

OFFICE OF TRANSIT ORIENTED DEVELOPMENT

MARTA



REQUEST FOR QUALIFICATIONS P31778

BROOKHAVEN/OGLETHORPE UNIVERSITY STATION

2014

Metropolitan Atlanta Rapid Transit Authority

REQUEST FOR QUALIFICATIONS P31778

BROOKHAVEN/OGLETHORPE UNIVERSITY STATION
TRANSIT ORIENTED DEVELOPMENT PROJECT

TABLE OF CONTENTS

Part 1: INFORMATION AND INSTRUCTIONS TO RESPONDENTS

- 1.1 DEFINITIONS
- 1.2 SERVICES BEING PRE-QUALIFIED
- 1.3 MINIMUM QUALIFICATIONS
- 1.4 PRE-QUALIFICATION CONFERENCE
- 1.5 PROCUREMENT QUESTIONS/PROHIBITED CONTACTS
- 1.6 SUBMISSION DEADLINE
- 1.7 SUBMISSION OF QUALIFICATION STATEMENT
- 1.8 REPRESENTATION
- 1.9 AVAILABILITY OF ELECTRONIC DOCUMENTS
- 1.10 SELECTION PROCESS
- 1.11 QUALIFICATION STATEMENTS EVALUATION
- 1.12 EQUAL EMPLOYMENT OPPORTUNITY AND DISADVANTAGED BUSINESS UTILIZATION
- 1.13 INSURANCE REQUIREMENTS
- 1.14 REJECTION OF PROJECT VISION STATEMENTS; CANCELLATION OF RFQ; WAIVER OF TECHNICALITIES
- 1.15 PROTESTS
- 1.16 CERTIFICATIONS

Part 2: QUALIFICATION REQUIREMENTS

- 2.1 INTRODUCTION
- 2.2 PURPOSE
- 2.3 TOD OBJECTIVES
- 2.4 LOCAL LAND USE
- 2.5 MARKET ANALYSIS

Part 3: CONTENTS OF QUALIFICATION STATEMENT/REQUIRED SUBMITTALS

- 3.1 QUALIFICATION STATEMENT FORMAT
- 3.2 INFORMATIONAL REQUIREMENTS
- 3.3 SUBMITTALS

Part 4: FORMS FOR SUBMITTAL

- 4.1 NO CONFLICT OF INTEREST
- 4.2 LIST OF PROPOSED SUBCONTRACTORS
- 4.3 RESPONDENTS' QUALIFICATIONS AND BUSINESS REFERENCES
- 4.4 EMPLOYMENT DATA AND DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION
- 4.5 CONTRACTOR SAFETY EXPERIENCE

Part 5: ATTACHMENTS

- ATTACHMENT A-LOCATION MAP, SITE MAP, AND SURVEY
- ATTACHMENT B-BROOKHAVEN-PEACHTREE OVERLAY DISTRICT AMENDMENT
- ATTACHMENT C-BROOKHAVEN MASTER PLAN
- ATTACHMENT D-BLEAKLY MARKET ANALYSIS

PART 1: INFORMATION AND INSTRUCTIONS TO RESPONDENTS

- 1.1 **Definitions:** The following definitions shall apply when used throughout this Request for Qualifications (“**RFQ**”):
- (a) **Firm(s):** A developer or development team capable of securing financing for the construction, management and on-going maintenance of a mixed-use TOD project in the City of Brookhaven, Georgia.
 - (b) **Respondent:** Each Firm submitting a Qualification Statement in response to this RFQ.
 - (c) **Qualification Statement:** A written response to this RFQ prepared by a Respondent and submitted to the Metropolitan Atlanta Rapid Transit Authority’s (“**MARTA**”) Office of Contracts, Procurement and Materials (“**CPM**”).
- 1.2 **Services Being Pre-Qualified:** MARTA is seeking Qualification Statements from Firms that have the experience and are capable of developing the Project (hereinafter defined) at MARTA’s Station in a manner consistent with MARTA’s objectives and the MARTA Transit Oriented Development (“**TOD**”) Guidelines.
- 1.3 **Minimum Qualifications:** Respondents must meet all of the minimum qualifications set forth in Part 3 of this RFQ to be deemed qualified to participate in this procurement. Respondents who are deemed qualified by MARTA will be invited to continue in this procurement process by responding to a subsequent Request for Proposals (“**RFP**”).
- 1.4 **Pre-Qualification Conference:** A Pre-Qualification Conference is scheduled for **August 25, 2014, at 10:00 a.m.** local time, in the Bid Room (Lobby Floor) of MARTA’s Headquarters Building located at 2424 Piedmont Road N.E., Atlanta, Georgia 30324-3330. Attendance at the Pre-Qualification Conference is not required but is strongly encouraged. A site visit will follow the Pre-Qualification Conference.
- 1.5 **Procurement Questions; Prohibited Contacts:** Any questions regarding this RFQ should be submitted in writing to MARTA’s contact person, **Mr. Reginald Bryant**, Office of Contracts, Procurement and Material, 2424 Piedmont Road N.E., Atlanta, Georgia 30324-3330, by fax **(404) 848-4294**, or by e-mail to **rebryant@itsmarta.com**, on or before **September 3, 2014**. Questions received after the designated period will not be considered. Any response made by MARTA will be provided in writing to all Respondents by an addendum to this RFQ. It is the responsibility of each Respondent to obtain a copy of any addendum issued for this RFQ by monitoring MARTA’S website at www.itsmarta.com. No Respondent may rely on any verbal response to any question submitted concerning this RFQ. All Respondents and representatives

of any Respondent are strictly prohibited from contacting any other MARTA employees or any third-party representatives of MARTA on any matter having to do with this RFQ. All communications by any Respondent concerning this RFQ must be made to MARTA's contact person.

1.6 Submission Deadline: Responses to this RFQ must be received by MARTA's Office of Contracts, Procurement and Material at 2424 Piedmont Road N.E., Atlanta, Georgia 30324-3330, on or before **September 18, 2014** at no later **2:00 p.m.** local time. Any Qualification Statement received after this time will not be considered and will be rejected and returned.

1.7 Submission of Qualification Statement: Qualification Statements must be submitted according to the requirements of this RFQ. All blank spaces must be typed or hand written in black ink. All dollar amounts must be represented in BOTH words and figures (e.g., ONE HUNDRED DOLLARS (\$100)). Written prices prevail over typed prices in the event of a discrepancy. All corrections to any entry must be lined out and initialed by the Respondent. Do not use correction tapes or fluids.

Qualification Statements shall be signed by hand by a principal of the Respondent with the authority to enter into a Contract with MARTA. Joint ventures or partnerships must designate one joint venture/partner to represent the joint venture/partnership in submitting and executing a Qualification Statement. Each Respondent is responsible for the preparation of its Qualification Statement and for the costs of preparing and submitting the Qualification Statements.

Each Respondent acknowledges and agrees that each Qualification Statement when submitted to MARTA will become the property of MARTA, without compensation to a Respondent, for MARTA's use, in its sole discretion.

Qualification Statements must be sealed and clearly marked identifying the following information on the front of the package:

- (a) Respondent's Name/Company Name, Address and Phone Number; and
- (b) Addressed to:

Metropolitan Atlanta Rapid Transit Authority
2424 Piedmont Road N.E.
Atlanta, Georgia 30324-3330
ATTN: CONTRACT CONTROL (RFQ NUMBER P31778)

A Respondent must submit one (1) original, sixteen (16) copies, and an electronic copy on a CD of its Qualification Statement. Each Qualification Statement must be submitted on 8½" x 11" single-sided, typed pages, using 12-point font size and such pages must be inserted in a standard three-hole ring binder. Each Qualification Statement must contain an index and separate sections for the information requirements set forth in this RFQ, as well as for the forms required to be submitted.

- 1.8 Representation:** By submitting a Qualification Statement to MARTA, Respondent acknowledges, represents and warrants that: (a) it has read the entire RFQ and acknowledges that Respondent shall be bound by the terms and conditions stated herein; (b) the signatory to the Qualification Statement is the Respondent (or Respondent's duly authorized agent or employee of the Respondent with the authority to bind Respondent hereto); (c) any information or disclosure provided in response to this RFQ is an accurate representation up to and including the date Respondent submitted its Qualification Statement to MARTA; and (d) it agrees that it will voluntarily notify MARTA immediately if any information or disclosure provided to MARTA during any part of this procurement process changes, is no longer accurate or would be misleading in any way.
- 1.9 Availability of Electronic Documents.** This RFQ is being made available by electronic means. By responding to this RFQ, Respondent accepts full responsibility to ensure that it is responding to the correct form of RFQ, including any addenda issued by MARTA's Office of Contracts, Procurement and Material. Respondent acknowledges and agrees that in the event of a conflict between the RFQ in the Respondent's possession and the version maintained by CPM, the version maintained by CPM shall govern. The RFQ document is available at www.itsmarta.com.
- 1.10 Selection Process:** Upon receipt and review of the Qualification Statements, MARTA, at its sole discretion, shall determine which Respondents are qualified based on the minimum qualifications. MARTA will notify each Respondent in writing of MARTA's determination.
- 1.11 Qualification Statements Evaluation:**
- A. Qualification Statements will be evaluated by a Source Evaluation Committee. The Source Evaluation Committee will conduct an evaluation of the Respondents' Qualification Statements based on the evaluation criteria described below in Parts b and c.
 - B. MARTA will evaluate and score Qualification Statements that are deemed responsive, according to the criteria set forth below:

- 1) Developer/Development Team Project Experience
- 2) Concept Development Plan
- 3) Developer/Development Team Composition
- 4) Developer/Development Team Staff Experience
- 5) References
- 6) Financial Capability
- 7) DBE Involvement

C. The selection of qualified Respondents shall also be based on an evaluation of the information in Section 1.12 regarding Equal Employment Opportunity and Disadvantaged Business Enterprises.

1.12 Equal Employment Opportunity and Disadvantaged Business Utilization: All Respondents are (a) strongly encouraged to consider the use of Disadvantaged Business Enterprises (“**DBE(s)**”) in all aspects of the contract that will be awarded pursuant to the subsequent RFP (hereinafter defined) process and (b) will be required to document their good faith efforts in this regard as an integral part of their Qualification Statement. Refer to the Equal Employment Opportunity and Disadvantaged Business Enterprise Requirements on Page 7 of 18 of the EEO/DBE proposal specifications.

The Authority has assigned a 20% goal for Disadvantaged Business Enterprise (DBE) participation in this project, the Respondent agrees and warrants that:

(a) He/she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. (b) He/she will comply with all the provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and other relevant orders of the US Secretary of Labor; and he/she will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by Title VI of the Civil Rights Act of 1964, as well as, the Age Discrimination in Employment Act effective June 12, 1968, and will permit access to books, records and accounts by the Authority, the Secretary of Labor and/or the Secretary of Transportation, for purposes of investigation to ascertain his/her compliance with such rules, regulations, and orders. (c) He/she will take affirmative action to assure that Disadvantaged Business Enterprises are strongly pursued for participation on this contract and will document their best efforts to ascertain DBE participation in different aspects of the project as an integral part of their Proposal submitted.

1.13 Insurance Requirements: Respondents are advised that the successful Firm responding to the subsequent RFP will be required to maintain in effect during the term of the Contract, at the sole expense of the Respondent, at least the following coverage and limits of insurance:

Commercial General Liability, Bodily Injury and Property Damage, including Contractual Liability and Products/Completed Operations Liability without the explosion, collapse and underground (XCU) exclusions eliminated of not less than \$75,000,000 single limit per occurrence. Limits of Liability may be provided under a Commercial General Liability policy and Umbrella Liability policy if desired.

Workers Compensation -Georgia Statutory coverage and Employers Liability of not less than \$1,000,000.

Automobile, Bodily Injury and Property damage Liability, with not less than \$10,000,000 single limit per occurrence.

Professional Liability, not less than \$1,000,000 single limit per occurrence.

Pollution Liability, not less than \$1,000,000 single limit per occurrence.

Builders Risk: During the course of construction, Builders Risk insurance is required on a completed value basis against all risks of physical loss, covering the replacement cost value of worked performed and the equipment supplies and materials.

All policies shall contain a Waiver of Subrogation as applicable.

MARTA must be listed as an Additional Insured on all policies as applicable. The foregoing coverages must be secured from insurers and on forms of policies acceptable to the Authority and must include provisions that such insurance cannot be canceled, nor its limits reduced, without at least thirty days prior written notice to MARTA, Office of Risk Management, 2424 Piedmont Road, NE, Atlanta, Georgia 30324-3330.

Before beginning work under the Contract, MARTA must be provided with certificates of insurance in evidence that all such insurance is actually in effect, and if any such insurance expires or is cancelled before all work under the Contract has been completed, shall provide like evidence of the extension, renewal, or replacement therefore at least 30 days before such insurance expires or lapses.

The Respondent will be required to furnish evidence of insurance in the form and format requested by the Authority to the Sr. Director of Contracts, Procurement and Material, 2424 Piedmont Road, N.E, Atlanta, Georgia 30324-3330.

- 1.14 Rejection of Project Vision Statements; Cancellation of RFQ; Waiver of Technicalities:** MARTA reserves the right to reject any Qualification Statement or all of the Qualification Statements, to waive any technical defect in a Qualification Statement, or to cancel this procurement at any time.
- 1.15 Protests:** Any protest or objection to this RFQ or the solicitation process related to the RFQ must be submitted, in a timely manner, to the Senior Director of Contracts & Procurement and Materials for review and response. A copy of the Authority's protest procedure is available from the Senior Director of Contracts & Procurement and Material upon request.
- 1.16 Certifications:** The Respondent shall also be required to certify that none of the following, during his/her tenure or for one year thereafter, has or will have any interest, direct or indirect, in the Contract or in any part of the proceeds hereof: members of MARTA's Board of Directors; officers, employees of MARTA, or of any representative of MARTA in the administration of the Contract, pursuant to MARTA's Code of Ethics. This section also applies to members of or delegates to the United States Congress or the Georgia legislature; and members of the governing body, and all other officers and employees, of the City of Atlanta or the Counties of Clayton, DeKalb, and Fulton, Georgia.

PART 2: QUALIFICATION REQUIREMENTS

- 2.1 INTRODUCTION:** MARTA is the ninth largest public transit system in the country and has provided bus service since 1972 and rail service since 1979 to patrons in DeKalb and Fulton counties. MARTA has 91 bus routes, 38 rail stations and over 48 miles of track with over 450,000 average weekday boardings. The Federal Transit Administration (“**FTA**”) encourages transit systems such as MARTA to undertake Transit Joint Development projects either under new grants or with property acquired under previous grants, whether the property is associated with rail, bus or other transit facilities.

As part of implementing a transit oriented development project at MARTA's Station, MARTA requests qualified developers to submit a Qualification Statement (hereinafter defined) and concept plans for the redevelopment of 10.3 acres of surface parking on either side of the Station. There are 1,416 spaces in the parking area, which are utilized at a weekday rate of approximately 35-40%. The intent of this RFQ is to solicit proposals to convert the surface parking lots into a high-quality, mixed-use, transit oriented development, consisting of residential, commercial and civic components. To free up the land required for the redevelopment of the parking lots into a mixed-use development, approximately 640 daily park-and-ride spaces including 170 long term parking spaces will be consolidated into garages during a multi-phased development process. The mixed-use development and structured parking facilities at the Station (collectively, the "**Project**") will be implemented by a private developer that MARTA will select through a subsequent competitive solicitation process for pre-qualified Respondents. In order to respond to the Request for Proposals (“**RFP**”) document, the Respondents must have been pre-qualified by MARTA through this RFQ. Control of the property will be conveyed to awardee of the subsequent solicitation through a ninety-nine (99) year ground lease or other appropriate and mutually agreed upon transaction.

An aerial and site photographs as well as a survey are set forth on Attachment A and incorporated herein by this reference.

- 2.2 PURPOSE:** The purpose of this RFQ is to solicit Qualification Statements from qualified Firms capable of developing Parcel D3116 at the Station in a manner consistent with MARTA's objectives and the TOD Guidelines. MARTA intends to identify the most highly qualified Firms who offer the highest probability of success in developing the Project. Only Firms that have been pre-qualified will be invited to the **RFP**, which will include a detailed development plan and a financial model that illustrates the potential economic return to MARTA.
- 2.3 TRANSIT ORIENTED DEVELOPMENT OBJECTIVES:** In November 2010, MARTA's Board of Directors adopted TOD guidelines ("**TOD Guidelines**"), which sets forth, among other things, MARTA's commitment to TOD and joint

development projects on MARTA property. Concurrently, MARTA adopted a set of TOD Implementation Policies ("**TOD Policies**"). The TOD Guidelines and TOD Policies are available on MARTA's website at <http://www.itSMARTA.com/TOD.aspx>. MARTA's interest in TOD projects reflects the following three over-arching strategic goals:

- To generate greater transit ridership which is a natural consequence of clustering mixed-use development around stations and along corridors;
- To promote a sustainable, affordable and growing future for the people of Metro Atlanta; and
- To generate a return on MARTA's transit investment—through enhanced passenger revenues, greater federal support, and, where applicable, development on MARTA property.

The TOD Guidelines provide a framework for designing and constructing successful TOD projects. The TOD Guidelines are built around four principles:

(a) Station-area development that is compact and dense relative to its surroundings. Compared to its surroundings, TOD seeks greater density for a simple reason—so that more people can live, work, shop, or go to school within walking distance of the station. In so doing, they not only generate revenue for MARTA and other transit providers; they also drive less, use less gasoline and save money.

(b) A rich mix of land uses. TOD creates places where the clustering of uses allows people to do what they need and want to do—live, work, shop, obtain services, go to school, use the library, have fun—more conveniently. A lively mix of uses strengthens the link between transit and development, as station areas become "24/7" places where people use transit at night and on weekends. Combining transit origins like housing with transit destinations like jobs and schools allows the system to carry rush-hour commuters in both directions, functioning more cost-effectively by serving more riders with the same fleet.

(c) A great public realm. Transit-oriented development is pedestrian-oriented development, especially within the quarter-mile radius that most people will walk as part of a daily commute. In a TOD environment, a grid of small, navigable blocks has sidewalks throughout, with attractive amenities, lighting, way-finding and active uses at street-level. The streets, sidewalks, plazas, and stations are safe, active, and accessible.

(d) A new approach to parking. TOD does not mean "no cars". Even with high transit utilization, many people will come and go by automobile and need a place to park. But a defining characteristic of TOD is that it requires less parking than

similar development in non-transit locations. Parking is shared as much as possible, taking advantage of dove-tailing uses and reducing further the actual number of spaces provided. And that parking which is required is designed so as not to dominate the visual or pedestrian environment.

The awardee of the subsequent RFP will be expected to coordinate its planning, design, engineering and development efforts with MARTA and the appropriate representatives of the City of Brookhaven.

MARTA serves an ethnically and economically diverse metropolitan area and encourages the Developer(s) to use good faith efforts to include the participation of small businesses that are owned and controlled by socially and economically disadvantaged individuals in this Project.

2.4 LOCAL LAND USE:

(a) Current Planning Efforts: The City of Brookhaven, Georgia (“**Brookhaven**”) is currently creating its first Comprehensive Plan. This document will establish the future land use vision for Brookhaven. Parallel planning efforts include the Buford Highway Improvement Plan and Economic Development Strategy, Comprehensive Transportation Plan, and the Parks and Recreation Master Plan. Recommendations from these planning efforts will be incorporated into Brookhaven’s Comprehensive Plan. The Comprehensive Plan document will include a short-term and long-term work plan including recommendations for MARTA-owned property at the Station.

The draft Comprehensive Plan has been released and can be found here: <http://www.brookhavenga.gov/city-government/boards-commissions/steering-committees/comprehensive-plan-2034>. City Council is scheduled to vote on the adoption of the plan on October 21, 2014 following Public Hearing #4.

In order to redevelop the property around the Station, the site will have to be rezoned to a PC3 zoning classification by Brookhaven. PC3 is a site plan specific zoning classification so the rezoning of the site will take place **AFTER** a development team is selected following the RFP process. *By submitting a Qualification Statement, Respondent acknowledges and agrees that MARTA makes no representations or warranties with respect to how Brookhaven will implement its current or future land use regulations.*

(b) Previous Plans: The Station and its environs has been the subject of two significant planning efforts, both of which are briefly discussed in this RFQ. In 2005, the Atlanta Regional Commission (“**ARC**”) funded a Livable Centers Initiative Study undertaken by DeKalb County for the “Brookhaven-Peachtree Activity Center” (the “**LCI Study**”). The LCI Study, completed in 2006, is can be

found here:

<http://www.atlantaregional.com/File%20Library/Land%20Use/LCI/LCI%20Recipes/DeKalb/Brookhaven%20MARTA%20Station/Brookhaven%20study.pdf>.

One of the principal objectives of the LCI Study was to establish Brookhaven as a high-density, mixed-use TOD by replacing its surface parking lots with multi-story garages and freeing up the remaining of MARTA property for joint development.

In 2007, DeKalb County followed up on the LCI Study effort with the adoption of the Brookhaven-Peachtree Overlay District ("**Brookhaven Overlay**" or "**Overlay**"), which superimposed a transit-oriented, form-based zoning code on the LCI Study area that included the Station. The Brookhaven Overlay, which is the currently applicable zoning for this Project, is included herein as Attachment B. The Brookhaven Overlay and TOD Guidelines are broadly consistent with one another and are meant to promote similar outcomes.

(c) Master Development Plan: In 2008, based on the LCI Study, the Brookhaven Overlay and the TOD Guidelines, MARTA prepared a Master Development Plan for the Brookhaven Joint Development Project. The multi-phased Brookhaven Master Development Plan is included herein as Attachment C, and the Project's full-build concept is shown in Figure 3 below. While the Master Development Plan is meant to be illustrative rather than strictly prescriptive, it reflects MARTA's overall design and development objectives for the Project. Sections 5(c) through 5(g) below serve to highlight selected aspects of MARTA's design and development intent.

(d) Use, Density and Massing: MARTA's intent with respect to use, density and massing for the Project is generally summarized as follows:

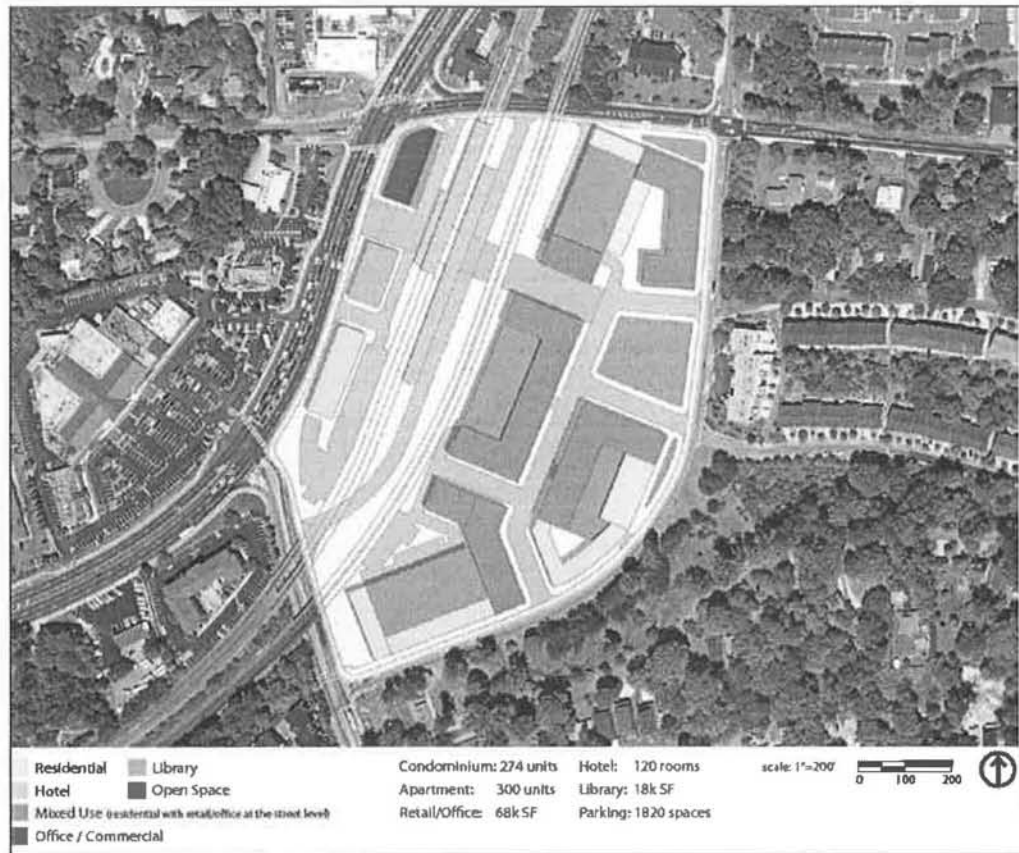
(i) The joint development should be of an urban, mid-rise scale, consistent with the applicable provisions of the Brookhaven Overlay (including any available density bonuses). Building heights should be greatest in closest proximity to the station and transition downward toward residential neighborhoods.

