

Equitable Transit-Oriented Development (TOD) Policy

Chessy Brady, TOD Manager
February 2, 2021

What is the Equitable TOD policy?

Policy Goal

Encourage affordable residential development for low-income households at and along high-frequency transit stations and corridors

Objectives

- Increase ridership through transit-supportive land use
- Generate revenue through joint development
- Enhance community relationships

Intent

Promote affordable housing as a transit-supportive land use by:

- Empowering staff to negotiate with developers
- Coordinating with state and local agencies

Tools

Reduce administrative, acquisition, and construction costs in order to reduce overall development costs

Why should RTD implement the policy?

- Lower-cost housing needed in Metro Denver
- Research indicates affordable housing residents use transit more than market rate housing residents
- Consistency with statute to promote public welfare and increase transit use
- Equitable TOD is a best practice
- Enhances commitment to regional partnerships



Peer Agency Equitable TOD Policy Requirements/Targets

- Varying affordable housing requirements for joint development
- Require 20%-35% of units be affordable at 60%-100% Area Median Income (AMI)
- Require affordability restrictions on a per-project, per-station or portfolio-wide basis

	Sound Transit (Seattle)	BART (San Francisco)	LA Metro (Los Angeles)	MBTA (Boston)	MARTA (Atlanta)	MTS (San Diego)	VTA (Santa Clara, CA)
% Units Restricted	80% (min)	20% (min); 35% (goal)	35% (goal)	20% (min)*	20% (goal)	20% (min)	20% (min); 35% (goal)
% AMI	80%	80%	60%	100%	80% (rental); 100% (for sale)	80%	60%; Half at 50%
Project or Portfolio?	Per project	Per station	Portfolio	Per project	Portfolio	Per project	Per project

*Negotiable to 10% in certain circumstances

Peer Agencies' Other Tools

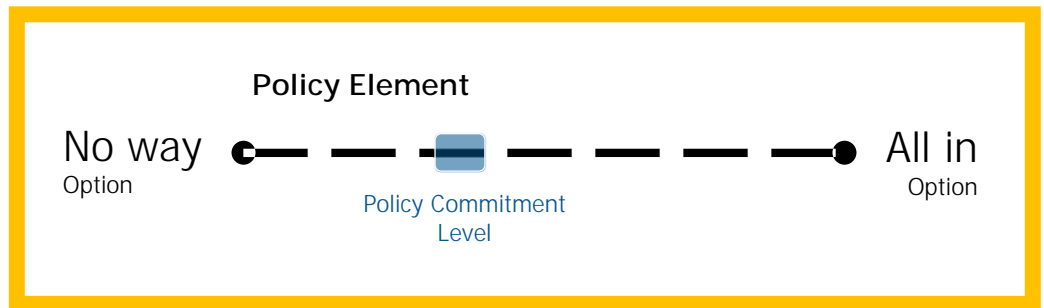
Legend			
Yes	Partial	No	N/A

	Sound Transit	BART	LA Metro	MBTA	MARTA	MTS	VTA
Transit Parking Replacement	Evaluates opportunity for shared-use parking	No parking replacement at "Urban" stations		Case-by-case basis		Case-by-case basis	Case-by-case basis
Land Discounts	Discounts property based on financial need for project viability	Discounts property for projects that are 35% affordable ranging from 10%-60%, based on AMI	Discounts property based on percentage of affordable units (up to 30% fair market value)			Case-by-case basis	No land discounts, unless project is ground lease and 100% affordable
Other Financial Assistance from Transit Agency	Seeks direct or alternate funding sources, including public subsidy, to support joint development	Pursues state, regional, and philanthropic partnerships to alleviate and prevent homelessness through affordable housing	Contributes to regional housing fund for creation of affordable housing in station areas on private property	May reduce affordability requirements to 10% to make project viable	Encourages reduced parking minimums and upzoning for inclusion of affordable units	No financial assistance specified	Encourages upzoning for greater affordability and facilitates partnerships with affordable housing resources
Preference in RFPs					Scores affordable projects higher		Scores affordable projects higher

