any of its employees, representatives or agents have offered or given gratuities (in the form of entertainment, gifts or otherwise) to any director, officer or employee of the State of Maryland, Maryland Department of Transportation with the view toward securing favorable treatment in the evaluation, awarding, amending, or

the making of any determination with respect to the Statement consideration and the performing of the contract, and

- It agrees to furnish information relating to these representations and certifications as requested by the contracting and legal officers of the State.

The respondent represents as part of its offer that:

It operates as () an individual, () a partnership, () a corporation incorporated under the laws of the State of _____, or () other business entity. If other business entity, explain

In witness whereof, the respondent has executed this Statement for this _____ day of _____, 2005.

Respondent:

Firm Name Signature Date

Address

City & State Zip Code

Telephone No. Facsimile No./E-Mail Address

Representative Authorized to Act on Alternate Authorized Representative

Respondent's Behalf

Corporate

Seal

APPENDIX G: METRO SELF CERTIFICATION—BUSINESS ETHICS

Self-Certification for Prospective Developers

The offeror hereby certifies to the best of its knowledge and belief that it, any principal of the offeror, any member of the offeror (including a principal of any member that is an entity):

1. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from award of contracts by any governmental entity.
2. has not within the past ten years been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a contract or subcontract with a governmental entity; violation of antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating criminal tax laws, or receiving stolen property;
3. is not presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in the previous paragraph;
4. is not in arrears or in default of payment of any money or obligation of a value greater than \$3,000 due a governmental entity;
5. has no adjudicated violations nor has paid penalties during the past ten years relating to the housing and building laws, regulations, codes and ordinances of any governmental entity; and
6. during the past ten years has not had a license revoked that was issued in accordance with the housing, building or professional licensing laws, regulations, codes and ordinances of any governmental entity.

“Principal” means an officer, director, owner, partner or other person with management or supervisory responsibilities or otherwise in a position to control or significantly influence the offeror’s activities or finances.

An offeror that is unable to certify to the statements in this certification shall attach an explanation to this proposal. An offeror that fails to execute this certification or fails to provide adequate information for WMATA to evaluate its inability to certify to the statements in this certification may be ineligible for award.

This certification is a material representation of fact upon which reliance will be placed when making award. If it is later determined that the offeror knowingly rendered an erroneous certification, in addition to other remedies available to WMATA, WMATA may in its discretion terminate the contract resulting from this solicitation for default. The offeror shall provide immediate written notice to WMATA if at any time it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Signature:

Title:

Date:

APPENDIX H

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2006 Legislative Session

Resolution No. CR-89-2006

Proposed by Council Member Dean

Introduced by Council Members Dean, Harrington, Hendershot, Exum and Bland

Co-Sponsors _____

Date of Introduction November 28, 2006

RESOLUTION

A RESOLUTION concerning

Economic Development

For the purpose of establishing the County's policy for the use of Tax Increment Financing and other financial tools and incentives to fund economic and community development projects and initiatives in Prince George's County.

WHEREAS, Tax Increment Financing ("TIF") is an economic and community development tool that enables counties and municipalities to borrow money by issuing and selling bonds for the purpose of financing the development of industrial, commercial, or residential areas; and

WHEREAS, the County Council and the County Executive have met to discuss and formulate economic development policies, strategies and guidelines relative to TIF and other financial incentives that are available to and that can, when necessary, enable the County to provide a range of incentives in support of major economic and community development projects and proposals; and

WHEREAS, the economic and community development projects and initiatives that utilize TIF and other financial tools and incentives shall be consistent with the County's General and Sector Plans and other economic and community development policies, strategies/ tools, and guidelines, as well as generate and produce additional significant revenue that will benefit all County citizens and residents; and

WHEREAS, the economic and community development policies, strategies and guidelines shall take into consideration and maximize all public and private partnership opportunities, employment opportunities, Minority Business Enterprise ("MBE") equity participation opportunities, opportunities to expand the County's commercial base, and the uniqueness that a new project or initiative can bring to the County; and

WHEREAS, the economic and community development policies, strategies and guidelines shall also incorporate mechanisms to measure the necessity of applying TIF and other financial incentives prior to borrowing money by issuing and selling bonds, that include but are not limited to the following: the "But-For Test", the "Trigger Mechanism/Look Back Provision", and the impact of the County credit/bond rating.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's County, Maryland, that Prince George's County shall use the following criteria in determining the appropriateness and necessity of applying TIF and other financial incentives to help fund economic and community development projects and initiatives throughout the County: Proposed projects and initiatives must:

- 1) Be consistent with the County's General Plan and Sector Plans, as well as other economic and community development policies, strategies, and tools;
- 2) Generate additional significant revenue for the County;
- 3) Meet both a short-term and long-term "But-For Test", which demonstrates that the proposed project or initiative is not feasible without the County's participation and assistance;
- 4) Be subject to a "Trigger Mechanism/Look Back Provision", which, on an ongoing basis, examines a project's proposed and projected cash flows, profits, and other financial information to determine whether and when repayment of the County's investment is or may be necessary;
- 5) Where appropriate, be used to help fund the revitalization of an area or community in the County;
- 6) Provide for MBE equity participation;

- rating;
- 7) Not have an adverse impact on the County's credit/bond
 - 8) Expand and strengthen employment opportunities;
 - 9) Expand the County's commercial base;
 - 10) Afford opportunities for public and private partnerships; and
 - 11) Offer creative and unique opportunities for economic and community development projects and initiatives.

BE IT FURTHER RESOLVED, that the County Council periodically may refine these criteria, as well as add additional criteria as experience and circumstances may require.

Adopted this 28th day of November, 2006.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council