

RESOLUTION NO. 1991-103

A RESOLUTION ADOPTING POLICIES AND PROCEDURES
FOR IMPLEMENTING JOINT DEVELOPMENT OF GREATER
CLEVELAND REGIONAL TRANSIT AUTHORITY
RAIL AND BUS FACILITIES.

WHEREAS, the Board of Trustees recognizes the variety of economic and non-economic benefits to be gained by the Authority from the formation of public-private partnerships to jointly develop Authority rail and bus facilities; and

WHEREAS, there is a need to insure comprehensive planning and uniform implementation of joint development projects relating to Authority property acquisition and disposition; and

WHEREAS, the adoption of policies for planning and implementing joint development will insure the comprehensive effort necessary to maximize the benefits available to Authority from joint development;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees of the Greater Cleveland Regional Transit Authority:

Section 1: That the Policies and Procedures for Implementing Joint Development of Greater Cleveland Regional Transit Authority Rail and Bus Facilities, attached hereto as "Exhibit A" and incorporated herein by reference as if fully rewritten herein are hereby adopted.

Section 2: That the General Manager be and is hereby authorized to revise the procedures contained therein from time to time as deemed necessary or desirable by the General Manager to carry out joint developments in accordance with said policies.

Section 3: That this resolution take effect immediately upon its adoption by the Board of Trustees.

Adopted: May 21, 1991



President

Attest: 

General Manager/Secretary-Treasurer

Attachment: Policies and Procedures for Implementing Joint Development
of GCRTA Rail and Bus Facilities

GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY
POLICIES AND PROCEDURES FOR IMPLEMENTING
JOINT DEVELOPMENT OF GCRTA RAIL AND BUS FACILITIES

INTRODUCTION

Joint development is a real estate development that is tightly connected to public transportation services and facilities. Typically, the market access and locational advantages provided by a transit facility act as an impetus for the development. Both the public transit authority and the private developer benefit from joint development, as well as other public entities. From the standpoint of the transit authority, these benefits encompass increased use of the transit system, and a creative mechanism for funding construction, operation and maintenance of capital projects in a time of growing demand for services and diminishing financial resources. The private developer has the advantage of a built-in transportation linkage, an increased likelihood of return on investment, and a decrease in risk due to the influx of public resources as leverage for the development. Other public participants benefit from increased economic development and correspondingly enhanced tax and employment bases, improved urban design, and the opportunity to manage continued growth and development.

The idea of linking public transit and urban development is not a new one. In fact, the City of Shaker Heights was made possible by the construction of the Shaker Rapid, now GCRTA's Blue and Green Lines, in the 1920's. Joint development in Greater Cleveland is most recently and dramatically exemplified by the Tower City project with its combinations of a variety of private and public funding sources.

Joint development has the potential to convey benefits on all participants. However, it can only prove to be a viable option for GCRTA to pursue if the appropriate blend of transit and land-use planning is realized so as to provide the necessary environment for the development to succeed. Additionally, favorable market conditions, positive community response and political support all play a role. Consequently, it is imperative that GCRTA have in place policies and procedures defining a comprehensive process by which GCRTA can pursue joint development opportunities in a productive and coordinated fashion.

PURPOSE AND SCOPE

Joint development agreements with the private sector will be used to (i) offset rail and bus system real estate acquisition and facility construction costs; (ii) provide station upgrades or desired public amenities; and (iii) help pay ongoing system operating costs.

Working with specialized groups consisting of property owners, developers, and governmental representatives, specific design and development activities can be realized. The advancement of facility site alternatives can thus be pursued to reach a balance of preferred site locations which capture the most private sector development contributions while considering trade-off evaluations of joint development opportunities to system performance, service quality, schedule and construction cost. These activities are also coordinated with local development plan objectives to consider site alternatives which respond to planned development goals.

Four prospective joint development approaches have been identified: (i) negotiated investments; (ii) public improvement districts (PID's); (iii) connector fees; and (iv) leasing of land and air rights.

A negotiated investment is a contribution of property, facilities or amenities by a private development in exchange for benefits to a private development plan. These agreements are expected to provide access improvements (elevators, escalators, entranceways), bus and parking facilities, station aesthetics and/or real property interests.

PID's are formed when commercial property owners within a district agree, through petition to the governing municipality, to fund all or a portion of a transit station. The municipality finances the station with debt and assesses the property owners in the form of incremental ad valorem taxes or a cents-per-square foot levy based on property values. Assessments must reflect the benefit of the station to the property owners. The Authority leases the station from the municipality until the debt is paid off, after which ownership can be transferred to the Authority.