Equitable TOD Policy Elements

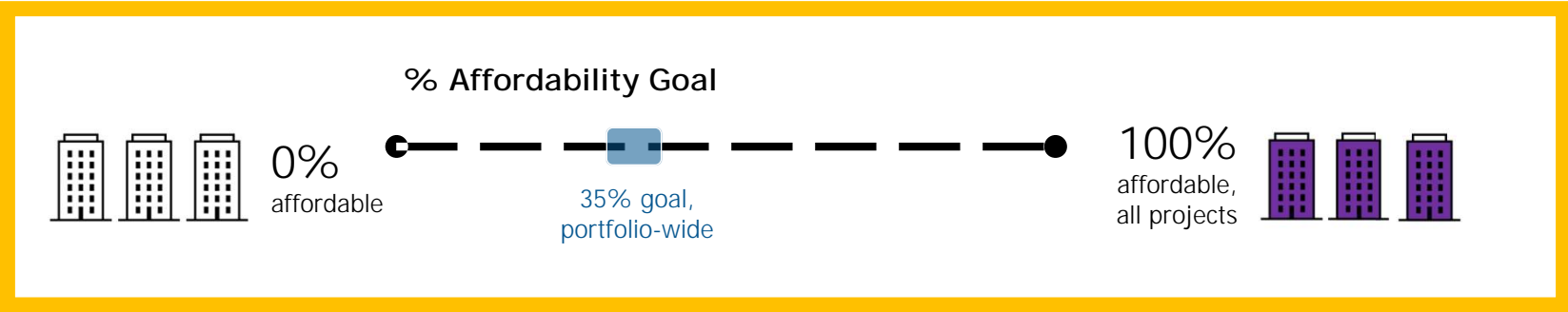
1. Affordability Goal
2. Parking Replacement
3. Shared Parking
4. Expedited Administration
5. Negotiated Land Price

EXAMPLE:
Each policy element is illustrated on a spectrum



Policy Element 1. Affordability Goal

- 35% of all residential units developed on RTD property will be affordable to low-income households
 - Aspirational, non-binding goal
 - Portfolio-wide
 - 10-year evaluation period
- “Affordable” designation will correspond to requirements at state and local levels (e.g., Colorado Housing and Finance Authority (CHFA))
- Staff will provide annual updates to RTD Board on progress towards goal



Policy Element 1. Affordability Goal (cont'd)

Illustration of 35% Affordability Goal, Portfolio-wide

- RTD has few properties with real development potential
- Number of properties that will develop is unknowable
- Affordability goal will influence total number of affordable units developed

Assuming 300 units per project and a 35% goal,

if 2 sites are developed: 210 affordable units



if 5 sites are developed: 525 affordable units



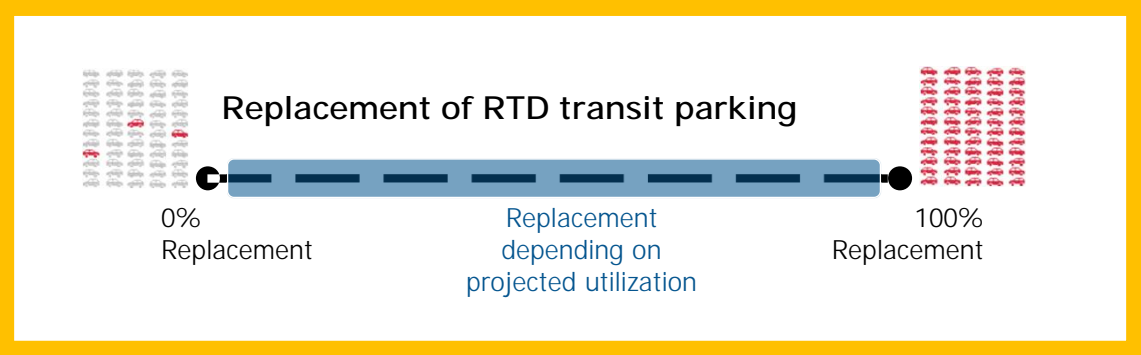
if 10 sites are developed: 1,050 affordable units