(ii) The development program should be mixed-use with significant residential, commercial and, if possible, civic components.

(iii) The street level of the new buildings should emphasize retail, restaurant, and other active uses generally open to the public.

(iv) The West Lot (Tract 1) should present a primarily commercial and/or civic face to Peachtree Road, helping to identify the Station and encourage future intensification on the other side of this major arterial.

(v) The East Lot (Tract 2) should present a residential face, with sidewalk-facing retail and restaurants, to the existing residential neighborhood across Apple Valley Road.



(e) Allowed Uses: The allowable uses of the Property are set forth in Section 27-728.15.12.a of the Brookhaven Overlay. It is MARTA's intent to **avoid** low-density, automobile-intensive uses such as vehicle sales, rental, storage or washing uses; warehousing or distribution; strip commercial development; construction, industrial or salvage activities; self-storage facilities; drive-through facilities; or detached single-family housing. *By submitting a Qualification Statement, Respondent acknowledges and agrees that MARTA makes no representations or warranties with respect to how Brookhaven will implement its current or future land use regulations.*

(f) Workforce Housing: MARTA's TOD policies state that for Joint Development Projects on its property, MARTA will apply a goal of 20% housing affordability, on average. For this Project, MARTA has established a goal that 20% of residential units be reserved for families earning at or below 80% percent of the Atlanta Metropolitan Statistical Area Median Income ("**AMI**").

The Brookhaven Overlay encourages the inclusion of workforce housing and offers developers a height bonus (in effect, a density bonus) for any development with 20% or more workforce units (See Sec. 27-728.15. 12.f-g of the Overlay). The Overlay defines workforce housing as housing affordable to those households earning 80% of median household income for the AMI, as determined by the current fiscal year HUD income limit table at the time the housing is built.¹

(g) **Building Heights:** The Brookhaven Overlay district is divided into two sub-areas for the purpose of establishing allowable building heights: Sub-Area I, includes the area directly surrounding the Brookhaven MARTA Station and includes parcels with frontage along Peachtree Road up to a maximum distance of four hundred forty (440) feet from the Peachtree Road right of way, where the

Sub-Area I		
Building Use	Max. Building Height	Max. Building Height with Bonuses
Single-Family Attached	3 stories or 45 feet*	4 stories or 55 feet*
Commercial	6 stories or 80 feet*	7 stories or 90 feet*
Multi-family	6 stories or 80 feet*	8 stories or 100 feet*
Mixed-Use	6 stories or 80 feet*	8 stories or 100 feet*

Sub-Area II		
Building Use	Max. Building Height	Max. Building Height with Bonuses
Single-Family Attached	3 stories or 45 feet*	4 stories or 55 feet*
Commercial	4 stories or 60 feet*	5 stories or 70 feet*
Multi-family	4 stories or 60 feet*	6 stories or 80 feet*
Mixed-Use	4 stories or 60 feet*	6 stories or 80 feet*

* whichever is less

highest intensity development is desired. Sub-Area II includes the remaining area within the overlay district, including Dresden Drive, North Druid Hills Road and those areas that serve as a transitional edge between higher density development surrounding the MARTA station and existing single family neighborhoods. The maximum heights for each sub-area, with and without the potentially available bonuses, are as follows (See Sec. 27-728.15.12.g of the Overlay):

With respect to the Joint Development Site, Tract 1 (the West lot, fronting on Peachtree Road) lies entirely in Sub-Area 1. Tract 2 (the East lot, fronting on Apple Valley Road) is divided between the two sub-areas, with the portion closer to the station in Sub-Area I.

¹ Please note that Section 27-31 of the Overlay states that the definition is “for-sale housing,” however, Section 27-728.15.12.g states that “applicable residential units may include townhomes, for-sale condominiums and rental apartments”.

An additional height bonus (See Sec. 27-728.15.12.g of the Overlay) applies to land (regardless of sub-area) within 800 feet of the Station fare gates but no closer than 200 feet to any single-family detached or attached residence. This bonus, designed to cluster the district's tallest buildings in immediate proximity to the station, allows heights of up to 125 feet, provided that ceiling open space requirements are satisfied *and* that the project meets two out of three bonus criteria:

- 20% workforce housing;
- 40,000 square feet of first or second floor retail in vertically mixed-use buildings with residences or offices on the upper floors; and
- a community meeting facility of at least 8,000 square feet.

(h) Urban Design: MARTA's urban design intent for the Project is illustrated by Figure 4 below, which is a plan view of the full build concept in the Master Development Plan. As previously stated, figure(s) depicted herein are illustrative rather than literally prescriptive.

In developing their proposed site plans, Respondents should be guided by the applicable open space and site design provisions of the Brookhaven-Peachtree Overlay. Key elements of the design intent include the following:

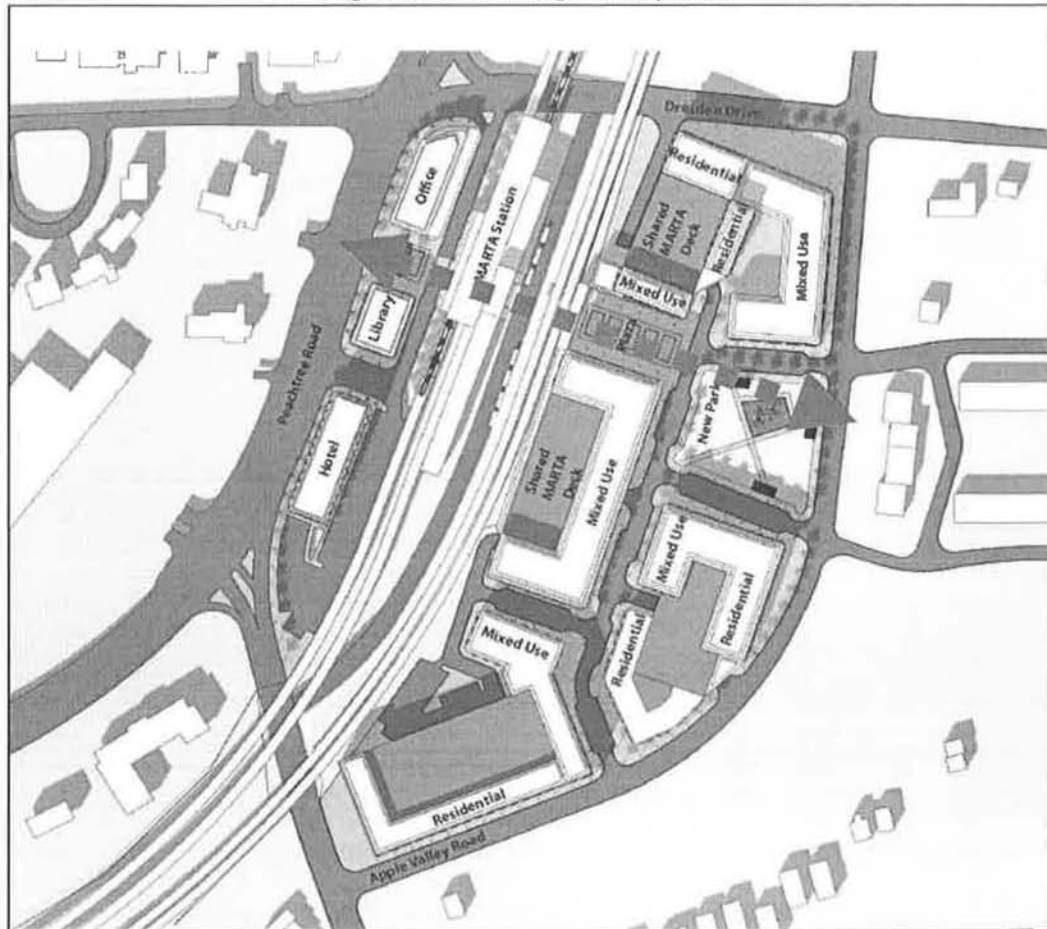
(i) The East Lot (Tract 2) should be broken up by a street grid appropriate for TOD. Block sizes should conform to the requirement of the Brookhaven Overlay (See Sec. 27 728.15.12.d.I of the Overlay) that new blocks not exceed 300 feet in length. There should be at most one curb cut on Apple Valley Road (other than its intersections with the new streets).

(ii) At full build-out, all Project parking (other than on-street spaces) should be in garages. These structures should have minimum visibility from any public street, and should be "wrapped" by development except on rear facades facing the railroad embankment. The garages should be accessed, to the maximum degree possible, from the East Lot's new interior streets and from Dresden Drive, rather than from Apple Valley Road.

(iii) An east-west axis of public open space, illustrated in Figure 4 by the green arrow, is an essential organizing feature of the Project. This axis includes the existing pedestrian tunnel beneath the railroad embankment, which provides access to the station from the East Lot, as well as three new open space areas: (i) a significant "town green" park, framed by new streets that extend Peachtree View and Fernwood Circle into the East Lot; (ii) a new landscaped and hardscaped plaza extending from the "town green" to the pedestrian tunnel; and (iii) a new landscaped and hardscaped plaza on the

West Lot connecting the station entrance to Peachtree Road and providing direct entry to the adjoining development buildings.

Figure 4: Urban Design Concept Plan



(iv) An east-west axis of public open space, illustrated in Figure 4 by the green arrow, is an essential organizing feature of the Project. This axis includes the existing pedestrian tunnel beneath the railroad embankment, which provides access to the station from the East Lot, as well as three new open space areas: (i) a significant "town green" park, framed by new streets that extend Peachtree View and Fernwood Circle into the East Lot; (ii) a new landscaped and hardscaped plaza extending from the "town green" to the pedestrian tunnel; and (iii) a new landscaped and hardscaped plaza on the West Lot connecting the station entrance to Peachtree Road and providing direct entry to the adjoining development buildings.

(v) It is important for MARTA customers that the taxi spaces and live "pick up/drop off" (or "kiss and ride") area currently provided on the northerly portion of the West Lot be replaced as part of the Project. These functions

should be provided primarily in the West Lot; however, a secondary curbside drop off in the East Lot, serving passengers approaching from areas east of the station, may be proposed.

(vi) MARTA encourages Developer to embrace sustainable business practices, as described in the MARTA TOD Guidelines, and show how they will be utilized in development at Brookhaven/Oglethorpe Station.

(i) Parking:

(i) Parking for Development: The parking standards set forth in the Brookhaven Overlay (See Sec. 27-728.15.1 of the Overlay) that will apply to the Project are as follows:

Use	Minimum Parking Required	Maximum Parking Allowed
Housing (single-family attached or multi-family)	1 space per dwelling unit	2 spaces per dwelling unit
Commercial (Office)	1 space per 400 square feet gross building area (i.e., 2.5 spaces per 1,000 square feet)	Same as minimum
Retail	1 space per 300 square feet gross building area (i.e., 3.3 spaces per 1,000 square feet)	Same as minimum

Shared parking, consistent with the provisions of Sec. 27-728.15.10 of the Overlay, is strongly encouraged. MARTA contemplates that some or all of the new garages will be able to accommodate both park-and-ride and joint development facilities, and that within such garages some of the spaces reserved for MARTA daily use during commuting hours will be available for retail and commercial uses at night and on weekends. This arrangement will reduce the overall capital and operating cost of the parking facilities, as well as the volume of space they consume.

MARTA encourages the use of innovative technologies in project garages, including but not limited to the availability of electric vehicle charging infrastructure at certain spaces and the use of instrumentation to provide customers with real-time information on availability and rates.

(ii) Park-and-Ride/Long Term Parking Replacement: MARTA has determined that the Joint Development Project should preserve (by replacing in garages) **at least 640** park-and-ride spaces **including 170** long term

parking spaces of the more than **1,400** spaces which currently exist on the Site. In developing their proposals, Respondents should be guided by the following:

- It is assumed that the replacement of surface lots with garages will occur in phases, such that at any time prior to full buildout the park-and-ride supply may include a combination of surface and structured spaces. The phasing must be planned and implemented such that **640** park-and-ride spaces and long term parking are in service at all times.
- For garages that will or may be shared with joint development users, the plan should show how the design will accommodate peak-hour access, egress, and occupancy by MARTA customers (in particular, will entrances and floors be dedicated or shared).
- The revenue control system should accommodate daily and overnight park-and-ride users at differing rate structures, such that the physical allocation of spaces between daily and overnight use can be changed flexibly, at MARTA's directive, to reflect demand. In garages serving both MARTA and joint development patrons, there should be similar flexibility to shift spaces from reserved park-and-ride use during commuter hours to general commercial use during nights and weekends. However, there needs to be **at least 170** dedicated parking spaces for long term MARTA patron parking.
- It is MARTA's expectation that the Developer will design and build the garages, subject to MARTA design review.

2.5 MARKET ANALYSIS: In 2013, ARC commissioned a market analysis of MARTA potential TOD sites including the Station area. The report, which is included as Attachment D, found that MARTA property could support a mixed-use TOD project including the following components:

- Up to 10,000 SF of retail and/or up to 15,000 SF of office space;
- Up to 300 residential units, including apartments and condominiums; and
- 62,000 SF civic use.

PART 3: CONTENTS OF QUALIFICATION STATEMENT/REQUIRED SUBMITTALS

3.1 Qualification Statement Format: A Respondent must submit a Qualification Statement in response to this RFQ in the format specified herein. The Qualification Statement must consist of the following:

(a) Information Drafted and Provided by a Respondent:

- (i) Title Page
- (ii) Table of Contents
- (iii) Executive Summary
- (iv) Transmittal Letter
- (v) Experience and Qualifications
- (vi) Organizational Structure and Key Personnel
- (vii) Professional References

(b) Information Provided by a Respondent on Forms Provided by MARTA:

- (i) No Conflict of Interest
- (ii) List of Proposed Subcontractors
- (iii) Respondents Qualification and Business References
- (iv) Employment Data and Disadvantaged Business Enterprise Participation
- (v) Contractor Safety Experience

3.2 Informational Requirements: The following is a more detailed summary of the requirements of certain portions of the Qualification Statement:

- (a) **Title Page:** The title page showing the RFQ's subject, the Firm's name, address and telephone and fax numbers of the contact person(s) and the date of the Qualification Statement.
- (b) **Table of Contents:** The Qualification Statement must contain a detailed table of contents listing sections and subsections that correspond to the requirements of the RFQ. The table of contents must also list all tables, appendices, figures, etc. contained in the Qualification Statement.
- (c) **Executive Summary:** The purpose of the Executive Summary is generally describe the Firm and to provide an overview of the Respondent's qualifications. At a minimum, the Executive Summary must contain the complete legal name of the Respondent and the name of the legal entities that comprise the Respondent. The Respondent must provide the domicile where Respondent and each entity comprising Respondent is organized, including name, brief history, contact name, address, phone number, and facsimile number, as well as the legal

structure of the entity and a listing of major satellite offices, if any.

- (d) **Transmittal Letter:** A letter signed by the Firm's authorized representative briefly stating the Respondent's understanding of the scope of the Project and a statement of why Respondent believes it is the best qualified entity to perform the engagement.
- (e) **Experience and Qualifications:** To allow MARTA to fully understand the capabilities of Respondent, please provide the information requested below for Respondent and if Respondent is a partnership or joint venture, then each member of the Respondent shall provide the following information and meet the following minimum requirements. Please provide the information stated below for each member of the Respondent's team. Use additional sheets, if necessary.
 - (i) The Respondent must describe the experience it has, within the last ten (10) years', with large commercial, residential, retail and/or mixed-use development projects comparable to the Project and Respondent should highlight each of the following, if applicable:
 - (A) Specific land uses, such as multifamily residential, proposed within your concept development plan;
 - (B) Experience in the Atlanta Metropolitan Statistical Area;
 - (C) Experience with Transit Oriented Development Projects;
 - (D) Experience with Affordable Housing Projects;
 - (E) Experience working with federal, state and local governments, quasi-governmental entities, and public agencies and authorities, specifically public transit agencies.
 - (ii) Describe each mixed use project Respondent completed within the last ten (10) years. The description of each project must include, at a minimum, the following information:
 - (A) Size in total land area and building area;
 - (B) Scope of the project;
 - (C) Location of the project;
 - (D) Approximate development value;
 - (E) Year completed;
 - (F) Specific role of Development Team firms;
 - (G) Past role(s) of individuals expected to work on MARTA project (if applicable); and
 - (H) Client references and authorization to contact them. Please highlight any previous experience with public agencies (if applicable).

- (iii) Given the nature of this project, MARTA must understand Respondent's financial capability to undertake and successfully complete the Project. Respondent must provide each of the following items:
- (A) Audited financial statements for the past three (3) years that must include each of the following at a minimum:
 - Balance sheet;
 - Income statement; and
 - Statement of change in financial position.
 - (B) The names and phone numbers of references for each of the following:
 - Two commercial banks;
 - Two institutional partners.
 - (C) Terms and conditions of any significant contingent liabilities, such as guaranteed loans or other obligations which could affect the ability of Respondent to obtain financing for this Project.
 - (D) **ANY FINANCIAL STATEMENTS THAT ARE DEEMED TO BE CONFIDENTIAL MUST BE MARKED AS PROPRIETARY.**

NOTE: If the Respondent is a partnership, joint venture or newly formed entity (e.g., limited liability company or corporation), the minimum requirements set forth throughout the RFQ must be satisfied by the entity or individual(s) that own and control a majority equity interest (i.e., at least 51%) of the partnership, joint venture or newly formed entity.

- (f) **Organizational Structure and Key Personnel:** The Respondent must provide (a) an Organizational Chart of the Respondent's management structure and (b) corresponding resumes for each of the individuals listed on the Organizational Chart provided. The organizational structure and resumes must clearly identify the Respondent's management team.
- (i) Legal form of the Respondent and the state in which it is domiciled. In the case where the Respondent is a partnership, joint venture or affiliation of two or more firms, please provide information for all participants and the nature of the relationship. This should include

organization documents and a brief description of the rights and obligations of the parties.

- (ii) Resumes must include at least the following information:
 - (A) Name and Title;
 - (B) Professional Background;
 - (C) Education; and
 - (D) Current and Past Employment.
- (iii) The Respondent must also include a statement that clearly identifies the level of authority vested to each individual within Respondent's management structure to make decisions on behalf of the Respondent.
- (iv) Name, address, telephone and fax number for the contact person authorized to communicate and negotiate on behalf of the Respondent.
- (v) Provide name and firm of primary outside legal counsel(s) that will represent Respondent regarding this Project.
- (vi) Provide name of auditor for each entity and name of primary contact for this Project.
- (vii) List any outstanding disputes or business relationships between the Respondent and the following entities:
 - (A) MARTA;
 - (B) The United States Department of Transportation;
 - (C) Federal Transit Administration;
 - (D) Georgia Department of Transportation;
 - (E) City of Brookhaven Government;
 - (F) Brookhaven Development Authority;
 - (G) Development Authority of DeKalb County;
 - (H) DeKalb County Government;
 - (I) DeKalb County Housing Authority; and
 - (J) Any other relevant agencies and organizations.

Describe any other outstanding disputes involving the Respondent which MARTA should be made aware.

- (g) **Professional References from Clients:** Each Respondent must submit a minimum of **three (3)** references from Respondent's clients (including name of client, name of Project, and contact information) regarding

completed development projects.

3.3 Submittals: Respondent must complete and submit the following forms and attachments, if any, with its Qualification Statement:

- (a) NO CONFLICT OF INTEREST
- (b) LIST OF PROPOSED SUBCONTRACTORS
- (c) RESPONDENTS QUALIFICATION AND BUSINESS REFERENCES
- (d) EMPLOYMENT DATA AND DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION
- (e) CONTRACTOR SAFETY EXPERIENCE

PART 4: FORMS FOR SUBMITTAL

- 4.1 NO CONFLICT OF INTEREST
- 4.2 LIST OF PROPOSED SUBCONTRACTORS
- 4.3 RESPONDENTS QUALIFICATION AND BUSINESS REFERENCES
- 4.4 EMPLOYMENT DATA AND DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION
- 4.5 CONTRACTOR SAFETY EXPERIENCE

PART 4: FORMS FOR SUBMITTAL

4.1 NO CONFLICT OF INTEREST

CERTIFICATION OF NO CONFLICT OF INTEREST

Except as may be identified and explained below, the undersigned hereby certifies that,

no member of the Board of Directors, officer, employee or former employee of the Metropolitan Atlanta Rapid Transit Authority, pursuant to the Authority's Code of Ethics.

AND

no elected, appointed, and employed official or employee of the State of Georgia and of a governing body, instrumentality, or political subdivision within the territory comprising the City of Atlanta, Counties of Fulton, and DeKalb,

AND

no relative of persons described above,

AND

no member of and delegate to the Congress of the United States

has an interest whatsoever (regardless of how indirect and how remote that interest may be) in Proponent's organization and in the proceeds of a Contract and agreement which might be made between Proponent and the Metropolitan Atlanta Rapid Transit Authority as a result of the Proposal accompanied by this certification; no person who is or who during the past twelve months has been a member of the Board of Directors, an officer, or an employee of the Metropolitan Atlanta Rapid Transit Authority is employed by or on behalf of the Proponent's organization.

The undersigned certifies that he/she is legally authorized by the Proponent to make the above representation, and that the representation is true to the best of his/her knowledge and belief and without deliberate omission of any inquiry which would to the best of his/her belief tend to change the above representation. The undersigned understands that any representation made knowing it to be false may disqualify the Proponent from being awarded the Contract and agreement and future work by the Authority.

NOTE: THIS CERTIFICATION MUST BE SIGNED AND SUBMITTED PRIOR TO AWARD.

Signature _____

Name _____ Title _____

Date of Signing _____ Tel. # () _____ Fax # () _____

Firm or Corporate Name _____

Address _____

PART 4: FORMS FOR SUBMITTAL

4.2 LIST OF PROPOSED SUBCONTRACTORS

LIST OF PROPOSED SUBCONTRACTORS

PROVIDE THE FOLLOWING INFORMATION FOR EACH PROPOSED SUBCONTRACTOR

1. NAME: _____
ADDRESS: _____
TELEPHONE NUMBER: _____
SUBCONTRACT EFFORT: _____

AGE OF FIRM: _____ YEAR(S) _____ MONTH(S) DBE NON-DBE

ANNUAL GROSS RECEIPTS OF FIRM:

\$0 - \$99,999 \$100,000 - \$499,999 \$500,000 - \$999,999 \$1,000,000 - \$4,999,999

\$5,000,000 - \$9,999,999 \$10,000,000 - \$14,999,999 \$15,000,000 - 24,999,999

2. NAME: _____
ADDRESS: _____
TELEPHONE NUMBER: _____
SUBCONTRACT EFFORT: _____

AGE OF FIRM: _____ YEAR(S) _____ MONTH(S) DBE NON-DBE

ANNUAL GROSS RECEIPTS OF FIRM:

\$0 - \$99,999 \$100,000 - \$499,999 \$500,000 - \$999,999 \$1,000,000 - \$4,999,999

\$5,000,000 - \$9,999,999 \$10,000,000 - \$14,999,999 \$15,000,000 - 24,999,999

3. NAME: _____
ADDRESS: _____
TELEPHONE NUMBER: _____
SUBCONTRACT EFFORT: _____

AGE OF FIRM: _____ YEAR(S) _____ MONTH(S) DBE NON-DBE

ANNUAL GROSS RECEIPTS OF FIRM:

\$0 - \$99,999 \$100,000 - \$499,999 \$500,000 - \$999,999 \$1,000,000 - \$4,999,999

\$5,000,000 - \$9,999,999 \$10,000,000 - \$14,999,999 \$15,000,000 - 24,999,999

4. NAME: _____
ADDRESS: _____
TELEPHONE NUMBER: _____
SUBCONTRACT EFFORT: _____

AGE OF FIRM: _____ YEAR(S) _____ MONTH(S) DBE NON-DBE

ANNUAL GROSS RECEIPTS OF FIRM:

\$0 - \$99,999 \$100,000 - \$499,999 \$500,000 - \$999,999 \$1,000,000 - \$4,999,999

\$5,000,000 - \$9,999,999 \$10,000,000 - \$14,999,999 \$15,000,000 - 24,999,999

(Use Additional Sheet(s) as Required)

PART 4: FORMS FOR SUBMITTAL

**4.3 PROPONENTS QUALIFICATION AND BUSINESS
REFERENCES**

METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY
RESPONDENT'S QUALIFICATIONS AND BUSINESS REFERENCES

Name of Respondent _____

Principal Office _____
(Street Address or P.O. Box Number)

(State) (Zip Code)

() _____ () _____
(Telephone Number) (Fax Number)

Federal ID Number: _____
(Social Security Number in case of an individual)

1. Are you registered to do business in Georgia? _____ Classification _____
2. Do you have a Georgia Business License? _____ License Number _____
3. Are you an individual _____, a partnership _____, a corporation _____, or a joint venture _____?
(Check as applicable)

If a partnership, list names and addresses of partners; if a corporation, list names of officers and directors and State of incorporation; if a joint venture, list names and addresses of ventures and, if any venturer is a corporation, partnership, or joint venture, list the same information for each such corporation, partnership, and joint venture.