Connector fees are paid by developers to construct a physical link between a private development and a transit station. They will be negotiated primarily on subway or elevated stations, where direct access to mezzanine levels creates additional prime rentable space. Fees are usually in the form of an annual contribution for station operating costs.

Land and air rights leases will be negotiated with commercial developers on station sites and parking areas purchased or already owned by the Authority for transit purposes. In some cases, the facilities will be integrated into the overall development. Common facilities, such as plazas and entranceways, will be shared whenever possible.

Joint development transactions are highly specific, involve lengthy planning and negotiation, and will frequently require pre-funding. Accordingly, they cannot be relied upon as an initial revenue source. Over the long-term, however, joint development can play a significant role in financing the GCRTA transit system.

POLICIES FOR JOINT DEVELOPMENT OF GCRTA RAIL STATION SITES AND BUS FACILITIES

Comprehensive Planning

1. Coordinate comprehensive planning and development around Rail station sites and Bus facilities (i.e. Park-n-Rides, bus loops) with the involved communities, in accordance with local and regional land use plans, policies and zoning regulations.
2. Encourage land use plans which are designed to enhance system ridership and provide needed public amenities, such as sidewalks and other pedestrian connectors to form linkages between developments and rail stations or bus facilities.
3. Ensure that all uses of Authority owned property and any given local jurisdiction's adopted land use plans are consistent, and attempt to achieve that consistency by seeking change in such land use plans.
4. Promote and reinforce local land use plans which provide for the creation of high-quality development at each rail station or bus facility; where the local governmental entity's adopted land use plans call for maintenance of a residential area, maintain consistency with those plans.
5. Provide agency support and interagency representation.
6. Encourage local jurisdictions to structure their land use plans in the vicinity of rail stations and bus facilities to promote uses supportive of transit.
7. Select joint development projects that promote transit ridership, increased mobility, economic development including job creation, and other community needs.

Control of Joint Development Activities

8. Obtain and retain station facility and related transportation service design and location authority.
9. Maintain an active role in all public/private coventure activities.
10. Retain ownership of land and air rights acquired for GCRTA Rail and Bus facilities; jointly develop these with the private sector and/or other public entities for the purpose of establishing long term revenues to support initial offset of GCRTA capital expenditures, as well as a sustainable annual cash flow for meeting ongoing costs related to operating, and maintenance requirements.

Implementation

11. Package real estate projects.
12. Establish a joint development decision making process which fosters positive relations with the private sector other public agencies, and members of the general public, particularly residents affected by development in their respective communities.
13. Solicit proposals for joint development of Authority owned property through a competitive selection process.
14. Infuse public sector capital or "in lieu" contributions where appropriate to create more viable joint development projects.
15. Ensure the involvement of disadvantaged and women business enterprises in joint development projects through the establishment of procedures for active participation in various aspects of joint development including but not limited to project planning, design, financing, equity participation, and construction.

Enhancement of GCRTA Rail and Bus Systems

16. Evaluate and consider the potential for enhancement of GCRTA Rail and Bus operations (e.g., service performance and service quality) through joint development prior to selection and configuration of sites for GCRTA Rail stations and Bus facilities.
17. Encourage direct connections to Rail stations and Bus facilities from surrounding developments in order to expand the pedestrian domain around the stations and to increase the usability of the system; encourage land uses which promote pedestrian activities and promote the safety and security of patrons.
18. Review GCRTA Rail station and Bus facility design and, where feasible, incorporate design features that will facilitate future joint development.
19. Make most efficient use of Authority real property in order to carry out the Authority's responsibilities to achieve maximum public benefit arising out of necessary public expenditures. For example, excess land at a GCRTA bus loop or under utilized parking lots at rail stations could be leased or sold to developers, and the proceeds directed to improving GCRTA operation and maintenance at the sites.

Revenue Generation, Cost Sharing and Value Capture

20. Negotiate joint agreements between the Authority and developers using Authority land and/or property rights to create a long-term source of revenue for the operation and maintenance of the system.
21. Use negotiated investments for station/facility cost sharing, connector fees, joint ventures, and lease agreements, among other mechanisms, to ensure long term value capture in support of the public benefit.

22. When construction of adjacent joint development projects precede or parallel construction of GCRTA Rail stations or Bus facilities, negotiate offsets to GCRTA Rail costs through station/facility cost sharing.
23. Require connector fees or equivalent consideration from any property owner/developer of any building who requests a physical link to a GCRTA Bus facility or Rail station; the cost of such connectors, including additional design costs, and maintenance costs will be borne by the property owner/developer and will be negotiated.
24. Require, where appropriate, that property owners/developers who propose to be directly connected to stations, where there is no benefit assessment district, to pay fees substantially equivalent to benefit assessment as set for other stations; fees which are collected in lieu of such benefit assessments shall be in addition to all other fees, contributions, or considerations.
25. Structure connector fees or capital offset fees in the form most appropriate to the transaction; for example, lump sum payments, participation in the revenue created by the development, "in lieu" dedication payments of property and/or easements, or combinations of forms.
26. Ensure that joint development projects contain some provision for financial security against future adverse impacts on transit operations by the owner/occupants of the joint developments.