A goal is not a requirement — it helps focus the agency on a direction to pursue

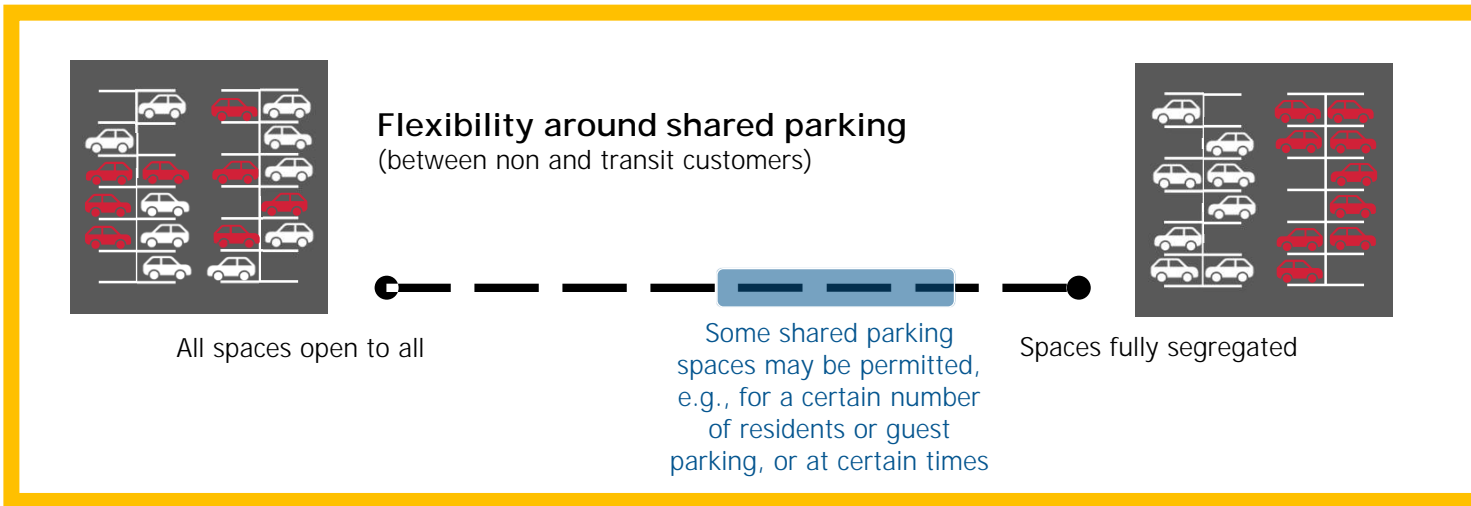
Policy Element 2. Parking Replacement

- RTD will determine the quantity of replacement parking based on projected future parking utilization, among other agency considerations
- Park-n-Rides provide crucial access to transit
- RTD parking replacement is expensive, reduces potential revenue for lease/sale of land



