



(Board Copy)  
Washington Metropolitan Area Transit Authority  
**METRO ELECTRONIC ACTION DOCUMENT**

IDENTIFICATION			
MEAD ID:	89433	ACTION:	N/A
AWARD VALUE:	(Not yet awarded)	CONTRACT: (Proposed)	
FUND SOURCES: ( <a href="#">View</a> )		CONTRACTOR:	
LAST MODIFIED:	03/24/2005		

DESCRIPTION	
SUBJECT:	Restructuring the current Twinbrook ground lease to add a sales component to the lease component
PURPOSE:	To obtain authorization from the WMATA Board of Directors for staff to negotiate a restructuring of the current Twinbrook Joint Development Agreement, a ground lease, by bifurcating it into two components, a ground lease and a land sale.

ORIGINATION			
INITIATOR		DEPARTMENTAL APPROVAL	
ELISA HILL on 01/31/2005		Approved by BARTLETT , HAROLD 03/28/2005	
PHONE:	202-962-1593	OFFICE:	LAND
		DEPT:	Secretary and Chief of St

COORDINATION (ROUTING)		
OFFICE	NAME	ACTION/DATE
LAND (7310)	HEINEMEYER, KLAUS	Approved 03/25/2005
SCOS (7100)	BARTLETT, HAROLD	Approved w/ Comments 03/28/2005
AGMM (4100)	SALPEAS, PANAGIOTIS	Approved 03/31/2005
COUN (1410)	O'KEEFFE, CAROL	Approved 03/30/2005
OPAS (3161)	HUGHES, JAMES	Approved 04/04/2005

FINAL APPROVALS	
OFFICE	NAME/ACTION
JOINT_DEV	Approved w/ Comments for SCOS by HAROLD BARTLETT on 03/28/2005
PLN_DEV_CMTE	Approved for AGMM by PANAGIOTIS SALPEAS on 03/31/2005
OPER_CMTE	Approved for OPAS by JAMES HUGHES on 04/04/2005
BEMR	Approved for BEMR by PAMELA WILKINS on 04/05/2005
GM	Approved for GMGR by GMGR CEO on 04/13/2005
BOARD	BOARD WMATA (Not Yet Approved)



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### NARRATIVE

#### DISCUSSION

##### **Current Transaction Structure**

The current Joint Development Agreement between Twinbrook Commons, LLC (an entity controlled by JBG Properties, Inc.) and WMATA requires the developer to construct a joint development containing a minimum density of 1,000 dwelling units, 280,000 square feet of office space, and 20,000 square feet of retail space along with WMATA replacement facilities on approximately 26.3 acres of land leased from WMATA. The development site lies within two jurisdictions; approximately 10.1 acres are located in Rockville, Maryland, and the remainder is in Montgomery County, outside of the Rockville city limits.

The development is to be constructed in three phases, each phase having a ground lease term of 99 years. The ground lease contains provisions under which WMATA's financial return is enhanced if the developer is able to construct more than the minimum density.

After executing the Joint Development Agreement, and based on a charette conducted by the Maryland-National Capital Park and Planning Commission, the developer devised a site plan that called for increased density and incorporated Transit-Oriented Design principles. This plan won a Charter Award from the Congress for the New Urbanism. The current plan includes a development program consisting of 1,595 dwelling units, 325,000 square feet of office space, and 220,000 square feet of retail space. This represents an increase over the minimum density of approximately 65%.

The revised plan calls for the development of both portions of the property in a comprehensive manner, requiring the developer to coordinate the disparate planning and approval processes of Montgomery County and Rockville.

##### **Development Strategy**

In order to accomplish this plan in an efficient manner, the developer elected to pursue the annexation of the Montgomery County portion of the development site into the City of Rockville. The annexation, which has not yet been completed, has advantages for the developer, the City of Rockville, and WMATA. The developer benefits from the efficiency of being subject to only one set of development standards and one approval process, resulting in both time and money savings. The City of Rockville benefits by being able to exert unified control over the entire development. WMATA also benefits as a result of the developer's time savings because accelerating the development schedule will mean that WMATA will be able to begin to realize joint development income and ridership revenues earlier.

Montgomery County did not object to the annexation.

##### **Restructuring Rationale**

As the developer began to seek development entitlements including approval of the proposed annexation, the City of Rockville's elected officials expressed concern over the number of rental apartments proposed at this site. Based primarily on concerns about neighborhood stability, on January 13, 2005, Rockville Mayor Larry Giammo wrote Chairman Smith stressing the "unequivocal desire for a significant percentage of the housing units within the proposed Twinbrook Commons development be owner-occupied."

Even if the proposed annexation is terminated, Rockville will have approval rights over the portion of WMATA's property within the City of Rockville. Rockville will continue to press WMATA to sell part of this land to foster home ownership.

##### **Proposed Restructuring**

In exploring a possible restructuring with the developer, WMATA staff will abide by three principles which will govern negotiations: (1) the consideration for the part of the site to be purchased must be over and above the value of existing rental payments -- i.e., the value of WMATA's long-term income stream must not be reduced; (2) WMATA will accept no less than fair market value for its property; and (3) any change to sales must be based on the revised densities. Montgomery County has approved the revised densities

on the portion of the WMATA land located in the County.

The developer proposes to purchase enough land to support 595 units and related parking in a group of buildings at the eastern end of the site. These buildings also include 72,500 square feet of retail space. The proposed amount of land to be sold is less than one-third of the 26.3-acre site. The remaining land and all dwelling units, retail space, office space, and parking would remain as leased premises. WMATA facilities are not affected by the proposed restructuring.

The developer further proposes that a section of the development, a building consisting of approximately 75 to 125 residential units (exact number to be determined) be marketed as a condominium development subject to an underlying ground lease. This type of arrangement is permitted by Maryland law for residential developments on WMATA-owned land. The developer will test the market for condominiums on leased land for a pre-sale period of six months; if pre-sales do not amount to 50 percent or more of the available units, the developer will have the right to cancel the pre-sale option agreements and continue to develop the building as a rental apartment building. The sale proposal described in the previous paragraph remains in effect whether or not the developer and WMATA are able to reach agreement on the details concerning the marketing of condominiums on leased land.

WMATA has ordered an appraisal of the development site, and staff has not entered into price negotiations pending the receipt of the appraisal and authorization from the Board to negotiate a restructuring of the existing ground lease.

If negotiations are authorized and the developer and WMATA agree on the major terms of an agreement, staff will then seek authorization from the Board to enter into the agreements necessary to restructure the current Twinbrook transaction.

#### **IMPACT ON FUNDING**

The net effect of the proposed restructuring will be an increase in the net present value of the transaction. The amount of the increase has not yet been determined pending the negotiations to be conducted pursuant to this requested authorization.

#### **ALTERNATIVE**

Not to authorize staff to conduct restructuring negotiations. This alternative is not recommended for two reasons:

- (1) If the Authority does not make an effort to restructure the Twinbrook transaction so that a substantial portion of the housing in this development is marketed to owner-occupants, the portion of the development in the City of Rockville will meet significant opposition from elected leaders and members of the community.
- (2) Unless such negotiations are conducted, the Authority can not determine the extent to which the financial aspects of the Twinbrook transaction may be improved by restructuring it.

#### **RECOMMENDATION**

That the Board authorize staff to negotiate a restructuring of the current Twinbrook Joint Development Agreement by bifurcating the existing lease into a lease component and a sale component.