

POLICIES FOR IMPLEMENTING MARTA'S TOD GUIDELINES

ADOPTED BY THE MARTA BOARD OF DIRECTORS

NOVEMBER, 2010

Concurrently with its adoption of MARTA's *TOD Guidelines*, the Board adopted the following seven policies to facilitate the *Guidelines*' effective implementation. These policies relate to joint development on MARTA's own property; to station area development in which MARTA is a stakeholder but not a direct participant; or to both.

1. Joint Development Procurement and Land Disposition

Joint development projects are those undertaken on MARTA land, within MARTA stations, on air rights over MARTA property; or through a direct physical connection to a MARTA facility. A joint development project requires an affirmative action by MARTA, including one or more Board votes. MARTA's joint development policy is designed to ensure that joint development projects reflect MARTA's *TOD Guidelines* with respect to use, density, public realm, and parking, and to provide a fair, orderly, and transparent process of joint development procurement and land disposition.

- Selection of Properties for Development. As property owner, MARTA will determine if and when a given site is ready for development and under what development parameters. MARTA staff will evaluate potential opportunities throughout its inventory of station properties; in identifying those that are ready for development, staff will consult with the applicable municipality or county to determine the consistency of the potential development with local zoning and adopted plans, and will make all reasonable efforts to obtain the applicable jurisdiction's support. Prior to offering any site for development, MARTA will commission an appraisal to determine the property's fair market value. The fair market value will reflect any limitation in the types of uses to be allowed or the type of property interest to be conveyed.
- Developer selection methods. Developer selection will be carried out through an open and competitive process. MARTA may choose among three solicitation methods as described below, or a modification or combination thereof. In each instance, the issuance of the Request for Qualifications (RFQ), Request for Proposals (RFP), or Request for Qualifications and Proposals (RFQ/P) shall require a vote of the Board.
 - (i) Two-step method (portfolio of sites): MARTA may issue an RFQ soliciting qualified development teams for a portfolio of sites. Teams may seek to qualify for some or all of the sites in the portfolio. After determining the qualified developers for each site, MARTA may issue a series of site-specific RFPs, directing each to the corresponding qualified developers.
 - (ii) Two-step method (individual site): For a large and complex site, MARTA may choose to issue a site-specific RFQ, followed by an RFP to the qualified developers.
 - (iii) One-step method (individual site): MARTA may also choose to issue an "all-in-one" RFQ/P for a specific site. The responses to the RFQ/P will include a Statement of Qualifications as well as a Development Proposal. MARTA will first determine the qualified developers and then evaluate their Development Proposal.

- Content of RFP. The RFP (or RFQ/P, if applicable) will include, without limitation: site development guidelines specifying the desired uses, density, public realm concepts, and parking standards; specific parameters for conveyance of the joint development rights, including the method of disposition (sale or ground lease) and any minimum purchase price or ground rent requirement; parameters with respect to roles, responsibilities, and allocation of risk between the developer and MARTA; any goals which MARTA may choose to include with respect to the participation of Disadvantaged Business Enterprises (“DBEs”) in the development team; and the proposal evaluation criteria.

MARTA may (and generally will) specify multi-dimensional “best value” criteria, in which the economic terms represent one factor in the evaluation, rather than a one-dimensional “high bid” approach. The economic evaluation will reflect all applicable business considerations, including without limitation the present value of the developer’s real estate payments; any in-kind station improvements or operational contribution; and the projected passenger revenues attributable to the development.

