

RESOLUTION NO. 2013-18

**A RESOLUTION BY THE
MASON TRANSIT AUTHORITY BOARD,
ADOPTING A FACILITY LEASING POLICY**


WHEREAS, the Mason Transit Authority (MTA) requires a standardized policy to ensure that the lease of real property by MTA complies with the Washington statutory mandates and requirements, does not jeopardize or negatively impact the safe and efficient operation or maintenance of MTA facilities, and does not impair the preservation of MTA real property for existing or future transportation-related uses planned or identified by the MTA or other transportation or governmental entities.

NOW THEREFORE BE IT HEREBY RESOLVED by the Mason Transit Authority Board that POL-2000.10 Mason Transit Authority Leasing Policy, attached hereto as Exhibit A and incorporated herein, be established and adopted.

Dated this 15th day of October, 2013.




Deborah Petersen, Chair



Mike Olsen, Vice-Chair

John Campbell, Authority Member



Herb Gerhardt, Authority Member

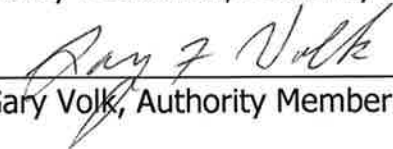


Terri Jeffreys, Authority Member

Randy Neatherlin, Authority Member



Tim Sheldon, Authority Member



Gary Volk, Authority Member

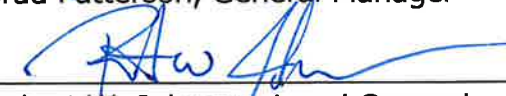
Sadie Whitener, Authority Member

APPROVED AS TO CONTENT:



Brad Patterson, General Manager

APPROVED AS TO FORM:



Robert W. Johnson, Legal Counsel

ATTEST: 

Jeri A. Wood, Clerk of the Board

DATE: 10/15/13

POLICY 2000.10 Leasing

POL-2000.10 MASON TRANSIT AUTHORITY LEASING POLICY

- Mason Transit Authority (MTA) owns and operates facilities which currently have capacity beyond its needs. MTA is also developing a Transit-Community Center in downtown Shelton. The purpose of this transit oriented facility includes designs to ensure the center becomes a gathering place that supports affordable community access to transportation services and other intergenerational activities. The design of the facility will enable access for all community members to program activities to improve livability in this region.
- The Authority, as custodian of these public facilities, believes that these resources should be made available to private persons, firms or corporations who can further the mission of the Authority in developing a coordinated system of affordable public transportation and for other compatible community benefits. The purpose of this policy is to insure that the use and lease of MTA owned facilities is conducted in compliance with Washington law and in an “open/transparent/fair” manner. This policy applies only to the lease of MTA facilities to private entities as opposed to governmental entities.
- The purpose of this policy is to ensure that the lease of real property by MTA: (i) complies with the Washington statutory mandates and requirements, (ii) does not jeopardize or negatively impact the safe and efficient operation or maintenance of MTA facilities, and (iii) does not impair the preservation of MTA real property for existing or future transportation-related uses planned or identified by the MTA or other transportation or governmental entities.

Leasing Policy:

1. Scope

This policy governs the lease of MTA facilities to private persons, firms or corporations. This policy applies to all leases of facilities. The policy does not apply to short term rentals of MTA facilities which are governed by other policies.

2. General Requirements

- a. **Public Notice:** Request for Proposals. For MTA facilities leases of longer than six months, the Authority shall solicit proposals from interested parties for consideration of lease. The notice shall:
 - i. Contain a detailed description of the facilities available for lease.
 - ii. Published at least thirty days before entering a lease at least once in a legal newspaper of general circulation in or as near as possible to that part of the county in which such facility is located.
 - iii. Be posted on the MTA website at least thirty days before entering into a lease.