4. How many years has your organization been in business under your present business name? ____ yrs.
5. How many years of experience has your organization had in work similar to the work of this Contract?
 - (a) As a prime contractor? _____
 - (b) As a subcontractor? _____

6. List all the contracts which your organization has completed during the last 5 years, and which demonstrate qualifications to perform the work of this Contract. (For joint venture work shows the sponsoring individual or company.)

Year	Contract Price	Kind of Contract	Location of Work	Name and Address of Customer

7. Have you or your organization, or any officer or partner thereof, failed to complete a contract?
 If so, give details _____

8. In what other lines of business are you financially interested? _____

9. Describe the composition of your company's labor force by job classification, including management:

10. Give information about the experience of the principal individuals of your present organization.

Individual's Name	Present Position or Office in your organization	Years of Similar Experience	Magnitude and Type of Work	In what Capacity

11. List similar contract work which you have currently underway, or for which you are committed:

Contract Price	Kind of Contract	Location of Work	Completion Date	Expected Completion	Name and address of Customer

12. References: List customers, including public bodies, for whom you have done work during past three (3) years:

Name	Address	Business

13. Reference is hereby made to the following financial institutions as to the financial responsibility of the Respondent:

Name of the Bank: _____

Street Address: _____

City and State: _____ Telephone: _____

Officer familiar with Respondent's Account: _____

Name of the Bank: _____

Street Address: _____

City and State: _____ Telephone: _____

Officer familiar with Respondent's Account: _____

Name of the Bank: _____

Street Address: _____

City and State: _____ Telephone: _____

Officer familiar with Respondent's Account: _____

14. Reference is hereby made to the following surety/insurance company or companies as to the financial responsibility and general reliability of the Respondent:

Name of Surety/Insurance Company: _____

Name of Local Agent (if different): _____

Local Street Address: _____

City and State: _____ Telephone: _____

Person familiar with Respondent's Account: _____

Name of Surety/Insurance Company: _____

Name of Local Agent (if different): _____

Local Street Address: _____

City and State: _____ Telephone: _____

Person familiar with Respondent's Account: _____

15. Financial information for last two (2) years:

Year ending _____	Year ending _____
Total gross sales	\$ _____ \$ _____
Net Profit (Loss)	\$ _____ \$ _____
Current Assets	\$ _____ \$ _____
Current Liabilities	\$ _____ \$ _____

Audited financial statements available? Yes ___ No ___ Yes ___ No ___

16. Is any litigation pending against your organization? _____

If so, give details _____

The undersigned certifies that he is legally authorized by the Respondent to make the statements and representations contained in this form, and represents and warrants that the foregoing information is true and accurate to the best of his knowledge, and intends that the Metropolitan Atlanta Rapid Transit Authority rely thereon in awarding the Contract.

RESPONDENT'S NAME _____

DATE OF SIGNING _____

SIGNATURE _____

TITLE _____

PART 4: FORMS FOR SUBMITTAL

**4.4 EMPLOYMENT DATA AND DISADVANTAGED BUSINESS
ENTERPRISE PARTICIPATION**

**METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY
EQUAL EMPLOYMENT OPPORTUNITY
AND
DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS
FOR
NEGOTIATED CONSTRUCTION CONTRACTS AND AGREEMENTS**

This document is issued pursuant to Title VII of the *Civil Rights Act* of 1964, *Executive Order* 11246, *Executive Order* 11625, 49 CFR Part and 26, and the MARTA Board Policies on equal employment opportunity (Exhibit A), and the utilization of disadvantaged business enterprises (Exhibit B). The Contractor is required to take certain actions designed to assure equitable participation of minority persons and women in its work force, as well as the maximization of opportunities for disadvantaged business enterprises.

Part I details the equal employment opportunity requirements; Part II outlines the disadvantaged business utilization requirements; and Part III requires the Contractor's employment data, details on disadvantaged business utilization, and certification.

PART I - EQUAL EMPLOYMENT OPPORTUNITY (EEO)

A. Utilization Analysis

1. This submittal requirement is applicable to each entity, including each separate partnership, corporation, company, joint venture, or other entity, regardless of its level of participation, comprising the business organizations or entities submitting the bid(s). Each Contractor, desirous of doing business with the Authority, shall be required to submit a current affirmative action program if their workforce is 50 or more employees. The affirmative action program should include a utilization analysis by job category, an underutilization analysis, a program of goals and timetables to correct any such underutilization, and other data called for by the Authority's Office of Diversity and Equal Opportunity. A current Equal Employment Opportunity Policy statement is required if the Contractor's workforce is less than 50 employees.

B. Underutilization Analysis

1. "Underutilization" is defined as employing fewer minorities in a particular job category than would reasonably be expected between their availability in the general population, or fewer women in a particular job category than would reasonably be expected based on their availability in the labor market. In determining whether minorities or women are being underutilized in any job category, the Contractor will consider all of the following factors:
 - a. The minority population of the area encompassed by the MARTA system;
 - b. The size of the minority and female unemployment force in the labor area encompassed by the MARTA system;
 - c. The percentage of minority and female work forces as compared with the total work force in the labor area encompassed by the MARTA system;

- d. The general availability of minorities and women having requisite skills in the labor area encompassed by the MARTA system;
- e. The availability of minorities and women having requisite skills in an area from which the Contractor can reasonably recruit;
- f. The availability of promotable minority and female employees within the Contractor's organization;
- g. The anticipated expansion, contraction and turnover in the work force;
- h. The existence of training institutions capable of training minorities and women in the requisite skills; and
- i. The degree of training which the Contractor is reasonably able to undertake as a means of making all job classes available to minorities and women.

C. Goals and Timetables

1. In the event there is an underutilization of minority or female employees, the Contractor shall also be required to include in its affirmative action plan, a program, including goals and timetables, for correcting these deficiencies.
2. An effective affirmative action program shall contain, but not necessarily be limited to, the following elements: (a) development or reaffirmation of the Contractors' equal employment opportunity policy in all personnel actions; (b) formal internal and external dissemination of the Contractors' policy; (c) establishment of responsibilities for implementation of the Contractor's affirmative action program; (d) identification of underutilization by organizational units and job categories; (e) where underutilization occurs, development and execution of a program establishing corrective and affirmative goals and objectives by organizational units and job category, including timetables for completion; (f) design and implementation of internal audit and reporting systems to measure effectiveness of the total program; (g) internal active support of local and national community action programs. Support data for the above analysis and program shall be compiled and maintained as part of the affirmative action program. This data should include progression line charts, seniority rosters, applicant flow data, and applicant rejection ratios indicating minority and female status.
3. Goals shall be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work. The use of goals is not intended and should not be used to discriminate against any applicant or employee because of race, color, religion, sex or national origin.

D. Reports

1. All Contractors doing business with the Authority shall submit at least quarterly reports as may be requested by the Executive Director, Office of Diversity and Equal Opportunity or a designee. Such employment reports shall include such information as to the practices, policies, programs, and statistics of the Contractor, and shall be in such form, as the Authority may prescribe.

E. Subcontractors

1. Subcontractors are bound by the same requirements as Contractors, who shall be responsible for the compliance of their Lower tier contractors.

F. Responsibility for Implementation

1. Each Contractor shall designate, and notify the Authority of the person who will be responsible for implementing its equal opportunity policy and plan.

G. Compliance

1. The Contractor agrees to comply, and assures the compliance of each sub recipient, lessee, third party contractor, or other participants at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 49 U.S.C. § 2000e, and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the Contractor also agrees to follow all applicable Federal EEO directives that may be issued.
2. Failure to comply with the Authority's Equal Employment Opportunity policy may constitute cause for cancellation or termination of the contract and may render a Contractor ineligible for future contracts with the Authority. Immediately upon finding that a Contractor is in noncompliance, the Authority shall issue a notice to the Contractor giving it thirty (30) days to show cause why the contract should not be terminated. If the Contractor fails to develop and implement an acceptable affirmative action program within thirty (30) days, the Authority shall issue a notice of proposed cancellation or termination of existing contracts and subcontracts and debarment from future contracts and subcontracts. The Contractor shall have ten (10) days to request a hearing. If a request has not been received in ten (10) days, the Contractor will be declared ineligible for future contracts and contracts will be terminated for default.
3. During the "show cause" period of thirty (30) days, every effort shall be made by the Authority through conciliation, mediation and persuasion to resolve the deficiencies that led to the determination of noncompliance.
4. Any prime Contractor or Subcontractor declared ineligible for further contracts or subcontracts may request reinstatement in a letter directed to the Authority. In connection with the reinstatement proceeding, the prime Contractor or Subcontractor shall be required to show that it has established and will carry out employment policies and practices in compliance with the Equal Employment Opportunity requirements.

H. Records

1. The Contractor and Subcontractor shall permit access to their books, records, and accounts by OFCCP, the Federal DOT, or the Federal Transit Administration and the Authority's Executive Director, Office of Diversity and Equal Opportunity or a designated representative for purpose of investigation to ascertain compliance with the foregoing requirements.

I. Federal Nondiscrimination Provisions Pursuant to 41 CFR Part 60-1.4(b)

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated equitably during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees, and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.
3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of *Executive Order 11246* of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by *Executive Order 11246* of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Administering Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or Federally assisted contracts in accordance with procedures authorized in *Executive Order 11246* of September 24, 1965, and such sanctions may be imposed and remedies invoked as provided in *Executive Order 11246* of September 24, 1965, or by rule, regulation, or order, of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the portion of the sentence immediately preceding paragraph (I.1) and the provisions of paragraphs (I.1) through (I.7), in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of *Executive Order 11246* of September 24, 1965, so that such provisions will be binding upon each

Subcontractor or vendor. The Contractor will take such action with respect to any Subcontractor or purchase order as the Administering Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Administering Agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

J. Federal Nondiscrimination Provisions Pursuant to 49 CFR Part 21.

During the performance of the Contract, the Contractor agrees as follows:

1. The Contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation (DOT) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereafter referred to as the Regulations), which are herein incorporated by reference and made a part of the contract.
2. The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, creed or national origin in the selection and retention of Subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
3. In all solicitations, either by competitive bidding or negotiation, made by the Contractor for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under the Contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, creed or national origin.
4. The Contractor shall provide all information and reports required by the Regulations and directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Authority or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Authority, or the Federal Transit Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the Authority shall impose such contract sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - b. Cancellation, termination or suspension of the contract, in whole or in part.

6. The Contractor shall include the sentence immediately preceding paragraph (J.1) and the provisions of paragraph (J.1) through (J.6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the Authority or the Federal Transit Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or Supplier as a result of such direction, the Contractor may request the Authority to enter into such litigation to protect the interests of the Authority, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

PART II - UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES

A. Disadvantaged Business Enterprise (DBE) Participation Contract Specifications Pursuant to *Executive Order 11625*, 49 CFR Part and 26, and MARTA Policy.

1. It is the policy of the Federal Government and the Authority to ensure a "level playing field" and foster equal opportunity for small businesses pursuant to the Department of Transportation's 49 CFR Part 26. In this regard, the Contractor to whom any award of this solicitation is made shall take all necessary and reasonable steps in accordance with this solicitation to ensure that disadvantaged business enterprises have a "level playing field" and foster equal opportunity for small businesses. The contractor, sub recipient or subcontractor shall not discriminate on the bases of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirement of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate. The Contractor shall use its best efforts to carry out the DBE policy consistent with efficient performance on the project.
2. Contractors are hereby informed that the Authority will consider the establishment of goals for the participation of disadvantaged business enterprises in all contracts it awards. Subsequently, any Subcontracts awarded by the Contractor successful in this solicitation to firms owned by disadvantaged persons, and to joint ventures of which such firms are a part, are essential to the achievement of the Authority's DBE goal. Therefore to be considered for award, Contractors must comply with the requirements of this Part II. By submitting his/her bid, each Contractor gives assurance that he/she will meet the Authority's percentage goal target set forth in Parts II.A.3 for participation by disadvantaged business enterprises in the performance of any contract resulting from this solicitation or, as an alternative, that he has made or will make good faith efforts toward meeting the DBE goals, and will demonstrate to the Authority's satisfaction that he/she has made such efforts. Contractors are encouraged to submit with their bids, on the form set in Part III.B, the names, respective scope of work, and the dollar values of each DBE Subcontractor that the Contractor proposes for participation in the contract. In any case, this information shall be submitted within such time as the Authority requires. If the information so submitted indicates that the Authority's goals will

any case, this information shall be submitted within such time as the Authority requires. If the information so submitted indicates that the Authority's goals will not be met, the Contractor shall also submit **Exhibit G**, to show sufficient evidence to the Authority's satisfaction that the Contractor has in good faith made every reasonable effort, in the Authority's judgment, to meet such goals. Examples of efforts that may be appropriate are found in Part II.A.5. If any Contractor fails to submit, within the time stipulated or any extension the Authority may allow, the required information concerning DBE participation, or if, having failed to meet the Authority's goals or fails to demonstrate to the Authority's satisfaction his/her good faith efforts to do so, the Authority may, in its discretion, reject his/her contract.

3. Disadvantaged Business Enterprise (DBE) Goals.

The Authority has established a DBE contract goal of **20% of the total dollar value of the bid total, including amendments, modifications, options and change orders. Credit towards the DBE goal for a contract shall be limited to the participation of firms performing within the designated NAICS code(s) for which the firms have been certified as a DBE.

4. The Contractor must promptly notify MARTA's Office of Diversity and Equal Opportunity, whenever a DBE subcontractor, performing work related to this contract, is terminated or fails to complete it work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of MARTA's Executive Director of Diversity and Equal Opportunity.
5. Contractors are informed that price alone does not constitute an acceptable basis for rejecting DBE quotes unless the Contractor can demonstrate that no reasonable price can be obtained from a DBE. A Contractor's failure to meet the DBE goal or to show reasonable efforts to that end will, in the Authority's discretion, constitute sufficient grounds for rejecting his/her proposal. Such reasonable efforts may include, but are not limited to, some or all of the following:
 - a. Attendance at the pre-proposal conference if any;
 - b. Follow-up of initial solicitations of interest in a timely fashion by contacting DBEs to determine with certainty whether the DBEs are interested;
 - c. Efforts made to select portions of the work (including, where appropriate, breaking down contracts into economically feasible units) proposed to be performed by DBEs in order to increase the likelihood of achieving the DBE goals;
 - d. Efforts to negotiate with DBEs for specific subcontracts, including at a minimum:
 - (i) The names, addresses, and telephone numbers of DBEs that were contacted;

RFQ P31778 Brookhaven/Oglethorpe University Station TOD - **Minimum DBE goal

(iii) A detailed statement of the reasons why additional prospective agreements with DBEs, needed to meet the stated goals, were not reached;

- e. Advertisement in general circulation media, trade association publications and disadvantaged-focus media for a reasonable period before bids are due;
- f. Notification, in writing, to a reasonable number of specific DBEs that their interests in specifically delineated contract work is solicited, in sufficient time to allow the DBEs to participate effectively;
- g. Concerning each DBE the Contractor contacted but rejected as unqualified, the reasons for the Contractor's conclusion;
- h. Efforts made to assist the DBEs contacted that needed assistance in obtaining bonding, lines of credit, or insurance required by the Contractor or the Authority;
- i. Designation, in writing, of a liaison officer who administers the Contractor's disadvantaged business enterprise utilization program;
- j. Expansion of search for DBEs to a wider geographic area than the area in which the Contractor generally seeks Subcontractors, if use of the customary solicitation area does not result in meeting the goals by the Contractor; and
- k. Utilization of services of available disadvantaged community organizations; disadvantaged Contractors' groups; local, state, and federal minority business technical assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.

5. **Disadvantaged Business Enterprise** means a small business concern owned and controlled by a socially and economically disadvantaged individual or individuals. For purposes of this definition:

- a. Small business size standards vary by type of industry. Contractors should refer to 13 CFR, Part 121, for current standards. Disadvantaged business enterprise firms will be considered ineligible and will be graduated from the disadvantaged enterprise program if their average annual gross receipts over the preceding three fiscal years exceed \$22,410,000.
- b. An individual is socially disadvantaged if (i) he or she is a citizen of the United States or a lawfully admitted permanent resident, and (ii) because of his or her race, color, national origin, gender, physical handicap or mental disability, long term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control, he or she has been negatively affected with respect to his or her entry into or advancement in the business world.
- c. A socially disadvantaged individual is economically disadvantaged if he or she and his or her business are in a more difficult economic situation than most businesses and owners that are not socially disadvantaged.

- d. Any group or individual may, upon a proper showing, be found to be socially and economically disadvantaged. There is a presumption, which, however, may be rebutted by evidence of any appropriate kind, that members of the following groups are socially and economically disadvantaged; (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa; (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race; (iii) "Native Americans," which includes persons whose origins are American Indians, Eskimos, or Native Hawaiians; (iv) "Asian-Pacific Americans," which includes persons whose origin are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, or the Northern Marianas; (v) "Asian-Subcontinental Americans," which includes persons whose origins are from India, Pakistan, or Bangladesh; and (vi) "Women," regardless of race, ethnicity, or origin.
 - e. Owned and Controlled means a business (i) which is at least 51 per cent owned by one or more disadvantaged persons or women or, in the case of a publicly owned business, at least 51 per cent of the stock of which is owned by one or more disadvantaged persons or women, and (ii) whose management and daily business operations are controlled by one or more such individuals.
 - f. The definition of a disadvantaged business enterprise is in Part II.A.5 based upon DOT regulation 49 CFR Part and 26 as amended. The Contractor agrees to abide by this DOT regulation and any subsequent amendments thereto affecting the foregoing definition.
6. The Contractor may rely on written representation by Subcontractors regarding their status as disadvantaged business enterprises in lieu of an independent investigation, however:
- a. Prior to award of this contract, as requested by the Authority, Contractors shall cause disadvantaged business enterprises and joint ventures involving disadvantaged businesses to submit, through the Contractor, appropriate certification to the Authority as shown in the Disadvantaged Business Disclosure Requirements (Exhibits D and E). On the basis of these disclosures and any other relevant information, should the Authority determine any firm to not be a legitimate DBE, Contractors shall be permitted to substitute bona fide DBEs for the Authority's consideration.
 - b. After proposal deadline and during contract performance, Contractors are required to make every reasonable effort to replace a DBE Subcontractor that is unable to perform successfully, with another DBE. Prior to substituting a DBE which is not performing satisfactorily, the Contractor shall seek written approval from the Office of Diversity and Equal Opportunity. The Authority's Office of Diversity and Equal Opportunity shall approve all prior substitutions, in writing, in order to ensure that the substitutions of firms are bona fide DBEs.
 - c. In the event of the Contractor's non-compliance with the disadvantaged business requirements of the contract, the Authority shall impose such contract sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to:

- (i) Withholding of payments to the Contractor until the Contractor complies, and/or
 - (ii) Cancellation, termination or suspension of the contract, in whole or in part.
7. For the information of Contractors, Exhibit F outlines the Authority's rules, guidelines and criteria for (a) making determinations as to the legitimacy of DBEs (b) ensuring that contracts are awarded to Contractors that meet DBE goals, and (c) counting DBE participation toward DBE goals.
 8. The Contractor shall cooperate with the Authority's Executive Director, Office of Diversity and Equal Opportunity or a designee in any reviews of the Contractor's procedures and practices with respect to disadvantaged business enterprises which the Executive Director, Office of Diversity and Equal Opportunity may from time to time conduct.

B. DBE Reporting and Recordkeeping Requirements.

1. The Contractor shall submit periodic reports (i.e. dependent upon the duration of the contract) of contracting with disadvantaged business enterprises in such form and manner and at such time as prescribed by the Authority (Exhibit C-1 is currently required to be submitted within 10 calendar days following the end of each calendar quarter) for contracts with 12 months duration. If the contract duration is for less than 12 months period, reports must be submitted within 10 calendar days following the end of each month. Any failure to submit this report within 10 days of the end of a month or quarter, as specified by MARTA, could potentially cause a delay in future progress payments.
3. The Contractor and Subcontractors shall permit access to their books, records, and accounts by the Federal DOT or the Federal Transit Administration and the Authority's Executive Director, Office of Diversity and Equal Opportunity, or a designated representative, for purpose of investigation to ascertain compliance with these specified requirements. Such records shall be maintained by the Contractor in a fashion, which is readily accessible to the Authority for a minimum of three years following completion of the contract.
4. To ensure that all obligations under any contract awarded as a result of this proposal solicitation are met, the Authority will conduct periodic reviews of the Contractor's DBE involvement efforts during contract performance. The Contractor shall bring to the attention of the Authority's Office of Diversity and Equal Opportunity any situation in which regularly scheduled progress payments are not promptly made to DBE Subcontractors. Prompt payments to disadvantaged businesses are a requirement of 49 CFR Part 26 and are subject to interest charges, when not made within five (5) days of the Authority paying the Prime Contractor.

C. Miscellaneous Requirements.

1. There should be no restrictions through, for example, law provisions, partnership agreements, or charter requirements for cumulative voting rights

or otherwise that prevent the minority or women owners, without the cooperation or vote of any owner who is not a minority or woman, from making a business decision of the firm in accordance with 49 CFR 26.27(c).

2. The Contractor shall take affirmative steps in establishing local banking requirements for funds received from this project. Failure to investigate the opportunities to use banking institutions owned and controlled by minorities and women in good faith may cause a Contractor to be in non-compliance with 49 CFR 26.27. The Federal requirement states that deposits in banking institutions are not to be considered toward fulfillment of the DBE goals.
3. **Subcontractor Agreements.** After Contract Award, the Contractor will be required to submit copies of signed subcontract agreements with all subcontractors and sub recipients they will use to the Executive Director of Diversity and Equal Opportunity for review and approval. All subcontract agreements shall denote the Contract Assurance clause 49 CFR Part 26.13; the name of the person authorized to sign for the Subcontractor; the date on which the subcontract agreement was signed; the names of witnesses required; the Scope of Work and compensation for services rendered; and the beginning and ending date for the tasks assigned to the subcontractors. The Authority will not allow any subcontractor or sub recipient to perform any work under the Contract unless its subcontract agreement(s) has been received at least ten days prior to commencement of the subcontractor's and sub recipient's work. The subcontractor and sub recipient agreement shall contain language governing how the subcontractor will be paid that mirrors how MARTA will pay the prime in those instances where work is delayed because of terroristic, color coded alerts issued by Federal Homeland Security.
4. **Prompt Payment and Retention. Prompt Payment and Retention for Subcontractors.** It is the policy of the Authority that prompt payment is made to all subcontractors. **Each subcontract the prime contractor signs with a subcontractor must include the following assurance:** The Contractor is required to pay subcontractors for satisfactory performance of their contracts within 5 days after the Authority has paid the Contractor for such work. The Contractor will not be paid for work performed by a subcontractor until the prime ensures that the subcontractor is paid. The Contractor shall not require retainage of subcontractors that is greater than the retainage required of the Contractor by the Authority. In addition, the Contractor must return any retainage payments to those subcontractors within 14 days after the subcontractor's work related to this contract is satisfactorily completed; or any retainage payments after incremental acceptance of the subcontractor's work by MARTA and Contractor's receipt of the partial retainage payment related to the subcontractor's work.

The Contractor's failure to pay subcontractors, as provided herein, shall be a material breach for which the Authority may cancel the Contract. In addition, 49 CFR 26.29 cites that all progress payments not promptly processed by the prime within specified time limits (i.e. 5 days from receipt of payment by MARTA) will bear interest of 1% per month on the unpaid balance. The Contractor shall not delay or postpone payment to a subcontractor without prior written approval from the Executive Director of Diversity and Equal Opportunity.