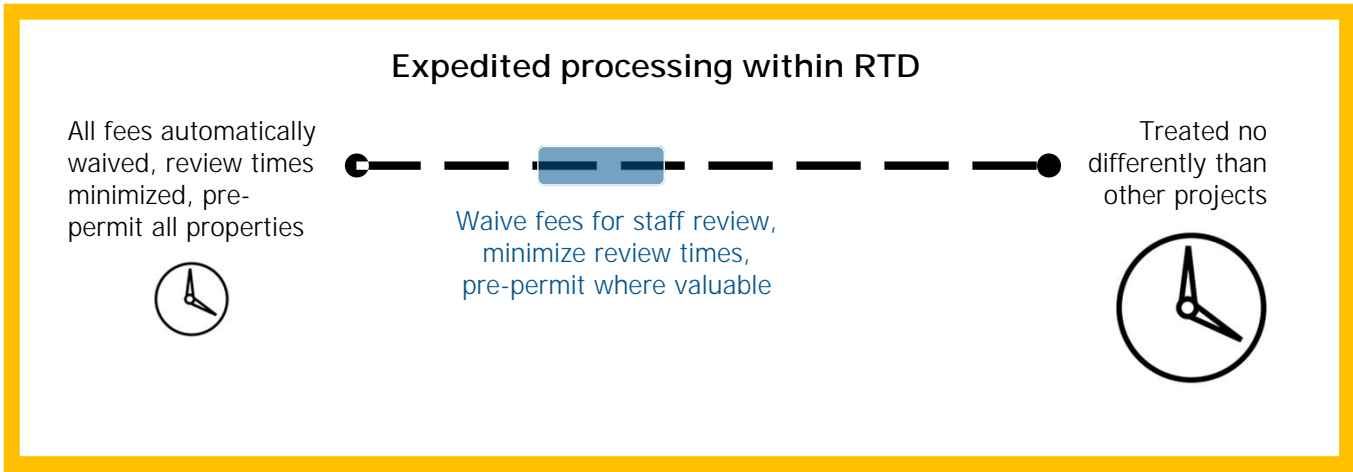
Policy Element 3. Shared Parking

- RTD may consider opportunities for shared parking between transit customers and non-transit customers when:
 - Transit customers' access to buses and trains is protected
 - Opportunities create efficiency and cost savings



Policy Element 4. Expedited Administration

- Reduce development costs by shortening time frame and increasing predictability
- Staff may
 - Waive internal processing/development review fees
 - Minimize review times
 - Entitle agency property



Policy Element 5. Negotiated Land Price

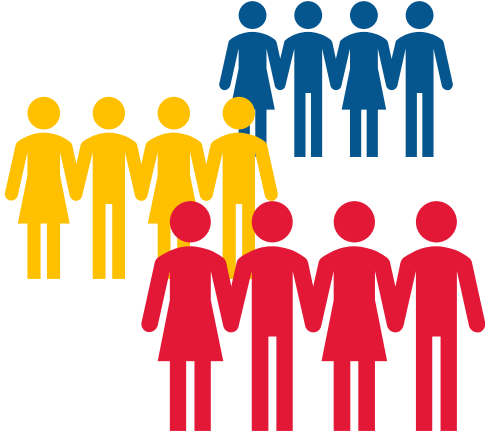
- Certain statutes require developer to compensate RTD at fair market value (FMV) and/or by providing services or capital improvements
- Land cost – common barrier to affordable housing development
- Purchase price or rent reductions may be permitted in exchange for affordable housing development or other agency benefits



Outreach Conducted

Staff has consulted state and local staff, peer agencies, and industry groups to inform the policy:

- American Planning Association – Colorado Chapter, Sustainability Committee
- City of Aurora
- City and County of Denver – Community Planning and Development, Housing and Stability
- City of Lakewood
- Colorado Housing Finance Authority (CHFA)
- Denver Region Council of Governments (DRCOG)
- Mile High Connects
- Neighborhood Development Collaborative
- Urban Land Institute – Colorado Chapter
- Town of Superior



Questions?

BOARD OF DIRECTORS REPORT

Equitable Transit-Oriented Development (TOD) Policy

Committee Meeting Date:
February 2, 2021
Board Meeting Date:
February 23, 2021

RECOMMENDED ACTION

It is recommended by the Planning/Capital Programs & FasTracks Committee that the Board of Directors approve the attached Resolution Number ____ (the "Resolution"), the "Equitable Transit-Oriented Development Policy" to permit and encourage the development of affordable housing on RTD real property.

STAFF REPRESENTATIVE

Chessey Brady, Manager, Transit Oriented Development (TOD)

PRESENTATION LENGTH

10 minutes

BACKGROUND

The intent of the Equitable Transit-Oriented Development (TOD) Policy (the "Policy") is to encourage affordable housing on RTD real property at and along high-frequency transit stations and corridors. Successful implementation of the Policy would increase ridership through transit-supportive land use, generate revenue through joint development on RTD real property, and enhance community relationships. Staff will use the Policy to coordinate with state and local agencies, negotiate with developers, and reduce administrative, acquisition, and construction costs in order to reduce overall development costs and help enable affordable housing.

The State enabled RTD to promote the public health, safety, convenience, economy, and welfare of residents in the region and the state. Housing and transportation typically are the highest costs in a household's budget, affecting the vitality of household economy and welfare. Reducing housing and transportation costs allows households to save for their health, safety, and convenience.