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- iv. Contain bidder qualification criteria to insure the financial viability of the proposed user.
- v. Contain an estimate of the fair market value of the property to be leased.
- vi. Contain criteria for quantitative scoring or rating of any and all applicant proposals. The evaluation of applicants' proposals include non-monetary criteria including financial viability of the proposed renter, consistency of the use to MTA's mission, consistency with overall rental strategy of diversified usage of the facility and other relevant factors which may be specific to the space available.
- vii. The proposers will be required to disclose proposed lease terms, rental amount, length of lease sought, type of use and MTA/community benefit from selecting the proposal.
- viii. **Evaluation of Proposals.** The Manager and Transit-Community Center Manager (scoring team) shall evaluate and score each proposal and thereafter enter into negotiations with the proposer who achieves the highest overall total score. If a lease agreement cannot be negotiated with the highest scoring proposal, the scoring team shall enter into negotiations with the next highest scorer. The scoring team may reject all proposals and re-advertise the availability of the lease space if it determines such action to be in the best interests of MTA.
- ix. **Lease Conditions.** MTA may authorize the lease or sublease of any property, including real property, under such terms and conditions as MTA may deem desirable, fair and appropriate in the best interest of MTA. Generally, leases of real property shall not be granted for a period of more than five years, although leases of longer terms may be appropriate. Leases of real property may be granted for a period of more than five years where authorized by FTA rules and when appraisal or economic data demonstrate a sufficient assurance that MTA will receive fair market rental value, including through monetary payment and in-kind services, and the lease arrangement will allow rental adjustments in the future as market conditions change.

3. Policy Guidelines

- a. **Cost Effective.** MTA shall determine the best and most cost-effective use of MTA's facilities. To this end, MTA shall prioritize and encourage incidental uses and joint development of property that can raise additional transit revenues or, at a reasonable cost, enhance system ridership. For example, joint-use and joint-development of air

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- rights at and over transit facilities and project areas or interim uses prior to transit facility development.
- b. **Necessary Property.** Incidental uses of property that continues to be needed and used for the operation of Mason Transit's projects or community programs must not interfere or hamper the operation and use of such property for transit purposes. The use must not compromise the safe conduct of the intended transit purpose and activity of the initial public transit project activity.
 - c. **Continuing Control.** The leased use must not in any way interfere with MTA's continuing control over the use of the property or adjacent property or MTA's continued ability to carry out the project or program.
 - d. **Non-Profit Use.** While MTA Authority is particularly interested in encouraging incidental use of property and facilities as a means of supplementing transit revenues, and while no "special rate" can be offered, non-profit uses are also encouraged.
 - e. **Proceeds.** Proceeds from licensing and leasing of real property interests should be based on competitive local market rents and rates of return. Income received from the incidental or more long term type uses of transit facilities and real property may be spent on transit capital and facility operating expenses and in some authorized circumstances to upgrade the real property interest for a higher market value.
 - f. **Federal Assets.** When involving Federal Transit Administration (FTA) funded projects, FTA approval is required for both long term and for incidental uses of facilities and or real property and must be compatible with the original purposes of the grant. All leases and agreements governing the use of FTA funded assets must comply with all applicable FTA requirements.
4. **Authority**
- a. **Authorization.** The manager, and, in the absence of the manager, the acting manager, is authorized to execute the following leases relating the Transit-Community Center on behalf of the Mason Transit Authority; provided, that:
 - b. Leases, and amendments thereto, with term of five years or less and an annual value up to twenty thousand dollars;
 - c. Leases awarded by the Authority at any regular or special meeting of the authority board.
 - d. The leasing of real property by MTA for a term, including options, that exceeds five (5) years or for amounts that exceed twenty thousand dollars (\$20,000) per year in net revenue shall require Mason Transit Board approval.

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- e. Chapter 39.34 RCW shall govern the use of Mason Transit Authority facilities when collaborating with other governmental agencies and special districts on a basis of mutual advantage.

5. Background

Washington law requires the Authority to follow a process before leasing its facilities. RCW 36.57A.080 provides in part:

“Before any contract for the lease or operation of any public transportation benefit area facilities shall be let to any private person, firm or corporation . . . competitive bids shall first be called upon such notice, bidder qualifications and bid conditions as the public transportation benefit area authority shall determine”.

Additionally, the Federal Transit Administration (FTA) encourages generating transit revenue from integrated joint development and has provided guidance to grantees to maintain control over assets, operate them efficiently, support not hinder the delivery of transit service, to be fair in third-party contracting and that no gift of public assets occurs. FTA has restricted leases and operating contracts in excess of five years, although it has recently relaxed its directive when substantive reason and economics are identified.