5. **Prompt Payment and Retention for Lower Tier Contractors.** It is

the policy of the Authority that prompt payment is made to all lower tier contractors. **Each lower tier contract the subcontractor signs with a lower tier contractor must include the following assurance:** The Subcontractor is required to pay the lower tier contractors for satisfactory performance of their contracts within 5 days after the Prime has paid the Subcontractor for such work. The Contractor will not be paid for work performed by the lower tier contractor until the subcontractor ensures that the lower tier contractor is paid. The subcontractor shall not require retainage of the lower tier contractors that is greater than the retainage required of the Contractor by the Authority. In addition, the Contractor must return any retainage payments to the lower tier contractors within 14 days after the lower tier contractor's work related to this contract is satisfactorily completed; or any retainage payments after incremental acceptance of the lower tier contractor's work by the Prime and subcontractor's receipt of the partial retainage payment related to the lower tier contractor's work.

The subcontractor's failure to pay the lower tier contractor, as provided herein, shall be a material breach for which the Prime may cancel the Subcontract. In addition, 49 CFR 26.29 cites that all progress payments not promptly processed by the prime within specified time limits (i.e. 5 days from receipt of payment by MARTA) will bear interest of 1% per month on the unpaid balance. The Subcontractor shall not delay or postpone payment to the lower tier contractor without prior written approval from the Executive Director of Diversity and Equal Opportunity.

6. **Arbitration.** The Contractor is required to include, in each subcontract, a clause requiring the use of appropriate arbitration mechanisms to resolve all payment disputes. The Contractor must promptly notify The Authority when a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Before transmitting to MARTA its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to MARTA prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise MARTA of why it objects to the proposed termination **(the five day period may be reduced if the matter is one of public necessity, e.g., safety)**. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Executive Director of Diversity and Equal Opportunity.
7. Upon receipt of the Administrative Notice to Proceed and prior to Site Notice to Proceed, the contractor must submit a schedule of work indicating scope of work for each subcontractor and the time frame in which it is anticipated that this work will be performed.
8. The Contractor must provide MARTA's Office of Diversity and Equal Opportunity with the name and contact information for the EEO officer who will be responsible for all matters pertaining to Affirmative Action and DBE participation for the duration of the contract. During the term of the contract, the contractor's EEO officer will be responsible for the completion and submission of all quarterly reports to MARTA's Office of Diversity and Equal Opportunity. In addition, the EEO officer will also be responsible for serving as the Contractor's liaison for all matters pertaining to DBE firms

participating on the contract, including but not limited to, payment and performance issues, substitutions, etc.

9. **Contract Compliance.** The Contractor shall comply with all Davis Bacon, Affirmative Action, Americans with Disabilities Act (ADA), Equal Employment Opportunity (EEO), and Disadvantaged Business Enterprise (DBE) laws, Executive Orders, and regulations. The Office of Diversity and Equal Opportunity shall provide technical assistance to contractors on their compliance obligations; identify instances of non-compliance, and the implementation of timely and effective remedies to address non-compliance.
10. The contractor shall establish and maintain policies that provide opportunities for the full utilization and skill-improvement opportunities to assure the increased participation of minority groups and disadvantaged persons and women on their projects.
11. The contractor shall fully comply with Federal laws, directives, executive orders and implemented regulations for the duration of this contract. The Contractor shall display, on a bulletin board in the job site trailer in an accessible and visible location, posters that provide Federal information pertaining to safety (OSHA), wage and hour (Davis Bacon), Equal Employment Opportunity (EEO), and Americans with Disability Act (ADA).
12. The contractor shall provide the Office of Diversity and Equal Opportunity their full cooperation and support during the Equal Opportunity Compliance Reviews of their company.

D. Civil Rights Requirements

The Contractor agrees to comply with all applicable civil rights statutes and implementing regulations including, but not limited to, the following:

1. Nondiscrimination in Federal Transit Programs. The Contractor agrees to comply, and assure the compliance of each subcontractor at any tier of the Project, with the provisions of 49 USC § 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.
2. Nondiscrimination – Title VI of the Civil Rights Act. The Contractor agrees to comply, and assure the compliance of each subcontractor at any tier of the Project, with all requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, and US DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of title VI of the Civil rights Act,” 49 CFR Part 21, and any implementing requirements FTA may issue.
3. Equal Employment Opportunity. The Contractor agrees to comply, and assure the compliance of each subcontractor at any tier of the Project, with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 USC 42 U.S.C. § 2000e, and 49 USC 42 U.S.C. § 5332 and any implementing requirements FTA may issue. The contractor agrees that it will not discriminate against any employee or applicant for employment

because of race, color, creed, sex, disability, age, or national origin. Affirmation action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, sex, disability, age, or national origin. The Contractor also agrees to comply with any implementing requirements FTA may issue. Failure by the Contractor to carry out the terms of the EEO program will be treated as a violation of the Contract or Agreement.

4. Disadvantaged Business Enterprise. The Contractor agrees to comply with section 1101 (b) of TEA-21, 23 USC 42 USC § 101 note, and US DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR Part 23. The Contractor agrees that it shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any subcontract supported with Federal assistance derived from the US DOT or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Contractor agrees to take all necessary and reasonable steps set forth in 49 CFR Part 26 to ensure nondiscrimination in the award and administration of all subcontracts supported with Federal assistance derived from the USDOT. The Authority's DBE program, as required 49 CFR Part 26 and approved by the USDOT, is incorporated by reference and made part of the Contractual Agreement.
5. Discrimination on the Basis of Sex. The Contractor agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 USC 42 USC §§ 1681 *et seq.*, with implementing USDOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or activities receiving Federal Financial Assistance," 49 CFR Part 25, and with any implementing directives that US DOT or FTA may promulgate, which prohibit discrimination on the basis of sex.
6. Nondiscrimination on the Basis of Age. The Contractor agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 USC §§ 6101 *et seq.*, and implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age.
7. Access Requirements for Persons with Disabilities. The Contractor agrees to comply with all applicable requirements of 49 CFR § 5301 (d), which states the Federal policy that elderly persons and person with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The Contractor also agree to comply with all applicable requirement of Section 504 of the Rehabilitation Act of 1973 as amended, 29 USC § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disability Act of 1990 (ADA), as amended, 42 USC §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to the Act, and with the Architectural Barriers Act of 1968, as amended, 42 USC §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the Contractor agrees to comply with all applicable requirements of the following regulations and any subsequent amendments thereto:

- a. US DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR part 37;
- b. US DOT regulations, "Nondiscrimination on the Basis of handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Part 27;
- c. Joint US Architectural and Transportation Barriers Compliance Board (US ATBCB)/US DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38;
- d. US DOJ Regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR Part 35;
- e. US DOJ Regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in commercial Facilities," 28 CFR part 36;
- f. US General Services Administration (US GSA) regulations, "Accommodations for the Physically Handicapped," 41 CFR Subpart 101-19;
- g. US Equal Employment Opportunity commission, "regulations to Implement the Equal Employment Provisions of the Americans with Disability Act," 29 CFR Part 1630;
- h. US Federal Communication Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and speech Disabled," 47 CFR Part 64;
- i. US ATBCB, "electronic and Information Technology Accessibility Standards," 36 CFR Part 1194;
- j. FTA regulations, "Transportation for Elderly and Handicapped persons," 49 CFR Part 609; and
- k. Any implementing requirements FTA may issue.

Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as MARTA deems appropriate.

8. Access to Services for Persons with Limited English Proficiency. The Contractor agrees to comply with Executive Order No. 13166, "Improving Access to Services for Person with Limited English Proficiency," 42 USC § 2000d-1 note, and US DOT Notice, "DOT Policy Guidance concerning Recipients' Responsibilities to Limited English Proficiency (LEP), 70 *Federal Regulation* 74087, December 14, 2005.
9. Environmental Justice. The Contractor agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental

Justice in Minority Populations and Low-Income Populations," 42 USC § 4321 note.

10. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Contractor agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 USC §§ 1101 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 USC §§ 4541 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 USC §§ 201 *et seq.*, and any amendments to these laws.
11. Other Nondiscrimination Statutes. The Contractor agrees to comply with all applicable requirements of any other nondiscrimination statute(s) that may apply to this Contract
12. The contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.
13. Contract Assurance. (a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance: The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

(b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

PART III – EEO STATISTICAL DATA FOR PRIME CONTRACTORS

A. Employment Data

The Bidder shall provide the following information pertaining to its workforce. If the Bidder has an Atlanta-area workforce, it should be shown; if the Contractor does not have an Atlanta-area workforce, total permanent workforce should be shown.

JOB CATEGORIES	ALL EMPLOYEES			TOTAL MINORITY EMPLOYEES								
	TOTAL MALES AND FEMALES	MALES	FEMALES	MALES				FEMALES				
				BLACK	ASIAN AMERICAN	AMERICAN INDIAN	HISPANIC	BLACK	ASIAN AMERICAN	AMERICAN INDIAN	HISPANIC	
Officers												
Managers												
Supervisors												
Professionals												
Technicians												
Sales Workers												
Office & Clerical												
Craftsman (skilled)												
Operatives (semi-skilled)												
Laborers (unskilled)												
Service Workers												
Apprentices												
TOTALS												

The above reflects (check Atlanta-area workforce Total permanent workforce (outside Atlanta area))

* Bidders with 50 or more employees are required to submit a copy of their written Affirmative Action Plan

** Bidders with less than 50 employees are required to submit a copy of their Equal Opportunity Policy statement signed by an authorized company official.

B. SCHEDULE OF DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

As specified in Part II of these EEO/DBE specifications, Contractors are to present the details of disadvantaged business participation below.

Name of Disadvantaged Business Enterprise	Address	Type of work and contract item or parts thereof to be performed	Projected commencement & completion date of work	* Agreed Upon Price w/ DBEs owned and controlled by minorities	* Agreed Upon Price w/ DBEs owned and controlled by women
*Dollar value of each DBE agreement should be listed in one, not both of the "Agreed Upon Price" column; totals of the columns are to at least equal the DBE goals.				Totals	

C. CERTIFICATION

The undersigned certifies that he/she has read, understands, and agrees to be bound by Parts I, II, and III of this section, including the accompanying Exhibits, regarding EEO and DBE, and the other terms and conditions of the Invitation for Bids. The undersigned further certifies that he/she is legally authorized by the Contractor to make the statements and representations in this Part III and that said statements and representations are true and correct to the best of his/her knowledge and belief. The undersigned will enter into formal agreement(s) with Disadvantaged Business Enterprise(s) (which are otherwise deemed by the Authority to be technically responsible to perform the work) listed in Part III B for the work listed in Part III B at the price(s) set forth in Part III B conditioned upon execution of a contract with the Authority. The contractor must promptly notify The Authority when a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Before transmitting to MARTA its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to MARTA prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise MARTA of why it objects to the proposed termination (the five day period may be reduced if the matter is one of public necessity, e.g., safety). The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Executive Director of Diversity and Equal Opportunity. The undersigned understands and agrees that if any of the statements and representations are made by the Contractor knowing them to be false, or if there is a failure of the successful Contractor to implement any of the stated agreements, intentions, objectives, goals, commitments, and substitutions set forth herein without prior approval by the Executive Director, of Diversity and Equal Opportunity or a designee, then in any of such events the Contractor's act or failure to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such remedy as MARTA deems appropriate.

Print Name: _____ Signature: _____ Title: _____ Date of Signing: _____
 Title: _____ Firm or Corporate name: _____ Telephone: _____ Fax: _____
 Address: _____

METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY
OFFICE OF DIVERSITY AND EQUAL OPPORTUNITY
EXHIBITS

Title	Exhibit
Equal Employment Opportunities	A
Minority Business Enterprise	B
Disadvantaged Business Enterprise	B-1
Monthly Construction Workers Utilization Report	C *
Quarterly Report of Disadvantaged Business Enterprise	C-1
Exhibit D Intentionally Not Included	D
Joint Venture Disclosure	E
Disadvantaged Business Enterprise Goal Requirement	F
Good Faith Efforts	G **
Minority-Owned Banks	H
TVM Certification of Compliance	I ***

*Exhibit C (To be included in construction contracts only)

**Exhibit G (To be included only in contracts with DBE goals)

*** Exhibit I (To be included in TVM contracts only)

**METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY
RESOLUTION: EQUAL EMPLOYMENT OPPORTUNITIES
ADOPTED BY THE MARTA BOARD AUGUST 9, 1971**

The Metropolitan Atlanta Rapid Transit Authority (MARTA) desires to give all citizens equal opportunities in the building and operation of its transit system; and

Discrimination based on race, color, sex and religion or national origin is prohibited by Title VII of the Civil Rights Act of 1964 and Executive Order 11246 prohibits discrimination in federally funded and federally-assisted projects; and

MARTA has an obligation concerning its employment practices and the employment practices of its contractors and their subcontractors to take affirmative action to ensure that applicants and employees are not discriminated against based on race, color, religion, sex or national origin.

NOW, THEREFORE, BE IT RESOLVED, that MARTA shall recruit, screen, hire and promote its personnel and require all of its contractors and subcontractors to recruit, screen, hire and promote their personnel without regard to race, color, sex, religion and national origin; and

It shall be the policy of MARTA to achieve and maintain in all of its organizational units and to require all of its contractors and their subcontractors to achieve and maintain in all of their organizational units, levels of minority manpower utilization at least equal to the goals which MARTA shall establish for each segment of its activities after making appropriate factual determinations through its Department of Equal Opportunity and Compliance Review in accordance with the attached utilization plan, affirmative action plan and guidelines which are made a part of this Resolution by reference. The Department shall be established and it shall make factual findings and set goals as soon as practicable after favorable vote at the referenda and in any case before MARTA lets contracts for construction of its rapid transit system. The goals as they relate to those job categories which are enumerated in the Atlanta Plan of the Department of Labor shall in no case be less than the numbers specified in said Atlanta Plan. As to the other job categories, goals must be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire program work effectively; and

In any situation of under-utilization of minority manpower, MARTA and its contractors and their subcontractors shall undertake affirmative action programs, within contemplation of Executive Order 11246, including the provision of training to minority workers, to achieve and maintain the objectives of this policy.

This policy statement shall be distributed, both internally and externally, and shall be made a part of all of the Authority's invitations to bid.

**METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY
RESOLUTION: ADOPTION OF REVISED MINORITY BUSINESS
ENTERPRISE
CONTRACTING GOALS ADOPTED BY THE MARTA BOARD
DECEMBER 22, 1980**

WHEREAS the Metropolitan Atlanta Rapid Transit Authority (MARTA) desires to afford all citizens equal opportunity to participate in the design, construction and operation of the transit system; and

WHEREAS discrimination based on race, color, sex, religion and national origin is prohibited by the Civil Rights Act of 1964 and Executive Order 11246, as amended; and

WHEREAS Executive Order 11625 of 1971 prescribes the development of a program to achieve full participation of minority businesses in the free enterprise system; and

WHEREAS Title VI of the Civil Rights Act requires that appropriate steps be taken to ensure access of all citizens to the services derived from federally assisted programs; and

WHEREAS the U.S. Department of Transportation Administration has promulgated regulation (49CFR 23) for implementation of programs by transit properties to ensure participation by businesses owned and controlled by minorities and women; and

WHEREAS MARTA recognizes its obligations concerning practices and the contracting practices of its contractors and subcontractors to take affirmative action to ensure that minority and women-owned businesses are given an equitable opportunity to share in contract opportunities.

NOW, THEREFORE, be it resolved, that MARTA shall continue to assure that minority business enterprises have the maximum practicable opportunity to participate in all MARTA contracting opportunities and to that end the MARTA Board of Directors hereby establishes overall contracting goals of 20 percent for the participation of firms owned and controlled by minorities and 5 percent for the participation of firms owned and controlled by women.

RESOLVED, FURTHER, that the General Manager, through the Office of Equal Employment Opportunity, is directed to administer the implementation of this Resolution in accordance with the Authority's Minority Business Enterprise Program and applicable federal guidelines which are made a part of this Resolution by reference.

**METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY
RESOLUTION: DISADVANTAGED BUSINESS ENTERPRISE**

WHEREAS, the Metropolitan Atlanta Rapid Transit Authority (MARTA) desires to afford all citizens equal opportunity to participate in the design, construction and operation of the transit system; and

WHEREAS, Executive Order 11625 of 1971 prescribe the development of a program to achieve full participation of disadvantaged businesses in the free enterprise system; and

WHEREAS, Title VI of the Civil Rights Act 8 requires that appropriate steps be taken to ensure access of all citizens to the services delivered from federally-assisted programs; and

WHEREAS, the U.S. Department of Transportation has promulgated regulations 49 CFR 23 for implementation of programs by transit properties to ensure participation by businesses owned and controlled by disadvantaged persons; and

WHEREAS, MARTA recognizes the obligation of its contractors and subcontractors to take affirmative action to ensure that disadvantaged businesses are given equitable opportunity to share in contract opportunities.

NOW, THEREFORE, be it resolved, that MARTA shall continue to assure that disadvantaged business enterprises have the maximum practicable opportunity to participate in all MARTA contracting opportunities and all contracts, whether funded with federal or local monies, shall be subject to MARTA's Disadvantaged Business Enterprise Program and shall have a 25% goal for the utilization of disadvantaged businesses.

RESOLVED, FURTHER, that the General Manager, through the office of Equal Opportunity is directed to administer the implementation of this Resolution in accordance with the Authority's Disadvantaged Business Enterprise Program and applicable federal guidelines which are made a part of this Resolution by reference.

MONTHLY CONSTRUCTION WORKER UTILIZATION REPORT

(see reverse side for instructions)

To: Office of Diversity and Equal Opportunity MARTA 2424 Piedmont Road, NE Atlanta, GA 30324-3330	From: (Name and location of <u>prime</u> or <u>first tier</u> contractor (circle one))
---	---

1. Name of Project	2. Reporting Period (Mo, Yr)	3. Project		
		a. Number	b. Percent Completed	c. Date Completed

4.	5.	6.	7.					8.	9.	10.	11.	12.		
			a.	b.	c.	d.	e.						f.	
Company's Name (I.D.)	Percentage of Work Completed	Trade	Classification	Total	Black	Hispanic	American Indian	Asian American	Number of Women	% Minority Hrs. of Total Hrs.	Total # of Minority Employees	Total # of Female employees	% Female Hrs. of Total Hrs.	Total # of Employees
			J											
			H											
			Ap											
			Tr											
			J											
			H											
			Ap											
			Tr											
			J											
			H											
			Ap											
			Tr											
			J											
			H											
			Ap											
			Tr											

13. Company Official's Signature and Title	14. Date Signed	15. Telephone No.
--	-----------------	-------------------

INSTRUCTIONS FOR FILING TRADE WORKER UTILIZATION REPORT

The construction Worker Utilization Report is to be completed by the prime Contractor and each Subcontractor and signed by a Responsible official of each company. The Reports are to be filed by the fifth day of each month, during the term of the contract, and they shall include the total hours worked for each employee level in each designated trade for the entire reporting period. Send two copies of the completed Report to the MARTA office shown below:

Ms. Antoine Smith Manager of Economic Opportunity Office of Diversity and Equal Opportunity 2424 Piedmont Road, NE Atlanta, GA 30324-3330	
Compliance Agency	MARTA has the responsibility for equal employment opportunity on the project.
Prime Contractor	Any contractor who has a contract with MARTA.
1. Name of Project	Name given in the invitation for Bids.
2. Report Period	Every 30 days.
3a. Project Number	Number assigned to contract.
3b. Percent of Project Complete	Percent of total work completed
3c. Date Project Completed	Date of estimated completion
4. Name of Company	Any contractor or Subcontractor on this project.
5. Percent of Project Complete	Percent project work contractor or subcontractor has completed.
6. Trade	All crafts performing on this project
7. Hours of Employment	The total number of hours worked by all employees in each classification; and the total number of hours worked by each minority group (Black, Hispanic, Asian, and American Indian) and women in each classification.
Classification	The level of accomplishment or status of the worker in the trade. (J-journeymen, H-helper, Ap-apprentice, T-trainee).
8. Percent of Minority Hours of Total.	The percentage of minority hours of all hours worked.
9. Total number of Minority Employees.	Number of minority employees.
10. Total Number of Female Employees.	Number of female employees on job during reporting period.
11. Percent of Female Hours of Total Hours.	The percentage of total hours worked by women of all hours worked.
12. Total Number of Employees.	Number of all employees working on job during reporting period.

Contract Number: _____

**QUARTERLY REPORT ON DISADVANTAGED BUSINESS ENTERPRISES
PRIME CONTRACTOR REPORTING ON DBE SUBCONTRACT
ACTIVITY APPLICABLE ON THIS CONTRACT**

Calendar Quarter covered by this report:

___ 1st ___ 3rd 20___

___ 2nd ___ 4th Year

If contract is complete please indicate if report is final:

Yes: ___ No: ___

Date Completed: _____

I. DISADVANTAGED SUBCONTRACTORS

Instructions: List all disadvantaged subcontractors which have performed work since NTP, are currently performing work during the duration of the MARTA contract. Disadvantaged-minority joint ventures should show complete joint ventures name and total dollars committed and paid, although only the share in which the disadvantaged firm is participating will be tabulated. Disadvantaged business enterprises which are owned and controlled by women should be denoted with an asterisk (*). The Contractor shall not require retainage of subcontractors that is greater than the retainage required of the Contractor by the Authority. Contractor must return all retainage payments to subcontractor upon satisfactory completion and acceptance of work by MARTA within 14 days; or any retainage payments after incremental acceptance of the subcontractor's work by MARTA and Contractor's receipt of the partial retainage payment related to the subcontractor's work. All payments not promptly processed and paid by the prime within the specified time limits will bear interest of 1% per month on the unpaid balance. The Contractor shall not delay or postpone payment to a subcontractor without prior written approval from the Executive Director of Diversity and Equal Opportunity.

Name of DBE/Non-DBE Firm	Dollars Committed	Dollars Paid This Quarter	Dollars Paid Since NTP	Retainage Withheld (\$)	Total Retainage Paid	Date Retainage Paid

Contract Number: _____

III. MINORITY-OWNED BANKING

Instructions: List all minority-owned banking institutions in which dollars were deposited during the quarter. Dollars should reflect the contractor's average balance during the quarter in Both "time" and "demand" accounts.

NAME OF MINORITY-OWNED
BANKING INSTITUTIONS

DOLLARS DEPOSITED
IN TIME ACCOUNTS

DOLLARS DEPOSITED
IN DEMAND ACCOUNTS

IV. CERTIFICATION

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary Public

(Notary Seal)

My Commission Expires _____

Firm or Corporate Name

Signature of Firm's EEO Officer

Telephone Number

Fax Number

Email Address

Contract Number: _____

**QUARTERLY REPORT ON DISADVANTAGED BUSINESS ENTERPRISES
EEO ACTIVITIES OF THE PRIME CONTRACTOR ONLY**

Calendar Quarter covered by this report:

__ 1st __ 3rd 20__
__ 2nd __ 4th Year

1. How many positions were filled in the last quarter? _____
2. How many positions were filled with minorities in the last quarter? _____
3. How many positions were filled with women in the last quarter? _____
4. What efforts were made to recruit minorities and/or women? _____
5. Please list all minorities promoted in the last quarter, including their former and current positions.

Former Position	Current Position

6. Please list all women promoted in the last quarter, including their former and current positions.

Former Position	Current Position

7. Comments (optional). _____

Contract Number: _____

Employment Data as of: _____

EEO STATISTICAL DATA ON THE PRIME CONTRACTOR'S STAFF ONLY

JOB CATEGORIES	ALL EMPLOYEES			TOTAL MINORITY EMPLOYEES								
	TOTAL MALES AND FEMALES	MALES	FEMALES	MALES				FEMALES				
				BLACK	ASIAN AMERICAN	AMERICAN INDIAN	HISPANIC	BLACK	ASIAN AMERICAN	AMERICAN INDIAN	HISPANIC	
Officers												
Managers												
Supervisors												
Professionals												
Technicians												
Sales Workers												
Office & Clerical												
Craftsman (skilled)												
Operatives (semi-skilled)												
Laborers (unskilled)												
Service Workers												
Apprentices												
TOTALS												

The above reflects (check one):

Atlanta-area workforce

Total permanent workforce (outside Atlanta area)

The undersigned certifies that he/she is legally authorized by the bidder to make the statements and representations contained in this report; that he/she has read all of the foregoing Statements and representations, and they are true and correct to the best of his/her knowledge and belief. The undersigned understands that if any of the statements and representations are made knowing them to be false or there is a failure to implement any of the stated intentions or objectives, set forth herein, without prior notice to the Executive Director of Diversity And Equal Opportunity or the Manager of Economic Opportunity, the contractor will be subject to the loss of any existing contracts and all future contract awards.