Land Acquisition and Disposition

27. Plan property acquisitions to obtain the best possible combination of cost savings on site acquisition and joint development potential on the sites after system construction.
28. Where joint development is not feasible or is a long-range project, consider leasing land and air rights at the current market rate to potential developers, with consideration of any capital investment incorporated.
29. Dispose of real property only when it is economically advantageous or otherwise to the Authority's benefit.
30. An environmental assessment will be completed of any parcel the Authority buys or sells. In this manner, the Authority may obviate responsibility for any necessary removal of polluted soils and sources of pollution. There is thus an elimination of unnecessary and highly expensive surprise for the Authority.

PROCEDURES FOR JOINT DEVELOPMENT OF GCRTA RAIL STATIONS AND BUS FACILITIES

The following is the process to be used by the Authority in implementing its adopted policies regarding joint development of GCRTA Rail stations and Bus facilities.

1. The Authority may initiate joint development of a GCRTA Rail site or Bus facility or such a proposal may be initiated by an inquiry from a private developer, public agency or other person.
2. Any recommendation by a department of the Authority, or any inquiry from a person outside the Authority regarding joint development opportunities on a GCRTA site shall be referred to a joint staff committee of the Operations Planning, Strategic Planning and Research, Legal, Rail and Bus Transportation, and Procurement Departments, and the Finance, and Engineering and Construction Divisions (Joint Staff Committee).
3. Upon receipt of a request for joint development on a GCRTA site, the Joint Staff Committee shall analyze the feasibility and benefits of the proposed development.
4. If a preliminary analysis by the Joint Staff Committee indicates that a proposed development on a site may be feasible and beneficial, following Executive Management Team review, the General Manager may submit the proposal to a closed meeting of the Board of Trustee's Planning and Development Committee for further consideration.
5. If the Board Planning and Development Committee finds that the development proposal is feasible and beneficial, it may submit a recommendation to the full Board to approve the issuance of a Request For Interest and Qualifications (RFIQ) for development of the site. Any RFIQ's will be issued by the Procurement Department.
6. Notice of the Authority's intent to issue an RFIQ for a GCRTA site shall be given in newspapers of general circulation, and in other specialized publications, if appropriate, for a minimum of 30 days prior to the submittal deadline; notice shall also be given to adjacent property owners and to any person specifically requesting such notice from the Authority.
7. The Authority's RFIQ shall contain: (1) site description, (2) basic project description and development guidelines, (3) special Authority requirements for interface with the transit operations (4) requirements for benefit to the Authority, (5) selection process, including criteria used for selection, (6) responsibilities of the Developer, (7) form of the development proposal, and (8) statement of policy regarding participation by disadvantaged business enterprises.

8. Responses to an Authority RFIQ shall contain: (1) description of the development entity, (2) financial capability of the Developer, (3) project description including conceptual site plans elevations and other transit operations, (4) proposed financing of project, (5) conceptual benefit to the Authority, opportunities for disadvantaged and women business enterprises including, if known partnership arrangements.
9. The Joint Staff Committee shall review and evaluate all RFIQ submittals and present a maximum of three submittals to the General Manager with its recommendations; no submittal will be forwarded to the General Manager that does not respond to all the requirements of the RFIQ.
10. The Board Planning and Development Committee will review the submittals from the Joint Staff Committee presented to it by the General Manager, and submit a recommendation to the full Board for consideration of the issuance of Requests for Proposals to the approved development entities.
11. Development entities approved by the Board shall be sent Requests for Proposals (RFP) which shall require a comprehensive proposal including but not limited to: (1) letter to the General Manager requesting an exclusive right to negotiate, (2) detailed project description including dimensioned site plans, elevations, circulation and parking plans and a description of the interface with GCRTA operations during and after construction, (3) pro forma financial analysis including development cost and ten-year cash flow projections, (4) benefits to the Authority, (5) costs to the Authority, (6) evidence of market feasibility, (7) construction schedule, (8) interface with GCRTA Rail/Bus operations during and after construction, (9) identification of disadvantaged business participation at all levels at which such involvement is proposed, and (10) other information appropriate to the particular project.
12. The development entities will respond within the time set in the RFP; the Joint Staff Committee shall evaluate the information provided in each response to the RFP and shall make a recommendation to the General Manager for presentation to the Board Planning and Development Committee. Said recommendation shall include the staff's analysis of each development proposal.
13. The Board Planning and Development Committee may recommend one or more proposals to the full Board. The Board may authorize the General Manager to enter into a 180-day Agreement to Negotiate Exclusively with the development entities.
14. A development entity that enters into an Agreement to Negotiate Exclusively with the Authority for a GCRTA site shall submit a good faith deposit of \$30,000 or an amount equal to one percent of total development value whichever is greater; said deposit shall not bear interest and shall be refundable only if the development entity uses its best efforts to negotiate a development agreement with the Authority.

