

# Promoting Joint Development in Florida

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## Executive Summary

The Federal Transit Administration describes joint development as “the coordinated development of public transportation facilities with other, non-transit development, including commercial and residential.” Typically the public transit facility is adjacent to, or co-located on, the same property as the non-transit development. The defining characteristic of joint development is a relationship between the transit agency and the developer. This relationship involves a contractual arrangement and financial transaction between the two parties, which helps distinguish it from a similar concept known as transit-oriented development (TOD). Transit agencies that partner with developers can realize many benefits from joint development projects such as higher ridership associated with jobs or housing located within walking distance of the station; opportunities for encouraging more affordable housing near transit stations; infrastructure or operational cost sharing; and if the conditions are right, the potential for more revenue through developer payments.

Most examples of joint development come from large urban transit agencies that provide premium services such as fixed guideway rail transit. While many urban areas in Florida are developing or expanding their rail transit systems, the state already has several examples of successful joint development projects. Miami-Dade Transit has worked closely with land use officials and private developers since 1984 to attract investment to its Metrorail station areas. Today the agency is viewed as a national leader in transforming surface parking lots around rail stations into affordable housing that supports greater ridership and furthers community goals associated with growth management. The Jacksonville Transportation Authority (JTA) also completed a successful joint development near the city’s downtown that brought two new hotels next to an underutilized parking garage on its Skyway people mover system.

Transit agencies in Florida are likely to have several more opportunities for joint development as major premium transit projects are completed or get underway in Central Florida, the Tampa Bay region, South Florida, Tallahassee, and even statewide with the prospect for high speed rail. These projects are moving towards implementation at an ideal time as trends nationwide reflect demographic shifts and market preferences that favor housing and jobs located in more walkable, urban areas that provide greater transportation choices. These trends are influencing market demand, which is making TOD an attractive location for developers. Therefore the timing is right for transit agencies beginning identifying the opportunities for joint development and examining the steps necessary to make it a success.

Additionally, the Federal Transit Administration (FTA) is taking steps to support more joint development. For example, in 2013 the agency clarified its policy and rules on joint development through a circular that consolidates past guidance in one place for the first time. FTA also announced in 2013 that the agency will no longer count joint development expenses towards the cost effectiveness rating required for projects seeking New Starts funds. The agency explicitly stated that it was making the change in order to encourage more applications for transit system expansions that also include joint development projects.

While market conditions are trending positively for development located adjacent to premium transit stations, and federal policy is encouraging more TOD and joint development, the unique public-private partnership nature of joint development require a different level of skill and expertise on both the transit agency and developer side of the equation. Case study research from Florida, North Carolina, Texas, and New Jersey revealed common issues and lessons learned that agencies should be aware of as they embark on joint development for the first time. Agencies that incorporate these lessons into their joint development strategy can reap the benefits while encountering fewer stumbling blocks.

- **Ridership vs. Revenue** – While many agencies expect to generate substantial new revenue through joint development, the cases study agencies view the longer term benefits of increased ridership as an even greater return on the investment.
- **Be Proactive** – The most successful joint development projects are backed by a strong community vision for TOD, political will and support for public-private ventures, a proactive planning and zoning framework, and a strong marketing strategy that can help position the project for success.
- **Be Realistic** – A request for proposals (RFP) or qualifications (RFQ) for joint development should reflect analysis completed by the transit agency to determine the type and intensity of development the market will likely bear.
- **Be Patient** – Joint development projects can be complex, both private sector partners and public sector agencies will need to be realistic about timeframes needed to complete the project; but based on interviews with the case study stakeholders described in this report, the benefits have been well worth the wait.
- **Don't Be Overly Prescriptive** – The transit agency should have a vision, but it must also be flexible in order to respond to market realities of what developers are able to build.
- **Selling Land vs. Ground Lease** – The FTA and many transit agencies prefer to lease land for joint development, but developers and lenders in the South are less experienced with this arrangement for residential projects. Transit agencies can build developer trust and comfort by building staff expertise and reaching development agreements that are a win-win.
- **Discounting Often Necessary** – Joint development in Florida often comes with more uncertainty, higher financing costs, and fewer local examples than conventional development. Therefore, a financial incentive, such as a discount on the lease or sale price, is often necessary to attract a developer.
- **Agencies Need More Joint Development Support** – Despite the benefits, joint development is typically not a core part of a typical transit agency's mission. Transit agencies must commit to joint development in their annual operations and capital budgets in order to provide an adequate level of resources to support these complex projects.
- **Seek Assistance** – FTA's rules are not too onerous, but it helps to have specialized expertise to navigate them. This can either be done by hiring key staff with joint development experience in-house or contracting for this expertise.
- **FTA Wants to Work with You** – The case study communities have worked closely with FTA and found they are willing to be flexible to make a joint development project happen. The key is to communicate early and often with the FTA regional office.

The joint development process clearly comes with many inter-related considerations that influence its results. This report aims to help agencies navigate the changing practice of joint development by explaining the new FTA guidance and providing tools for evaluating project feasibility and establishing a joint development strategy. For example, the table in Section 2 presents several questions that transit agencies should ask before committing to a project. These questions will help an agency evaluate joint development in four key areas – market feasibility, agency capacity, eligibility for FTA support, and the local and state policy environment. Section 7 includes a table that helps agencies think through their strategy towards joint development and identify useful tools that will support their efforts. Once an agency identifies an opportunity and establishes its strategy, it should contact the FTA and complete its joint development checklist. Agencies should also set up a committee to marshal the project and issue a request for proposals or qualifications.

The forecast for joint development is looking bright despite the need to be judicious in choosing when to pursue it. Any transit agency interested in joint development will benefit from reading this report prior to embarking on a project.

## Section 1 - What is Joint Development?

### Definitions

Transit stations, especially those served by premium transit, are often attractive areas for development.<sup>1</sup> Transit investments alone do not guarantee near-term appreciation in real estate values or increases in market demand, but studies show that when market conditions are trending positively, properties within walking distance of premium transit stations become more attractive as people and companies seek to locate in areas with good multimodal accessibility.<sup>2</sup> Therefore, when a transit agency owns lands adjacent to transit stations, or air rights above transit facilities, those lands can be attractive for public-private development partnerships that the Federal Transit Administration (FTA) calls joint development.

The basic term “joint development” has been used by federal policy-makers since the 1950s in different ways to describe development related to transportation facilities, but it was first applied to transit in the Urban Mass Transit Act of 1964. FTA established joint development guidance in the ensuing years, but many transit agencies found it difficult to follow FTA’s guidance, which was not expressed within a single document. In 2013 FTA consolidated its guidance and provided a clear description of joint development, which is provided below.<sup>3</sup>

*‘Joint development’ commonly refers to the coordinated development of public transportation facilities with other, non-transit development, including commercial and residential development...The transit and non-transit developments are integrally related to one another and are often co-located on the same real estate.*

**FTA, 2013**

Another definition comes from a comprehensive exploration of joint development in the United States.<sup>4</sup>

*Any formal agreement or arrangement between a public transit agency and a private individual or organization that involves either private-sector payments to the public entity, or private-sector sharing of capital costs in mutual recognition of the enhanced real estate development or market potential created by the siting of a public transit facility.*

Joint development is not a new practice in Florida. The state’s first project opened in 1984 along with Metrorail, Florida’s first premium transit service. Miami-Dade Transit deliberately pursued joint development starting in the planning phase for Metrorail and worked with a private developer to build the first project next to the Dadeland South station. Miami-Dade Transit later secured joint development agreements for projects at Dadeland North, Brownsville, Dr. Martin King Jr., and South Miami stations. These projects have supported higher ridership and increased Miami-Dade County’s supply of affordable

<sup>1</sup> “Premium transit” includes fixed guideway modes (such as heavy rail, commuter rail, light rail, and bus rapid transit) and high frequency local or express bus.

<sup>2</sup> Fogarty, Nadine and Mason Austin. *Rails to Real Estate, Development Patterns along Three New Transit Lines*. March 2011.

<sup>3</sup> Federal Transit Administration. “Federal Transit Administration Guidance on Joint Development.” 2013.

<sup>4</sup> Cervero, Robert, Peter Hall, and John Landis. *Transit Joint Development in the United States*. University of California at Berkeley, Institute of Urban and Regional Development. 1991.

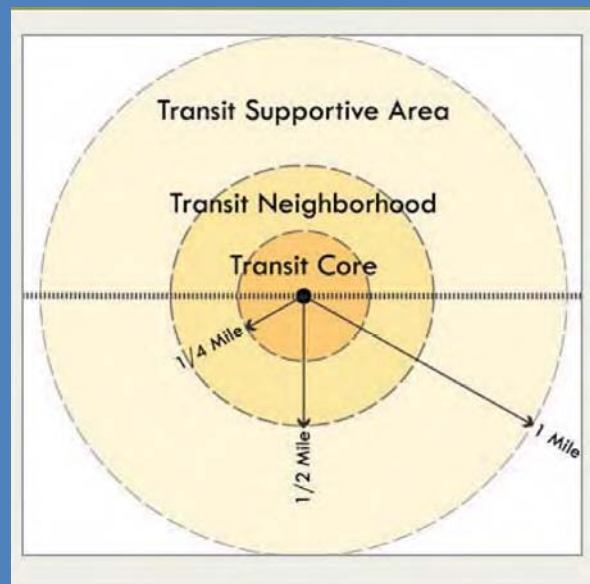
housing. Since 1984, additional premium transit services have opened in South Florida (Tri-Rail), Jacksonville (Skyway), and Tampa Bay (MetroRapid BRT). In central Florida, SunRail is scheduled to open in 2014 and other premium transit projects are in planning stages in Tampa (light rail), Tallahassee (bus rapid transit) and statewide with All Aboard Florida (high-speed rail). These projects will present more opportunities for joint development while fostering economic development and incentivizing private sector participation in large scale transit projects.

Joint development and transit-oriented development (TOD) are terms that are often used interchangeably, yet their similarities and differences merit a description of their distinct characteristics. TOD commonly refers to development located within the one-quarter to one-half mile of a transit station that oriented towards a transit station and designed to encourage people to drive less and use public transit more.<sup>5</sup> Joint development, on the other hand, describes a relationship between a transit agency and a developer to execute a specific project located at or near a transit station. Joint development projects should incorporate TOD design principles, but successful joint development projects also require formal public-private partnerships.

#### **TOD in Florida**

The primary goal of TOD is to create compact, walkable development patterns that will maximize transit ridership potential, which, in turn can create a strong return from transit investments and promote economic development and redevelopment. The benefits of TOD are far-reaching and include economic, transportation, land use, and environmental rewards. In recognition of these benefits, the Florida Transportation Plan (2060 FTP) places a high priority on TOD.

Joint development typically involves property that is adjacent to or above a transit station. As such, joint development is a valuable tool that transit agencies can use to build or support TOD in station areas. However, transit agencies and local governments must work together to ensure that policies are in place to achieve this outcome.



<sup>5</sup> Florida Department of Transportation. *Florida TOD Guidebook*. December 2012.



A comprehensive report by FTA on TOD described some of the key elements that distinguish joint development from broader TOD and TOD planning.<sup>6</sup> The report notes that joint development:

- Is tied to a specific real estate project or existing property;
- Is a formal agreement or relationship with a private entity;
- Involves the direct participation of the transit agency in revenue streams and/or an ownership stake in the project; and
- Can occur on the transit agency's property or air rights, or on private land that is physically or functionally integrated with a transit facility.

The most important distinguishing characteristic is that joint development involves a contractual arrangement and a financial transaction between the transit agency and developer. The financial aspect can include air rights, ground leases, station connection fees, and other initiatives that promote real estate development at or near transit stations ***to the mutual benefit of both public and private interests.***

The emphasis above is important, because it adds the word “joint” to “development.” A true joint development project is one where both the private and public sides gain financial benefits. While improvements to the station area, adjacent development, and other TOD planning goals may be accomplished as part of a joint development project, at the heart of joint development is a business deal that creates an ongoing stream of revenue or ownership stake for the transit agency.

Joint development comes in all shapes and sizes; every transaction is unique. While many early projects involved air rights development and station access deals in big-city central business district locations with legacy transit systems, such as New York and Washington D.C., the emergence of new fixed-guideway transit systems in fast growing Sun Belt cities, and an increase in TOD activity in suburban locations has led to a wide variety of joint development projects across the United States. Joint developments in Charlotte and Dallas are described in Section 5 along with several examples from Miami, including the Brownsville Transit Village, which is introduced below.

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<sup>6</sup> Federal Transit Administration. *Transit-Oriented Development in the United States: Experiences, Challenges, and Prospects*. 2004.

### **Brownsville Transit Village, Miami, FL**

The Brownsville Transit Village rose starting in 2010 from an underutilized surface parking lot next to a Metrorail station bearing the same name. Prior to the development, commuters only used about 10 percent of the parking on a typical day. Miami-Dade Transit identified it as a joint development candidate due to the underutilized parking and entered into a 99-year ground lease with a local community development corporation to develop almost 500 affordable apartments. Ridership is up about 30 percent since the apartments were finished in 2012.