Signature: _____ Title: _____

Firm Corporate Name: _____

Name of MARTA DBE Analyst assigned this contract: _____



JOINT VENTURE DISCLOSURE OF REQUIREMENTS

In order to evaluate the extent of the meaningful disadvantaged involvement being proposed by a Joint Venture proponent in satisfaction of its affirmative actions obligation, the Authority requires that certain relevant information be provided initially, prior to award, and be continually updated throughout contract performance. This information must be in the form of an affidavit and submitted through the prime contractor by the Joint Venture. The statements should clearly identify and explain the extent of the disadvantaged business participation in the joint venture including, but not limited to, the information on this form. All information must be furnished or properly addressed before the business entity can be evaluated and approved as an acceptable Joint Venture that meets DBE contract goal requirements.

Description	Joint Venture Firm #1	Joint Venture Firm #2
Official Name, Address and Telephone Number of Each Joint Venture Firm		
Nature of Business of Each Joint Venture Firm		
Number of Years Each Joint Venture Has Been in Business		
	Joint Venture Firm #1	Joint Venture Firm #2
Official Name, Address and Telephone Number of Each Joint Venture Firm		
Nature of Business of Each Joint Venture Firm		
Number of Years Each Joint Venture Has Been in Business		

2. Percent of disadvantaged ownership in joint venture in terms of profit and loss sharing: _____

3. Capital contributions by each joint venture and accounting therefore: _____

4. Financial controls of joint venture (e.g. will a separate cost center be established; who will be responsible for keeping the books, accounts payable, bank deposits; how will the expense therefore be reimbursed: _____

5. The authority that each joint venture partner has in relation to committing or obligating the other:

6. Describe in specific details the work to be performed on the contract by the disadvantaged business enterprise joint venture firm and the non-minority joint venture firm:

7. Identify and explain the terms of any ownership, options for ownership or loans between the joint ventures partner:

8. Specify the contract cash contributions that will be provided by each joint venture partner in support of the contract:

9. Denote all personnel, their crafts and positions that will be assigned by the disadvantage business enterprise and non-minority joint partner respectively:

10. How and by whom will the on-site work be supervised, carried out and satisfactorily completed. Please itemize and list the SOW requirements that will be respectively carried out by each joint venture partner:

11. How and by whom will the administrative office be supervised and administered:

12. Which joint venture partner will be responsible for material purchases including the estimated cost thereof, as well as, the financing of required purchases:

13. What equipment will each joint venture partner provide for support of the joint venture? Please itemize and list equipment provided by each joint venture partner:

14. The experience and business qualifications of each joint venture: enclosed not enclosed

15. Evidence of authority to do business in the State of Georgia, as well as locally, include all necessary business license: enclosed not enclosed

16. Provide a detailed and delineating copy of the joint venture agreement: enclosed not enclosed

17. Identification of control and participation in venture; list those individual who are responsible for day-to-day management and policy decision making including, but not limited to those with prime responsibility for:

Name	R a c e	S e x	Title	Original Organization Affiliation	*Financial Decisions	*Management Decisions	Supervision of Field Operations	@Human Resources

*(including, but not limited to, estimating, marketing and sale, hiring and firing of management personnel, and purchasing of major items or supplies.)

@obligation of Human Resources needed to successfully complete this contract.

Brief Summary of information listed above:

Name	Qualifications	Responsibilities	Years of Experience	Person's Experience

I HEREBY DECLARE AND AFFIRM that I am the _____
(title)

duly authorized representative of (the Joint Venture of) _____, I
(name of venture)

hereby declare and affirm that I am a disadvantaged business enterprise (DBE) as defined by
MARTA in the specification for _____
(contract number and name)

The undersigned does hereby swear that the foregoing statements are true and correct and include all materials and information necessary to identify and explain the operations of our joint venture and the intended participation by each joint venture in the undertaking. Further, the undersigned does covenant and agree to provide to MARTA current, complete, and accurate information regarding actual joint venture work and the payment therefore, and any proposed changes in any of the arrangements hereinabove stated and to permit the audit and examination of the books, records and files to the joint venture, or those of each joint venture, authorized representatives of the Authority or Federal Government. It is recognized and acknowledged that the statements herein are being given under oath and any material misrepresentation will be grounds for terminating any contract which may be awarded in reliance hereon and for initiating action under federal and state laws concerning false statements.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT AND THAT I AM AUTHORIZED ON BEHALF OF THE ABOVE FIRM TO MAKE THIS AFFIDAVIT.

Signature of Joint Venture's Authorized Representative(s)

Signature of Joint Venture's Authorized Representative(s)

STATE OF _____

COUNTY (CITY) OF _____

On this ____ day of _____ 20 __, before me _____

personally appeared _____,
know to me to be the person described in the foregoing Affidavit and acknowledge that he/she executed the same in the capacity therein stated and for the purpose therein contained.

In witness thereof, I hereunto set my hand and official seal.

(Notary Public)

My Commission Expires _____

(Seal)

DETERMINATIONS REGARDING DISADVANTAGED BUSINESS ENTERPRISE GOALS

It is the policy of the Authority and the Federal Government to ensure that DBEs have a full opportunity for meaningful participation in work performed under Authority contracts. The Authority views meaningful disadvantaged business enterprise participation as being something more than mere tokenism or feigned DBE involvement and looks to the substance of proposed commitments in terms of the legitimacy of the disadvantaged business enterprise and its actual involvement in performance of the contract work. Thus, meaningful disadvantaged business enterprise participation needs to be defined, understood, and evaluated to determine if the proposed disadvantaged business enterprise involvement will provide opportunities to increase the experience and expertise of the DBE as well as to enhance its potential to achieve economic viability.

Determination of DBE Status

To ensure that the Authority's DBE Program benefits only DBEs which are owned and controlled in both form and substance by one or more disadvantaged persons or women, the Authority requires that each business including the DBE partner in a joint venture, wishing to participate as a joint venture DBE complete and submit Disadvantaged Business Enterprise Business Disclosure Requirements (Exhibit D). Additionally each entity wishing to participate as a joint venture DBE must complete and submit Joint Venture Disclosure Requirements (Exhibit E). The Disclosure Requirements are to be signed and notarized by the authorized representatives of the business entity and are to be submitted through the Bidder to the Authority prior to contract award. Under the following circumstances, a business seeking to participate as a DBE need not to submit Exhibits D and E.

1. If the potential DBE contractor states in writing that it has submitted the same information to or has been certified by the Authority, any U.S. Department of Transportation element, or another Federal Agency that uses essentially the same disadvantaged business enterprise definition and ownership and control criteria as U.S. D.O.T. The potential DBE contractor is to obtain the information and certification (if any) from the other agency and submit to the Authority or cause the other agency to submit it. The Authority may rely upon such a certification, but the authority reserves the right to require that additional information be submitted and to make an independent determination. Where another agency has collected information but not made a determination concerning eligibility, the Authority will make its own determination based on the information it has obtained from the other agency.

(d) A UCP is not required to process an application for certification from a firm having its principal place of business outside the state if the firm is not certified by the UCP in the state in which it maintains its principal place of business. The "home state" UCP shall share its information and documents concerning the firm with other UCPs that are considering the firm's application.

2. If the potential DBE contractor has been determined by the Small Business Administration to be owned and controlled by socially and economically disadvantaged individuals under Section 8 (a) of the Small Business Act, as amended. In this circumstance, the potential DBE contractor is to furnish conclusive evidence of the SBA determination to the Authority.

The Authority reserves the right to request and review additional relevant information pertaining to the legitimacy of any purported DBE.

DBE Eligibility Standards

In general, to be eligible for the DBE program, persons must own 51% or more of a "small business," establish that they are disadvantaged within the meaning of DOT regulations, and prove they control their business. The following general guidelines, taken in part from the applicable regulation (49 CFR Part 26), will help business owners determine whether they are eligible for the DBE program:

Eligibility Guidelines (in general):

1. **Ownership** - Your business must be 51% owned by a socially and economically *disadvantaged* individual(s).
2. **"Disadvantaged"** - You may be eligible if you are a member of a group of persons the Department considers as disadvantaged. The Department presumes certain groups are disadvantaged, including women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian-Pacific Americans, or other minorities found to be disadvantaged by the U.S. Small Business Administration (SBA). Persons who are not members of one of the above groups and own and control their business may also be eligible if they establish their "social" and "economic" disadvantage. The Department notes, for example, that people with disabilities have disproportionately low incomes and high rates of unemployment, and that many may be socially and economically disadvantaged. A determination of whether an individual with a disability meets DBE eligibility criteria is made on a case-by-case basis. More information on how social and economic disadvantage is determined can be found in Appendix E to 49 CFR Part 26.

3. **Business Size Determination** - A firm (including its affiliates) must be a small business as defined by SBA standards. It must not have annual gross receipts over \$22,410,000 in the previous three fiscal years (\$52,470,000 for airport concessionaires in general with some exceptions). Under SAFETEA-LU, this threshold will be adjusted annually for inflation by the Secretary.
4. **Personal Net Worth** - Only disadvantaged persons having a personal net worth (PNW) of less than \$1,320,000 can be considered as a potential qualified DBE. Items excluded from a person's net worth calculation include an individual's ownership interest in the applicant firm, and his or her equity in their primary residence. Additional exclusions are available for owners of airport concessionaires (See 49 CFR Part 23).
5. **Independence** - The business must not be tied to another firm in such a way as to compromise its independence and control.
6. **Control** - A disadvantaged owner seeking certification must possess the power to direct or cause the direction of the management and policies of the firm. The owner must also have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged.
7. **Burden of Proof Allocation** - Applicants carry the initial burden of proof regarding their eligibility and must demonstrate that they meet all requirements concerning group membership or individual disadvantage, business size, ownership, and control.

Additional program requirements and certification procedures are found in the Department's regulations 49 CFR Parts 23 and 26. Specific information can also be found within the Department of Transportation's Office of Small and Disadvantaged Business Utilization. In addition to the foregoing standards, the Authority gives special consideration to the following circumstances in determining DBE eligibility.

1. Newly formed firms and firms whose ownership and/or control have changed since the date of the advertisement of the contract are closely scrutinized to determine the reasons for the timing of the formation of or change in the firm.
2. A previous and/or continuing employer-employee relationship between or among present owners are carefully reviewed to ensure that the employee-owner has management responsibilities and capabilities discussed herein.
3. Any relationship between a DBE and a business which is not a DBE which has an interest in the DBE is carefully reviewed to determine if the interest of the non-DBE conflicts with the ownership and control requirements of the DBE definition and guidelines.

Once approved by the Georgia Uniform Certification Program (GUCP) as a DBE, each DBE is expected to update its submission annually by submitting, Exhibit D and/or E, as appropriate, certifying that Exhibit D and/or E on file is still accurate. At any time there is a change in ownership or control of the firm, the DBE is to submit a new Exhibit D and/or E, at the time of such occurrences.

The denial of DBE status to an entity by the U.S. D.O.T. or the GUCP is to be considered final, for the contract and other contracts being led by the Authority at the time of denial of DBE certification, except that any firm which believes that it has been wrongly denied certification as a DBE may file an appeal with the U.S. Department of Transportation pursuant to 49 CFR 26.89. DBEs and joint ventures denied certification may correct deficiencies in their ownership and control and apply for DBE status one year from the date of denial.

Counting DBE Participation Toward DBE Goals

DBE participation is counted toward meeting DBE goals as follows:

1. Once a firm is determined to be an eligible DBE, the total dollar value of the contract awarded to the DBE is counted toward the applicable DBE goal. If a DBE is found to be ineligible after contract award, the prime contractor is not relieved of the DBE requirement. When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so. The contractor may substitute or provide good faith efforts as stated in 49 CFR Part 26.87 i (1).
2. The total dollar value of a contract to a DBE owned and controlled by both disadvantaged males and non-minority females is counted toward the goals for disadvantaged and women, respectively, in proportion to the percentage of ownership and control of each group in the business. The total dollar value of a contract with a DBE owned and controlled by disadvantaged women is counted toward either the disadvantaged goal or the goal for women, but not for both. The contractor employing the firm may chose the goal to which the contract value is applied.
3. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

4. A contractor may count toward the DBE goals a portion of the total dollar value of contract with a joint venture equal to the percentage of the ownership and control of the DBE partner in the joint venture.
5. A contractor may count toward the DBE goals only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a DBE is performing a commercially useful function, the Authority will evaluate the amount of work subcontracted, industry practices and other relevant factors.
6. Consistent with normal industry practices a DBE may enter in subcontracts. If a DBE contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function. The DBE may present evidence to rebut this presumption to the Authority. The Authority's decision on the rebuttal of this presumption is subject to review by the U.S. Department of Transportation.
7. A DBE trucking company is performing a commercially useful function: The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
8. A contractor may count toward its DBE goal expenditures for materials and supplies obtain from DBE suppliers and manufactures, provided that the DBEs assume the actual contractual responsibility for the provision of the materials and supplies. The contractor may count its entire expenditure to a DBE manufacture (i.e., a supplier that produces goods from raw materials or substantially alters them before resale). The contractor may count 60 percent of its expenditures to DBE suppliers that are not manufactures, provided that the DBE supplier performs a commercially useful function in the supply process. No percentage amount will be authorized by the Authority to be counted if DBE suppliers do not perform a commercially useful function and are a totally passive conduit.

Examples of DBE Participation

The degree of DBE goal attainment through utilization of DBEs and disadvantaged-majority joint ventures will be calculated as in the following examples.

A joint venture consisting of a disadvantaged business and a majority business, functioning as a prime contractor, will be credited with disadvantaged participation on the basis of percentage of profit to accrue to the DBE. For example, if a joint venture composed of a disadvantaged business and a majority business proposes to perform 50 percent of a project quoted at \$500,000 and 50 percent of the profits are to accrue to disadvantaged partner in the joint venture, disadvantaged participation will be credited as 25 percent of the work, or 125,000.

A DBE distributor or supplier, which performs a commercially useful function, will be credited with 60 percent of the total dollar value of an order toward the DBE goal. For example, A DBE supplier which plays a substantial role in the delivery arrangements and which actually possesses risk of liability for defective products or late delivery may credit \$ 300,000 or 60 percent of a total supply order of \$500,000.

No meaningful DBE goal is achievable unless great care is taken to ensure that contracts let pursuant to the goal requirements are let only to bona fide DBEs. MARTA bidders and contractors are expected to exercise the greatest possible care that disadvantaged firms with whom joint ventures are formed and subcontracts are let and bon fide.

METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY GOOD FAITH EFFORTS

In order to evaluate the extent of the meaningful Good Faith Efforts being submitted by a bidder/proposer in satisfaction of the contract requirements, the Authority requires that certain relevant information be provided prior to contract award. This information must be in the form of an affidavit and submitted by the prime contactor. A bidder/proponent must show reasonable good faith efforts to obtain DBE participation. MARTA treats bidder's/proponent's compliance with good faith efforts requirements as a matter of responsiveness. Such reasonable efforts may include, but are not limited to, some or all of the following:

- Utilization of the Georgia Unified Certification Program DBE Directory to identify currently certified DBEs:
www.dot.ga.gov/doingbusiness/dbepograms
- Attendance at pre-bid/pre-proposal meetings, advertising and/or written notices;
- Follow-up of initial solicitations of interest by contacting DBE's to determine with certainty whether the DBE's are interested;
- Efforts to provide DBE's with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation;
- Efforts made to select portions of the work (including, where appropriate, breaking down the contract into economically feasible units) proposed to be performed by DBE's in order to increase the likelihood of achieving the DBE goal;
- Efforts to negotiate with DBE's for specific sub-bids, including at a minimum;
- The names, addresses, and telephone numbers of DBE's that were contacted;
- A description of the information provided to DBE's regarding the plans and specifications for portions of the work to be performed and;
- A detailed statement of the reasons why additional prospective agreements with DBE's needed to meet the stated goals, were not reached.

Administrative Reconsideration

The bidder/proponent must make a written request for administrative reconsideration five (5) days prior to the award of the contract for lack of good faith efforts. That notice may be faxed to:

**Elizabeth O'Neil
Chief Litigation Section
Legal Services Department
2424 Piedmont Road, NE
Atlanta, GA 30324
Fax: (404) 848-4302**

I HEREBY DECLARE AND AFFIRM that I am the _____
(title)

duly authorized representative of _____
(name of firm)

The undersigned does hereby swear that the foregoing statements are true and correct and include all materials and information necessary to identify and explain the efforts put forth to meet the DBE goal requirements of this contract. Further, the undersigned does covenant and agree to provide to MARTA current, complete, and accurate information regarding good faith efforts. It is recognized and acknowledged that the statements herein are being given under oath and any material misrepresentation will be grounds for terminating any contract which may be awarded in reliance hereon and for initiating action under federal and state laws concerning false statements.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT AND THAT I AM AUTHORIZED ON BEHALF OF THE ABOVE FIRM TO MAKE THIS AFFIDAVIT.

Signature of Authorized Representative(s)

STATE OF _____

COUNTY (CITY) OF _____

On this ____ day of _____ 20 __, before me personally appeared

_____,
know to me to be the person described in the foregoing Affidavit and acknowledge that he/she executed the same in the capacity therein stated and for the purpose therein contained.

In witness thereof, I hereunto set my hand and official seal.

(Notary Public)

My Commission Expires _____

(Seal)

**METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY
OFFICE OF DIVERSITY AND EQUAL OPPORTUNITY
MINORITY- OWNED BANKS RECOMMENDED
FOR CONSIDERATION**

MINORITY-OWNED BANKS STATE OF GEORGIA

Bank Name	Address	Telephone/Fax	Contact/Title
Capitol City Bank and Trust Company	562 Lee Street S.W. Atlanta, GA 30310	T: (404) 752-6067 F: (404) 752-5862	Mr. George Andrews President & CEO
Carver State Bank	701 MLK Jr., Blvd, Savannah, GA 31402	T: (912) 233-9971 F: (912) 232-8666	Mr. Robert E. James President
Citizens Trust Bank	756 Piedmont Ave., Ste. 1200, Atlanta, GA 30303	T: (404) 575-8306 F: (404) 575-8311	Ms. Cynthia Day Senior EVP & COO
Global Commerce Bank	5150 Buford Hwy., Ste., B130, Doraville, GA 30340	T: (770) 457-5858 F: (770) 457-1410	Ms. Silvia E. Belen CFO & SVP
Metro City Bank	5441 Buford Hwy, Ste. 109, Doraville, GA 30340	T: (770) 455-4989 F: (770) 945-4988	Mr. Farid Tan President & CEO
Quantum National Bank	505 Peachtree Industrial Blvd, Suwanee, GA 30024	T: (770) 845-8300 F: (770) 945-4888	Mr. Bradley D. Bishoff SVP & CFO
State Bank of Georgia	131 Gingercake Road, Fayetteville, GA 30214	T: (770) 719-1200 F: (770) 716-0024	Mr. Kevin M. Sharpe SVE & CFO

UTILIZATION OF MINORITY-OWNED BANKS DISCLAIMER

MARTA encourages all of its contactors and their subcontractors, suppliers and vendors to consider utilizing the services of Minority-owned Banks for funds received from Authority projects. Failure to investigate the opportunities to use banking institutions owned and controlled by minorities and women in good faith may cause a contractor to be in non-compliance with 49 CFR 26.27. The Federal requirement states that deposits in banking institutions are not to be considered toward the fulfillment of DBE goals.

PART 4: FORMS FOR SUBMITTAL

4.5 CONTRACTOR SAFETY EXPERIENCE

Contractor Safety Experience

Respondent: _____ Completed By: _____

1. Describe the type and nature of work performed (including SIC Code).

2. Provide the following safety statistics:

	Current Year	1 Year Prior:	2 Year Prior:
A. Worker's Compensation EMR (interstate)	_____	_____	_____
B. General liability loss ratio (losses/premium)	_____	_____	_____
C. Total employee hours worked	_____	_____	_____
D. Total recordable incidents (OSHA 300-cols. M1,M2,M3,M4,M5)	_____	_____	_____
E. Total lost workday incidents (OSHA 300-col. H)	_____	_____	_____
F. Total recordable incidents rate(C. above x 200,000/ B. above)	_____	_____	_____
G. Total lost workday incident rate (D. above x 200,000/ B. above)	_____	_____	_____
H. Total fatalities (OSHA 300-col. G)	_____	_____	_____

Attach a letter from insurance agent, carrier, or state fund, on their letterhead, verifying EMR data, general liability losses, and indicating trend in current year losses; attach a copy of the pertinent OSHA 300 Logs.

3. List all OSHA citations and severity levels of each citation for the past three years (including joint venture work).

Contractor Safety Experience

4. List person(s) responsible for managing safety program, and attach resume(s).

5. Briefly describe the safety goals your company is working towards.

6. List expectation(s) identified to help accomplish the safety goals.

7. Describe to what extent and how often the results and activities are audited to ensure the realization of the safety goals.

Contractor Safety Experience

8. Describe the consequences employed to hold employees and supervisors accountable for safety performance.

9. Describe your company's injury management and modified work program.

10. Explain the role that front line supervisors play in planning for safety.

11. Describe or attach other elements of your company's safety program that are important towards achieving an injury-free work environment (e.g. supervisor/employee training, special emphasis programs, wards, etc.)

