

**POLICY FOR  
ESTABLISHING A  
COMPREHENSIVE  
REAL ESTATE  
POLICY**



**RESOLUTION 00-04**

RESOLUTION NO. 00-04

RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NORTH SAN DIEGO COUNTY TRANSIT  
DEVELOPMENT BOARD ESTABLISHING  
A COMPREHENSIVE REAL ESTATE POLICY

RECITALS

WHEREAS, Resolutions No. 93-02, No. 96-02, No. 97-07, and Agenda Item B adopted July 12, 1990 contain various aspects of a real estate policy of the District; and

WHEREAS, the Board of Directors desires to change the real estate policies previously adopted and adopt a Comprehensive Real Estate Policy;

NOW THEREFORE BE IT RESOLVED as follows:

That Resolutions 93-02, 96-02, 97-07, and Agenda Item B adopted July 12, 1990 be replaced.

That the Board of Directors hereby establishes the District's Comprehensive Real Estate Policy as follows:

GOALS AND OBJECTIVES

The North San Diego County Transit Development Board (District) has acquired, and will acquire, various real estate assets for public transit purposes. In addition to providing public transit opportunities, portions of these real estate assets are excess to the District's transit needs and can provide an important source of revenue. Any revenue generated from the District's real estate assets can be used to help fund the District's public transit activities.

Although it shall be a general policy to not sell real estate assets, the Board may, on a case by case basis, sell any District real estate that is excess to its public transit needs when it feels the circumstances surrounding the sale warrant the sale of that particular asset.

With regard to use of District real estate assets, all such use shall generally be at fair market value. Exceptions to this fair market value rule will be made for public agency uses which do not interfere with the District's use of the real estate for public transit purposes, and in other instances where the Board, on a case by case basis, determines that the proposed use provides other public benefits which warrant a less than fair market value use rate.

## REAL ESTATE PROGRAM MANAGEMENT

The real estate assets of the District shall be managed according to this Policy and the Real Estate Management Plan. All income and expense from real estate operations shall be subject to separate accounting and will generally provide a "profit center" which profits will be used to fund other District activities. The management of the real estate assets will be accomplished through budgeted staff positions or by use of professional services, at the discretion of the Executive Director or his/her designee. Said staff positions, or the equivalent professional services, will report to the Executive Director or his/her designee.

## REAL ESTATE ASSET MANAGEMENT PLAN

The Board will, after adoption of this Policy, adopt a Real Estate Asset Management Plan (Plan). The Plan will provide the framework for use of the District's real estate assets by third parties. The Plan will designate the District's real estate assets in one of three categories as follows:

### Operating Right-of-Way

The operating right-of-way shall be property that is used or planned to be used for rail operations, including existing and proposed stations. Third party uses in the operating right-of-way shall be limited to those subsurface, aerial and surface uses that do not, and will not, interfere with rail operations.

### Joint Development Zones

Joint Development Zones shall consist of those parcels of real estate that include existing or proposed stations, and adjacent property that could be lease or jointly developed for public transit and related enhancements. Third party uses in Joint Development Zones shall be limited to those subsurface, aerial and surface used which do not, and will not, interfere with the future development of the site for transit and transit related purposes.

### Excess Real Estate

Excess real estate is property that is neither required for rail operations, i.e., outside of the operating right-of-way, nor contained in a joint development zone. Excess real estate shall be available for long-term leases and other such long-term agreements provided that any such long-term use shall be subject to the prior approval of any City or other agency having jurisdiction thereover.

The Plan will also establish procedures for the negotiation of leases and licenses, joint use developments, and use of District real estate by public agencies and utilities.

### **ACQUISITION OF ADDITIONAL REAL ESTATE**

The District will seek to purchase additional real estate for development or joint use development near its operating right-of-way or joint development zones where such additional real estate will enhance the potential of adjacent district real estate for joint development or provide for future expansion for the District's existing or proposed rail stations.

### **JOINT USE DEVELOPMENT**

It shall be the policy of the District to pursue the development of Joint Development Zones, as defined in the Plan. These "Joint Use Projects" will provide physical enhancements to the District's public transit system in combination with revenue production or other financial benefits to the District. In general, revenue will be produced through the lease of the underlying District property. All Joint Use Projects will be developed through a competitive process and consistent with the guidelines as set forth in the Plan.

### **USE OF RIGHTS-OF-WAY BY UTILITIES AND AGENCIES**

Various entities, including utilities, telecommunications companies, and public agencies, require the use of District real estate, including the operating right-of-way, to locate poles, ducts, conduit, pipelines, roadways and other facilities. Uses of this kind will be granted provided that:

The use does not interfere with the District's public transit activities.

Every entity will be responsible for relocating its facilities if necessary to accommodate NCTD's primary public transit purpose.

Any entity requesting such use, including public agencies, will be required to reimburse the District for all costs involved in processing their request, including, but not limited to, engineering review costs, legal fees, and construction related costs (submittal review, construction inspection and flag protection).

Entities other than public agencies will be required to pay fair market value for such use.

Public agencies will be granted the use without fee.

All such use will be subject to procedures as established in the Plan.

**LEASES, RENTAL AND USE AGREEMENTS**

All leases and rental agreements, licenses, use and occupancy permits, and grants of privileges and franchises shall be subject to the terms and provisions of this Policy and the Plan. Any such agreement with a term of five years or less may be entered into and executed subject to the approval of the Executive Director. A report of these agreements will be made to the Board of Directors on a regularly scheduled basis.

Where such agreements have a term of more than five years, the agreement will be placed on the Board's agenda for approval. All such agreements will be subject to the prior approval of all agencies having jurisdiction thereover.

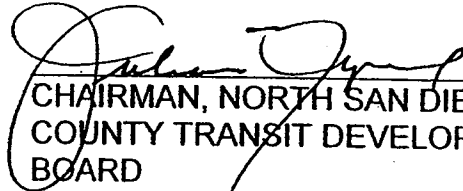
PASSED AND ADOPTED at the regular meeting of the North San Diego County Transit Development Board on the 15<sup>th</sup> day of June, 2000, by the following vote, to wit:

AYES: NYGAARD, DUVIVIER, WALDRON, HARRIS-EBERT, RITTER, HORN, KELLEJIAN

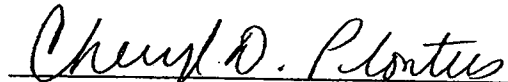
NOES: NONE

ABSENT: DRUKER, HARDING

ABSTAIN: NONE

  
CHAIRMAN, NORTH SAN DIEGO  
COUNTY TRANSIT DEVELOPMENT  
BOARD

ATTEST:

  
SECRETARY, NORTH SAN DIEGO  
COUNTY TRANSIT DEVELOPMENT  
BOARD