### **Key Characteristics**

Because joint development is defined as a specific project or transaction, each one is unique and can involve a wide variety of conditions, objectives, and outcomes. However, there are three basic characteristics that are typical of joint development and further distinguish it from general TOD planning.

First, a joint development project is **mutually beneficial** to its private and public sector participants. It requires a willing transit agency and an opportunistic partnership. Joint development is fundamentally characterized by a win-win relationship or “quid pro quo” that benefits both parties. Each side benefits in different ways:

- The transit agency gains revenue from the transaction and may gain increased ridership through more effective links between transit stations and adjacent development.
- The developer gains access to developable land or air rights with prime access to a transit station, and a partnership with the public sector that can be helpful in working through the local government development review and approvals process.

Second, joint development is **opportunistic**. It takes advantage of specific opportunities at a location and the specific objectives and capabilities of the transit agency and developer(s) involved. Joint development does not naturally happen because of transit investments; it is created through deliberate policy-making and deal-making.

- Joint development depends on the site. Not all transit stations will have joint development opportunities, and not all opportunities will be economically feasible at a given point in time.
- Joint development depends on the agency. Not all transit agencies will have the legal powers, mission, political approval, and/or staff capacity to engage in joint development activities.

Because of these characteristics, joint development is not typically viewed as a general revenue program that can be pursued by a transit agency in a broad fashion across all of its transit lines and stations. Rather, it is a tool for tapping into the value of land assets that are ripe for development.

Third, joint development involves a **financial transaction**. Typically the project will include revenue or cost sharing between the transit agency and a private partner. The nature of the revenue or cost sharing is negotiated between the transit agency and developer and often expressed through a development agreement. Many joint development projects generate revenue for the transit agency through a lease of the underlying property. The cost-sharing element typically comes into play during construction when the transit agency and developer may share in the cost of key infrastructure necessary for the project, such as a parking garage that provides spaces for both the development and the station. Cost-sharing can also entail operational or maintenance items such as the developer taking over responsibility for escalators, elevators, landscaping, and other features of a transit station.

While FTA and many agencies emphasize revenue and cost sharing as the key measures of joint development success, transit agencies should also consider the TOD implications of these deals. Joint development projects can have a major impact on the character of a station area and access to the transit station. These projects can help to set the precedent for design, increase ridership and further signal to the market the attractiveness of the station area, which in turn can help foster the larger goals of TOD in and around station areas.

## Benefits

Successful joint development has direct and indirect benefits to transit service, the transit agency, and efforts to promote TOD. The direct benefits are fairly straightforward. The first three are the primary benefits that FTA and many transit agencies emphasize.

1. A new source of revenue for the transit agency.
2. Increased ridership at the joint development station through effective TOD design.
3. Cost sharing on facility construction and/or operations.
4. Improved station facilities and surrounding properties.
5. Better links between transit and other transportation modes.

### ***The Big Three Benefits – Revenue, Ridership, and Cost-Sharing***

*The three major benefits of joint development are revenue, ridership, and cost-sharing. Miami-Dade Transit pursues each of these benefits in its projects, but recognizes that it is difficult to obtain all three. Joint development projects often require expensive infrastructure or market risk that forces the agency to discount the price of the land. In practice, the ridership and cost-sharing benefits have been easier to obtain. A project at Santa Clara Station has increased ridership by about 90 percent and a recent project on the Metromover system has allowed Miami-Dade Transit to shift maintenance costs of elevators and escalators to a private developer.*

The indirect benefits are more subtle and less financially oriented. First, joint development can provide a signal to the marketplace that TOD is viable, which is important in a state such as Florida that is looking to respond to demographic changes by providing more compact, walkable neighborhoods in a built environment that has been shaped to accommodate automobiles. Second, joint development encourages interagency coordination that can help regions move towards their larger growth management goals.

Joint development projects can send a signal to the market by catalyzing development in an area that may not have previously attracted market-driven TOD activity. A high-profile joint development project with public sector support and market success can help entice other developers into producing TOD, setting up a positive cycle of investment that can transform the station area. A joint development project can also serve as a demonstration of a local government or transit agency's TOD goals and objectives, providing a real world example and potential model for future private development projects on other properties near the transit station.

Joint development also helps improve cross-agency coordination, which can result in helping regions achieve larger growth management goals and objectives associated with TOD. These projects are often complex and involve multiple offices both within the agency and between the agency and outside stakeholders. For example, in Miami the transit, planning, housing, and procurement offices are all involved. The transit agency must also work closely with the City of Miami, the Florida Department of Transportation, community development corporations, and the developer. Miami-Dade Transit had to develop processes for interagency collaboration or joint development projects would never have been built. Collaboration between transit agencies and local governments can spill over to other issues and can be an illustrative case study that promotes how public sector coordination can drive successful projects that are good for the environment and the economy.

## Section 2 - Should We Pursue Joint Development?

Joint development can have strong mutual benefits for transit agencies, developers, local governments, and the community at-large, particularly in the Florida context where market conditions and growth management goals align. But it is also clear that joint development is not for every transit agency. This section will help transit agencies think through the key considerations of joint development and decide if it is a strategy that makes sense.

### Success Factors

The research on joint development and the case studies examples presented throughout this report point to several conditions that are important for nurturing successful joint development.<sup>7</sup> The transit agency should evaluate each of these factors before deciding to embark on a joint development project:

1. A healthy local real estate market.
2. An entrepreneurial public agency.

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<sup>7</sup> Cervero, Robert, Peter Hall and John Landis. *Transit Joint Development in the United States*. University of California at Berkeley, Institute of Urban and Regional Development. 1991.

3. Shared goals and objectives with other public agencies needed to foster collaboration and coordination.
4. Revenue, ridership, **OR** cost-sharing potential of the project.
5. Supportive local and state laws, regulations, and policies.

The first and perhaps most important factor is a **healthy local real estate market**. Joint development depends on a healthy real estate market surrounding the station. Therefore, an important first step for any agency considering joint development is to evaluate the market conditions in each station area and carefully study the market feasibility of potential projects. The expected development outcomes should be grounded in market realities, allowing for more efficient use of public resources by prioritizing where and when they are used. Such analyses also set realistic expectations among staff, political, and community stakeholders regarding the type, character, timing, and profitability of development. This information also better prepares the agency to negotiate with its developer partners.

Transit agencies are partners in joint development projects and are unlikely to be the principal in control, so understanding the market risks and their implications for project performance is important for being an informed partner. What constitutes “success” for a development project can be different depending on one’s financial interests and point of view. A private developer and a transit agency will have different levels of tolerance for risk, so the agency must be able to independently conclude when a project is not suitable for its participation. A proposed joint development project that is of questionable market feasibility (i.e. unacceptably high-risk) should not be pursued by a transit agency, especially if its revenue share is the most “at-risk” in the deal structure.

However, it is also important to note that the market is always in a state of flux and a project that is not feasible today might be feasible in the near-term with changes in the larger economy or simply with changes in local regulations and policies. In some instances, the local government may be able to influence the market for development through public infrastructure investments, policies, and codes. TOD planning and other policy actions, such as comprehensive plan amendments and zoning changes, can alter the market dynamics by reducing the cost to develop or encouraging demand. The example below from Charlotte highlights how one transit agency has attempted to use joint development to alter the market around a new light rail station. While the city’s and transit agency’s actions attracted developer interest, the market realities have kept the project from getting off the ground as of 2013.

### Scaleybark Station, Charlotte, NC

Charlotte decided to use joint development along its Lynx light rail system that opened for service in 2007. The city views the light rail system as more than a mobility project; it views it equally as a driver of new land use patterns and development types. In order to get the land use it was after, the city carefully updated zoning codes and invested in infrastructure to support TOD. But it knew some stations would need more effort. One of these was Scaleybark. The city acquired about 17 acres next to the Scaleybark Station with the intention of building parking, but later decided to pursue joint development as a way to attract interest in the station area. The city sought bids for development on the parcels and substantially discounted the price of the land as an enticement for development. The city received the proposal shown on the right, but after several years of negotiations the project remains stalled. The Charlotte example demonstrates some of the limitations pursuing joint development before the market is ready for the product type. The Charlotte TOD manager's advice is to have a vision, but be flexible on the edges of that vision in response to market conditions.



The second factor that leads to successful joint development is an **entrepreneurial public agency**. There is no single formula for a joint development project, and many of the issues involved are outside of the typical activities of a transit agency. In order to negotiate a fair and mutually beneficial transaction, advance a project through the multiple stages of development, and be an informed and effective partner, an agency will need to be flexible and have the capabilities to address unique situations, take advantage of opportunities, and minimize risk.

Taking on development risk in an intelligent manner and profiting from it is perhaps the core skill of a developer, but it is not a core skill of a transit agency. Yet becoming a development partner brings exposure to the risk that arises from the inherent complexity of a real estate project – physical, procedural, political, and more. The very nature of joint development means that in most cases such projects are likely to be even more complex than a typical project. A transit agency must be able to take on all of these factors and deliver on its responsibilities to achieve a successful project. Transit agencies need to develop legal expertise and acquire knowledge on market and financial analysis in the areas of real estate and land use.

Successful joint development also calls for effective **coordination across agencies**. Joint development projects often involve more than one public agency. Since nearly all transit construction is at least partly funded by FTA, the federal rules on joint development and close coordination with FTA staff will come into play. Meanwhile, local governments control the zoning and land use powers that govern development, so transit agencies will inevitably be working closely with local planners to establish TOD policies and get specific projects approved. In spite of the increased complexity of joint development projects, developers may be attracted to them because of the view that having the transit agency as a

partner will facilitate the development review process with the local government. This cooperation can be a valuable benefit to the private development partner.

All successful joint development projects also include a **recognition that the benefits of TOD extend beyond generating revenues**. As noted above in the definition and characteristics of joint development, generating public revenue is a key objective and defining feature. Joint development can also lead to higher ridership and realization of other growth management goals within a community. For example, a joint development project that added housing next to Miami's Santa Clara Station increased ridership by about 90 percent.<sup>8</sup> Cost sharing is a third key benefit for transit agencies. Cost sharing typically comes during the development phase and can include something as small as a new elevator up to something as large as a structured parking deck.

Revenue, ridership, and cost sharing all have a financial component, but the opportunity for a transit agency to help shape the development around one of its stations is also an important goal. And shaping development should not be solely dictated by financial priorities; an appropriate balance between financial and larger community goals is necessary. For example, TOD is important because it has been shown to increase ridership and foster integration of transit facilities with other land uses, which contribute to a transit agency's primary mission of providing transit services efficiently and effectively. And thoughtful developers should realize that successful TOD planning around a station should translate to a more successful and valuable joint development project, because the entire station area will function better and be a more attractive, accessible place to live, work, shop, or visit. Maximizing the financial returns from a single project is not advisable if it results in significantly reduced resources or highly compromised plans that are detrimental to achieving other TOD objectives in the station area or elsewhere in the transit system.

Finally, **local and state laws, regulations, and policies** have a significant effect on joint development success. Sometimes they are an impetus to pursue joint development. For example, Miami-Dade County has supported joint development through its zoning code, which includes a fixed-guideway rapid transit system development zone. This zone allows for TOD in station areas and supersedes the local zoning. The county also established joint development policies in its Comprehensive Development Master Plan and has conducted station area design and development studies in cooperation with city governments. Miami-Dade County's codes, policies, and plans clearly support joint development and are a key factor in the successful projects that have been built there.

Other local and state governments have established restrictions that prevent transit agencies from taking the proactive role critical to the success of the joint development project. For example, Charlotte, North Carolina's elected officials have prohibited transit agencies from acquiring land through eminent domain for economic development purposes. This removes a key tool that local governments and transit agencies use to assemble land for TOD in dense urban environments. Another example of a state law that hinders joint development is a law in Texas that bars transit agencies from selling land at below market rates. Unfortunately, as the case studies later in this report demonstrate, transit agencies often

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<sup>8</sup> Personal communication with Gilbert Blanco, Supervisor, Development Services Division of the Miami-Dade Department of Regulatory and Economic Resources on October 4, 2013.



need to discount the price of land in order to attract developer interest and off-set some of the public amenities that the transit agency requests from bidders.

Charlotte and Dallas have both found ways to overcome these challenges in certain situations, but they still limit the effectiveness of joint development. Interviews with Florida transit agencies and developers did not reveal many local or state obstacles to joint development. The obstacles cited in Florida tended to be more market-based. However, the strong history of growth management in the state, support by the FDOT for TOD, and many local comprehensive plans calling for more transit supportive development give a boost to joint development. Joint development in Florida can be used to reinforce local plans and policies, such as those in Miami-Dade County, that encourage growth along transit corridors, help foster economic development and improve interagency coordination to ensure effective TOD implementation.

