REQUEST FOR PROPOSALS (RFP) AMENDMENT

Amendment No.  
RFP No. RFP0503  
Project No.  
Date Amendment Issued May 2, 2005

COMPANY NAME AND ADDRESS (To be completed by Proposer)

Issued By METROPOLITAN TRANSIT AUTHORITY  
Office of Procurement  
1900 Main St., Suite 2021  
Houston, Texas 77002  
P. O. Box 61429  
Houston, Texas 77208-1429

The hour and date specified for receipt of Proposals  
[ ] is not extended  
[ x ] is extended to Monday, May 9, 2005, 5:00 PM Local Time.

Interested Proposers should submit their proposals no later than the close of business (5:00 P.M., Local Time) on Monday, May 9, 2005. Proposals submitted after the stated time and date will not be accepted nor considered by METRO.

Please send ten (10) copies of your proposal to:

Mr. Todd Mason  
V.P., Real Estate Services  
Metropolitan Transit Authority  
1900 Main Street  
Post Office Box 61429  
Houston, Texas 77208-1429

Except as provided herein, all instructions and provisions of the RFP, as heretofore changed, remain unchanged and in full force and effect.

Proposers must acknowledge receipt of this amendment prior to the hour and date specified for the proposal due date, by one of the following methods: (1) By acknowledging receipt of this amendment on the Proposal Form; (2) By signing and returning one (1) copy of this amendment with your Proposal; (3) By separate letter or fax which includes a reference to the Proposal and amendment number(s). FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PROCUREMENT OFFICE PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR PROPOSAL. If, by virtue of this amendment you desire to change your Proposal already submitted, such change may be made by fax or letter, provided such fax or letter makes reference to the Proposal and this amendment, and is received prior to the due date hour and date specified.

BY PROPOSER ________________________________  
Signature of Person Authorized to Sign  
NAME & TITLE OF SIGNER ________________________________  
DATE SIGNED ________________________________

BY: ____________________________________________  
METROPOLITAN TRANSIT AUTHORITY  
Katharine Barnes, Real Estate Services
TITLE: Contracts Administrator
REQUEST FOR PROPOSAL FOR TRANSIT ORIENTED DEVELOPMENT OF THE PROPOSED CYPRESS PARK AND RIDE

The Metropolitan Transit Authority (“METRO”) of Harris County, Texas is pleased to announce a Request for Proposal (“RFP”) for transit-oriented development compatible with METRO’s proposed Cypress Park & Ride (“Cypress”).

The purpose of the RFP is to seek proposals from qualified developers (“Proposer”) to develop, manage and operate transit oriented development in association with the Cypress Park & Ride.

The proposed joint development property is an unimproved 23.26 acre (1,013,206 SF) tract of land bounded on the north by Jarvis Road, the south by the service road to U.S. Highway 290 and on the west by Skinner Road (Attachment I: Site Plat).

Proposals need to accommodate a bus platform as well as 1500 parking spaces for the Cypress Park & Ride patrons. Proposer must consider how their proposal will accommodate this need as well as provide sufficient parking for their own needs. Proposals must also be consistent with the Federal Transit Administration’s Joint Development Regulations (Attachment II: FTA Synopsis).

The selected Proposer of the Cypress site will have had successful experience with financing projects of this size and be expected to plan, finance, construct and operate the joint development property pursuant to the policies and practices outlined in a Joint Development Agreement with METRO.

Proposers are responsible for being fully informed of and complying with the requirements of applicable federal, state and local jurisdictional laws, regulations and restrictions. Additionally, the selected Proposer shall be responsible at their sole cost and expense for obtaining all requisite approvals, licenses and permits.

METRO seeks proposals to foster a creative and innovative development that:

- Enhances and increases ridership on the METRO system;
- Achieves transit, land use, economic development and urban planning goals while maximizing revenues generated to METRO from its property by providing at a minimum a financial return equal to the highest and best use of the Cypress property;
- Provides transportation related services and conveniences;
- Provides pedestrian-oriented development;
- Includes a mix of uses that will support the continued growth and meet identified needs of the immediate area which could include residential, retail, office, hotel/residence inn, restaurants and supportive parking;
- Achieves the highest levels of quality in terms of urban and architectural design;
- Generates economic development benefits through job creations and fiscal revenues to the local area and the City of Houston.
The proposal should be submitted with the following components:

I. Letter of Transmittal

Proposer must submit one (1) original letter of transmittal and a copy bound in each of the ten (10) proposal packages. The letter of transmittal shall be no greater than two pages in length and shall contain the following:

a. Statement as to the name, title, address, telephone and fax number(s) of the individual(s) with authority to bind the Proposer during the period in which METRO is evaluating proposals. Such individual(s) shall sign the Letter of Transmittal.

b. Statement as to the address and legal form of the Proposer. If a joint venture is being proposed provide the information for all participating firms as stated in Item I. a.

c. Statement that the proposal will remain in effect for 45 days after the date due to METRO.

d. Statement that, if selected, Proposer will negotiate in good faith with METRO.

e. Signed and dated Certification of Proposer Regarding Debarment, Suspension and Other Responsibility Matter (Attachment III: Certification).