- Selection process. Upon Board approval, MARTA staff will issue the RFQ, RFP, or RFQ/P, as the case may be, and may conduct appropriate pre-proposal activities such as pre-proposal conferences or site visits. MARTA staff may create a sort-list of proponents, interview the short-listed proponents, and/or issue a Request for Best and Final Offers. The preliminary developer designation will be recommended and documented by the MARTA staff and presented to the Board for its review and approval.
- Joint Development Agreement (JDA). Following the preliminary developer designation, MARTA and the developer will negotiate a Joint Development Agreement. In general, a JDA governs the legal and business relationship between MARTA and the designated developer from the date on which the JDA is executed until the closing date, at which time the JDA is superseded by the deed of sale or long-term ground lease conveying the development rights. The execution of the JDA, which requires Board approval, converts the preliminary developer designation into a final developer designation. The JDA will clearly delineate those terms which are deemed material, such that any future change thereto would require Board approval.
- Unsolicited proposals. MARTA anticipates that private parties may from time to time submit unsolicited proposals for joint development projects. Upon receipt of an unsolicited proposal, MARTA will review it and determine in its sole discretion to proceed in either of two ways:
 - (i) To reject the unsolicited proposal and take no further action, because in MARTA’s judgment development of the site in question would be untimely, inappropriate, or not in MARTA’s best interest. The possible reasons for such a rejection include, but are not limited to, MARTA’s determination that it has an on-going operational use for the property; that development of the general type and scale proposed is incompatible with the *TOD Guidelines*, an applicable LCI Plan, or plans of the local jurisdiction; or that a reasonable economic value cannot be realized from the property in the proposed timeframe. If MARTA decides to reject the unsolicited proposal and take no further action, it shall so notify the unsolicited proponent.

(ii) To undertake a normal developer selection process for the site in question, using the two-stage RFQ/RFP method or the one-stage RFQ/P method as set forth above. Such RFP or RFQ/P will be informed, to the degree appropriate in MARTA's judgment, by the content of the unsolicited proposal, which content, except as may be agreed to by MARTA, shall not be deemed proprietary to the unsolicited proponent. The unsolicited proponent will have the same standing as any other potential proponent in responding to the RFQ or RFQ/P.

- Requests from adjacent property owners. MARTA anticipates that owners of property adjacent to MARTA facilities may from time to time request to establish a physical connection to a MARTA station, or to exchange real property interests with MARTA. Such requests will be evaluated and disposed of consistent with applicable provisions of the MARTA Act, including any required Board votes. MARTA shall be under no obligation to undertake any such real property transaction. Consistent with the MARTA Act, certain property dispositions associated with station access or real property exchanges may be exempt from competitive bidding.
- Proposals from government agencies. MARTA anticipates that other government agencies will from time to time propose to lease or acquire MARTA property for joint development. If MARTA, by vote of its Board, decides to pursue an agreement with the government agency in question, it may, to the extent consistent with the MARTA Act and other applicable Georgia laws, negotiate directly with the agency in question without publicly advertising for competing development interest. The terms of any such agreement shall reflect fair market value.
- Conveyance of joint development rights. Wherever feasible, it is MARTA's policy to retain fee ownership of joint development parcels and convey their development rights through long-term lease rather than sale. This policy will be stated in any RFP or RFQ/P to which it is applicable. MARTA recognizes that certain development projects, particularly those involving for-sale residential units, may require the outright sale of a parcel, and will consider such exceptions on a case-by-case basis. A decision to sell a joint development parcel will be based on documentary evidence that the project cannot be feasibly financed on the basis of a long-term ground lease. MARTA will reserve such rights as it deems necessary for the operation and maintenance of its transportation facilities, and such reservations will be clearly stated in the Joint Development Agreement and the deed or ground lease.
- Commercial Concessions. Commercial concessions are subset of joint development in which the business activity occurs within the station itself or immediately adjacent to the station entrance and is generally limited to convenience retail and food sales, restaurants, automated vending, and in some cases offices providing walk-in services to the public. Senate Bill 89 of 2009 eliminated a prohibition on consuming food and beverages in stations, enabling MARTA to undertake a full concessions program. That effort is currently underway.

As of the adoption of the *TOD Guidelines*, MARTA has begun to implement a station concessions program, focusing initially on automated vending. As MARTA expands the program to include "live" retail and food sales and other

concession activities, it will develop a detailed set of concessions policies, including one or more business models for competitive procurement. These models may include entering into direct leases or licenses with individual concession tenants; procuring a master lease developer to undertake the concession tenancing and build-out at multiple stations; or including a particular station's concessions as part of a larger joint development solicitation.

Each RFP issued for the commercial concessions will indicate the types of activities required, allowed, or prohibited. In addition to any other limitation which MARTA may impose, concessions within MARTA stations or on MARTA station grounds will not include the sale of alcoholic beverages, tobacco products, or pornographic material.

2. Access to Stations

In planning the use of its station-area properties, MARTA will take into account the station's transit functions as well as potential TOD, particularly joint development. While recognizing that many MARTA patrons access the transit system by automobile, MARTA adopts as a general policy the Station Access Hierarchy illustrated in the adjacent graphic (see page 54 of the *Guidelines*).