#### **Eastside Village, Plano, TX**

Dallas Area Rapid Transit (DART) has managed to support joint development despite state restrictions that prevent the agency from selling land at less than market rates. DART and the City of Plano were interested in attracting development next to a new downtown station. DART used its powers to acquire the land needed for the station and development and transferred it to the city in exchange for necessary infrastructure improvements. Plano then released a RFQ for mixed-use development of the parcel and was able to sell it below-market rate in order to attract a developer. The result is Eastside Village I, shown at right.



### **Key Questions to Answer**

Table 1 below includes a list of key questions that can help a transit agency decide whether or not to pursue a specific joint development project. The list can be used by any agency that has identified a project and has an interested developer partner. It includes questions about the project's feasibility, the agency's capacity, the potential for FTA involvement, and policy impacts. The questions are organized by "tier" based on the importance of the questions with regards to the agency's decision to pursue joint development. The Tier 1 questions pertain to project feasibility. These are viewed as the most important because a transit agency should not expend its resources pursuing a project that is not feasible. The final tier pertains to state and local policies, which are also important, but can be adjusted more readily than the market realities. The list alone will not provide an agency with a definitive answer on whether or not to pursue a joint development project, but it will guide it through the decision making process. A similar list of questions towards the end of this report can help an agency think through its joint development strategy more broadly.



Table 1 - Key Questions to Answer about a Joint Development Opportunity, by Tier

Issue	Key Questions to Answer	Ways to Address Issue
<b>Tier 1: Project Feasibility</b>		
<b>Market Feasibility</b>	Does sufficient market support exist for the project to succeed as proposed?	<ul style="list-style-type: none"> <li>Engage a market analyst to evaluate the project (paid for by agency or cost shared with developer)</li> <li>Monitor the local market and the performance of similar projects to build agency knowledge base</li> </ul>
<b>Economic Feasibility</b>	<ul style="list-style-type: none"> <li>Do project revenues cover costs, including a reasonable developer profit?</li> <li>Is private financing potentially available?</li> <li>Does the project require public assistance or financing tools, and will they be available?</li> </ul>	<ul style="list-style-type: none"> <li>Require developer to submit a project pro forma for review by agency consultant</li> <li>Require developer to submit evidence of preliminary lender interest or internal financial capacity</li> <li>If public financing is included, evaluate the level of need and potential for obtaining it (TIF, tax credits, etc.)</li> </ul>
<b>Tier 2: Agency Capacity</b>		
<b>Necessary Skills</b>	Does the agency have the technical skills (such as negotiation and real estate development experience) to implement the project?	<ul style="list-style-type: none"> <li>Train existing staff</li> <li>Hire new staff</li> <li>Engage consultants and attorneys</li> </ul>
<b>Political Will</b>	Does political will exist to implement the project?	<ul style="list-style-type: none"> <li>Education process with agency board</li> <li>Adjustment of agency mission, strategic plan, enabling legislation, etc.</li> <li>Outreach process with local community stakeholders</li> <li>Collaboration with local political leaders</li> </ul>
<b>External Coordination</b>	Does the agency have a strong working relationship with other agencies and local governments that will be involved in advancing the project?	<ul style="list-style-type: none"> <li>Communicate with FDOT and FTA district staff</li> <li>Coordinate with local government planning staff</li> <li>Participate in TOD planning efforts</li> </ul>
<b>Tier 3: FTA Involvement (if applicable)</b>		
<b>Economic Benefit</b>	Does the project enhance economic development <u>OR</u> incorporate private investment?	<ul style="list-style-type: none"> <li>Ensure that project links to local economic development objectives</li> <li>Ensure that private development is a meaningful portion of project</li> </ul>

Issue	Key Questions to Answer	Ways to Address Issue
<b>Public Transportation Benefit</b>	Does the project enhance public transportation and relate physically or functionally to it, <b>OR</b> does the project establish new or enhanced coordination between transit and other transportation?	<ul style="list-style-type: none"> <li>• Emphasize TOD and multimodal principles in project planning</li> <li>• Look for opportunities to reduce or outsource transit operating or capital costs</li> <li>• Analyze its effect on ridership</li> </ul>
<b>Fair Share of Revenue</b>	Does the project provide a fair share of revenue that will be used for public transportation?	<ul style="list-style-type: none"> <li>• Negotiate an appropriate share of project revenues</li> <li>• Use TOD principles to maximize transit ridership potential from project</li> </ul>
<b>Fair Share of Costs</b>	Will the project's occupants/owner pay a fair share of the costs of the facility through rental payments or other means?	<ul style="list-style-type: none"> <li>• Negotiate appropriate cost-sharing terms</li> <li>• Look for opportunities to outsource agency cost responsibilities to private entities</li> </ul>
<b>Tier 4: Policy Impacts</b>		
<b>Local Policies</b>	Are local policies and ordinances supportive of the project?	<ul style="list-style-type: none"> <li>• Participate in TOD planning efforts</li> <li>• Assist developer in seeking rezoning, comp plan amendments, etc.</li> </ul>
<b>State Policies</b>	Are state policies and laws supportive of the project?	<ul style="list-style-type: none"> <li>• Coordinate with FDOT and other state agency staff</li> <li>• Lobby state lawmakers for needed changes</li> </ul>

## Section 3 – Joint Development Makes Sense, but What Role Should We Play?

Once the decision has been made to pursue a joint development project, the transit agency must focus its attention to ensuring the right policy context is in place and the agency has the right institutional framework and expertise to negotiate a deal. These are two key elements of implementing a successful project. With those elements in place, there is a range of specific tools that a transit agency can use to make joint development happen.

## Two Key Elements of Implementation

The first element of implementation is **policy-making**. As the public agency that is in charge of delivering transit service, and whose operations and interests are most affected by the characteristics of development around stations, the transit agency has a vested interest in working with local governments to develop codes and policies for land use that will support transit ridership. The transit agency can also go further and develop station area master plans and design guidelines in collaboration with local governments.

Policy-making has two important impacts on the development process that are relevant both to TOD in general and joint development more specifically:<sup>9</sup>

- Policy-making helps define and facilitate the market opportunities that are present at a station. The market responds to the vision, plans, and policies that are laid out by the public sector. TOD planning can be a signal to developers that the time is ripe for exploring mixed-use and higher density development in an area that previously may not have been considered for such investment. Policy-making also demonstrates the transit agency's and local government's enthusiasm for joint development and commitment to the general concept, subject to the particulars of any specific project.
- Policies also create the institutional framework for deal-making, including the priorities and constraints that frame the transit agency's negotiating position. By clearly laying out its objectives up front, an agency is better able to craft mutually beneficial deals and be an effective partner with private sector interests.

The other key component of implementation is **deal-making**, which involves the project-level negotiation and execution of a joint development deal. There are a wide variety of possible issues that may be covered during negotiations, but the most prominent include the details of land assembly and transfer, entitlements, infrastructure, financing, and transit service coordination. The leadership or participation of the transit agency in deal-making will vary according to the issues being addressed and the agency's specific interests in the project. The ownership of land makes the transit agency a key player in negotiations, so the agency must be well-prepared to protect its interests and leverage its influence to advance its development objectives. Coordination with local governments is important in this process because they hold most of the essential powers governing development. While a transit agency may have substantial influence over the parameters of the development deal, it is the local government(s) that ultimately determines what can be built.

All transit agencies should be engaged at the policy-making level of joint development because of its importance to broader TOD planning, even if specific project opportunities are not immediately apparent. Deal-making abilities and opportunities will depend on the agency's legal powers, mission, staff capacity, and other factors unique to its situation.

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<sup>9</sup> Urban Land Institute. *Joint Development: Making the Real Estate-Transit Connection*. 1979. Cited in: Chrisholm, Gwen. *Transit-Oriented Development and Joint Development in the United States: A Literature Review*. Federal Transit Administration Transit Cooperative Research Program. October 2002.

## Approaches and Tools

Given these key elements of implementation, there is a range of approaches that a transit agency can take to foster joint development. While the specific combinations of policies, tools, and objectives can vary, the different approaches can be best described by a “low-medium-high” framework that characterizes the level of the agency’s involvement. The market-led approach represents the lowest degree of agency involvement while project packaging represents the highest:<sup>10</sup>

- **Market-Led:** Developers drive the process seeking to maximize profits. Public sector responds via traditional planning procedures. Some TOD planning may set the stage for development, but most public sector action is reactive.
- **Coordinated:** Extensive public sector TOD planning and transit coordination, followed by private and public sector activities. Public sector planning orchestrates private and public activities. Planners and developers work together, but not necessarily in formal partnerships or business deals.
- **Project Packaging:** Entrepreneurial public sector that seeks to be an active participant in land development. Goals may include value capture and tempering land speculation. Often involves publicly owned land, which may have been acquired with federal transit funding. Transit agency develops and advertises the joint development opportunity through a request for proposals or qualifications (RFP or RFQ).

There are many tools available to transit agencies for encouraging or implementing TOD and joint development. Previous research has distilled these into a list of ten primary tools and implementation measures.<sup>11</sup> Not all of these tools may be available to a transit agency or applicable for a specific project, but they encompass the range of possible options for agencies that are considering a joint development strategy. They are described in the matrix below with an indication of which tools are likely to be used in each of the three approaches.

Table 2 - Tools and Approaches Matrix

Tools	Market-Led	Coordinated	Project Packaging
Use of agency-owned land for development	X	X	X
Assembly of land for development			X
Infrastructure investment		X	X
Parking development and utilization of shared-use parking		X	X
Underwriting of land costs	X	X	X
Direct financial participation (issuance of tax exempt			X

<sup>10</sup> Sedway Cooke. “Joint Development.” *Urban Land*. July 1984. Cited in: Chrisholm, Gwen. *Transit-Oriented Development and Joint Development in the United States: A Literature Review*. Federal Transit Administration Transit Cooperative Research Program. October 2002.

<sup>11</sup> Bernick, M and Freilich, A. “Transit Villages and Transit-Based Development: The Rules are Becoming More Flexible – How Government Can Work with the Private Sector to Make it Happen.” *The Urban Lawyer*. 1998. Cited in: Chrisholm, Gwen. *Transit-Oriented Development and Joint Development in the United States: A Literature Review*. Federal Transit Administration Transit Cooperative Research Program. October 2002.

Tools	Market-Led	Coordinated	Project Packaging
bonds, low interest loans, loan guarantees, grants, equity participation			
Expediting the entitlement approval process	X	X	X
Provision of station area benefits in exchange for land or other private-sector contributions	X	X	X
Locating public facilities within TOD to spur economic activity		X	X
Utilization of flexible development approaches (design-build/turnkey) and creation of public/private subsidiaries			X

While these tools can be used generally by public agencies to assist private development projects, in a joint development context they would be offered in exchange for direct financial compensation, revenue sharing, or an ownership stake in the project. These tools would be the leverage used by the transit agency to negotiate a mutually beneficial transaction with the developer. The need for or degree of project success realized by use of these tools will vary according to the specific situation. In general, most developers will avoid complicating their projects with elements that involve public sector partners unless there are unavoidable barriers that can be overcome or major positive results that can be achieved through entering into a deal with a public sector agency.

The tools noted in the matrix as being common across all three of the approaches represent highly effective ways of facilitating private development along with public objectives – these are the use of publicly owned land, underwriting developer land costs, expediting entitlements, and negotiating other project benefits. The other tools represent direct action, spending, and/or financial participation by an agency in a project and thus entail more risk to the agency than would be typical for the common set of tools. Development projects that require active public sector involvement to succeed are also likely to be inherently more risky than other projects simply because otherwise the private market would execute them on its own.

So although every project is unique, the tools used in market-led approaches are likely to be the most straightforward and effective because they very directly reduce costs and/or time for developers. The additional tools used in coordinated and project packaging approaches raise the complexity level of projects and can involve important decisions by an agency as to infrastructure planning, transit or parking operations, and other strategic and financial objectives. At the high end of the risk/complexity scale are land assembly and revenue-sharing deals where an agency is consciously taking on financial risk in exchange for an expected reward that satisfies a defined target, much like a developer does. These sorts of transactions should be entered into judiciously, with full awareness and consideration of the factors at play and how they influence agency goals, before public resources are committed.

## Section 4 - What Rules Must We Follow?

Another key consideration for any transit agency that decides to pursue joint development is the need to work with the FTA. The agency plays a critical role in most joint development projects either because they fund elements of the project (such as site preparation) or because the project uses land that was originally purchased with FTA funds. In these situations, FTA has an interest in the project and the rules described in this section will apply. Each project is unique, the FTA guidelines often require interpretation, and specific questions should be directed to FTA staff (contact information is provided at the end of this section). Also, any agency seriously pursuing a joint development project should review the recent “Federal Transit Administration Guidance on Joint Development,” referred to in this report as the “Proposed Circular.”<sup>12</sup> The following sections provide only a summary of the highlights and key changes in federal policy towards joint development.

### State Law and FDOT Policy

The Florida case studies prepared for this report revealed few state laws or agency policies that are obstacles to joint development. The primary obstacle is market demand for the type of development that most transit agencies would like to encourage in station areas. However, transit agencies should conduct a scan of local and state policies and laws that may affect joint development at the outset of any project.