RTD staff has assessed Metro Denver transit ridership trends and parking demands to better understand customer needs. In a survey of 1,340 residents of 35 station-area apartments across the region, staff found that low-income households typically use transit more than market-rate residents. Specifically:

- 63 percent of low-income households use the bus once a week or more, while 88 percent of market-rate households ride the bus once a week or less.
- 57 percent of low-income households use the train once a week or more, while 73 percent of market-rate households ride the train once a week or less.
- 61 percent of low-income households have no car, while 93 percent of market-rate households have at least one car.

Regarding parking demand, RTD staff recently analyzed 86 private station-area properties across the region. This analysis found that residents use only 58 percent of all parking spaces provided, and residents of income-restricted housing use only 50 percent of all parking spaces provided. These findings suggest that negotiating with developers and municipalities to reduce parking supply in joint development projects – particularly those with income-restricted housing – could reduce development costs and thus promote affordable housing from which RTD ridership benefits.

Metro Denver needs more lower-cost housing. The City and County of Denver estimates that the region lacks 100,000 affordable homes, and the National Community Reinvestment Coalition ranked Metro Denver as the second fastest gentrifying region in the country between 2013 and 2017. As a property owner, RTD has a unique opportunity to address the intent of its enabling legislation by helping to create affordable housing on agency property, not only to address rising costs of living but also to encourage transit use. Were RTD to encourage only market-rate development, it might lose the opportunity to maximize ridership and satisfy the agency’s intent and mission. While RTD’s land holdings suitable for joint development may barely make a dent in the region’s housing affordability problem, RTD can be part of the solution and set an example for how to encourage affordable housing and increase ridership at the same time.

Statutes/Policies

The following federal, state, and agency requirements for joint development inform this Policy:

Federal Transit Administration (FTA) Joint Development Circular (2020): This circular clarifies that the objective of FTA’s joint-development policy “...is to maximize the utility of FTA-assisted projects and to encourage the generation of program income through joint development.” Beyond this policy clarification, FTA defers to transit agencies to define their joint development policy: “It is FTA’s policy to give project sponsors maximum flexibility within the law to work with the private sector and others to pursue joint development.”

Colorado Revised Statutes (C.R.S.) 32-9-102: RTD was created by State statute to “promote the public health, safety, convenience, economy, and welfare of the residents of the district and of the state of Colorado.” This Policy serves that mandate by enhancing the quality of life for low-income residents to the economic benefit of RTD, the District, and the state.

C.R.S. 32-9-119(1)(h): RTD has the statutory power to “purchase, trade, exchange, or otherwise acquire, maintain, and dispose of real property and personal property and any interest therein.”

C.R.S. 32-9-119.8: This statute permits RTD to enter into agreements to provide residential, commercial, or retail uses at RTD transfer facilities. C.R.S. 32-9-119.8(3) states “Any person obtaining the use of any portion of a transfer facility ... for the provision of residential uses or other uses shall be required to compensate the district by payment of rent at fair market value, or, at the discretion of the district, by the provision of services or capital improvements to facilities used in transit services, alone or in combination with rental payments, such that the total benefit to the district is not less than the fair market rental value of the property used by the person.”

C.R.S. 32-9-119.8(4) requires “The use of a transfer facility ... for the provision of residential uses or other uses shall not be permitted if the use would reduce transit services [or] would reduce the availability of adequate parking for the public.” This Policy complies with these statutory requirements.

RTD FasTracks Strategic Plan for TOD (2010): This plan affirms RTD’s support of policy goals, such as the development of mixed-income housing near stations, as reflected by local jurisdictions’ adopted policies. However, this plan neither creates incentives nor removes barriers to truly offer support for affordable housing development.

RTD TOD Evaluation Guidelines (2018): These guidelines require staff to evaluate proposals for joint development based on revenue, ridership, operations and maintenance impacts, amenities/access improvements, community facilities/affordable housing provided, and benefits to the RTD brand image. However, these guidelines are qualitative, and the provision of affordable housing is weighted equally with other factors.

RTD Board Authority: Per RTD Board Resolution No. 15 Series of 2015, “Policy for Joint Development and Disposition of Real Property,” the RTD Board of Directors retains the authority to review and approve all transactions for joint development. This Policy does not conflict with that authority.