Pedestrian access from surrounding development will receive the highest planning priority, followed by bicycle and feeder transit. Automobile access, whether drop-off or park-and-ride, will receive a lower planning priority. The exceptions are “collector stations” (where park-and-ride, drop-off, and feeder bus transfers are by design the principal activities) and “special regional destination stations” (where the principal venue is normally a large-scale automobile trip generator).

In general, a joint development project that displaces existing station access facilities—whether pedestrian, intermodal, or park-and-ride—will replace those facilities as part of the project. At MARTA's discretion, the replacement may be undertaken by the designated developer or by MARTA itself using joint development proceeds.

3. Parking and TOD

Consistent with basic TOD principles, MARTA will seek to limit parking capacity to that which is genuinely needed in a transit setting, to encourage shared parking, and to ensure that parking is designed in a manner compatible with TOD. To that end, MARTA will apply the parking standards set forth on pages 98-99 of the *TOD Guidelines* to its own joint development projects, and will strongly encourage the use of similar standards in other station area development. Where existing zoning is inconsistent with such standards, MARTA may support appropriate zoning changes or zoning relief to achieve them.

With respect to its own properties, MARTA anticipates that it will undertake joint development projects on lands currently being used as park-and-ride lots. In such cases, MARTA's approach to the replacement of park-and-ride capacity will be a “right-sizing” policy, which seeks to optimize the tradeoff between park-and-ride and joint development. The decision as to how much park-and-ride to replace at a given station will be based on an analysis evaluating both ridership and revenue, taking into account

actual utilization of existing park-and-ride facilities; ridership and revenue to be generated by the park-and-ride facility; ridership and revenue to be generated by the proposed joint development; and the net real estate proceeds to be generated by the joint development project.

Park-and-ride replacement will be decided on a case-by-case basis, with no assumption that replacement will uniformly be 1:1. Based on the analysis described above, MARTA may opt for partial replacement (a ratio of less than 1:1) if an equivalent or larger volume of riders can be attracted with fewer park-and-ride spaces. Conversely, if park-and-ride demand at a particular station is expected to increase significantly, MARTA may opt for replacement at a greater than 1:1 ratio. While ridership will be the primary factor, MARTA will generally seek to avoid replacement outcomes in which garage construction consumes most or all of the joint development proceeds from the project in question.

4. Affordable Housing

As stated on page 48 of the *TOD Guidelines*, MARTA believes that residential and mixed-use TOD projects should include a significant component of affordable housing. Achieving this will require a collaborative effort among multiple stakeholders—the municipal and county zoning jurisdictions in the MARTA service area, their housing authorities, the state of Georgia, the Department of Housing and Urban Development, for-profit and non-profit developers, lenders, community groups, and MARTA itself. Together, these stakeholders must be prepared to apply a diverse affordable housing “toolbox”, including land availability, zoning, housing finance subsidy programs, and infrastructure improvements. MARTA intends to be an active participant in this process.

To that end, MARTA will apply a policy goal of 20% affordability, on average, to joint development projects undertaken subsequent to the adoption of the *TOD Guidelines*. As defined by MARTA, affordable housing includes workforce housing, as well as housing affordable to seniors with low, moderate, or fixed incomes and persons with disabilities. Workforce housing, in turn, is defined as rental housing affordable to households earning 60% to 80% percent of the Atlanta Metropolitan Statistical Area Median Income (“AMI”); or for-sale housing affordable to households earning 80% to 100% percent of AMI.

Joint development projects with 10 or more residential units will be subject to the following requirements. On a project-by-project basis, MARTA will establish a minimum percentage of affordable units. The percentage will reflect market conditions, zoning, and the availability of federal, state, or local housing finance incentives. MARTA may specify that a portion of the required affordable units shall consist specifically of workforce housing. The minimum percentage of affordable units established for a given project will be considered a “floor”, and developers will be encouraged to propose additional affordable units through the Request for Proposals (RFP) scoring criteria. Similarly, the AMI percentile used to define workforce units will be considered a “ceiling”, and developers will be encouraged to provide units affordable to lower AMI percentiles.