While there may be few obstacles, the state has established policies and laws that support joint development. In 2013 the governor signed HB 85, which expands opportunities for public-private partnerships in Florida. Joint development also supports Florida’s growth management objectives.

Another important law that can affect joint development is the state’s transit development plan (TDP) requirement that is described in Section 341.071 of the Florida Statutes. Transit agencies receiving FTA state transit block grants must submit a 10-year TDP that contains performance measures and an analysis of existing and anticipated transit services. Many joint development projects will be supported through FTA grants, such as Section 5307 or 5311, and therefore should be described in the agency’s TDP. The remainder of this section is focused on federal law and policy.

### Federal Law and FTA Policy

The most important thing to say about federal law and policy is that it is moving towards greater support of joint development. Congress gave joint development a boost in 2005 through the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) transportation bill. It stated that a capital project may include transit improvements that “incorporate private investment, including commercial and residential development.” This change to federal transportation law allows programs such as New Starts to fund development activities - such as real estate acquisition and site preparation - that were formerly off limits.<sup>13</sup>

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<sup>12</sup> Federal Transit Administration. “Federal Transit Administration Guidance on Joint Development.” 2013.

<sup>13</sup> Renne, John L., Keith Bartholomew, and Patrick Wontor. *Transit-Oriented Development: Case Studies and Legal Issues*. Federal Transit Administration, Transit Cooperative Research Program. August 2011.

MAP-21 provides even stronger support for joint development. Congress for the first time explicitly included “joint development” under the definition of a transit capital project. MAP-21 also provides guidance on what constitutes a joint development and is explicit on some of the joint development actions that are eligible for funding. These items are described in detail in the following sections.

With the boost from MAP-21, FTA consolidated its joint development guidance into a single Proposed Circular in 2013. The move towards a single circular addressed several concerns listed below that the federal Government Accountability Office raised in a 2010 report.<sup>14</sup>

1. Joint development guidance from FTA was confusing and created unnecessary delays.
2. Many transit agencies were confused about funding eligibility.
3. Transit agencies were unsure if surface parking spaces had to be replaced on a one-to-one basis.
4. Federal restrictions on joint development revenues could be burdensome.
5. The cost effectiveness requirements of the New Starts program limited the competitiveness of projects that included joint development.

FTA has since resolved all of these issues through the 2013 Proposed Circular and revised New Starts guidance. The Proposed Circular is a thorough consolidation of all FTA joint development rules and regulations. FTA released the draft in March 2013 and is expected to finalize it in the near future. The New Starts changes, also announced in 2013, allow transit agencies to exclude joint development costs from the cost effectiveness calculation required for projects seeking New Starts funds. Additionally, the adoption of joint development strategies boosts the “economic development effects” criteria rating of the New Starts funding applicant. The FTA is hoping this change will encourage more projects to seek support for joint development.<sup>15</sup>

The agency’s position on joint development is expressed in the Circular. FTA supports joint development and wants to help agencies make it happen. FTA sees joint development as having potential to increase revenue for cash-strapped agencies while supporting the type of development that promotes livability, which is an emphasis of the federal Partnership for Sustainable Communities. FTA’s policy is also now aligned with MAP-21.

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<sup>14</sup> Wise, David. *Federal Role in Value Capture Strategies for Transit is Limited, but Additional Guidance Could Help Clarify Policies*. U.S. Government Accountability Office. July 29, 2010.

<sup>15</sup> Federal Transit Administration. “New and Small Starts Evaluation and Rating Process, Final Policy Guidance.” August 2013.

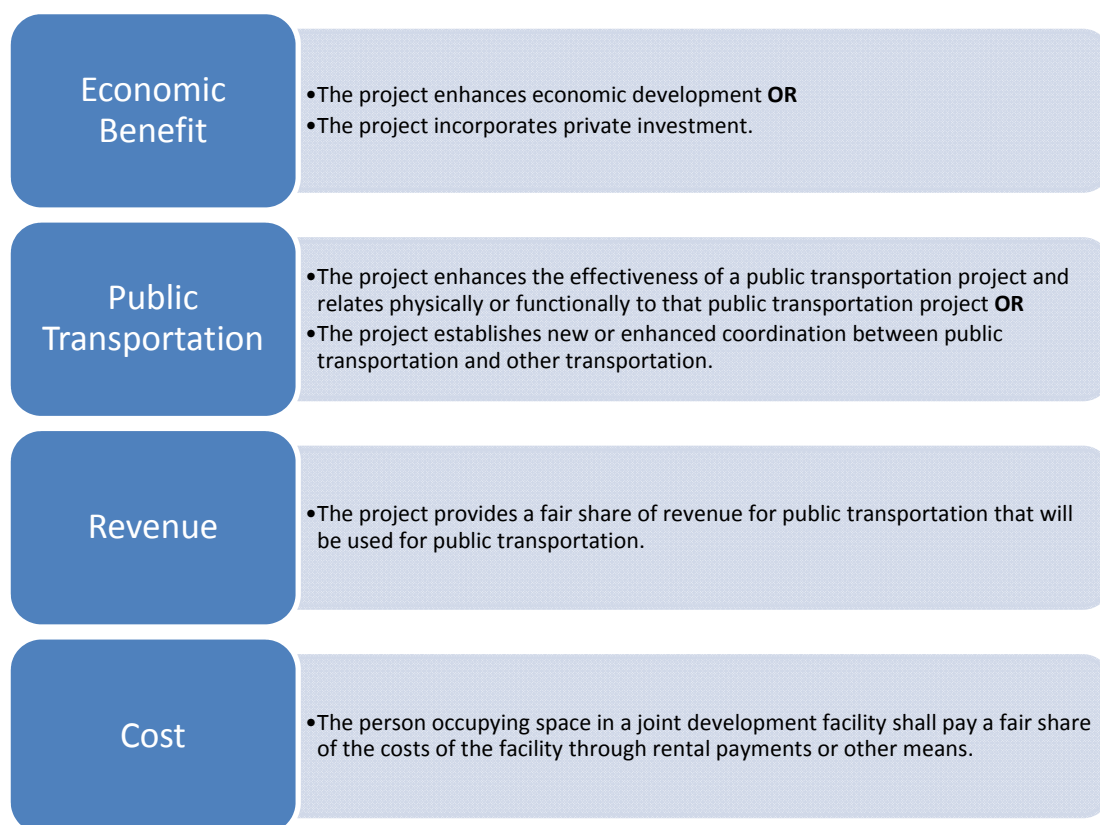
### **FTA Joint Development Policy**

*FTA's policy is to maximize the utility of FTA-funded projects and encourage transit agencies to generate program income through joint development. The benefits of joint development include revenue generation for the transit system through "value capture" mechanisms, such as income derived from rental or lease payments, and private sector contributions to public infrastructure. Other benefits include shared costs, efficient land use, reduced distance between transportation and other activities, economic development, increase transit ridership, and improved transit connectivity.*

## **Funding Eligibility**

FTA's two primary concerns for any joint development project are funding eligibility and property.<sup>16</sup> FTA has established rules for both of these concerns. Beginning with funding, project proponents must satisfy four criteria in order to be eligible to apply FTA capital funding towards joint development costs. The criteria and eligible activities are based on Section 5302 (3) (G) of Chapter 49 USC. The criteria are listed in Figure 1.

**Figure 1 - Eligibility Criteria for FTA Funding**



<sup>16</sup> Pugh, Sharon. "An FTA Update on Joint Development." FTA Real Estate Workshop. November 1, 2012.



Should a project satisfy the four criteria, FTA funds can be used for a wide array of eligible activities. Nineteen activities are listed in FTA's Proposed Circular, but the list is not exhaustive. The entire list is found on Page III-8 of the Proposed Circular.

Among the eligible activities are the following:

- Property acquisition and the relocation of residents and businesses.
- Demolition of existing structures.
- Site preparation.
- Utilities, including utility relocation and construction.
- Building foundations, including substructure improvements for buildings constructed over transit facilities.
- Walkways, including bicycle lanes and pedestrian connections and access links between public transportation services and related development.
- Construction, renovation, and improvement of intercity bus and intercity rail stations and terminals.
- Open space, including site amenities and related streetscape improvements such as street furniture and landscaping.
- Construction of space for commercial uses.
- Project development activities, including design, engineering, construction cost estimating, environmental analysis, real estate packaging and financial projections, and negotiations to secure financing and tenants.

Only two activities are explicitly prohibited. These are outfitting of a commercial space and construction of a public facility not related to public transportation. Essentially, a joint development project must meet the eligibility requirements listed above, not simply be next to a transit stop.

Transit agencies can tap into any of FTA's capital funding programs for joint development purposes. This includes common sources such as Sections 5307, 5309, 5310, 5337, and 5339. Federal Highway Administration funds for the Surface Transportation Program and Congestion Mitigation and Air Quality programs that can be spent (often called "flexed") on federal-aid transit projects. Meanwhile, the federal planning programs such as Metropolitan Planning and State Planning and Research can be used for planning activities in support of joint development.

## Property

FTA's other main concern in a joint development project comes from their "interest" in property. Should the FTA have an interest in the property on which a joint development project will be built, the rules described in the rest of this section apply, even if direct FTA funding is not involved in the development phase. The FTA has an interest in the property if their funds were used for its acquisition. Protecting this interest underlies many of the rules FTA has proposed through the circular.

Perhaps the most important concept is "**satisfactory continuing control.**" The Proposed Circular states that "joint development must not interfere with a recipient's continuing control over the use of property

or the recipient's ability to continue to carry out the originally authorized purpose for which the property was acquired." Essentially, the transit use for the property must be protected, even during the construction phase of a joint development project. However, FTA recognizes that maintaining control over the property can create financing difficulties for developers that are looking to build on agency-owned land. Therefore, the transit agency is allowed to "encumber title to, or interest in, real property acquired with FTA assistance" so long as the federal interest in the property is "reasonably protected." In the past, FTA refused to allow the real property to be used as collateral.

Should a transit agency enter into any agreement that subordinates or encumbers FTA's interest in real property, the contract must contain provisions that protect FTA's interest in the property. FTA will review any proposal and determine whether or not the proposed transfer, conveyance, or encumbrance of the property meets the "satisfactory continuing control" standard.

Among the mandatory contractual provisions that FTA will look for are the following:

- Extend the requirements of the grant or cooperative agreement between the recipient and FTA.
- Ensure that the recipient maintains satisfactory continuing control of the property.
- Ensure that the federal interest in the property will be reasonably protected,
- Ensure that the recipient participates in any further transfer or disposition of the real property in a manner consistent with this and other applicable guidance, laws, or regulations.

The grantee must maintain satisfactory continuing control over real property until it is no longer needed for its originally authorized purpose. At this point, the transit agency can request disposition instructions from FTA. The net sale proceeds must be applied to other eligible capital projects or used to compensate FTA. Property can also be transferred to a local government as long as it will remain in public use for at least five years and the federal government does not want to acquire it. Furthermore, it cannot be used for any other purpose eligible for FTA assistance and the overall benefit of the transfer must be greater than the federal interest.

These provisions protecting the federal interest can be intimidating for developers not used to involving a third party such as FTA in approving their deals. It is very important for any transit agency looking to strengthen its joint development program to have a staff person or consultant that can work with developers to make them comfortable with these provisions and rules.

Finally, questions about replacement parking are addressed in the Proposed Circular. Many joint development projects involve building residential, retail, or office space on surface parking lots and meeting the parking needs through a new structured parking garage. The 2010 Government Accountability Office report criticized FTA for their lack of clarity regarding how much parking transit agencies need to replace in such projects. In many situations, the parking had been underutilized and the agency desired to replace it at less than a one-to-one ratio. The Proposed Circular states that the grantee need not replace parking spaces on a one-to-one basis, but they must consider several factors to determine how much parking must be replaced:

- If the parking lot has useful life remaining, the agency must “account for the remaining federal interest in the asset prior to any change or disposition.”
- The joint development must have a net benefit for public transportation. This is often demonstrated by studying the effects on ridership and showing that the joint development will increase ridership despite the loss of some parking.
- The change cannot violate terms of a “full funding grant agreement” that require certain user benefits be met.
- Work with FTA to determine if further environmental analysis is needed.

## Other Requirements

Developers are also sometimes wary of joint development projects because of the plethora of rules and processes that are required for any use of federal funds. This section describes some of the other common requirements that project sponsors may face. But as with this entire section, the final Circular on joint development should be consulted prior to engaging in any project.

Perhaps the most well-known of these requirements is the National Environmental Policy Act (NEPA), which requires environmental review of federal-aid transportation projects. Joint development projects will often, but not always, require environmental review. Table 3 demonstrates how the NEPA requirements are applied to some common joint development scenarios.

**Table 3 - NEPA in Common Joint Development Scenarios**

Common Scenarios	Requires Environmental Review
1. FTA is financially assisting a joint development as part of a fixed guideway capital investment or other large project	<b>Yes</b>
2. FTA is financially assisting joint development as a separate standalone project.	<b>Yes</b>
3. FTA has a financial interest in the property on which the joint development will be located, but FTA is not financially assisting the implementation of the joint development.	<b>Yes</b> if the land was acquired for the purpose of a joint development.  <b>Probably not</b> if the land were acquired for a different reason. In that case the proponent can request a “lack of objection” from FTA.