II. Proposal

The proposal should be a comprehensive and accurate submittal. The proposal needs to be prepared on 8 1/2" by 11" paper with foldouts from this as may be required. Ten (10) copies of the proposal must be submitted. The proposals should be bound by either wire, 3-ring or GBC along the left side and organized in the following fashion, using tabbed, numbered separators for each section:

a. Cover containing RFP title and Proposer’s name

b. Letter of Transmittal (Item I. a through e)

c. Table of Contents:

   Section 1: Overview of Proposer and Project Team

   Section 2: Record of Experience

   Section 3: Proposed Development

   Section 4: Organization and Management Plan

   Section 5: Cost/Benefit Summary and Market Analysis

   Section 6: Appendix
Section 1: Overview of Proposer and Project Team

A concise description of the Proposer, including organizational structure, subsidiary companies, identification of principals or parent companies, length of time in business, office locations and size and overall number of personnel by discipline. If the Proposer is a joint venture, the Proposer shall furnish this information for each entity forming the joint venture and clearly indicate the reason for the joint venture as it directly applies to the RFP.

Section 2: Record of Experience

Proposer shall provide descriptions of its most recent project(s) that demonstrate its ability and qualifications to proceed with a joint development project such as Cypress. The record of experience should include relevant work directly applicable to any referenced project(s). The descriptions should be specific noting the following:

a. Name, address and telephone number of the client’s project manager or contracting officer and written authorization for METRO to contact the client;

b. If applicable, list the name(s), address(es) and telephone number(s) for each entity forming a joint venture for a given referenced project(s);

c. Current status of the referenced project;

d. List values, location and land and building sizes of the referenced project(s);

e. List any and all of your current and past business relationships with the following entities: METRO, U.S. Department of Transportation, FTA, Texas Department of Transportation, Harris County, City of Houston or like agencies, municipalities or government entities in your work experience.

f. List any and all of your outstanding disputes with the following entities: METRO, U.S. Department of Transportation, FTA, Texas Department of Transportation, Harris County, City of Houston or like agencies, municipalities or government entities in your work experience.

g. List any projects in which Proposer or any member of its Project Team has defaulted or declared bankruptcy or is in the process of doing so.
Section 3: Proposed Development

METRO encourages creative and innovative proposals that are compatible with transit and transit operational requirements. METRO recognizes that the proposed development is preliminary and that its composition and details may have some changes prior to actual construction. The description and visual representation should aid in an effective evaluation of the Proposer’s ability to achieve METRO’s joint development goals and demonstrate the Proposer’s vision for the Cypress project. The proposed joint development description should cover at a minimum the following items:

a. Overall vision of the proposed joint development;
b. Nature of the project including building uses, square foot usage and any and all other uses of Cypress;
c. Architectural style and other building components including landscaping in the Cypress joint development;
d. Whether any phasing of the Cypress joint development will occur;
e. Proposer’s vision of the Cypress joint development in relationship with transit and transit operational requirements;
f. Preliminary project budget;
g. Business and financial structure between Proposer and METRO sufficiently detailed to allow an evaluation of the financial returns and risks;
h. A list of any and all financial contingencies;
i. Proposed joint development project schedule.

Section 4: Organization and Management Plan

Proposal should have a detailed description of the proposer's organization and management plan (“Plan”) for the Cypress joint development. The Plan should clearly state the project manager(s) and pertinent personnel who will be associated with the Cypress joint development. Resumes of the project manager(s) and pertinent personnel must be included.

If a joint venture is used key team members must be identified. Resumes of the key team members must be included.

Section 5: Cost/Benefit Summary and Market Analysis

Proposer should include (a) a market analysis of the Cypress property indicating the markets the Cypress joint development will serve; (b) a preliminary ten (10) year financial pro-forma analysis including break-even data showing income, operating costs, capital costs, equity contribution, debt service and returns to Proposer and METRO and (c) how the joint development of Cypress will affect transit ridership.
Section 6: Appendix

a. **Financial Information** Financial information of the Proposer (separate statements for each entity forming a joint venture) which shall include (i) audited financial statements for the past three (3) years including balance sheet, statement of income and retained earnings, statement of expenses and cash flows including notes to the financial statements; or (ii) if not independently audited (either a certified audit or review) then internally prepared financial statements for the past three (3) years certified as true and correct by the president and chief financial officer of the Proposer together with other financial documentation as may be required in order to portray the financial soundness of the Proposer to METRO’s satisfaction. All such financial information shall be prepared in accordance with United States Generally Accepted Accounting Principles.