DISCUSSION

The Policy is composed of five elements that together will promote affordability in joint development projects to reflect RTD’s aforementioned policies and abilities and build on best practices from peer agencies.

Policy Element 1: Affordability Goal

Transit agencies that set affordability goals commonly require or recommend between 20 and 35 percent of units to be restricted to low-income households earning less than 100 percent area median income (AMI). Some agencies look for these levels of affordability on a per-project basis, others look at affordability on a per-station or portfolio-wide basis.

To permit and encourage the development of affordable housing, RTD sets an aspirational and non-binding goal that 35 percent of the total residential units developed on RTD property will be affordable to low-income households. For consistency with state and local affordability requirements and the variety of needs across the District, RTD’s determination of affordability will be linked to AMI targets set by state and local partners. These targets are generally linked to Low Income Housing Tax Credit (LIHTC) requirements as administered by the Colorado Housing and Finance Authority (CHFA). In 2020, CHFA supports development projects that provide residential units averaging up to 60 percent AMI. Based on the District’s size and varying suitability for development, the Policy sets a portfolio-wide goal to be measured over the next 10 years.

Policy Element 2: Parking Replacement

Many customers access transit by driving to a Park-n-Ride (PnR) and boarding a bus or train. RTD’s typical practice has been to require developers building on active PnRs to replace all existing parking spaces. Due to the economics of real estate development, those spaces (typically in surface lots) would then need to be structured in a new garage. Estimates vary, but in 2020 parking garages can easily cost \$25,000 or more per parking space. To put this in context, for a 200-space PnR, a garage would cost \$5,000,000. If a developer cannot afford to pay for the replacement parking on top of the land cost, the

cost of the replacement parking would need to come directly out of the proceeds to RTD of the land transfer, whether that be a sale or a ground lease. Replacing RTD parking spaces may also reduce livable square footage from the larger development.

Some peer agencies evaluate the replacement of parking spaces by modeling future parking demand at each station. The Policy clarifies that RTD will also determine the quantity of replacement parking based on projected future parking utilization, among other agency considerations.

Policy Element 3: Shared Parking

Similar to replacement parking considerations, there are opportunities for development cost reductions when transit customers and non-transit customers can share parking. Peer agencies consider including shared parking in joint development based on the specifics of each development. In situations where transit customers' access to buses and trains can be protected, RTD may also consider opportunities for shared parking.

Policy Element 4: Expedited Administration

Peer agencies occasionally waive internal processing and development review fees, minimize review times, and entitle agency property to attract developers and reduce development uncertainty, costs and schedules. The Policy clarifies that RTD may do the same.

Policy Element 5: Negotiated Land Price

The cost of land, especially at station areas with high real estate values, is a common barrier to affordable housing development. Some peer agencies offer affordable developers discounts on land price to encourage affordable housing development. It is not the intent of RTD to offer "discounts," but rather to assess and consider other agency benefits in its determination of an appropriate sale or lease price within the bounds of statutory requirements.

FINANCIAL IMPACT

There is no expected direct financial impact of this resolution. Existing resolutions require that financial implications be considered as part of any Board or staff decision related to TOD projects.

ATTACHMENTS:

- 2021 Equitable Transit-Oriented Development Policy Resolution (PDF)
- Equitable TOD Policy Presentation (PPTX)

Prepared by:

Chessy Brady, Manager, Transit-Oriented Development

Approved by:



William C. Van Meter, Assistant General Manager, Planning 1/27/2021

Authorized by:



Debra A. Johnson, General Manager and CEO 1/28/2021

**REGIONAL TRANSPORTATION DISTRICT
RESOLUTION NO. 002, SERIES OF 2021
(Equitable Transit-Oriented Development Policy)**

A RESOLUTION PROVIDING POLICY GUIDANCE TO PERMIT AND ENCOURAGE THE DEVELOPMENT OF AFFORDABLE HOUSING ON RTD REAL PROPERTY.