Joint development projects must also satisfy the various planning requirements before federal funds can be spent on them. This means the project must appear in the Transportation Improvement Program (TIP) of the region’s Metropolitan Planning Organization (MPO). It may also have to appear in the Long-Range Transportation Plan (LRTP). The project should also appear in the agency’s Transit Development Plan (TDP) that is required under Florida State Law.

NEPA and metropolitan planning are two of the most familiar requirements for transit agency staff and regional planners. But there are several others regulations that may apply depending on the nature of the project. These include regulations related to historic preservation, procurement standards, civil rights, Americans with Disabilities Act (ADA), labor protection, and several more. They are described in Chapter 5 of the Proposed Circular.

## **Implications of FTA Requirements**

This section has presented a cursory overview of the highlights from FTA’s recent consolidated guidance on joint development. Transit agencies should consult the final Circular for more detail on all of these issues. However, this description has pointed to some key implications of the new guidance. First, while FTA’s guidelines align with TOD principles, their objectives are primarily financial. FTA sees joint development as a means for transit agencies to generate new revenue in an era of fiscal constraint.

Second, FTA-oversight of joint development projects requires that transit agencies receive a “meaningful amount of revenue” from the project. The Proposed Circular does not define “meaningful.” However, a webinar hosted by FTA indicated that increased ridership alone is not likely to satisfy this rule due to the operating subsidies that all transit services require. This should not stand in the way of transit agencies pursuing joint development though. The FTA has made it clear that they intend to respect the decisions made by transit agency boards as to what constitutes “meaningful.”<sup>17</sup>

Finally, the crosscutting federal requirements such as NEPA add substantial complexity and cost for developers in FTA-assisted projects. As a result, many of the transit agencies profiled in the case studies presented later in this report said that developers expected a substantial discount in the price of the land in order to make the joint development deal attractive. The requirements also underscore the importance of transit agencies having staff capacity that can help their develop partners navigate the federal rules.

## **FTA Contacts and Resources**

Joint development projects are initiated with FTA by submitting their Joint Development Checklist to the Region IV Administrator in Atlanta. The Administrator reviews the checklist and approves projects. Regional IV can be reached at (404) 865-5600.

The checklist and Proposed Circular can be found on the FTA’s joint development webpage:  
[http://www.fta.dot.gov/about\\_FTA\\_11009.html](http://www.fta.dot.gov/about_FTA_11009.html).

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<sup>17</sup> FTA. “FTA Proposed Joint Development Circular.” FTA Public Webinar. March 28, 2013.

## Section 5 – Case Studies

### Introduction

This section highlights more of the specifics and provides real world examples of joint development through a series of case studies from Florida and across the United States. In selecting the case studies, priority was given to situations and project characteristics likely to exist in Florida. A cursory review of joint development in the United States revealed dozens of projects. In order to identify a manageable set of case studies, projects that were built prior to 2002 or in a very dense central business district location and involved air rights were excluded (this includes a large number of projects from older dense communities with legacy transit systems such as Boston or New York). The remaining case studies mostly involved development on underutilized land or surface parking lots adjacent to premium transit stations (light rail, heavy rail, or commuter rail). The remaining case studies were further screened by emphasizing those in growing southern regions with an abundance of land.

Applying these criteria led to the identification of seven case studies – three in the Miami region (Dadeland North, Dadeland South, and Brownsville), and one each in Jacksonville, Florida; Dallas, Texas; Charlotte, North Carolina; and Morristown, New Jersey. The transit agencies in these regions demonstrate many different ways to implement joint development in order to accomplish several goals related to ridership, revenue, housing, parking, and more. Some projects involve a proactive transit agency while others are driven by an interested developer. Many involve the FTA, while others simply involve a partnership between a transit agency and either a private developer or municipality. Their stories provide important lessons about how joint development is implemented.

Although Miami-Dade Transit is recognized as a national leader in the area of joint development, FDOT elected to expand the scope of research beyond Florida in order to see how other regions are tackling joint development and to expand its approach to this type of development. In doing so, the agency found that joint development is fairly rare outside of Washington, DC; Los Angeles; and the San Francisco Bay Area. While TOD is increasingly common, joint development has not been as popular. However, with FTA's new regulations regarding joint development and the focus on public-private partnerships in the new MAP-21 legislation, it is a practice that may soon be commonplace. The complete set of case studies revealed some key lessons that are described at the end.

### Miami-Dade Transit (Dadeland North and South, Brownsville)

Miami-Dade Transit is one of the few agencies in the United States with extensive experience carrying out large joint development projects. As such, their process is fairly well established at this point. This case study focuses on the larger agency processes surrounding joint development and the specifics of the Dadeland North, Dadeland South, and Brownsville projects. The findings are supported by interviews with key staff at Miami-Dade Transit, Miami-Dade County, and a private developer.<sup>18 19 20</sup>

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<sup>18</sup> Personal communication with Albert Hernandez, Assistant Director, Planning and Engineering, Miami-Dade Transit on October 8, 2013.

<sup>19</sup> Personal communication with Gilbert Blanco, Supervisor, Miami-Dade Transit Development Services Division on October 4, 2013.

### *Approach*

Miami-Dade Transit planned and constructed the Metrorail system with large amounts of land surrounding the stations under the transit agency's control. The land is used today for parking, buffering the station from surrounding land uses, and increasingly for joint development. Miami-Dade Transit conducts market analysis and appraisals of its property before deciding to pursue a joint development project. Among the best prospects are station areas with extensive underutilized parking lots.

Once the agency identifies a joint development project, it puts together a negotiation committee in collaboration with the City of Miami. The committee includes senior Miami-Dade Transit staff as well as key staff from other departments. Miami-Dade Transit prepares a scope that clearly communicates the agency's TOD goals for the site and releases it for proposals. Typically the scope for joint development projects calls for the maximum allowable density and LEED-silver status for energy efficiency.

The county's strong role in planning and executing joint development projects is an interesting element in Miami. The County established a rapid transit zone (RTZ) in 1978 along the entire length of the Metrorail system that placed the zoning and permitting powers with the County rather than the relevant local governments. This facilitated the transit agency's goal of promoting joint development and using it as a funding source for transit operating expenses.

### *Project Details*

The first joint development project, Dadeland South, opened in 1984 along with the inauguration of Metrorail service. A developer who owned land at the station approached Miami-Dade Transit with a development proposal while the transit system was being planned. The developer proposed to donate its six-acre property for station and parking construction if Miami-Dade Transit allowed it to retain the air rights. Part of the land might have been acquired by the transit agency anyway, and the developer would benefit by not having to pay property taxes on the value of the land (only the buildings) since Miami-Dade Transit would own the property. The developer also agreed to build a station parking structure with 3,500 spaces, including 1,100 leased by Miami-Dade Transit for customer parking.

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<sup>20</sup> Personal communication with Kenneth Naylor, Chief Operating Officer, Carlisle Development Group on October 4, 2013.



Figure 2 - Dadeland South Station Area. Image credit: Pictometry



The developer has a lease for the air rights for 99.5 years. The deal is structured with a 55.5-year lease followed by a renewal option for another 44 years. Miami-Dade Transit receives an annual lease payment of either \$400,000 (adjusted for inflation) or a percentage of gross revenue from the development, whichever is greater. The gross revenue percentage varies by the project phase, from a high of four percent from Phases 1 and 3, to two percent from Phase 2, 1.5 percent from Phase 4A, and one percent from Phase 4B. The components and year opened for each phase are shown in Table 4.

Table 4 - Dadeland South Development Phases

Phase	Year Opened	Development Components
Phases 1 and 3	1984	Office: 476,000 sq. ft. Retail: 35,000 sq. ft. Parking Garage: 3,500 spaces
Phase 2	1984	Hotel: 302 rooms
Phase 4A	2005	Office: 152,000 sq. ft.
Phase 4B	2008	Office: 120,000 sq. ft. Ground floor retail

The project also included cost sharing agreements, which included sharing the excavation costs and construction costs for the transit station's foundation, sharing the cost of the parking structure, and some of the operating costs. The station and other buildings also share a common ventilation system and auxiliary generators.

While the Dadeland South project generates significant revenue for Miami-Dade Transit, and has been successful from a development standpoint, some flaws have been exposed in the development agreement and project design. The agreement did not give Miami-Dade Transit authority to penalize the developer for construction delays and the entire project took over two decades to complete. The

developer also was able to sell the development rights for several phases to a third party for a much higher value, but was not required to share the profits with Miami-Dade Transit. Finally, the design of the private development is not user-friendly to transit riders. Access from the transit platform to the retail and hotel space is discouraged by large walls and the need to use escalators and elevators.

Miami-Dade's next joint development project came about 10 years later. Developers approached Miami-Dade Transit about developing the Dadeland North station area. The developers were attracted by the proximity to the nearby Dadeland Mall and the general lack of available land in the area. Miami-Dade Transit subsequently issued a request for proposals for joint development in timed phases. Figure 3 shows the Dadeland North station area and joint development site.

**Figure 3 - Dadeland North Station Area and Joint Development Site. Image credit: Pictometry**



The developer and Miami-Dade Transit agreed to a 99-year land lease in 1994. Miami-Dade Transit receives a guaranteed minimum land rent, and a gross rent payment based on a percentage of development revenues, which are five percent of the first \$7 million, 5.5 percent of between \$7 million and \$10 million, and 5.5 percent of above \$10 million. The phases and components of the project are shown in Table 5.



Table 5 - Dadeland North Development Phases

Phase	Year Opened	Development Components
Phase 1	1996	Big Box Retail: 355,000 sq. ft. TOD Retail: 9,600 sq. ft. Other Retail: 15,600 sq. ft. Parking Garage: 1,487 spaces
Phase B	2000	Apartments: 48 units
Phase 2	2005	Apartments: 110 units Townhomes: 10 units Retail: 6,400 sq. ft. Parking Garage: 214 spaces
Phase 3	Proposed	Office: 127,000 sq. ft. Retail: 8,400 sq. ft. Parking Garage: 362 spaces

Miami-Dade Transit through Dadeland North was able to correct some of the perceived mistakes of the Dadeland South joint development agreement. The developers faced a penalty for late completion of \$20,000 per month, indexed to inflation. Miami-Dade Transit receives five percent of any project sales proceeds, and the development agreement included design specifications for transit access.

Brownsville Transit Village is the most recent of the three projects. It is a mixed-use development located on 5.8 acres adjacent to the Brownsville Metrorail station on the northwest side of Miami. The site was previously occupied by a large surface parking lot which served the transit station. The joint development project was initiated by an unsolicited bid by a nonprofit agency that was interested in providing affordable housing. The property is leased for 59 years with two 20-year renewal options to the St. Agnes Community Development Corporation. They partnered with Carlisle Development Group to develop the property.

The project consists of five midrise rental apartment buildings with 467 affordable housing units and a parking garage that provides replacement parking for the original station parking lot. The residents have access to onsite amenities such as a community center, computer lab, and exercise room and programs such as literacy training, health and nutrition classes, and first-time homebuyer seminars. The apartment units were financed through Low Income Housing Tax Credits and other financing sources, with a mix of family and elderly tenants. Most of the project financing comes from the tax credit equity, along with a permanent bank loan, a loan from the Florida Housing Finance Corporation, and funding from the Miami-Dade County surtax program (a real estate transfer tax that funds affordable housing development and rehabilitation). The project cost about \$100 million with tax credit financing providing \$78.6 million in 2010. Residents began to move in as of mid-2012.

Figure 4 - Brownsville Station Area with Transit Village. Image credit: Pictometry



As part of the project the developer also provided several improvements to the infrastructure and general environment around the transit station. These improvements included upgrading water main extensions in two streets along the length of the site and reconfiguring the bus bay and drop off lanes at the station to improve traffic flow. The developer also improved landscaping in the station area.

Although financing affordable housing development, especially a project of this size divided into multiple phases, is a complex effort, from a joint development and TOD standpoint the Brownsville Transit Village was relatively straightforward. The project took an existing surface parking lot and redeveloped it for high density development by providing replacement parking in an onsite parking garage. By focusing on affordable housing, the development is targeted toward a market niche that is likely to be strongly supported by the surrounding neighborhood.

Figure 5 - Brownsville Transit Village Rendering. Image credit: Corwil Architects



## *Challenges*

Each project presented unique challenges that have informed Miami-Dade Transit's approach to subsequent projects. For example, the lack of a mechanism to enforce the schedule on Dadeland South led to contract language in Dadeland North to ensure the project was completed in a timely manner. Interviews with the agency, local land use planners, and a developer revealed some other common challenges with the projects that are outlined below.