b. **References** Proposer shall also provide (i) the names and addresses of at least three (3) commercial or institutional credit references within the past three (3) years; (ii) a letter authorizing each credit reference to respond to inquiries from METRO and (iii) the terms and conditions of any significant contingent liabilities such as guaranteed loans or other obligations that could affect this RFP.

c. **Insurance Requirements** The successful Proposer will be required to comply with METRO’s insurance requirements. If the Proposer is a joint venture, the Proposer shall include a written statement explaining how the joint venture will fulfill the requirements of the project and fully discuss and identify the responsibility of each entity forming the joint venture for performing the services and providing the required insurance.

Proposal Evaluation Criteria

A selection will be made regarding this RFP based in part on the Proposer whose proposal would be most advantageous to METRO including but not limited to the following factors:

1. Proposer and Project Team
   a. Qualifications and experience
   b. Experience in Private/Public partnerships
   c. Qualifications/Experience of all team members
   d. Quality and ability of project management team to provide operation and maintenance
   e. Quality of design and construction oversight for similar projects
   f. Success and viability of similar projects
   g. Evaluation for overall compliance with requirements as stated in the RFP
2. Proof of Financial Capability
   a. Proof of development costs
   b. Financial position of developer/team
   c. Proposer’s ability to obtain financing
   d. Financial performance of other projects including gross per square foot, marketing, promotional costs, etc.
   e. Proposer’s ability to acquire bonds and insurance
   f. Market analysis

3. Project/Technical Understanding
   a. Responsiveness to project objectives
   b. Compatibility of project design concept with existing/future site characteristics
   c. Degree to which development reflects creative and innovative Transit Oriented Development principles

4. Transit and Economic Benefit to METRO
   a. Terms and conditions of lease, sale or joint venture
   b. Net increase in assessed value
   c. Increases ridership
   d. Economic benefit to Metropolitan Transit Authority
   e. Benefit to METRO’s customers.

Proposers can download Cypress joint development site information at the Real Estate website [http://www.ridemetro.org/motion/reintro.asp](http://www.ridemetro.org/motion/reintro.asp)
Please contact Thomas Hemingway with questions at 713-739-6044 or email at LRTTH09@ridemetro.org

A pre-proposal conference will be held on Monday, April 25, 2005, at 2:00 P.M. at the Metropolitan Transit Authority’s Administration Building located at 1900 Main Street, Houston, Texas to review and discuss property information and questions related to the RFP.

Interested Proposers should submit their proposals no later than the close of business (5:00 P.M., Local Time) on Monday, May 2, 2005. Proposals submitted after the stated time and date will not be accepted nor considered by METRO.
Please send ten (10) copies of your proposal to:

Mr. Todd Mason  
V.P., Real Estate Services  
Metropolitan Transit Authority  
1900 Main Street  
Post Office Box 61429  
Houston, Texas 77208-1429

NOTES:

1. METRO will accept proposals from experienced developers with a proven track record of successfully undertaking, completing and operating projects of similar scope, cost and complexity.

2. METRO, upon review of submissions, reserves the right to: (A) take no further action; (B) reject any or all proposals that are deemed not responsive to its needs; (C) to amend the RFP at any time, and/or (D) conduct discussions, interviews and negotiations and proceed to award.

3. By signing, dating and submitting the document styled Certification of Proposer Regarding Debarment, Suspension and Other Responsibility Matters (Attachment III) in response to this announcement, you are certifying that neither your firm(s) nor any of their principals are presently debarred, suspended, proposed for debarment, declared ineligible, or excluded from participation in this procurement process by any Federal department or agency. Further, if such a debarment or suspension occurs during the course of the evaluation process, you shall so inform METRO.