15. The General Manager and/or designated staff shall negotiate with the development entity approved by the Board to reach a draft development agreement which shall be forwarded to the Board Planning and Development Committee for review; the negotiating team shall consult with the Joint Staff Committee and the Executive Management Team on a regular basis during the negotiation process.
16. Upon completion of its review of a draft development agreement, the Board Planning and Development Committee shall forward the proposed agreement to the Board for approval, if acceptable.
17. The Authority may deviate from its RFIQ and RFP procedures for joint development of a GCRTA site in any case where the Authority has entered into an intergovernmental agreement with a local government that is participating in the joint development process; procedures for implementing the joint development shall be specified in the intergovernmental agreement, which shall be subject to approval by the Board.
18. The Authority may deviate from its RFIQ and RFP procedures for joint development of a GCRTA site if the interested party is an adjacent property owner and the Authority finds that combining the Authority site with an adjacent property is the proposal most likely to result in a joint development that is feasible and beneficial to the Authority; procedures for implementing the joint development shall be specified in a written agreement between the Authority and the adjacent property owner and subject to approval by the Board.

PROCEDURES FOR JOINT DEVELOPMENT CONNECTIONS TO GCRTA RAIL STATIONS AND BUS FACILITIES

The following is the process to be used by the Authority in implementing its adopted policies regarding joint development of GCRTA Rail and Bus facilities, particularly those policies related to connections to stations:

1. The Authority may initiate connections (streets, sidewalks, pedestrian easements, and sub-surface or aerial walkways) into GCRTA Rail stations and Bus facilities or such connections may be initiated by requests from private developers, public entities or other persons.
2. Any recommendation by a department of the Authority, or any inquiry from a person outside the Authority regarding joint development connections to a GCRTA site shall be referred to the Joint Staff Committee.
3. Upon receipt of a request for a connection to a GCRTA Rail station or Bus facility the Joint Staff Committee shall analyze the feasibility, costs, and benefits of the proposed connection.
4. If preliminary analysis by the Joint Staff Committee indicates that a proposed connection to a GCRTA Rail station may be feasible and beneficial, following Executive Management Team review, the General manager will be requested to submit the proposal to a closed meeting of the Board Planning and Development Committee for further consideration.
5. If a Board Planning and Development Committee finds that the connection proposal is feasible and beneficial, it shall direct the General Manager and/or designated staff to negotiate a draft agreement for the connection; the negotiating team shall consult with the Joint Staff Committee and the Executive Management Team on a regular basis during the negotiation process.
6. A draft agreement for a connection to a GCRTA Rail station or Bus facility shall be reviewed by the Board Planning and Development Committee and, if acceptable, shall be forwarded to the Board for approval.

PROCEDURES FOR SALE OR LONG-TERM LEASE OF SURPLUS SITES

The following is the process to be used by the Authority in implementing its adopted policies regarding rail stations, bus facilities or other sites, particularly those policies related to the sale or long-term lease of surplus properties:

1. The Authority may initiate the sale or long-term lease of any site (Site) or such a sale may be initiated by an inquiry from a private developer, public agency or other person.
2. Any recommendation by a department of the Authority, or any inquiry from a person outside the Authority, regarding sale or long-term lease of a Site shall be referred to the Joint Staff Committee.
3. Upon receipt of a request to sell a Site, the Joint Staff Committee shall analyze the feasibility and potential costs and benefits of discontinuing bus or other current operations at that location.
4. If a preliminary analysis by the Joint Staff Committee indicates that sale or long-term lease of the Site is feasible and beneficial, the Committee may recommend to the General Manager that approval be obtained from the Board authorizing the General Manager to initiate efforts to sell the Site, or offer it for lease.
5. Upon the General Manager's recommendation, the Board, after finding that the Site is unnecessary for existing and future Authority operations, and is not feasible for joint development, may direct the General Manager to sell or lease the Site following standard procedures for the sale or lease surplus land.