- The County's high density zoning around stations is often at odds with the character of the surrounding area. This can create tension and conflict with the neighbors. The developers and County need to spend time on public outreach to gain community support.
- The FTA is not always clear on how much surface parking must be preserved during the construction phase and replaced upon completion. The construction teams need space to park vehicles and equipment and would like to use vacant parking spaces.
- Developers worry about infrastructure surprises with these projects. There are often large pipes or utilities underground that are not shown on any maps or accompanied by any easements.
- Coordination is another major challenge. The County has a vision for most station areas that calls for higher density, mixed use development. But during the review process safety concerns from other County departments, such as fire or public works, sometimes cause the County and developer to scale back their plans.

## *Benefits*

The projects generate a range of revenue benefits, but all provide significant ridership benefits. Ridership increased by about 30 percent at Brownsville Station after the joint development project and a similar development increased ridership by about 90 percent at Santa Clara Station. Prior to the joint development project, only about 15 to 30 of the 300 parking spaces at the station were occupied on a typical day.

Cost-sharing is another benefit that Miami-Dade Transit seeks from joint development. The agency has been concerned about their annual operating and maintenance obligations. A recent project allowed the agency to hand over maintenance responsibilities for escalators and elevators to a private developer. Many joint development projects also involve the developer building and managing new parking around the station.

The projects have also improved coordination, despite the challenges previously mentioned. The County has developed through their experience a fairly efficient process for taking a project from concept to completion.

## *Lessons Learned*

Miami-Dade Transit has learned lessons through each of its joint development projects and applies these lessons to improve each subsequent request for proposals and completed project. Some of the key lessons are listed here:

- The county's control of land around transit stations reduces some of the local politics and bureaucracy involved in the approval and permitting process.

- Joint development has produced big ridership benefits at some stations. Ridership went up 90 percent at Santa Clara and 30 percent at Brownsville. The agency aims to obtain revenue, ridership, and cost-sharing benefits in each project, but it's often not possible to obtain all three, especially when affordable housing is involved.
- Miami-Dade Transit has developed protocols and teams to guide each project through the process from concept to construction, but it still takes about two to three years from the first meeting with the developer to ground breaking.
- Miami-Dade County is proactive. They identify places where joint development or TOD are appropriate and take care of some of the bureaucratic obstacles in advance.
- The agency has learned to be realistic about what is feasible around the station given the market conditions and understand that things will not always work out as expected.
- The land lease must often be discounted below market rate to enable affordable housing and infrastructure improvements, such as a structured parking deck. It also helps make projects in depressed local markets more attractive to developers. Often discounts of 50 to 75 percent are necessary in order for projects to be economically feasible.

In conclusion, Miami-Dade Transit is a national leader in joint development. They have developed their expertise through experience, yet they are still learning and applying these lessons to subsequent projects. They are an especially good example of how joint development can be used to meet a community's affordable housing goals.

## **Jacksonville Transportation Authority, Kings Avenue Station**

Jacksonville is looking to joint development as a way to increase transit ridership and support economic development in the downtown area. This case study describes a project next to Kings Avenue Station, which is the southern terminus of the Jacksonville Transportation Authority's (JTA) Skyway people mover system. JTA's first large-scale joint development project increased revenue at an underutilized parking deck allowing the agency to end several years of operating losses at the garage. These findings are supported by interviews with the transportation authority and private developers.<sup>21 22 23</sup>

### **Approach**

JTA owns and operates the 1,650 space Kings Avenue Garage in the South Bank district of downtown Jacksonville. The garage opened in 2000 and cost \$14.3 million to build. Despite below-market pricing and access to the Skyway transit system a few blocks away, the garage was significantly underutilized and had operating losses in each of its first seven years in operation.

Fortunately, the garage was surrounded by prime development land owned by JTA. Michael Balanky, president of Jacksonville-based Chase Properties, approached JTA about developing their surface parking lot between the garage and Kings Avenue. JTA was already interested in supporting transit-

<sup>21</sup> Personal communication with Hank Fonde, Director of Asset Recovery and Investment Services, PKF Consulting USA on September 24, 2013.

<sup>22</sup> Personal communication with J. Keith Brown, Joint Use Development Officer, Jacksonville Transportation Authority on September 27, 2013.

<sup>23</sup> Personal communication with Michael Balanky, President, Chase Properties on September 24, 2013.

oriented development (TOD) in the area due to the Skyway station and a planned bus rapid transit super stop. The idea of developing the site was a natural fit and JTA released a request for proposals for development of its property.

### *Project Details*

In 2005, JTA selected Balanky's Kings Avenue Development to build on the site. The company signed a 40-year lease with JTA that includes a purchase option or 30-year renewal option at the end of the lease. The *Florida Times-Union* reported in 2004 that the deal would bring in about \$3.4 million in revenue over a 20-year period from lease payments and parking fees. However, that estimate was for a development program that has not been fully realized.

The developer initially envisioned more than 70,000 square feet of office and retail space. However, the project has evolved and the first component of the redevelopment included only a hotel project. Kings Avenue Development found a partner that subleased the property and built a Homewood Suites and Hilton Garden Inn along with an on-site restaurant.

The hotels opened on the southern portion of the site in 2009. Access to the parking deck and Skyway transit system were two of the key factors that got the hotel construction moving along. The hotels are leasing the first floor of JTA's Kings Avenue garage to serve their guests. The developer also built a new street between the hotels and the garage to allow buses and other future transit vehicles to serve the area. The hotel project cost roughly \$30 million and the mixed use component is expected to cost a similar amount.

### *Challenges*

The developers said that delay and uncertainty were their biggest challenges in starting the project. It took nearly three years to go from the RFP to a development agreement for the site. The developers felt as though JTA did not clearly articulate their vision, which led the developer and transit agency to go through a lengthy and iterative process to arrive at an agreement. The developer said the lack of a vision or clear objectives meant that there was little political will for the joint development.

The leasing arrangement also caused delays and increased cost. The hotel developer said a project of its cost and scope would typically incur about \$200,000 in legal fees. But the deal structure in which JTA had a master ground lease with one developer, and the hotel developer had a sublease, added time and complexity to the component, which drove legal fees up to about \$400,000.



Figure 6 - Kings Avenue Station Area, Joint Development Site Outlined in Red. Image credit: Pictometry



### *Benefits*

The main benefit to JTA is the parking and lease revenue. The details of the lease revenue are not available, but the parking garage started to cover its operating expenses with help from hotel customers. During the first seven years the garage often ran operating deficits of between \$10,000 and \$20,000 dollars per year. Since the hotel opened, the deficits have turned into growing surpluses. The garage ran an operating surplus of about \$66,000 in 2010.

The hotel project has also attracted additional riders to the city's Skyway people mover system. The system has struggled to attract riders since opening in the late 1980s, but the Kings Avenue Station project demonstrates that joint development projects near existing stations will help the system attract additional riders and reduce its operating deficit.

### *Lessons Learned*

JTA has learned several lessons from its early experiences with joint development and is moving from a reactive to proactive posture. The developers and transit agency learned several lessons that will help the agency tap into the potential of joint development. Some of the key lessons are listed here:

- JTA did not initially have a clear vision for how to use joint development, which made it difficult to attract developers through the RFP process and secure a development agreement. The agency has added a new position of joint use development officer to help the agency identify development opportunities; streamline the process for developers to work with JTA; work with the city, housing authority, and other stakeholders to secure funding and set policies for transit-oriented development; and recruit developers willing to invest in joint development and TOD.

- Joint development and TOD are important to JTA and other transit agencies, but these activities must compete for limited resources. Transit agencies dedicate the vast majority of their time and budget to operating service. Without a dedicated funding source, joint development and TOD activities must fight each year for resources. This is important because the transit agency is more likely to have success when it dedicates time and energy to pre-development planning and marketing their properties to potential developers.

This case study has described a very common situation in which the transit agency is in a reactive position to a development proposal on one of its properties. Fortunately, the Kings Avenue Station project demonstrated how joint development can help a transit agency increase ridership and parking revenue. Today JTA is formalizing their approach to joint development and making it a core part of their mission.

## Morristown, New Jersey

Morristown is a traditional railroad suburb that is connected to New York City's core via its downtown commuter rail station. NJ Transit began offering a one-seat ride into Manhattan's Penn Station in 1996, which helped boost ridership on the line by 72 percent between 1997 and 2007. The improved service also contributed to stronger demand for joint development on a NJ Transit surface parking lot next to the Morristown Station. The station's convenient transit access to Manhattan, high traffic congestion in the region, and high local home prices contributed to the demand for Highlands at Morristown Station. The findings are supported by an interview with a key official for NJ Transit.<sup>24</sup>

### Approach

Parking, ridership, and state policy were the three primary factors that motivated NJ Transit to solicit joint development proposals for the site. The agency owned a 299-space surface parking lot on three acres next to Morristown Station. The lot was close to capacity and the agency wanted to increase parking. The additional parking and new development would also support higher ridership at the station.

The agency was also looking to support the state's Transit Villages program. New Jersey designated Morristown as one of the first Transit Villages under the program, which promotes TOD by coordinating state resources and reducing permitting delays. Morristown's TOD overlay zone was a key factor that helped the City earn the designation. NJ Transit and Morristown had worked together to develop the zone, which encourages higher density and mixed-use development. The overlay zone helped set the stage for Highlands at Morristown Station.

NJ Transit issued a request for proposals (RFP) in 1999 to develop NJ Transit's property and build a parking deck that would support the new development and increase commuter parking. The agency selected a developer in 2000.

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<sup>24</sup> Personal communication with Jim Lothian, Director of Property Development and Parking, New Jersey Transit on September 27, 2013.

### *Project Details*

NJ Transit's RFP was well received by developers with five submitting bids to redevelop the site. The agency selected a developer based on financial and cost considerations, and creativity shown in the development proposal. NJ Transit envisioned transferring the parking lot through a 99-year ground lease and building a new parking deck to support the development and ridership. But the negotiations with the chosen developer made it clear that the ground lease would not be financially feasible. NJ Transit ultimately sold the land to the developer in exchange for dedicated parking in the new garage.

Parking was a key issue for NJ Transit and it merits further description. The parking lot parcel was split into two separately owned condominiums - one for the transit parking and one for private development. The developer built the parking structure and paid for \$7 million in costs with \$1.75 million coming from NJ Transit. Upon completion, the agency owned 415 spaces, but did not own the structure itself. However, it has veto power through the condominium association set up for the parking garage with any decision that would affect commuter parking. The agency receives revenues from parking fees, parking spaces leased by the adjacent development, and a share of the development's commercial and residential rental income.

The project broke ground in 2008 after several years of delay and opened in 2010. Today it is known as Highlands at Morristown Station. The project consists of 217 rental apartments, 8,000 square feet of retail space, and a parking structure with 722 spaces. Demand for the apartments was very high. They were all leased before the building opened in 2010.

### *Challenges*

Delays presented the greatest obstacle to the project. More than 10 years passed between the RFP and completion. NJ Transit selected a developer in 2000, but it took several years to resolve all of the design issues between the developer and the City. Morrisville granted final zoning approval in 2005. The business deal with NJ Transit also took a long time due to financing obstacles. NJ Transit requested a \$200,000 per year lease payment and asked the developer to build the parking deck. This deal was not economically feasible for the developer. NJ Transit ultimately agreed to sell the land to the developer in exchange for parking spaces in the new deck. NJ Transit and the developer agreed on a deal in 2007.

NJ Transit has also faced higher costs than expected with the new parking deck. The ownership structure forces NJ Transit to pay insurance for its parking operator and the condo association. NJ Transit's operating expenses for the parking deck are more than if they owned and operated the deck independently. As a result, the deck had not broken even during its first four years of operation.

Parking was also a challenge during the construction phase. NJ Transit had to develop an interim parking plan for serving the commuters that were using the lot prior to construction. They ultimately were able to secure spaces in a parking deck nearly a half mile away and the developer paid for the cost of running shuttles between the station and the deck.

### *Benefits*

The greatest benefit from NJ Transit's perspective is the additional commuter parking. NJ Transit increased commuter parking by nearly 40 percent through the project. The additional parking and new



apartments adjacent to the station have substantially increased ridership. NJ Transit also received a financial benefit because the additional parking came at little cost to the agency. The agency was able to transfer its surplus land in exchange for the developer's financial support for the deck.

The City also benefited from the project because NJ Transit's surface parking lot had been tax exempt. Highlands at Morristown Station is paying property taxes and the city is also looking to execute a similar project on land that it owns near the station, which will add even more property tax revenue.

**Figure 7 - Morristown Station Area with Joint Development Project in Upper Right Corner. Image credit: Pictometry**



### *Lessons Learned*

NJ Transit got a successful joint development project, but the deal looked a lot different than what they originally anticipated. Highlands at Morristown required patience and flexibility from the city, transit agency, and developer. Some of the key lessons learned are highlighted below:

- Joint development can be a win-win-win. The developer has an opportunity to build a profitable dense project next to transit, the transit agency gets additional ridership and more parking, and the city gets additional property tax revenue on land that had been tax exempt.
- This project did not involve FTA, but NJ Transit worked with the agency on another joint development. In that project, FTA allowed their interest in a surface parking lot to be transferred to a new parking deck built to serve the development and replace commuter parking. This allowed NJ Transit to sell the surplus land, which is ideal given their difficulty at finding developers that are willing and able to enter into a long-term ground lease.
- Joint development comes with lengthy negotiations. Transit agencies must be patient.