4. Each protest of these Solicitation documents shall be submitted for resolution to the Vice President of Procurement & Materials. Each such protest shall be in writing and shall be supported by the information set forth in Chapter 19 of METRO’s Procurement Manual to enable the protest to be considered. A protest will not be considered if it is insufficiently supported or it is not received within the time limits specified herein. A protest based upon terms, conditions or form of a proposed procurement action prior to submission of qualifications, shall be submitted so that it is received by the Vice President of Procurement & Materials no later than five (5) calendar days prior to the specified date for submission of qualifications. For a protest concerning award decision, including evaluations, the initial protest must be received by the Vice President of Procurement & Materials not later than five (5) calendar days after the interested party knows, or through exercise of reasonable diligence should have
known, whichever is earlier, of the grounds for the protest. Each protest will be processed in accordance with METRO’s Protest Procedures located in Chapter 19 of METRO’s Procurement Manual. A copy of the procedures will be provided to the protester upon written request to METRO’s Vice President of Procurement & Materials. A written final determination on any protest will be rendered by METRO’s President & Chief Executive Officer and will be provided to the protester as soon as practicable. Federal Transit Administration (FTA) Circular 4220.1E, paragraph 7L, addresses bid protests. A copy of this paragraph will be provided to the protester upon written request to METRO. Review of a protest by FTA will be limited to a grantee’s failure to have or follow its written protest procedures or its failure to review a complaint or protest or violation of federal law or regulation. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester learned or should have learned of any adverse decision by METRO or other basis of appeal to the FTA. Violations of a specific Federal law or regulation will be handled by the complaint process stated with that law or regulation. Alleged violations on other grounds are under the jurisdiction of the appropriate State or local administrative or judicial authorities.
ATTACHMENT II

FTA SYNOPSIS

All development projects must demonstrate consistency with FTA Joint Development Regulations.

The Federal Transit Administration (the “FTA”) defines Joint Development as any income-producing activity with a transit nexus related to a real estate asset in which FTA has an interest or obtains one as a result of granting funds. Joint development projects must meet three tests: (1) statutory definition; (2) financial return; and (3) highest and best transit use.

STATUTORY DEFINITION

The statutory definition of Joint Development requires that it must also be induced by or enhance the effectiveness of transit projects through economic development and/or the incorporation of private investment. This enhancement may be accomplished in the following ways:

- Enhances the effectiveness of a mass transit project, and is related physically or functionally to that mass transit project; or
- Establishes new or enhanced coordination between mass transportation and other transportation; and
- Provides a fair share of revenue for mass transportation use.

A project is physically related to a capital project if it provides a direct physical connection with transit services or facilities. This includes projects using air rights over transit stations or projects built within or adjacent to transit facilities. A project is functionally related to a capital project if it is related by activity and use, and it is functionally linked (with or without a direct physical connection) to transit services or facilities. Also, a project is functionally related to a capital project if it provides a beneficial service to the public (or community service) and enhances use of or access to transit. Functional relationships do not extend beyond the distance most people reasonably can be expected to walk to use a transit service, estimated to be approximately 1,500 feet.

FINANCIAL RETURN

In terms of financial return requirements, each grantee must negotiate a fair and equitable return in the form of cash or other benefits to be generated as a result of the FTA investment, either as a one-time payment or ongoing revenue stream, the present value of which equals or exceeds the fair market value of the property.

If the transit agency transfers an Assisted Real Estate Asset from an open grant and maintains continuing control and otherwise meets the above described three joint development program tests, the transit agency may retain as program income all the revenues that accrue.
ATTACHMENT II

HIGHEST AND BEST TRANSIT USE

The highest and best transit use requirement provides that the calculation of equitable return must be based on the appraised market value as represented either by the highest and best use of the property or by highest and best transit use of the property, taking into account in either valuation the local transportation, land use, and economic development plans.

The property’s highest and best use is the use—from among reasonably probable and legal alternative uses that are physically possible, appropriately supported, and financially feasible—that results in the highest anticipated selling price.

Highest and best transit use is that combination of residential, commercial, retail, public, and/or parking space and amenities to be included in the joint development, which is calculated to produce the greatest level of social, economic, and financial benefit to the transit system and the community that it serves.

The way highest and best transit use differs from highest and best use is through recognition that value to the transit system is not in the selling price alone. Highest and best transit use is that combination of financial return and other transit benefits, such as increasing ridership, reducing trip durations or improving connections between trips, that maximize the value of the asset to transit.

CONTINUING CONTROL

Lastly, the FTA requires that a transit agency seeking to engage in a joint development project be able to demonstrate some form of continuing control over the proposed and future use of the property. While a ground lease is the most straightforward means of demonstrating this control, project financing may require the sale of a property in which case easements, deed restrictions, or title reversions may be utilized to undertake the project and remain acceptable to the FTA.

For further information, please see the following websites:

ATTACHMENT III

CERTIFICATION OF PROPOSER REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

(Proposer) __________________________________________ certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;

2. Have not, within a five (5) year period preceding this bid proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or Local Government) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local Government) with commission of any offenses enumerated in Paragraph 2 of this Certification; and

4. Have not, within a five (5) year period preceding this bid proposal had one or more public transactions (Federal, State or Local Government) terminated for cause or default.

If the Proposer is unable to certify to any of the statements in this Certification, the Proposer shall attach a concise explanation to this certification.

(Proposer) __________________________________________, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this Certification and understands that the provisions of 31 U.S.C., Sections 3801, et seq. are applicable thereto.

________________________________________
Signature
Printed Name: _____________________________
Date: ______________________________