Part 5: ATTACHMENTS

ATTACHMENT A-LOCATION MAP, SITE MAP, AND SURVEY

ATTACHMENT B-BROOKHAVEN-PEACHTREE OVERLAY DISTRICT AMENDMENT

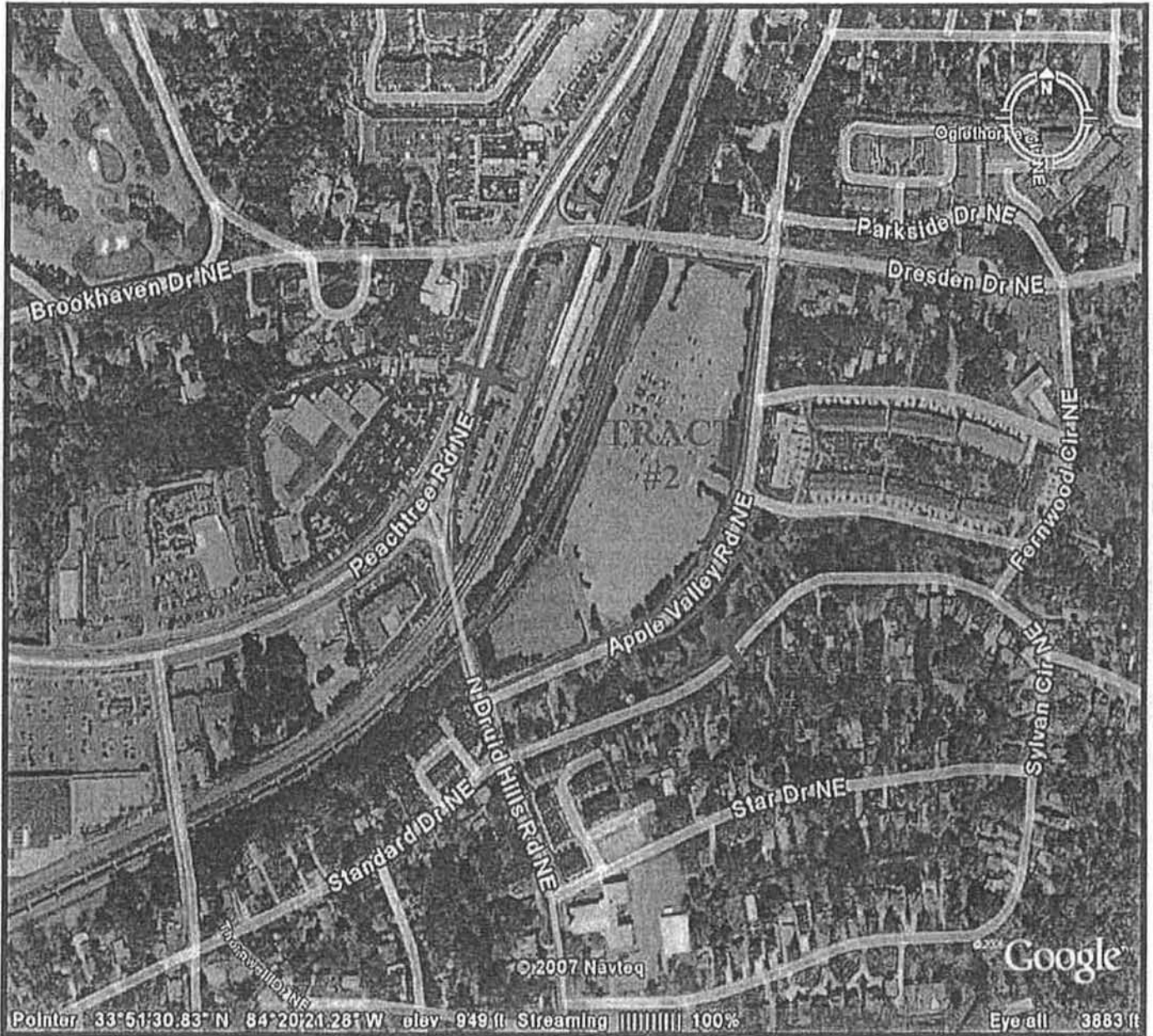
ATTACHMENT C-BROOKHAVEN MASTER PLAN

ATTACHMENT D-BLEAKLY MARKET ANALYSIS

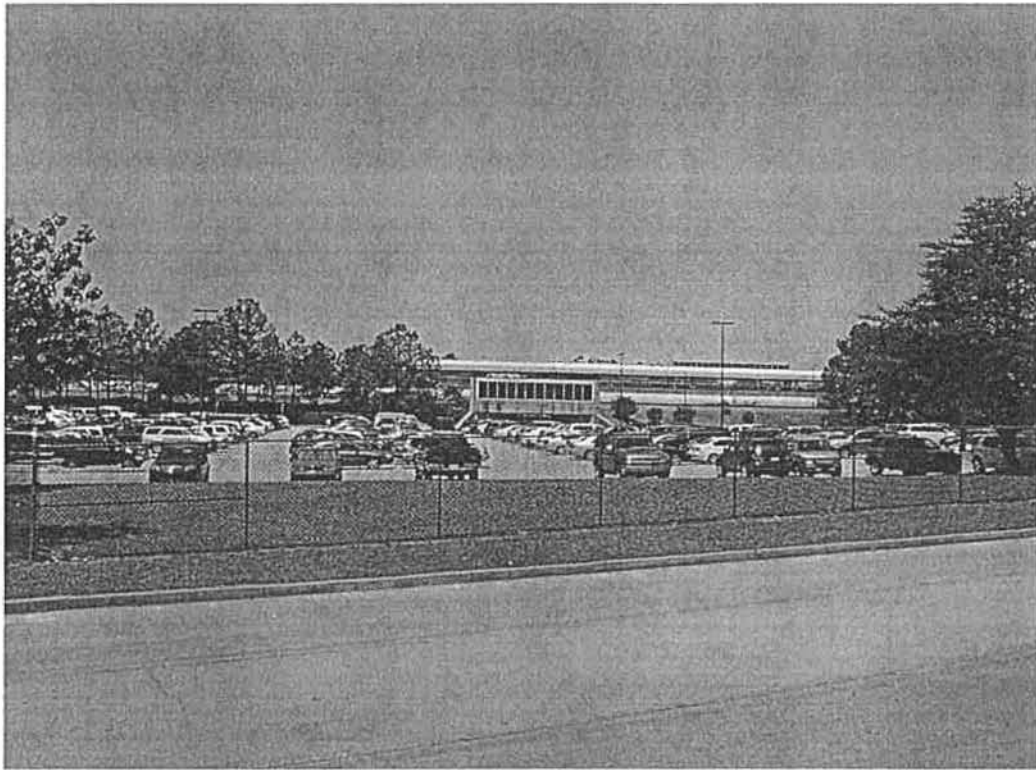
PART 5: ATTACHMENTS

**ATTACHMENT A-LOCATION MAP, SITE PHOTOGRAPH, AND
SURVEY**

**BROOKHAVEN-OGLETHORPE
UNIVERSITY STATION
Parcel D3116 Tracts 1, 2 & 3**



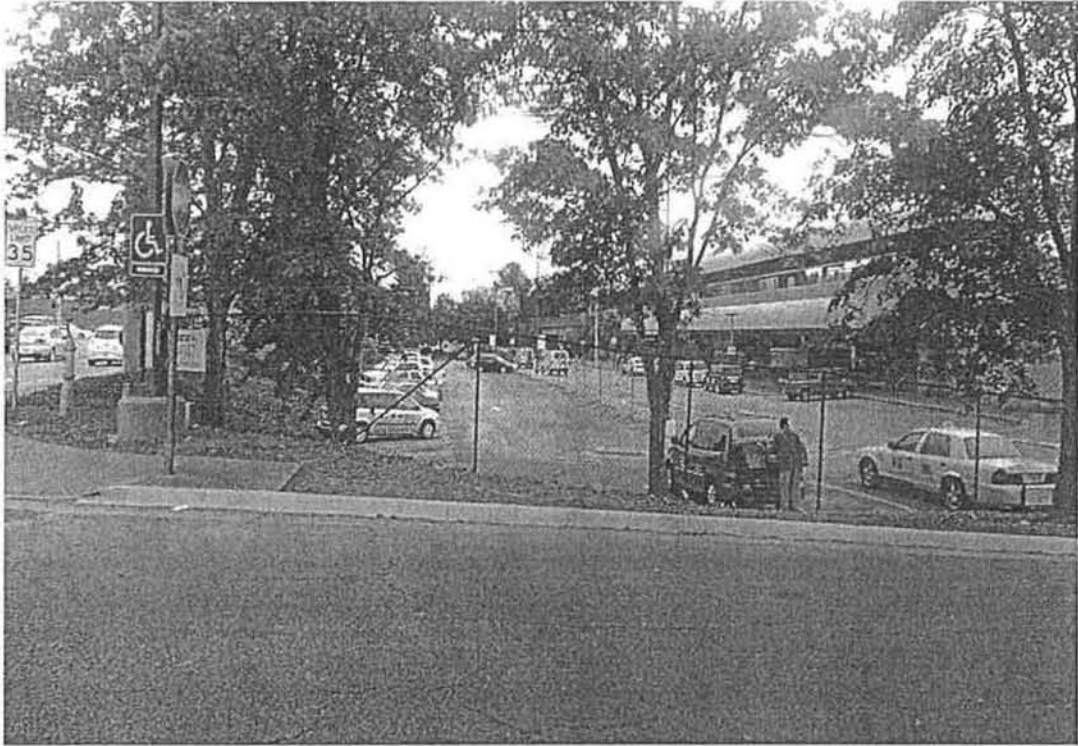
SITE PHOTOGRAPH



STATION 15



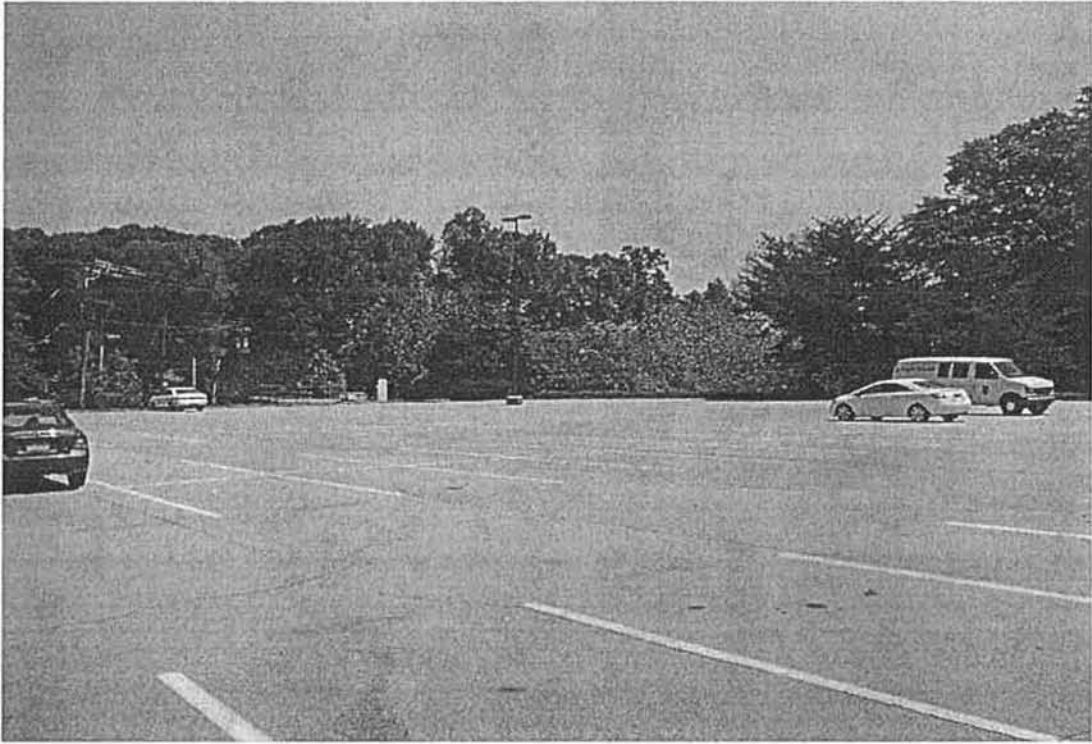
STATION 16



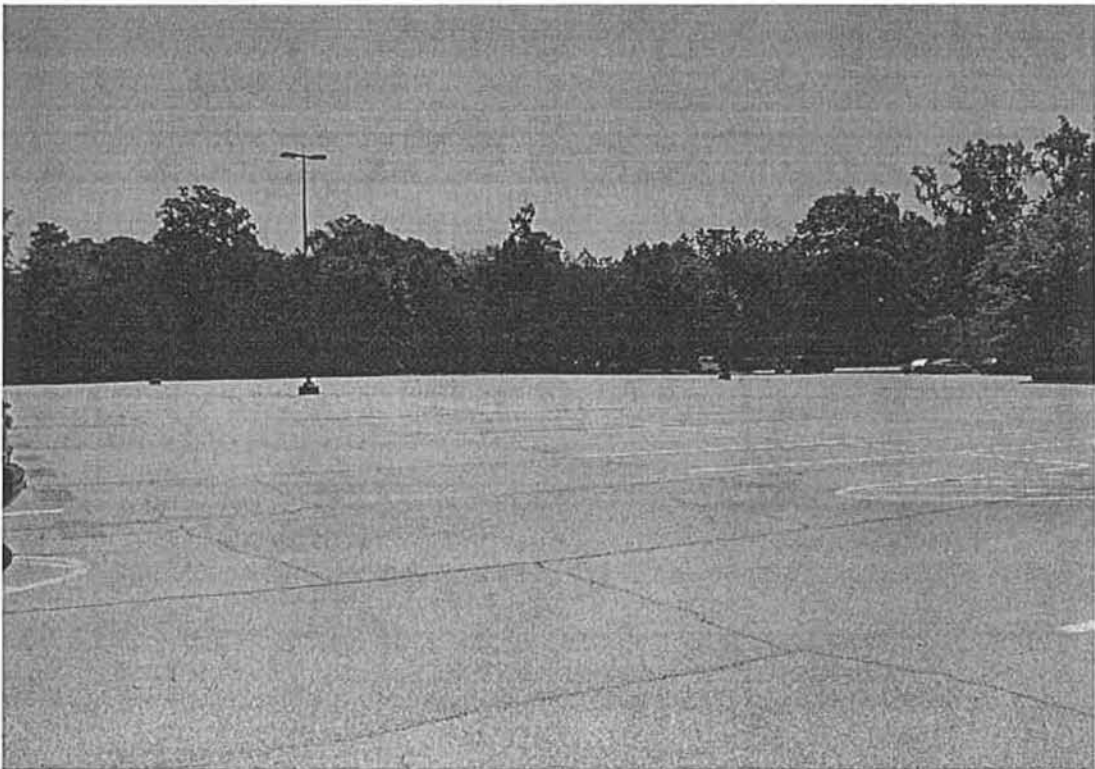
STATION 18

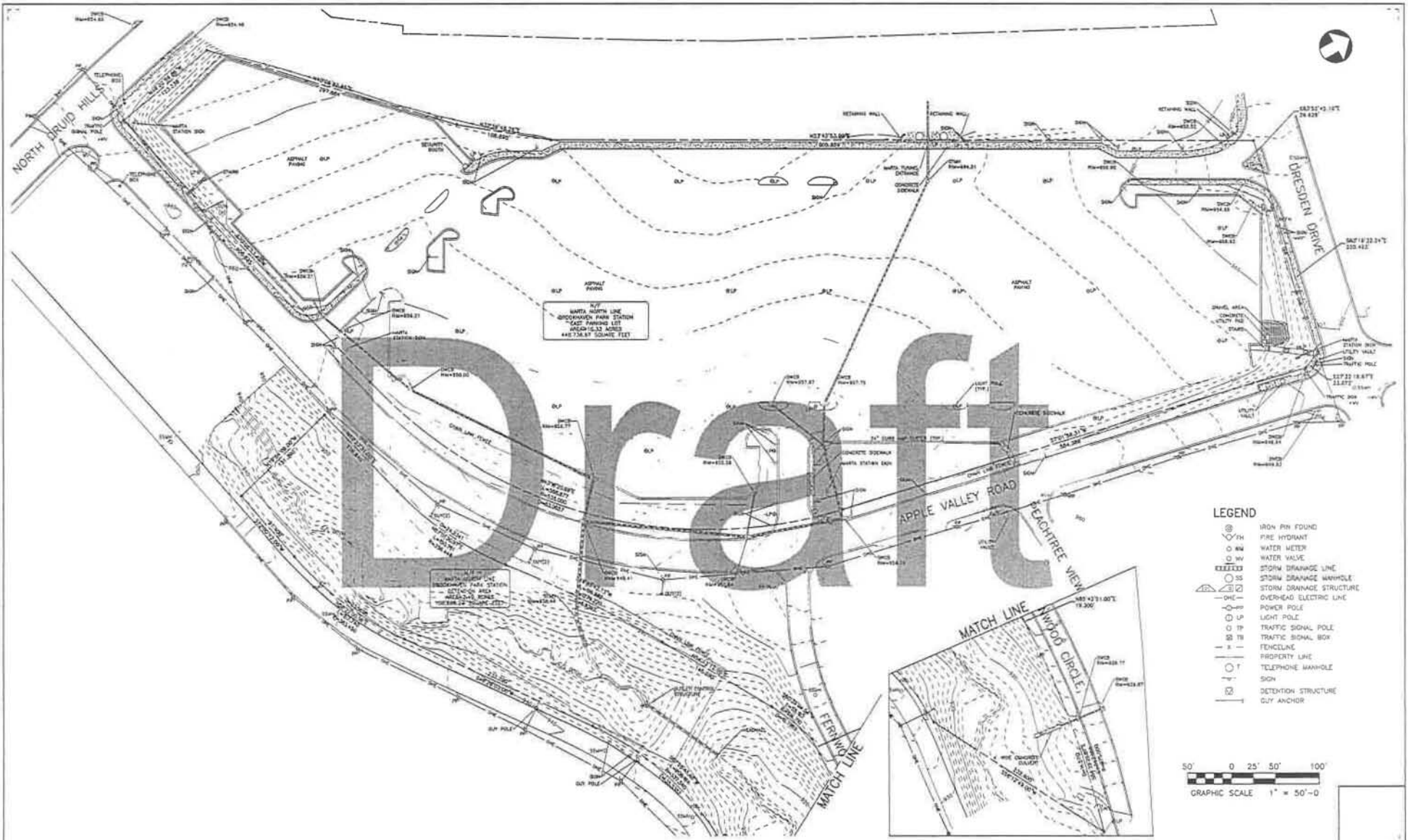


STATION 19



STATION 20





THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS, AND AS SET FORTH IN THE GEORGIA O.C.G.A. 13-6-87, AUTHORITY O.C.G.A. SECS. 13-6-87, 43-13-4, 43-15-6, 43-15-18, AND 43-15-22.

THE PREPARATION OF THIS DRAWING HAS BEEN FINANCED IN PART THROUGH A GRANT FROM THE U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION, UNDER THE FEDERAL TRANSIT ACT, AS AMENDED, AND IN PART BY THE TAXES OF THE CITIZENS OF FULTON AND DEKALB COUNTIES IN THE STATE OF GEORGIA.

DESIGNED BY P. SOTAK
 DRAWN BY C. LANKFORD
 CHECKED BY P. SOTAK
 IN CHARGE BY J. MASISAK
 DATE 30 JUNE 14

METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY

BOUNDARY SURVEY
 BROOKHAVEN/OGLETHORPE
 EAST PARKING LOT
 APPLE VALLEY ROAD
 LAND LOTS 238 AND 239 18TH DISTRICT
 DEKALB COUNTY, GEORGIA

SCALE 1" = 50'
 CONTRACT PROPOSAL NUMBER
 BEARING NO. BROOK 0
 SHEET NO. 1

PART 5: ATTACHMENTS

**ATTACHMENT B-BROOKHAVEN-PEACHTREE OVERLAY
DISTRICT AMENDMENT**

**CITY OF BROOKHAVEN
DEKALB COUNTY, STATE OF GEORGIA**

**ORD 2013 – 06 – 07
TEXT AMENDMENT 2013-02**

**TEXT AMENDMENT TO THE CITY OF BROOKHAVEN ZONING ORDINANCE
RELATING TO THE BROOKHAVEN-PEACHTREE OVERLAY DISTRICT**

WHEREAS, the City of Brookhaven Mayor and Council are tasked with the protection of the City's health, safety, and general welfare; and

WHEREAS, the City of Brookhaven Mayor and Council are authorized to exercise zoning powers; and

WHEREAS, the City lawfully assumed Planning and Zoning responsibilities from DeKalb County on January 17, 2013; and

WHEREAS, to ensure the responsible governance over zoning, land use, variances and other statutory controls on the uses of property within the boundaries of the Brookhaven-Peachtree Overlay District within the City of Brookhaven the city imposed a moratorium to study technical aspects affecting implementation of the overlay district, not to exceed midnight on June 25, 2013; and

WHEREAS, the Community Development Director reviewed the Brookhaven-Peachtree Overlay District language within the Zoning Ordinance, solicited public input, and held various meetings with interested parties; and

WHEREAS, the Community Development Director provided an outline of feedback received to the Mayor and Council; and

WHEREAS, the Community Development Director advised the Mayor and Council that density is regulated by the underlying zoning district and recommended limited technical revisions relating to parking, signage, story, and height; and

WHEREAS, the Community Development Director received further direction from the Mayor and Council to amend the district overlay in regard to applicable density ; and

WHEREAS, the Mayor and Council find that a text amendment is needed to provide for effective administration of the Brookhaven-Peachtree Overlay District;

NOW, THEREFORE, be it ordained by the Mayor and Council of the City of Brookhaven, Georgia, and it is hereby ordained by the authority of same, that Chapter 27 of the Code of the City of Brookhaven, also known as the City of Brookhaven Zoning Ordinance, adopted January 15, 2013, is hereby amended as follows:

PART I.

Section 27-728.15.12 (f) subparagraph (2) is hereby amended by the deletion of subparagraph (2) and the substitution of subparagraph (2) as follows:

(2) All building heights are to be measured from the average elevation of the finished sidewalk measured along the building façade facing the street with the highest daily traffic volume, to the top of cornice or top of parapet wall for flat roof buildings or the bottom of the eave for slope-roofed buildings. Levels measuring less than six (6) feet in height for the purposes of raising the first-floor level above the street level, providing a consistent first-floor level (crawl space), or for the sole purpose of housing mechanical, plumbing, or electrical equipment shall not be counted as stories for the purposes of calculating maximum building heights.

PART II.

Section 27-728.15.12 (f) subparagraph (3) is hereby amended by the addition of a., b., and c. as follows:

- a. The second story shall encompass one hundred percent (100%) of the gross floor area of the first floor; however, up to twenty five percent (25%) of the second floor may be used for architectural features including open air spaces for dining or other business purposes, atriums, stairwells, or elevators. All other architectural features must be submitted to and approved by the Brookhaven City Council.
- b. The second floor front façade shall extend for the entire width of the first floor building façade that fronts the primary street, except as otherwise provided in the above paragraph a.
- c. The entire indoor area of the second floor shall be conditioned space (HVAC) and available for human occupancy.

PART III.

Section 27-728.15.10 (a) is hereby amended by the deletion of paragraph (a) items (1) through (3) and the substitution of paragraph (a) items (1) through (4) as follows:

- (a) Off-street parking requirements for uses and structures are authorized and permitted, as follows:
 - (1) Dwellings:
 - a. Single-family attached: One (1) space (minimum).
 - b. Multifamily: One (1) space per dwelling unit (minimum).

- (2) Commercial: One (1) parking space for every four hundred (400) square feet of gross building area (minimum).
- (3) Retail: One (1) parking space for every three hundred (300) square feet of gross building area (minimum).
- (4) Restaurants: One (1) parking space for every one hundred twenty five (125) square feet of dining space, including outdoor dining space (minimum).

PART IV.

27-728.15.11 (Signs) is hereby amended by the addition of the following language to such section:

Sidewalk signs shall be allowed within the Brookhaven-Peachtree Overlay District. Sidewalk signs are defined as an A-frame or easel style sign to be placed on the sidewalk in conjunction with a business establishment. The following shall apply to sidewalk signs:

1. Sign composition material: Wood or Metal (dry erase or chalk board style).
2. Setback from Right-of-way: Must be situated to allow for clear passage with a minimum accessible sidewalk width of 36" and compliance with the American with Disabilities Act.
3. Number of Signs allowed: One (1) per establishment.
4. Maximum Height: Three (3) feet.
5. Sign Area: No larger than six (6) square feet.
6. Sign placement per establishment shall not be placed beyond the exterior wall façade per tenant space.
7. All sidewalk signs shall be removed daily upon cessation of business hours and shall be stored indoors.
8. No sidewalk signs shall be lit, contain neon, or contain plastic construction or embellishment.
9. Evidence of neglect or dilapidation of any sidewalk sign shall provide cause for immediate removal.
10. Sidewalk signs shall not require a sign permit or authorization sticker affixed to the subject sign.

PART V.

Section 27-728-15.1 (Scope of provisions) shall be amended by adding the following sentence to read as follows:

Conflict means there are competing regulations or provisions. In the absence of a provision in the overlay district, the regulations of the underlying zoning shall apply.

PART VI.

Section 27-728.15.12 (g) (4) c. is hereby be amended by the substitution of the word "pubic" with the word "public".

PART VII.

Section 27-915 is hereby by amended by the addition of subparagraph (k) to read as follows:

(k) Allow a reduction to second floor area percentages or architectural features within the Brookhaven Peachtree Overlay District.

PART VIII. EFFECTIVE DATE

This ordinance providing for a text amendment and moratorium expiration shall become effective upon adoption by the Mayor and City Council

PART IX. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this ordinance as a whole, nor any part thereof, other than the part so declared to be invalid or unconstitutional.

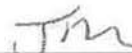
PART X. REPEAL OF CONFLICTING ORDINANCES

This ordinance amends the City of Brookhaven Zoning Ordinance, and all other conflicting ordinances or resolutions are hereby repealed, provided that nothing herein shall be construed as repealing the conditions of use, operation, or site development accompany permits lawfully issued under previous ordinances or resolutions, and provided further that modification or repeal of those past conditions of approval may be accomplished as authorized and provided by the requirements of the Zoning Ordinance.

SO ORDAINED AND EFFECTIVE


This 20th day of June, 2013.