Morristown is really a story about partnerships. The state supported the project through the Transit Village program and strong, longtime mayors brought consistent leadership and a focus on downtown redevelopment. NJ Transit was able to compliment their leadership through a joint development project

that increased ridership, added parking for commuters, and contributed to the revitalization of a downtown district surrounding one of its stations.

## Plano, Texas

Plano has enjoyed tremendous success in building TOD around light rail. This case study describes its first major TOD project, which has a joint development component. The transit agency provided financial, legal, and technical resources towards assembling the site and laying the groundwork to attract an experienced developer to partner with the City. The case study findings are supported by interviews with key transit agency and city staff.<sup>25 26</sup>

### Approach

Plano is a fast growing suburb about 20 miles north of downtown Dallas. The city grew from 2,126 residents in 1950 to roughly 272,000 in 2013. Despite the rapid growth, the downtown area struggled and had very little activity outside of business hours. The City charted a course for revival through the “Downtown Plano Development Plan” in 1991 and new zoning and design guidelines adopted in 1993. Meanwhile, DART secured funding for a light rail line from Dallas to Plano that would open in late 2002. DART initially agreed to place only a special events platform with limited service in downtown Plano. But the City advocated for a full-service stop and DART acquiesced in 1995.

DART and the City settled on a site where the entire downtown core is within a quarter mile of the station. The site, just north of the downtown core on 15<sup>th</sup> Street, was also well situated to support Plano’s goals for TOD. The City established a vision and supportive TOD policies through several planning efforts including “Downtown Light Rail Stop: Development Vision and Objectives” in 1998 and “Downtown Plano: A Vision and Strategy for Creating a Transit Village” in 1999. Through its efforts Plano established a goal of adding 1,000 dwelling units within a quarter-mile of the new station.

In order to use the preferred site, Plano had to close one block of J Street just north of the intersection with 15<sup>th</sup> Street. This approach allowed the City to condemn several blighted properties just east of the proposed station. DART acquired and assembled the parcels with the City’s permission and constructed platforms. Meanwhile, the City combined a parcel they owned with excess land from the DART parcel. DART sold the land to Plano in exchange for the City paying for several infrastructure improvements such as new streets and utilities. The combined 3.6 acre site was ready for development. Once the land was assembled, Plano solicited bids from developers with local experience in TOD. The City’s thoughtful pre-development planning and partnerships were critical in attracting a successful TOD project.

### Project Details

Plano announced a request for qualifications (RFQ) to develop the parcel in October 1998. It received responses from four Dallas-area developers and a committee of downtown merchants, neighborhood representatives, staff, and other interested persons selected Amicus Partners in January 1999. Plano granted Amicus Partners 120 days to negotiate a development agreement for the site. The City approved the final plan and ground lease in June 1999, only about nine months after the initial RFQ.

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<sup>25</sup> Personal communication with Frank Taylor, Deputy City Manager, City of Plano on September 30, 2013.

<sup>26</sup> Personal communication with Jack Wierzenski, TOD Coordinator, DART on October 7, 2013.



Pre-Development Conditions



Post-Development Conditions



The development agreement for Eastside Village I called for 245,000 square feet of new housing and retail space abutting the western edge of the light rail platform. The project includes 234 apartments, 15,000 square feet of retail space, and 398 parking spaces. Amicus Partners have a 70-year ground lease with three 10-year renewal options. The property was valued at roughly \$10 per square foot at the time of the negotiations between the city and developer, but they negotiated a value of \$6 per square foot that takes into consideration the risk and uncertainty associated with a complex new form of development. The developer pays the city 10 percent of the negotiated value annually (\$0.60 per square foot) with increases tied to the project's net income. The city also granted the developer a start-up incentive that discounted the lease by 75 percent for the first year and 50 percent for the second year.

Figure 8 - Eastside Village I Outlined in Red with Station Below and Downtown to Right. Image credit: Pictometry



### Challenges

The biggest challenges facing Eastside Village I involved community outreach, financing, and coordination during construction. Downtown merchants were initially skeptical of the project. They feared traffic disruptions during the construction phase and that commuters would use up valuable

customer parking. However, merchants have reported an uptick in customers since the project opened and many have extended their hours later into the evening.

Plano also reported that it was difficult for the developer to finance the first phase because they were leasing the land and therefore could not use it as collateral for the loan. Lenders rarely see that type of arrangement for apartments in suburban areas. Two subsequent projects have involved selling the land to the developer in exchange for public parking.

Coordination proved to be a third major challenge. DART was building the platform while the City was building streets and utilities, and the developer was building the residential and retail space. The City has since elected to pay developers to build public infrastructure rather than trying to work in tandem.

### *Benefits*

DART has benefited from higher than expected ridership. Eastside Village filled up quickly with many residents that use DART to commute. Ridership at the downtown station exceeded DART's 2010 projections by about 25 percent. DART also benefited from sharing infrastructure costs with the city.

Plano also has benefited from higher property tax revenues. The City created a tax increment financing district along the rail corridor in 1999 that has yielded about \$31 million for improvements along the corridor. The Eastside Village I site has also contributed substantial tax revenue to the City. The tax valuation has increased from about \$1.1 million in 1998 to about \$16 million in 2011.

### *Key Takeaways*

Eastside Village provides several lessons in how to establish the planning and policy foundation for successful joint development and TOD projects. Some of the key takeaways are highlighted below:

- Plano was very clear about its goals for the station area. It lobbied for a downtown station, planned the surrounding land use, negotiated with DART to assemble property, issued a RFQ, and negotiated with the chosen developer. It was a streamlined and well-thought out process.
- Land ownership put the City and transit agency in a much better position to implement TOD than simply having supportive zoning or design guidelines.
- Having multiple parties working on a site at the same time created problems. The City has found that it is better to pay one entity – likely the developer – to do all of the work.
- Lenders often are wary of ground leases. They are more likely to accept them in suburban areas for commercial projects than apartments.
- The transit agency or city often needs to provide a subsidy to entice developers. The subsidy may involve discounting the land lease from market rates. It can also involve the agency or City holding the land until the last possible minute so the developer avoids the “carry cost,” or doing a wide range of site preparation and infrastructure activities.
- Plano prefers RFQs to RFPs. RFQs work well in an environment rich with developers that have a proven track record of joint development and TOD. RFPs turn away some developers due to the expense and potential waste of valuable intellectual property.

- The assistant city manager said “TOD has to work despite the train. The train won’t make it work by itself.” His point is that the transit service is just one component of a successful urban project. Planners must also pay attention to issues such as urban design and the mix of uses.

In conclusion, Plano’s experiences highlight the importance of creating a streamlined RFQ or RFP process and being very clear about goals for the development site. But this is not a pure joint development like the other projects described in this report. The transit agency had a more limited and temporary role.

## Charlotte, North Carolina

Charlotte launched its first light rail line in 2007 as a key part of the City’s strategy to address pressure from rapid population and economic growth. Prior to the opening of the LYNX Blue Line, the City had already taken a deliberate approach to aligning its land use policies with its transportation priorities through its 2025 Transportation & Land Use Plan and its Centers, Corridors and Wedges growth policy. These proactive efforts have encouraged higher density development along the City’s transportation corridors and development of TOD within the light rail station areas.

While the City has attracted substantial new TOD, especially close to downtown in the South End Historic District, it recognizes that some station areas are less conducive to redevelopment than others. Charlotte’s transit department, the Charlotte Area Transit System (CATS), is a department within the City of Charlotte. CATS, along with other City departments, such as Planning and Economic Development, used FTA’s joint development guidance to nudge development around Scaleybark Station, where the market was not ready for high intensity TOD. Scaleybark is located at the midpoint of the 10-mile line and includes the first suburban style park-n-ride south of downtown. The following case study findings about joint development around Scaleybark are supported by an interview with CATS’ chief TOD staff person.<sup>27</sup>

## Approach

The City has a long history of joint ownership of capital projects across various departments, which ensures a good alignment between transportation goals and other community objectives. The LYNX light rail project is a good example. Several City departments worked together during the final engineering phase to analyze the infrastructure, connectivity, and accessibility needs within each station area. Their goal was to determine which of the station areas might require additional investment in order to attract new development that supports livability goals.

The 10-mile LYNX Blue Line includes 15 stations between downtown and Interstate 485 to the south. The City’s analysis indicated that Scaleybark was an appropriate station to encourage redevelopment and to utilize the FTA’s joint development guidance to encourage TOD. The City had already established the South Corridor Land Acquisition Fund to acquire land for TOD in locations with sufficient infrastructure and where the surrounding land owners were willing to sell. The latter portion is important because the City has a policy not to take private land through eminent domain for economic development. The City used this fund to acquire land from willing buyers around Scaleybark.

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<sup>27</sup> Personal communication with Tina Votaw, TOD Manager, CATS on October 7, 2013.

Additionally, the City sought to leverage the federal investment already being made through the development of LYNX. CATS initially purchased a site of about 10 acres for development of a 315-space commuter park-and-ride surface lot. The City purchased the site as part of the federally-funded LYNX line, which required CATS to follow all of FTA's New Starts regulations for acquisition and development, including FTA's joint development guidance. City staff ultimately recommended to City Council that an additional eight acres adjacent to the park-and-ride lot be purchased and combined into a single parcel of approximately 17 acres. The City then offered the 17 acres for redevelopment by issuing a RFQ and a RFP in 2005 and 2006 respectively. A copy of the RFP, along with a description of the proposed TOD vision and the City's intended compliance with FTA's policy on joint development, was sent to FTA for review in 2006.

### *Project Details*

CATS spent about \$3.9 million to acquire the original 10 acre site and the City spent about \$5.4 million in local funds to later purchase the adjacent site. The RFP envisioned a mixed-use development and required the integration of approximately 100 units of affordable housing (30 percent of which would be available to those earning 30% or less of the area median income) and the CATS park-and-ride lot with supporting transit facilities. CATS required integration of the park-and-ride spaces on a one-to-one replacement basis, meaning that the successful developer had to incorporate all 315 commuter spaces within the development.

The City received three proposals and all assumed some discounting of the overall land cost in order to achieve all of the redevelopment goals and requirements. Negotiations with the selected developer ensued in 2006 and 2007. A joint development proposal was submitted to FTA for approval by CATS in 2007 based on the final negotiated terms for the federally-assisted portion of the overall development site (the park-and-ride lot). The final sale price for the land acquired by the City with local funds was negotiated down to \$5.185 million due to poor soil conditions. The developer was also required to complete significant streetscape improvements that cost more than \$1 million. CATS received a permanent easement within the future TOD for the 315 space park-and-ride lot (achieving continuing control) and a covenant from the developer to design and construct the park-and-ride spaces into the future TOD at the developer's cost. The sale closed in March 2008.

The proposed TOD had significant momentum until the 2007-2009 recession. As of October 2013, the surface park-and-ride lot and streetscape work has been completed and the streetscape work has been completed. Despite the setbacks, the City and the selected development team remain committed to the site and to seeing the TOD project through to fruition. In fact, while the market for development of apartments has been robust along the light rail corridor, the developer remains committed to development of a mixed use village and continues to market the site as such. As necessary, the City has granted several extensions on the parking garage component called for in the development agreement in order to make sure the parking is fully integrated and paced with the future TOD.

### *Challenges*

The economic downturn is the biggest challenge that has faced the Scaleybark TOD project. CATS and the developers had reached an agreement, but the economy altered the market and rendered the



project infeasible in the near-term. CATS also found that the redevelopment goals of the RFP may have been too prescriptive and infeasible given market realities. Finally, CATS admitted that the solicitation and negotiation process took longer than initially expected, which may have caused the project to miss a window of opportunity to secure financing.

### *Benefits*

The benefits have not materialized yet, but CATS believes the Scaleybark TOD project will be a key piece of its plan for using light rail transportation to spur land development and provide new living options for the region's residents. CATS' sharp focus on land development is fairly uncommon among transit agencies. As stated above, CATS benefits from the integration of land use and transit planning functions embedded within the city government.

### *Lessons Learned*

CATS has gained several valuable lessons through the Scaleybark TOD joint development project.

- Do not be too prescriptive with developers. You can only demand what the market will bear. Transit agencies should have a vision for their joint development sites, but be flexible in response to market realities. As CATS' TOD manager put it, "You need to create a vision and stick to it, but be flexible on the edges."
- Given the significant expense of structured parking, the typical transit agency requirement of one-for-one parking replacement may not be possible. Transit agencies should consider the ability to share parking with other land uses and whether parking capacity at other station locations is available.
- All land development, whether TOD or otherwise, is a marathon, not a sprint.
- The key to working with FTA is to communicate early and often. Their requirements are less onerous than people think.
- When working with FTA, it is important to have a staff person that is well versed in FTA's circulars, grant rules, and joint development guidance. This expertise not only helps the transit agency navigate FTA's requirements, but is critical for calming the nerves of developers that are generally not familiar with the requirements that come with developing on federally-funded land.