Within the density allowed by zoning (including any zoning relief or modification which may be associated with a project), MARTA will use both higher densities and reduced parking requirements as financial incentives for the inclusion of workforce units. MARTA will encourage zoning jurisdictions to adopt reduced parking requirements for TOD housing in general and affordable housing in particular, reflecting lower average car ownership among transit-dependent households.

The affordable housing requirements for each project and any applicable incentives will be clearly stated in the Request for Proposals. The affordable housing terms offered by the designated developer and agreed to by MARTA, will be included in the Joint Development Agreement (“JDA”). The JDA will also include specific procedures to ensure that the designated affordable units are delivered on schedule; are designed and built consistent with the standards required by MARTA; are marketed on a fair and transparent basis to households earning no more than the AMI percentile and household size associated with each unit; are maintained as affordable for an extended period of time; and cannot be used as speculative investments.

5. Sustainable Building Practices

As discussed on pages 72-73 of the *TOD Guidelines*, MARTA strongly supports the use of sustainable building practices. TOD inherently contributes to sustainability by attracting dense, mixed-use development to sites served by transit and by other forms of existing infrastructure. Many TOD sites will be located in existing city, town, or neighborhood centers or in brownfields. MARTA specifically expects its joint development partners to embrace sustainable design, construction, and operating practices at the project level.

In adopting this policy, MARTA takes particular note of the proposed Atlanta Sustainable Building Ordinance (ASBO). For joint development projects in the City of Atlanta, pending adoption of the ASBO, MARTA will include the proposed ASBO standards or comparable standards as a provision of each RFP and Joint Development Agreement. Upon adoption of the ASBO, MARTA will include the ASBO standards, unless the City determines that they do not apply or grants a variance. For joint development projects in jurisdictions other than the City of Atlanta, MARTA will apply sustainable building standards comparable to ASBO, unless the jurisdiction in question adopts a higher standard.

To the degree consistent with zoning, MARTA will allow additional density as an incentive for joint development projects to exceed the applicable ASBO or local jurisdictional standard. For example, if the applicable requirement is LEED Certified, MARTA will allow additional density for Silver, Gold, or Platinum.

6. Intergovernmental Activities

In advancing joint development projects, MARTA will take the initiative in interacting with other government agencies and jurisdictions, consistent with its role as a public land owner and project sponsor. This policy includes, but is not limited to, the following intergovernmental activities:

- Federal Transit Administration (FTA). As an FTA grantee, MARTA will be responsible for communication with FTA and for compliance with the FTA Joint Development Policy or any other FTA applicable requirements. (This policy does not apply, by definition, to MARTA properties in which there is no FTA interest.)
- Funding programs. MARTA may apply for funding, financing, or incentive programs from any federal, state, local, or regional source. If the appropriate applicant is a private developer, MARTA may support an application by its joint development partner. Such applications shall be at MARTA's discretion, based on its judgment as to the availability and applicability of the programs in

question and the need for the funding, financing, or incentive. Such applications may include, but are not limited to, Atlanta Regional Commission Livable Center Initiative (LCI) grants, FTA Joint Development funding, tax allocation districts established under Georgia Law, any housing finance programs available under federal and Georgia law, any economic development programs available under federal and Georgia law, or the location of federal, state, county, or municipal office and activity centers at transit locations.

- Zoning approvals, relief, or modification. MARTA joint development projects, like all development in Metro Atlanta, are subject to zoning and land use controls at the county or municipal level. MARTA will support zoning approvals for its joint development projects, and may at its discretion advocate for zoning relief or modifications which are needed to facilitate specific joint development projects, or project objectives such as mixed uses, affordable housing, or sustainability. MARTA may advocate for such outcomes on its own initiative or in support of a designated developer, as appropriate in a given circumstance.

7. Participation in Station-Area Development Reviews

As a TOD stakeholder, it will be MARTA's policy to play a proactive role in the planning and review of all station-area development proposals, including those not involving joint development. Without limiting its involvement in other relevant forums, MARTA will participate in the development and updating of Livable Centers Initiative (LCI) plans, Development of Regional Impact (DRI) Reviews, and requests for zoning relief or modification. The content of MARTA recommendations or comments will be guided by the relevant provisions of the *TOD Guidelines*:

- the density and mixed-use standards in Chapter 2 of the *Guidelines*
- the public realm standards in Chapter 3 of the *Guidelines*
- the parking standards in Chapter 4 of the *Guidelines*.