APPROVED:



J. Max Davis, Mayor

ATTEST:

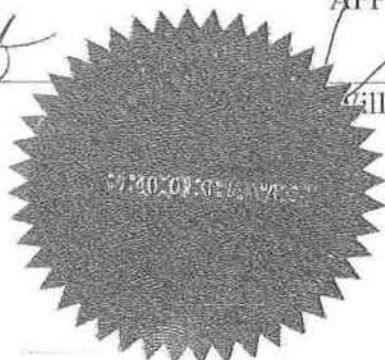


Susan Hiott, City Clerk
(Seal)

APPROVED AS TO FORM:



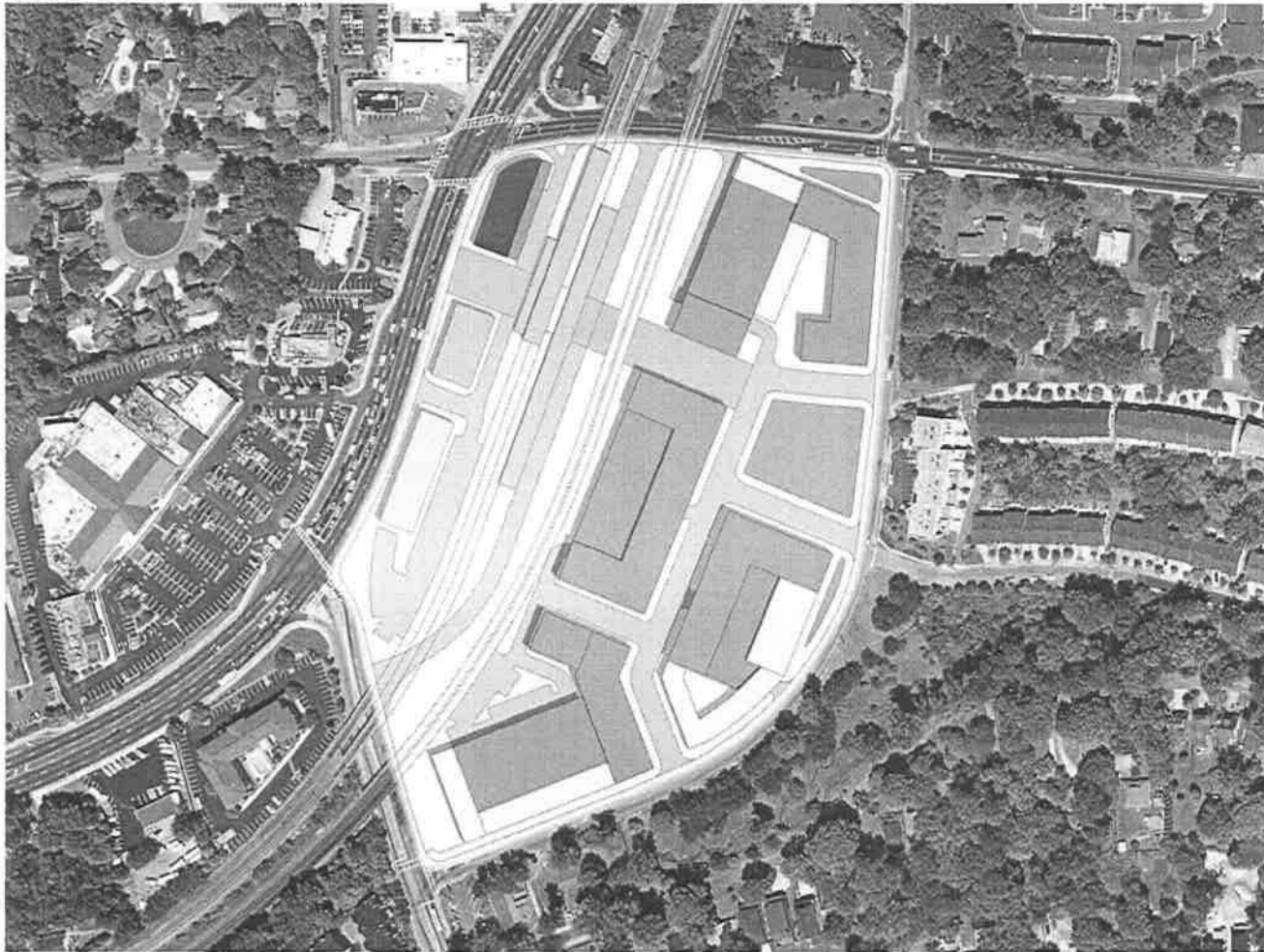
William F. Riley, Acting City Attorney



6/20/2013 Approved

PART 5: ATTACHMENTS

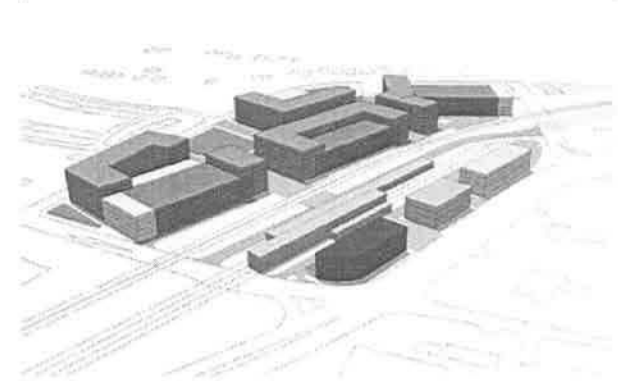
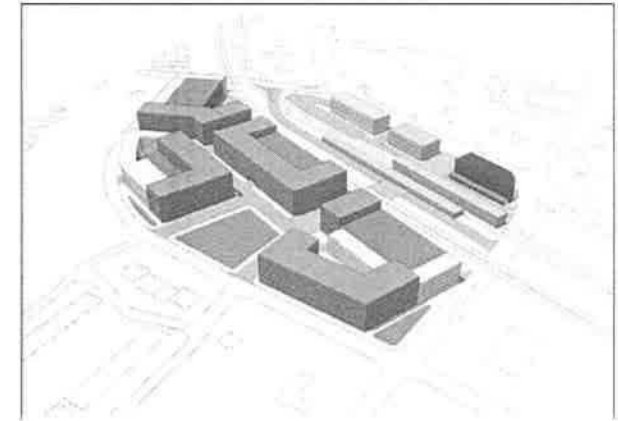
ATTACHMENT C-BROOKHAVEN MASTER PLAN



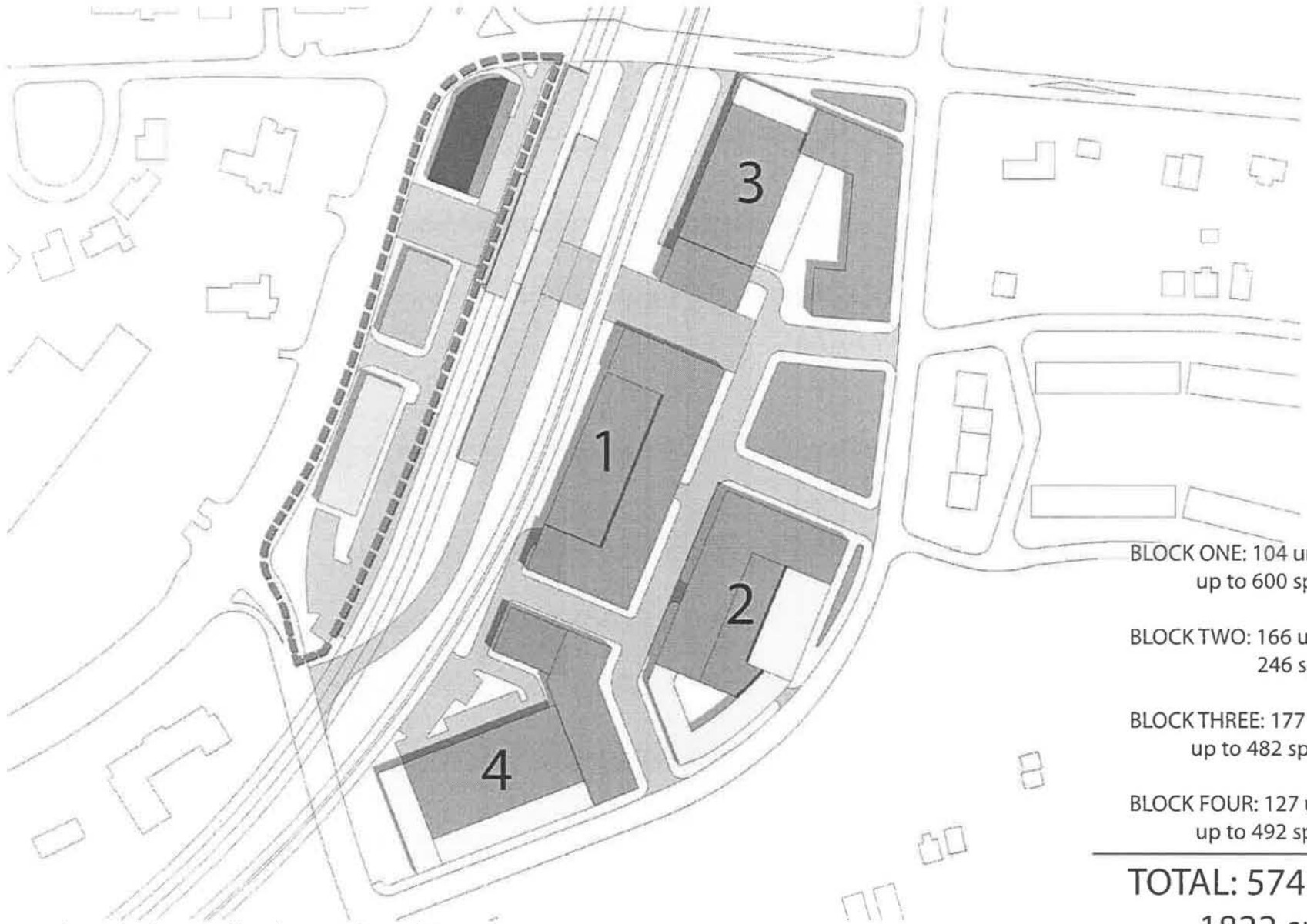
- Residential
- Hotel
- Mixed Use (residential with retail/office at the street level)
- Office / Commercial
- Library
- Open Space

Condominium: 274 units Hotel: 120 rooms
 Apartment: 300 units Library: 18k SF
 Retail/Office: 68k SF Parking: 1820 spaces

scale: 1"=200' 0 100 200 ↑



Brookhaven MARTA Station Master Plan



BLOCK ONE: 104 units
up to 600 spaces

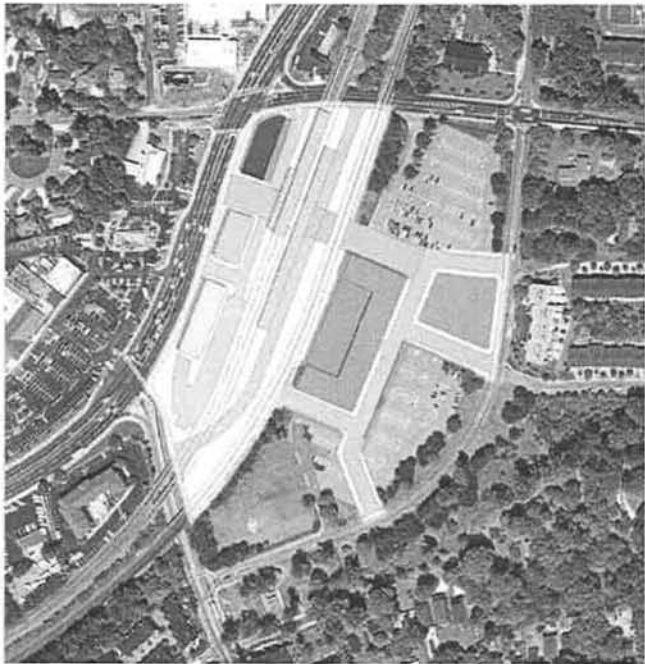
BLOCK TWO: 166 units
246 spaces

BLOCK THREE: 177 units
up to 482 spaces

BLOCK FOUR: 127 units
up to 492 spaces

TOTAL: 574 units
1822 spaces

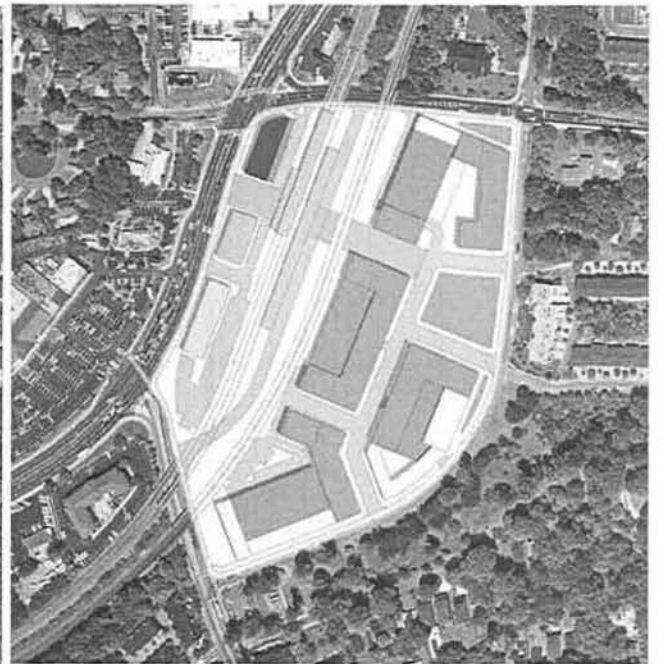
--- Separate phase to be determined based upon market conditions



Phase One
104 units
up to 600 spaces

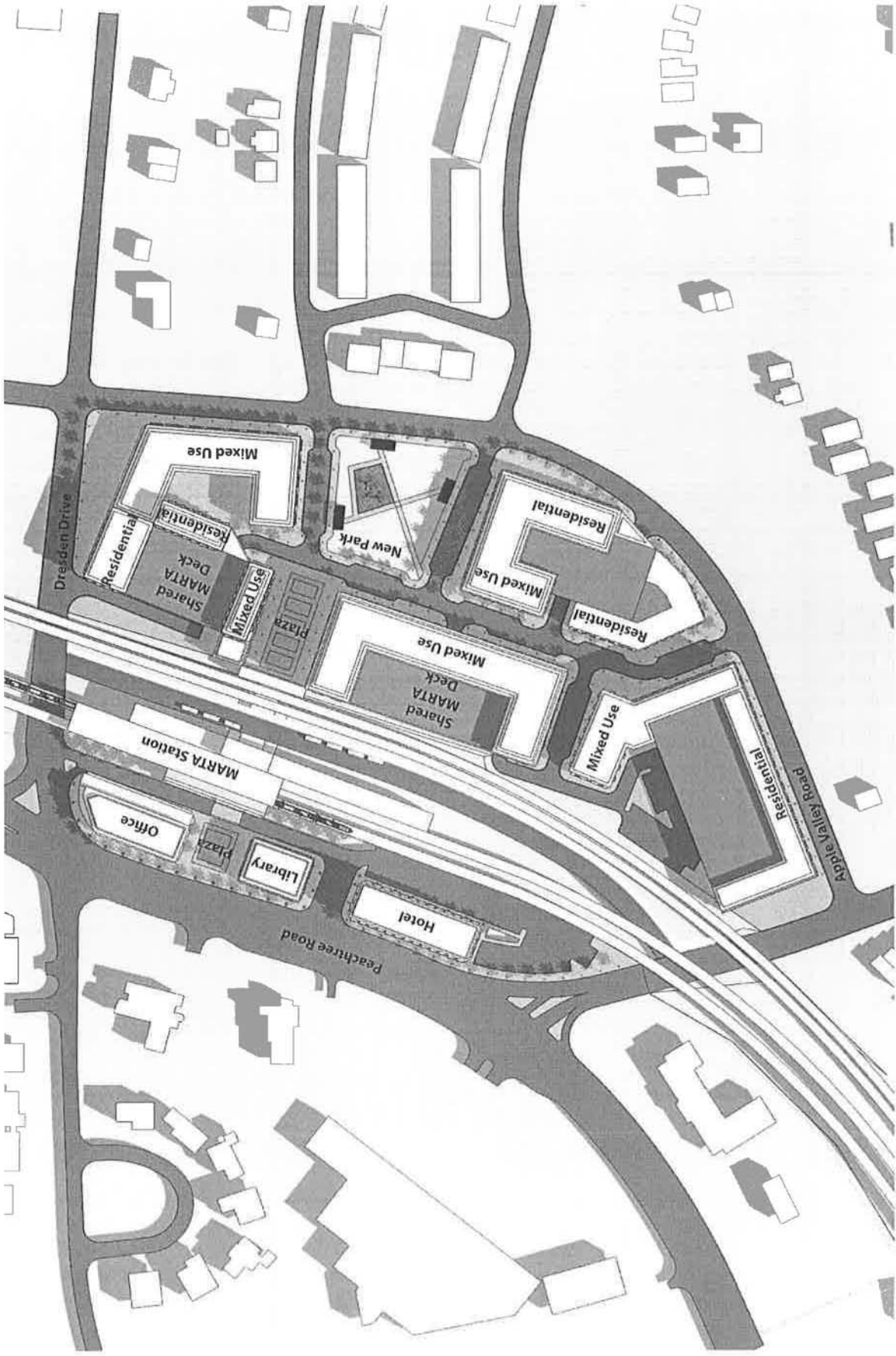


Phase Two
447 units
up to 1328 spaces

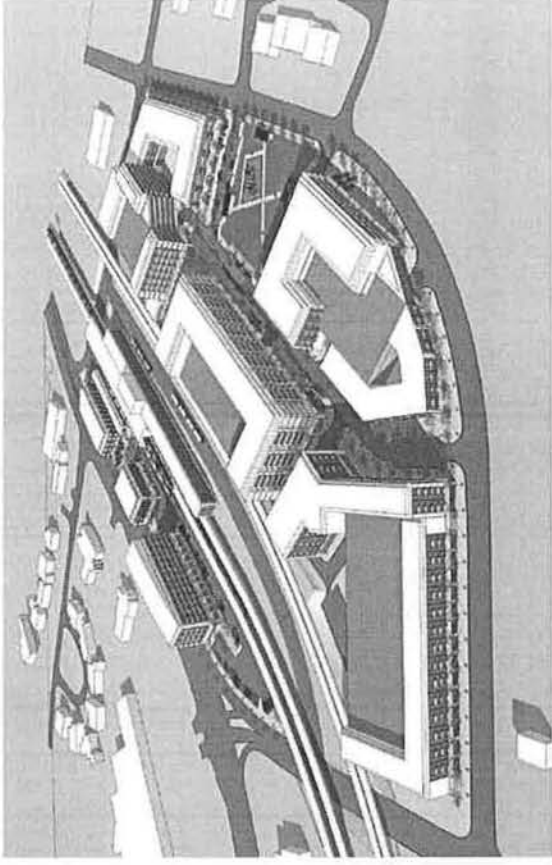


Phase Three
574 units
up to 1820 spaces

*Program does not include development to the west of the MARTA tracks.



Phase Three Plan

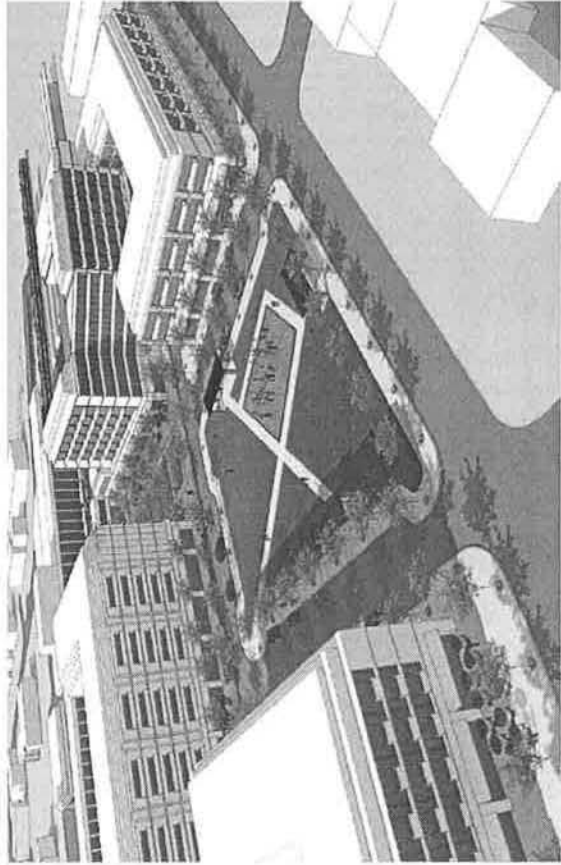
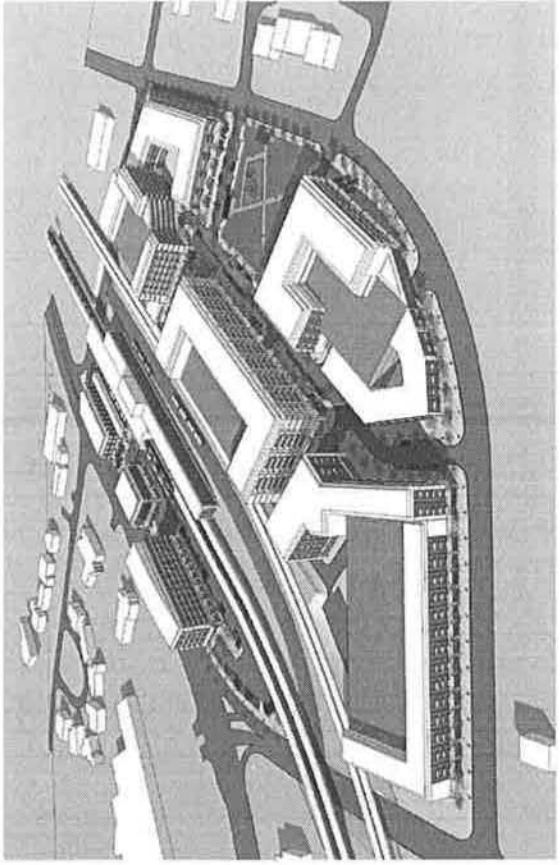
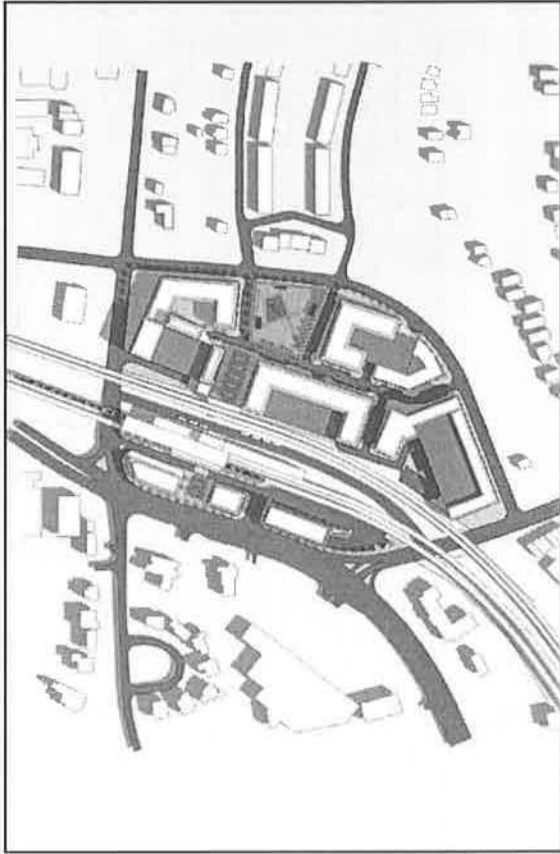


View North along new Street

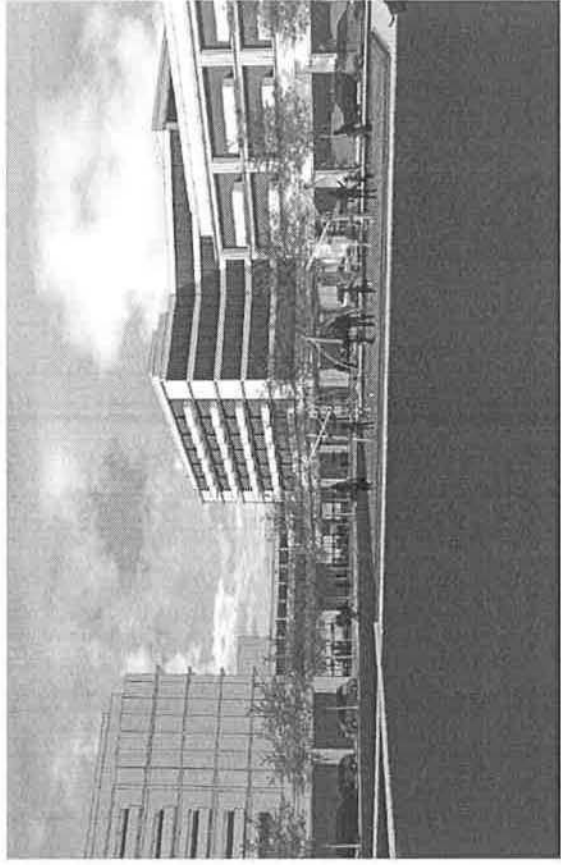


View of new Plaza at MARTA Tunnel

Perspectives

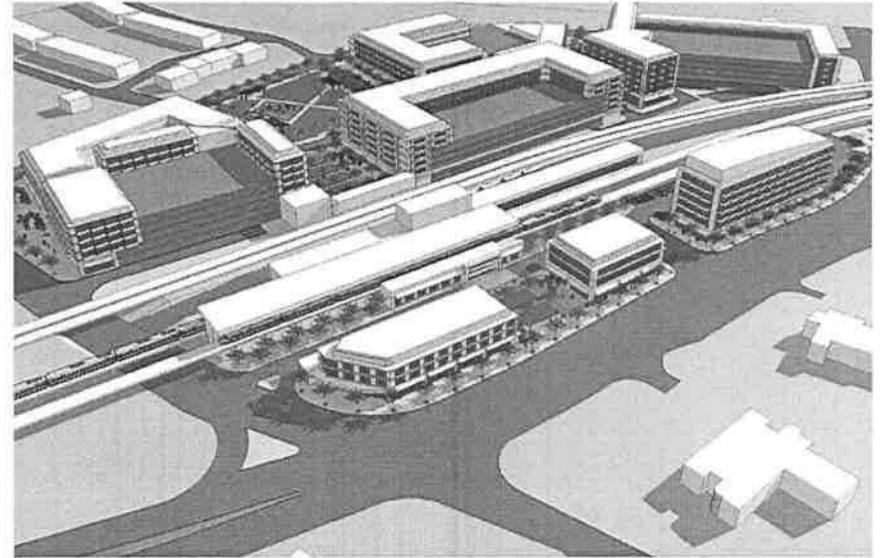
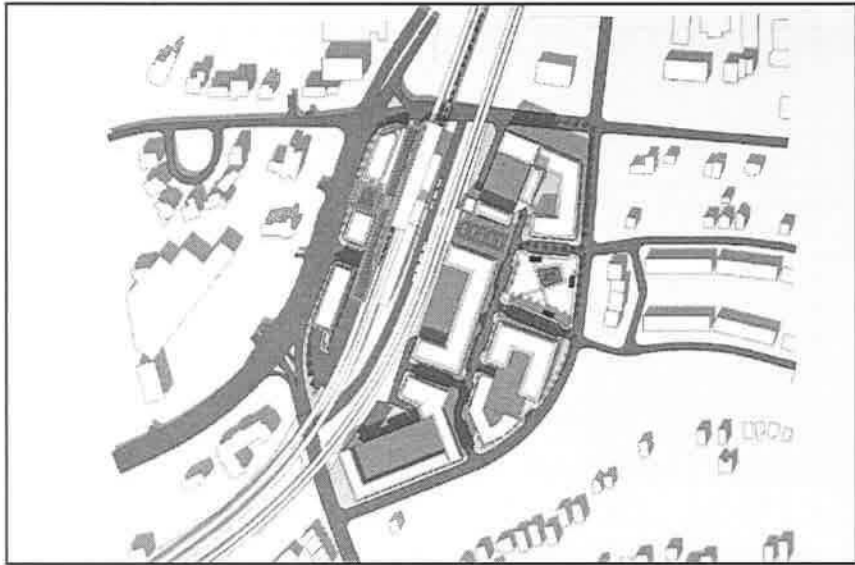


View of new Park looking Northwest



Detail View of new Park

Perspectives



View of Library and Plaza toward MARTA Station



View South along new internal Street

Perspectives

PART 5: ATTACHMENTS

ATTACHMENT D-BLEAKLY MARKET ANALYSIS




Transit-Oriented Development Implementation Strategy Assistance

To Street

ARC

ATLANTA REGIONAL
COMMISSION

January 2013 Prepared by

 **Bleakly** Advisory Group

and 
TUNNELL-SHANGLER-WALSH & ASSOCIATES

STATION AREA #3: BROOKHAVEN / OGLETHORPE UNIVERSITY

Location: 4047 Peachtree Road, Atlanta, GA 30319

Significant opportunity exists for medium density mixed use TOD at the Brookhaven MARTA station area.