WHEREAS, Regional Transportation District (RTD) plans, designs, builds, and operates mass transit for the Denver region; and

WHEREAS, the provision of transit service to the Denver region by RTD influences development patterns and supports transit-oriented development (TOD); and

WHEREAS, the State created RTD to “promote the public health, safety, convenience, economy, and welfare of the residents of the district and of the state of Colorado;” and

WHEREAS, RTD has the statutory power to “purchase, trade, exchange, or otherwise acquire, maintain, and dispose of real property and personal property and any interest therein;” and

WHEREAS, the adequate availability of affordable housing is a regional concern; and

WHEREAS, RTD research demonstrates that low-income people who reside near public transit are more likely to use transit than higher income people; and

WHEREAS, RTD research demonstrates that private buildings located near transit provide more parking than needed by residents; and

WHEREAS, RTD decisions on transit-oriented development are governed by the Colorado Revised Statutes, Federal Transit Administration guidance (Joint Development Circular C 7050.1B), and a broad set of internal policies, including RTD’s Strategic Plan for TOD (2010), Policy for Joint Development and Disposition of Real Property (RTD Resolution 15, Series of 2015), Unsolicited Proposal Policy for Real Property (RTD Resolution 16, Series of 2015), Parking Guiding Principles (RTD Resolution 24, Series of 2016), and TOD Evaluation Guidelines (RTD Resolution 2, Series of 2018); and

WHEREAS, FTA guidance, and internal policies support the development of affordable housing on RTD land; and

WHEREAS, RTD staff would benefit from additional policy guidance from the RTD Board of Directors on evaluating TOD projects;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE REGIONAL TRANSPORTATION DISTRICT TO ADOPT THE FOLLOWING EQUITABLE TRANSIT-ORIENTED DEVELOPMENT POLICY:

Equitable Transit-Oriented Development Policy

This Equitable Transit-Oriented Development (TOD) Policy (the "Policy") permits and encourages the joint development of RTD-owned real property for the creation of housing affordable for low-income households in order to increase transit ridership through transit-supportive land use, generate revenue through joint development, and enhance community relationships. Informed by research of local policies and peer agency practices, the Policy permits the use of a variety of strategies to spur the development of affordable housing and sets a goal for affordable housing development on agency land. The Policy is intended to reduce development costs and empower staff to initiate negotiations with developers and coordinate with state and local agencies to promote affordable housing as a transit-supportive land use at and along high-frequency transit corridors.

In addition to researching ridership trends, parking demand, best practices employed by peer agencies, and existing requirements for joint development, staff consulted with local jurisdictions in the District and other transportation and housing partners to inform the Policy.

The Policy shall apply to residential development occurring on RTD land through joint development transactions, wherein RTD has a continued interest in the site, either through a ground lease or due to on-site or adjacent transit uses.

1. **Affordability Goal:** To permit and encourage the development of affordable housing, RTD sets an aspirational and non-binding goal to include affordable residential units constructed on RTD property. Across its portfolio, and over the next 10 years, staff shall endeavor to reach the goal that 35 percent of the total residential units developed on RTD property will be affordable to low-income households. Such households will have incomes that correspond to affordability requirements at state and local levels, such as those determined by the Colorado Housing and Finance Authority (CHFA). In any given year, in any given jurisdiction, and in any given project, the number of affordable units created may be more or less than 35 percent, but across all residential joint development projects, RTD will aspire to achieve that goal. This goal will apply over a 10-year period, will be presented to the RTD Board annually, and may be adjusted by the Board over time.
2. **Parking Replacement:** Where a new development will be located on an existing Park-n-Ride, RTD will determine the quantity of replacement parking based on projected future parking utilization among other agency considerations.
3. **Shared Parking:** Where there are opportunities to share parking between transit customers and non-transit customers, and in situations where transit customers' access to buses and trains can be protected, RTD may consider opportunities for shared parking.
4. **Expedited Administration:** Staff may waive internal processing and development review fees, minimize review times, and entitle agency property to attract developers and reduce development uncertainty, costs, and schedules.
5. **Negotiated Land Price:** RTD will operate within the bounds of its existing statutory requirements to allow reductions in purchase price or rent in exchange for affordable housing development or other benefits to the agency.

Angie Rivera-Malpiede
Chair of the Board

Vince Buzek
Secretary