Charlotte is a good example of how cities can use joint development to spur TOD in areas with weaker market demand. While the project has been delayed by the recession, CATS officials are confident that the project will move forward as envisioned. Charlotte is also a cautionary tale. This case study shows the risks of large scale land acquisition for the purposes of stimulating redevelopment where the market support for mixed use TOD might not be sufficient yet.

Figure 9 - Scaleyark Station with Portion of Joint Development Site Across Street. Image credit: Pictometry



## Section 6 – Case Study Lessons Learned

Research and interviews conducted during the preparation of the case studies revealed several key lessons that are applicable to Florida's transit agencies. The Florida context differs from the large dense urban areas of the Northeast and parts of the West Coast in some important ways that have an effect on the market for joint development. Although Florida has made great strides in TOD planning and policy, the state lacks the legacy heavy rail transit systems serving high density central business district areas that are highly attractive for joint development. Also, the state's urban areas tend to have ample land available for development, which dampens the market for air rights joint development above stations. Despite these limitations, recent projects in Miami-Dade County and developer interest in land adjacent to SunRail stations in Central Florida demonstrates demand for TOD. As a result, transit agencies will have opportunities, but they must carefully analyze what the market will bear and craft a request for proposals or qualifications that reflects these market realities. These market issues may require agencies to temper their expectations for revenue generation and focus instead on increasing ridership and shifting operating or maintenance costs to the private sector through joint development.

1. **Ridership Benefits vs. Revenue Benefits:** It's not always possible to get both. In most of the case studies, the ridership benefits outweighed the revenue benefits. This is also true in Florida where the market for TOD and joint development is less mature than some older markets and developers are likely to ask for a discount on the price of land to do joint development.
2. **Be Proactive:** The most successful projects are backed by a strong vision, political will, proactive planning and zoning, and marketing. These elements are especially important in a market in which joint development is a novel concept. In these markets, the transit agency needs to be able to show that it strongly supports joint development in order to attract developer partners.
3. **Be Realistic:** It's important to understand the market potential and demand for a piece of land. The RFP should set parameters that are reasonable in terms of development goals, not



unrealistic relative to local market conditions. The land price or lease arrangement should reflect requirements like replacing transit parking within the development. Florida joint development projects are likely to use surface parking lots, making replacement parking a key issue and also a cost that developers will need to bear, further limiting the revenue potential of these projects.

4. **Be Patient:** Charlotte's TOD manager said "this is not for the faint of heart; you need to be extremely patient." This is especially true for an agency's first project. As Miami demonstrates, agencies become more efficient and skilled as they gain expertise.
5. **Developers Prefer to Purchase Land rather than a Ground Lease:** FTA often prefers that grantees use a ground lease to convey land, but developers typically prefer to buy because it allows them to use the land as collateral when obtaining project financing. Developers in the South have less experience building residential on a ground lease, but some will have experience using this arrangement for commercial. Florida's transit agencies will need to work closely with FTA and the developer partner in order to convey the land in a manner that will allow the developer to attract financing.
6. **Discounting the Land Sale or Lease Price is often Necessary:** Joint development projects often come with uncertainty, delays, higher financing costs, and few local examples. Therefore, developers often expect to pay less than market price for the land. Discounts more than 50% are not uncommon. This is relevant in Florida where the land supply is not so constrained that developers are eager to enter into complicated ownership structures in order to develop land.
7. **Agencies Need more Joint Development and TOD Support:** For most transit agencies, TOD and joint development is not a core part of their mission. One real estate officer for a Florida transit agency described his division as a "start up." It can be difficult to find financial support within the agency to develop an inventory of agency-owned land, study market feasibility, and market opportunities to developers. The Jacksonville Transportation Authority has addressed this need by adding a full-time staff person to lead the agency's joint development projects. As other agencies add staff it is important to provide the financial resources they need to be successful.
8. **Don't be Overly Prescriptive:** Developers know what will work. The agency needs a vision and the local government partners need TOD supportive policies, but it helps to go into these projects with flexibility in mind. This is especially true in Florida markets where TOD and joint development are still fairly new concepts and some flexibility will be necessary in negotiations with the developer partner.
9. **Seek Assistance:** The FTA rules and regulations are less onerous than many transit planners perceive. However, it helps to have staff expertise to navigate them and to work with developers that are wary of FTA's involvement.
10. **FTA Wants to Work with You:** The case study communities have benefited from flexibility and support from FTA. The key is communicating early and often with the regional FTA representatives.

## Section 7 – Getting Started, Creating Your Joint Development Strategy

This final section presents several important considerations for any agency that is looking to establish a joint development strategy. The first step involves evaluating the roles that the agency plays now and potentially may play in the future relative to development around transit stations. Some agencies are passive and will wait for projects to come to them. Others will aggressively assemble and market properties. The role the transit agency wants to play will directly influence the strategic direction they will eventually take relative to their joint development program.

Two key components to the agency's strategy include: 1) evaluating joint development potential in the transit service area; and 2) understanding the agency's capacity for implementing a joint development project. The development potential evaluation should cover the existing joint development and TOD policies in place at the municipal level and within the transit agency. At the municipal level this includes issues such as the overall community vision for growth and development, comprehensive plan policies relative to land use, housing, transportation and economic development and TOD supportive zoning and land development codes. A vision that promotes TOD and the associated implementation tools such as policies and zoning that allow for mixed use higher density development, flexible parking strategies, and the creation of walkable urban form is desirable.

At the agency level, the evaluation should look at issues such as the type of existing and planned transit, and the in-house expertise and resources available for development projects. Joint development is more likely to be successful around premium transit stations served by modes such as commuter rail, heavy rail, light rail, and possibly bus rapid transit. Should a region have these services, or is planning them, the attention may turn to identifying specific opportunities. Stations with large amounts of agency-owned land adjacent to the station are ideal. However, in dense environments it may be possible for the agency to lease or sell air rights above a station. If specific station areas or sites emerge from this evaluation as having potential for joint development, the agency should consider commissioning a real estate market analysis to define and quantify the development opportunities that may be available.

The agency's in-house capacity for implementation of joint development projects is also important to assess in crafting a joint development strategy. There are many different approaches that an agency can take from more passive to more aggressive. The agency's approach will depend somewhat on its willingness to invest in the staff resources to conduct joint development. The agency must also come to terms with its willingness to offer financial incentives or mark down the price of land it has acquired in order to make joint development happen. Finally, it may seem basic but the agency should think through its reasons for using joint development. As the case studies have demonstrated, joint development is not often a very strong revenue generator. Therefore, transit agencies must consider to what extent the joint development opportunities available to them support other objectives such as increasing ridership or proving the market for more TOD.

Once an agency has decided that joint development makes sense from development potential and agency strategy perspectives, it is time to turn attention to implementation. There are many challenges to joint development implementation. First, the agency must once again consider its capacity. The agencies that are committed to joint development have typically hired permanent staff to manage their

programs. This can be done by either hiring expertise in house or procuring expertise externally. This group or individual can lead the agency's effort to identify desirable parcels for joint development, shepherd projects through the FTA process, reach out to municipal government partners and put together the necessary documents such as requests for proposals or requests for qualifications. Once a project is underway, the person can lead negotiations and work closely with the developer team to ensure that all federal and agency requirements are met.

Table 6 presents some of the key questions that an agency should answer when thinking through its joint development strategy. Some of these questions overlap with Table 1, which helps an agency think through a specific opportunity. The table also includes a column for the user to evaluate the agency's readiness based on answers to the questions.

**Table 6 – Creating a Joint Development Strategy**

Key Questions to Answer	Work Product	Self-Evaluation
<b>Step 1: Evaluate Joint Development Potential</b>		
<b>1.</b> Have the transit agency and local community worked together to develop a vision for the station areas?	Station area plan	
<b>2.</b> Has the local community established tools to support joint development and TOD, such as higher density and mixed uses near stations?	Station area zoning	
<b>3.</b> Have the transit agency and local community worked together to establish goals and objectives for development in stations areas?	Station area plan with design guidelines	
<b>4.</b> What type of transit service exists or is planned for the areas being considered for joint development? <i>Joint development tends to work better with premium transit such as rail.</i>	Memorandum summarizing existing plans	
<b>5.</b> Which stations have underutilized parking next to them?	Report of parking supply and demand	
<b>6.</b> Where does the agency own sufficient land for development next to premium transit stations?	ArcGIS database of agency-owned land	
<b>7.</b> Where can the agency sell air rights above premium transit stations?	Market analysis for each station area	
<b>8.</b> Which premium transit stations have strong nearby market demand for development?	Market analysis for each station area	
<b>9.</b> Which stations have the greatest potential for development that is integrated or connected to the station?	ArcGIS database of agency-owned land	

Key Questions to Answer	Work Product	Self-Evaluation
10. What means of land conveyance does the agency prefer? <i>Leasing and restricted transfer are two popular methods.</i>	Agency joint development policy	
11. Does the FTA have an interest in the property being considered for joint development due to its financial involvement in acquiring it?	Station area plan	
<b>Step 2: Establish Agency-Level Strategy</b>		
1. What approach should we take to identify development opportunities? <i>Agencies often let the market lead, plan extensively, or package up opportunities.</i>	Agency joint development policy	
2. Is the agency willing to add an office or hire a staff person to manage joint development efforts?	Agency joint development policy	
3. Is the agency willing to offer financial incentives? <i>These commonly include below market land price or stations connections.</i>	Agency joint development policy	
4. Is the municipality willing to provide incentives? <i>These may be financial incentives such as tax abatement or tax increment financing, or process incentives such as expedited permitting.</i>	Memorandum describing issues/ opportunities for joint development	
5. How closely is the agency willing to partner with private sector developers?	Agency joint development policy	
6. How closely is the agency willing to partner with the local government?	Agency joint development policy and/or MOU	
7. Should the agency acquire land around proposed stations with the intent of using it later for joint development?	Agency joint development policy	
8. Are there any obstacles in the agency's mission or legal powers to acquiring land and offering it for development?	Memorandum describing issues/ opportunities for joint development	

Key Questions to Answer	Work Product	Self-Evaluation
9. What are the agency's objectives for proposed expansion projects and does joint development further those objectives? <i>These may include ridership, non-farebox revenue, parking, etc.</i>	Memorandum describing issues/ opportunities for joint development	
<b>Step 3: Develop an Implementation Strategy</b>		
1. Is the agency prepared to work closely with FTA over a period of several years from project initiation to completion? <i>It helps to have a staff person experienced working with FTA and developers on these types of projects.</i>	Memorandum describing issues/ opportunities for joint development	
2. Does the agency have the technical capacity and skills to negotiate a development agreement that includes revenue and cost-sharing components?	Memorandum describing issues/ opportunities for joint development	
3. What operating or capital costs might a developer be asked to pick up through the project?	Agency joint development policy	
<b>Step 4: Take the First Steps</b>		
1. Complete the FTA's Joint Development Checklist if it will be involved in the project through direct financial support or due to their "interest" in the land.	Complete checklist submitted to FTA	
2. Form a project oversight committee or working group to shepherd the project from start to finish. It should include stakeholders from all major parties involved.	Memorandum describing the committee and its membership	
3. Develop a RFP or RFQ for a joint development project that is clear about the agency's vision for the project.	RFP or RFQ	

While this section presents some key considerations for an agency looking to get more involved in joint development, it is not a complete accounting of all the possible issues that may need to be addressed. Joint development projects come in a wide variety of types, sizes, and complexity. These questions provide a framework, but any agency looking to get involved in joint development will need to be prepared to be creative and flexible. It's also very important to put in place a solid framework for collaboration with the local government, state department of transportation, the public, and FTA; and to have a solid vision of what the agency and community want to see happen in station areas. With these two elements in place, many of the challenges of joint development can be addressed successfully.

## Section 8 – Conclusion

This report describes joint development and the challenges and benefits that come with it. While many transit agencies view joint development as a revenue generator, their expectations should be tempered somewhat by the complexity and inherent risk associated with these projects. But the ridership and cost-sharing benefits associated with joint development over the long term can be substantial and should not be overlooked. Joint development can also be an effective tool for implementing TOD concepts, increasing the supply of affordable housing, building transit agency capacity for real estate transactions, and improving interagency coordination.

The outlook for joint development is bright despite the need to be judicious in choosing when to pursue it. FTA expressed strong support for joint development through its recent guidance on the issue and a new policy removes joint development from the cost effectiveness calculation for New Starts projects. The outlook is also bright because of the opportunities that may be created by planned premium transit improvements in Tampa Bay, South Florida, Jacksonville, and Central Florida and the growing interest in the market place to live and work in walkable locations where people can drive less and use other modes of transportation to meet their daily needs. Now is a good time for Florida's transit agencies to take inventory of their land assets and study the possibilities that may exist for joint development along premium transit corridors.