Given the desirability of a Peachtree Road address and the proximity to some of the wealthiest enclaves in the Atlanta region, the Brookhaven MARTA station area represents a clear-cut TOD opportunity in the near term. While a number of TOD prospects are present within a quarter-mile radius of the MARTA transit station, a mixed-use development at the expansive parking lot south of the station provides the opportunity to stimulate compact transit-supportive growth in the newly- formed city of Brookhaven.

Further, as the city is seeking a physical location for its operations, the MARTA parking facility offers a unique opportunity for Brookhaven to establish a community core/civic space and set the tone for future development by locating a new city hall and relocated library on the MARTA property around a city park.

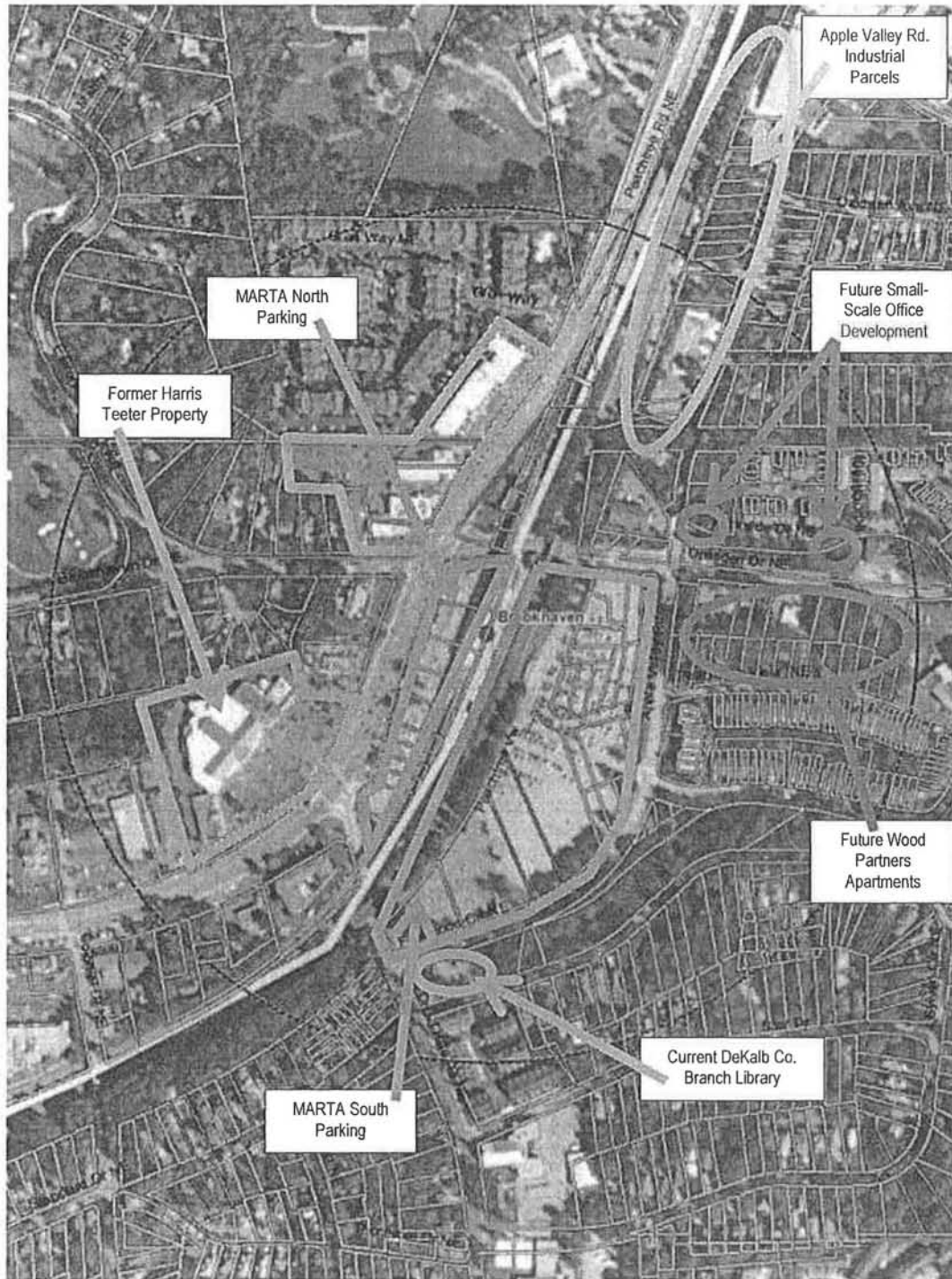
A desirable vision for a mixed use TOD at the station was put forth in the 2006 Livable Centers Initiative (LCI) study completed by Urban Collage. The plan called for up to 200,000 square feet of office space, up to 40,000 square feet of retail, and approximately 300 residential units, situated around community green space. We believe that the 2006 LCI proposal, with some adjustments, and the potential inclusion of the Brookhaven city hall and DeKalb County branch library, offers the most advantageous opportunity to activate bona fide TOD core that can anchor additional TOD development in the station area.

While uncertainty currently surrounds various issues concerning the formation of the city of Brookhaven's governing body, as well as the location of its city hall, we anticipate that the city government will begin to coalesce in 2013. Currently, the city is searching for a temporary location to serve as its headquarters until the new leaders decide upon a permanent city hall location. Certainly many variables will factor into the final decision regarding the permanent location, most of which fall far outside the scope of our work in this analysis. However, from a community development standpoint, we believe the city hall is potentially an ideal civic anchor to a TOD at the Brookhaven station. Not only does it make sense within a real estate development framework, it also can assert a positive impact for future development in the area. Moreover, several municipalities in the Atlanta region have established a model for such civic-anchored development, including Suwanee, Duluth, and Smyrna.

TOD Development Opportunity Areas – Brookhaven/Oglethorpe University

Parcel	Acreage	Development Potential	Orientation
MARTA Northwest Parking	3	Limited due to size	Possible hotel. Potential civic plaza site
MARTA Southeast Parking	15	Immediate	Civic-anchored mixed use development Retail oriented mixed use in a walkable setting
Former Harris Teeter Property	7	Near term	
DeKalb Co. Branch Library	1	No	Upon library relocation, revert to greenspace
Apple Valley Rd. Industrial	10	Medium term	Adaptable reuse into residential and commercial mixed-use / live-work lofts
Future Small-Scale Office	1.5	Near term	Currently planned and marketed as build-to-suit small office
Future Wood Partners Apartments	3	Immediate	Development of 230 units to begin soon
TOTAL	40.5		

Brookhaven Station and One-Quarter Mile Radius Station Area



KEY: MARTA Property		Longer-Term Opportunities	
Planned Development		1/4-Mile Radius Station Area	
MARTA Gold Line			

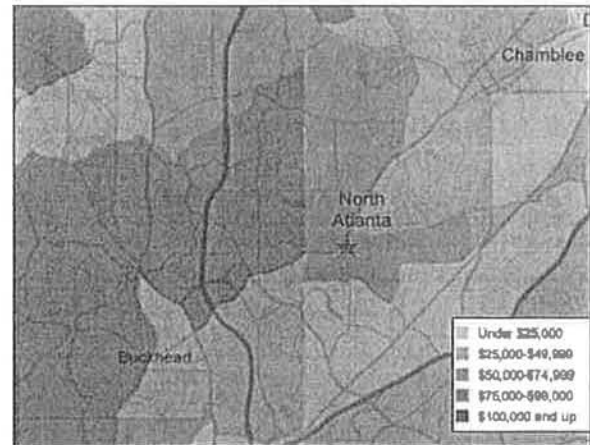
STATION AREA MARKET CHARACTERISTICS

Situated between the cores of two of the Atlanta region’s historically top performing real estate markets, Buckhead and Central Perimeter, and among or near census tracts with some of Atlanta’s highest incomes (see map at right), the Brookhaven station area is well-located.

Rental Apartments

Although technically outside of the Buckhead submarket, new apartment projects within one-half mile of the Brookhaven MARTA are capturing rental rates comparable to those in Buckhead. Buckhead apartments garner the highest rents of any submarket in the region averaging \$1,200 per month according to REIS. Locally, though, newly completed units just up Peachtree Road, within Sembler’s Town Brookhaven development, are far exceeding that average. For example, overall, The Goodwynn at Brookhaven (705 Town Blvd.) is currently averaging asking rents at over \$1,700 a month, or over \$1.40 per square foot. Other apartment complexes nearby, such as Post Glenn Apartments (4120 Peachtree Rd.), are also achieving rents at or near Buckhead levels.

Median Household Income by Census Tract



Brookhaven’s strong rental residential performance has caught the attention of prominent apartment developers Hines and Wood Partners. Within the quarter-mile radius station area on Dresden Drive, Wood Partners will soon break ground on Alta Brookhaven, a new 230-unit complex. According to published reports, Wood chose the site specifically for its proximity to MARTA and nearby retail options. Just a bit further east on Dresden, less than one-half mile from the station, Hines is currently developing a 215-unit apartment building.

Clearly demand for new residential options is strong near the station, largely because of their proximity to transit. Nevertheless, with such a large number of units coming on the market, potential does exist for overbuilding. In that case, though, the best located projects typically win-out. Given that most of the new projects specifically site access to MARTA as a major demand driver, we believe that demand for residential units at the station’s front door will stay resilient through future market cycles.

Commercial

The potential to achieve similar Buckhead-level performance in the office and retail sectors is less likely, but success can certainly still be achieved. The office and retail potential at the Brookhaven MARTA site is perhaps less strong than residential; however, building a true mixed-use civic-anchored TOD, that includes some office and retail components, appears to be a viable option. The office market in Buckhead leads the region in rents (\$25+ per square foot for new Class A space), and after untimely overbuilding during the Great Recession, is making an occupancy comeback. Class A office space along the I-85 corridor near Brookhaven, and outside of the Buckhead submarket, rents at an approximately 30-40% discount to Buckhead on a price per square foot basis. Still, new Class A office and retail space in a mixed use setting as part of a high-quality TOD at the Brookhaven station should find success positioned as a price alternative to Buckhead, but similar to other North DeKalb locations, with tenants that desire a transit-oriented location.

CIVIC-ANCHORED TOD OPPORTUNITY AT BROOKHAVEN

The development concept put forth by Urban Collage in the 2006 LCI still provides a likely vision for a successful TOD in the Brookhaven MARTA station area; however, current market realities require that parts of that plan be revisited.



Rendering of Brookhaven MARTA Station redevelopment from Apple Valley Road, LCI Study,

As stated, in order to anchor the project and to ensure early activation at the development site, the city of Brookhaven’s city hall and DeKalb County’s local branch library could play a critical part of the TOD. The Brookhaven community is currently discussing the location of each facility, without agreement to date. The idea of library location at the MARTA transit site was originally included in the LCI study and funds have been set aside for its relocation from its present site—across Apple Valley Road from the MARTA station.

A city hall, at approximately 50,000 square feet, and the library at approximately 12,000 square feet, would anchor the office/retail space at the development. Other cities in the Atlanta region have built city halls as anchors to major redevelopment in their municipality. Notably, Suwanee Town Center has been an unequivocal success in Gwinnett County. In order to build their city hall, as well as a 10-acre urban-style park, the city of Suwanee created an Urban Redevelopment District for the Town Center site. This allowed the city to finance the city hall and the park through the issuance of low interest municipal bonding mechanisms. The new park and the city hall sparked successful private sector mixed use development at Suwanee Town Center. This type of civic development could prove equally successful at Brookhaven station and anchor the broader TOD district.

We would anticipate that the amount of retail built at the Brookhaven TOD would come in at far less than 40,000 square feet envisioned in the LCI plan. Local-serving retail in a mixed use setting has been relatively successful one-half mile to the east of the station at Village Place, which includes 35,000 square feet of retail. However, the best new retail opportunities in the station area lie across Peachtree, particularly the, as-yet unplanned, 7-acre redevelopment of the old Harris Teeter grocery store and inline shop space. Retail demand at the MARTA site, given its location behind the station and off Peachtree, will be driven mostly by onsite residents and tenants as well as patrons of MARTA and the civic facilities. Therefore, it should focus as an amenity to those users, and be built at a smaller scale—approximately 5,000 to 10,000 square feet oriented to services and food attractive to residents and transit patrons.

With apartment demand expected to remain strong for the foreseeable future, 250-300 residential units should also be included in the TOD plan. Again, the local market appears willing to support more apartment units and those located in the station area should be poised to outperform their competitors.

Potential Development of MARTA Brookhaven South Site

Development Uses	Acres	Unit/SF/Parking Count
Surface Parking / Later Phases	3	350
Civic Plaza	1.5	
Civic Complex (City Hall & Library)	1.5	62,000
Office Site	2	76,000
Multifamily Residential – including structured parking	4	275
Circulation / Buffering	3	
TOTAL	15	

Development Pro Forma

In order to determine the feasibility for the potential civic-anchored development at the Brookhaven Station, we modeled the development scenario, using typical development and construction cost assumptions based on our market knowledge. We calculated the costs, including structured parking, and compared them to the expected revenue, using conservative estimates on lease rates for the residential (\$1.33 per square foot) and commercial (\$16 per square foot), factoring in debt service obligations. This feasibility exercise assumed the sale of 10 acres of the MARTA property based on current market rates. According to Databank Inc., Hines paid about \$5.4 million for its 3.3-acre site on Dresden Drive. Thus, we factored in a \$1.6 million an acre land sale into our model. These assumptions would lead to an acceptable 8% return on equity for a developer to build the proposed TOD.

Development Scenario Financial Pro Forma Summary

	Unit/SF Cost	Unit/SF Count	Total Cost
Residential	\$90,000	275	\$24,750,000
Commercial	\$100	138,000	\$13,800,000
Construction Cost			\$38,550,000
Land Cost			\$16,000,000
	Spaces	Cost/Space	
Parking Cost	1,363	\$18,500	\$25,217,350
Total Cost			\$79,767,350
Required Equity		35%	\$27,918,573
Required Debt		65%	\$51,848,778
	Unit/SF Rent	Unit/SF Count	Total Annual Income
Residential	\$1,200	300	\$4,320,000
Commercial	\$16	175,000	\$2,800,000
Total Income			\$7,120,000
Income Less Loss/Expense/Reserves			\$6,764,000
Debt Service Coverage Ratio			1.25
Available for Debt Service & ROE			\$5,411,200
Debt Service			\$3,146,273
Net Cash Flow For Distribution			\$2,264,927
Return On Equity			8%

According to MARTA-provided information, the station area currently accommodates 1,460 vehicles but only 36% (526 total parking spaces) of the spaces are used on average. As shown below, 1,386 spaces would accommodate parking for all of the new real estate uses and the MARTA transit patrons. This parking allotment accounts for the replacement of 351 parking spaces on the south side of the station, leaving 175 spaces on the north.

In the proposed development scenario, the developer could feasibly build most of these spaces in a structured format (possibly in two structures), and spots for the civic uses. The development scenario allots three surface acres in this phase to accommodate MARTA patrons during the build out. Upon completion of this phase the three acres could be used for future development.

Brookhaven MARTA Station Development Parking Scenario

	Proposed Units/SF	Required Parking Spaces per Unit/SF	Required Parking Spaces
MARTA South Lot	(526 total required / 175 at North lot)		351
Residential Flats	250	1.5	375
Office	15,000	3 per 1,000	450
Retail	8,000	3 per 1,000	24
Civic (City Hall & Library)	62,000	3 per 1,000	186
Total			1,386

LIKELIHOOD OF MARTA GROUND LEASE

Under a long-standing joint development policy, MARTA officials have indicated a preference to lease the real estate currently in their control rather than sell it outright for TOD development. Experience has proven that this arrangement is typically less desirable for a private sector developer to undertake. However, we anticipate that the strong demand for products in a transit-oriented walkable environment will attract developer interest, ground lease notwithstanding.

As ground lease transactions and developments of this type are less typical in the Atlanta region, few comparable deals have transpired recently. Nevertheless, this type of arrangement is not uncommon for transit agencies throughout the nation. The land near the transit stops will have an impact on the system overall and agencies have taken to land leases to help protect their interests. Just as important, if not more so, a ground lease can serve as a dependable source of income for the agency. In leasing the land the agency can expect a reliable constant revenue stream.

In order to anticipate MARTA’s potential lease rate for TOD development on their property it is instructive to assess the lease proceeds against the potential returns the agency would secure if they instead sold the land and invested the proceeds in a long-term low-risk investment account. In preserving the real estate in a leasehold position MARTA takes on more risk due to the typical fluctuations of land prices. Based on the increased risk for holding the property, land leases are, as a rule-of-thumb, calculated based on the land value multiplied by the current risk-free interest rate (LIBOR or Treasury yield) plus 2-3%, and adjusted based on other extenuating conditions.

As of this writing, the one-year LIBOR rate stands below 1%. Thus, MARTA could expect a developer to agree to a ground lease rate of no more than 4% currently. In the case of Brookhaven, assuming land values at \$1.6 million an acre, leasing 10 acres to a private developer MARTA could expect a lease payment of approximately \$640,000 annually. From a developer’s perspective, the structuring the economics of the project in which they financed the construction cost without the land sale and paid for the land through a 99-year ground lease, the returns could actually look more favorable. This favorable outcome is due to the affordable rate of the ground lease (4%) versus the cost of rate at which we calculated the developer’s debt service payments (6%).

Brookhaven Land Lease Pro Forma Assumption Summary

Project Cost Less Land Value		\$63,767,350
Required Equity	35%	\$22,318,573
Required Debt	65%	\$41,448,778
Debt Service Less Land Value		\$1,544,275
Land Lease Term (Years)		99
Land Lease Term (% of Land Value)		4%
Lease Payment		\$640,000
Total Payment (Debt Service & Land Lease)		\$2,184,275
Net Cash Flow For Distribution		\$3,226,925
Return On Equity		14%

PUBLIC/PRIVATE COOPERATION WILL BE ESSENTIAL

Our analysis figures in a 10-acre land lease to a private developer using current land prices in the area to arrive at a potential ground lease rate. It also factors in the city of Brookhaven and DeKalb County participating through the development of their facilities using the remaining acreage. The positive involvement of all these parties could be a challenge to bring about. It will take careful negotiation and cooperation, of which ARC could help facilitate.

The largest hurdle, however, could be the participation of private money lenders. This type of mixed use project that involves a land lease could alarm potential lenders to the point of rejection. Therefore, this deal may require exceptional involvement from the public entities and ARC to find a happy medium for lenders. This involvement could include finding an avenue to insert more equity into the deal to make the level of debt more palatable to the lenders. Other options could involve ARC and/or the city of Brookhaven to participate in building the parking structure(s) to reduce the amount of funds a private developer would need to secure.

From a market perspective we believe that a TOD at Brookhaven/Oglethorpe station is absolutely feasible in the near-term. The market should be very receptive to the proposed plan laid out above. However, the complexities of the land lease and participation of the numerous entities mean that it could scare away many private developers looking for projects with lower hurdles, particularly in this current real estate environment of recovery. Nevertheless, this project has the potential to become a showcase TOD, both regionally and nationally. It can become a win for all parties involved and help spur other such development in Atlanta. To make this happen though, the project needs a champion. But because of the project’s complex nature, this champion will likely need to come from outside the private sector. We believe its upside should: a) prompt ARC or the new city of Brookhaven to become its champion, and b) inspire MARTA to work boldly in working out joint development terms satisfactory to all parties.

Other Considerations:

The City of Brookhaven

- Although the city is still in its infancy, the portions of the community have shown a real determination to guide development in the MARTA station area in the direction of high-quality TOD. Through zoning codes, other ordinances, and by placing its city hall in a location that will help spur walkable transit-supportive development, the city has the opportunity to continue to become a location of distinction.
- Beyond the borders of the MARTA property, the station area must transform from its current vehicle-oriented thoroughfare development pattern toward a more human-scaled environment. The city has the

opportunity to provide its own resources and support to private land owners to allow this vision to become reality.

MARTA

- Given the current environment that is conducive to apartment lending, and the obvious interest in the Brookhaven area as a development target, the agency should issue an RFP to garner interest from developers. We believe that this development could serve as an “early win” that could prompt interest from the private sector in doing TOD in other locations around the Atlanta region. MARTA should seize this opportunity in the near term.
- MARTA should make early inroads with the new city of Brookhaven to ensure cooperation regarding development in the station area. The formation of the new city represents a unique opportunity to foster a harmonious relationship that could set the tone for expanded TOD in the area that could help to drive MARTA ridership.

ARC

- ARC can play a vital role in seeing the Brookhaven TOD to fruition. The commission can achieve regional recognition of its goals by urging the local public bodies, MARTA, and developers to find ways to cooperate to build the complex proposed project. Not only can this project become a showcase for future TOD, it can prove the legitimacy and the worth in the LCI process. ARC should be prepared to participate in the deal, where necessary to help coax necessary financing from lenders.

We recommend creating a working group that includes ARC, MARTA, key area land owners, the Brookhaven Peachtree Community Alliance (BPCA), and officials from Brookhaven and DeKalb County to help move TOD plans forward. In addition to fostering the proposed catalytic development, the group should coordinate streetscapes and other walkability enhancements in the district that create a cohesive environment and ensure that transit accessibility in a pedestrian friendly environment becomes a reality throughout the larger area.