

Urban Operations And The São Paulo Metro Line 4

by

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Abstract: The São Paulo Municipality in Brazil has been successful in using Urban Operations to generate resources for the development of activity poles in its territory. In fact, those instruments based on the sale of “additional floor space” have now been used in several operations. This paper describes an effort of the São Paulo Metro (subway) to take advantage of this urban instrument to generate resources for the construction of Phase 2 of Line 4. It also describes the effort that Metro is doing to organize its planning to be more aggressive in this resource mobilization area.

Background

Due to its budgetary crisis, the São Paulo Municipality is undertaking experiments to attract off-budget resources to be invested in urban infrastructure works and equipment. This is a public sector action to promote and facilitate real estate developments of interest to the city, through public-private partnerships, using financial market mechanisms.

In the 1990s to make those experiments viable, during the 1990's, the legislature approved the **Urban Operations laws (Operações Urbanas)**. In selected city areas, where there was a special public interest in encouraging the creation of development poles, special conditions for the application of the legislation were adopted by making rules and procedures more flexible.

To attract new investments some exceptions to the Land Use Occupation Law (*Lei de Uso e Ocupação do Solo*) were approved by the Municipality (Prefeitura). Some of these changes include allowing for the right to build structures exceeding the height defined in the zoning laws of the area, as well as granting modifications for land use regulations and other changes in the municipal Building Code regulations in exchange for an equivalent value in monetary resources, land, or public works.

These modifications were possible due to the introduction of the “additional floor space (*solo criado*)”² concept in the municipality law, which modifies the allowable construction height in a land lot. While the maximum occupation allowed rate does not require any fee, the Municipality agrees to an increase in this occupation rate through additional construction in the lots. This allowance to increase the maximum occupation rate is sold at a fee pre-defined in the specific law for the area at stake and the fee is then collected by the Municipality. This fee-based authorization is granted by the Municipality to optimize the occupation rate of a certain area up to its construction potential.

This urban intervention was made possible by the Statute of the City (*Estatuto da Cidade*)³ federal law, which has been regulated by the **Strategic Master Plan (SMP)** of the São Paulo Municipality⁴. This has allowed for more autonomy in urban policy management to the local public administration aimed at seeking more proportionality between the use of public and private land⁵, better infrastructure utilization, and the rehabilitation of fixed assets. This Statute has given priority to public interest over the private interest in urban investments, as a form of emphasizing the social objectives of land use; thus, beginning a new phase of local administration and of urban planning in Brazil, facilitating the co-participation of several sectors of society and of private capital.

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² Villaça, 1999: 240; Azevedo Neto, 1999: 262; Ambrosis, 1999: 276 in *O município no século XXI: cenários e perspectivas*, São Paulo, Fund. Pref Faria Lima, CEPAM&Correios, 1999.

³ Federal Law nº 10.257/2001.

⁴ Local Law nº 13.430/2002.

⁵ Ambrosis, Clementina in *recuperação da valorização imobiliária decorrente da urbanização*, op.cit.

INTRODUCTION

This article summarizes a World Bank financed study in the context of the São Paulo Metro (subway) Line 4 project. This study evaluated ways of creating incentives for the São Paulo Metro Company (also known as Metrô) to attract private capital through the application of the above concepts on real estate investments. This capital would complement the required resources for construction of new lines and, in this particular case, it would be used to finance part of Phase 2 of Line 4.

The report focuses specifically on evaluating the feasibility of obtaining a financial contribution from the Municipality for the construction of Line 4 with resources derived from the utilization of the legal construction incentives in the real estate market. Several fee-based instruments that grant the construction of the additional floor space, as defined by law, were studied (41 types, in SMP). Of these, the report focuses on the Urban Operations, the Urban Intervention Areas, the Constructive Potential Transfer and the Consortia or Joint Ventures (Associated Urban Operations) with private capital.

The implementation of these experiments has been advancing in the last few years in the São Paulo Municipality. This paper describes specific characteristics of the six existing experiments (1991-2004), their results and timelines, as well as other critical aspects associated with the implementation of these urban planning tools.

After sanctioning the Statute of the City (2001), the Urban Operations were transformed into consortia (joint ventures) thus increasing options for public-private partnerships. Currently three new draft project laws are being analyzed for approval by the Municipal Council. Among them, the Vila Sonia Urban Consortia Operation is the one which offers greater incentives for construction of the São Paulo Metro Line 4.

The other abovementioned urban instruments enable resource mobilization and capture in a smaller scale. The advantages and limitations of each type will be identified in the study to cover different options of resource mobilization available to the Metro.

A research on the incentives for the fee-based densification of construction in the area of Metro line influence was undertaken after several meetings between Metro project teams. The off-budget resources obtained through public-private partnerships have also been identified and the different potential resource tapping, mobilization options and their potential have been evaluated by the São Paulo Metro. There seems to be a consensus among Metro's technical staff that the improvement of real estate resource generation can occur through the exploration of a fee-based increase in density generated by additional construction in the area of the Metro lines. The results obtained in other countries are also very well known. The initiative to bring together the State-owned São Paulo Metro Company and the Municipality was key for the inclusion of the construction densification incentives in the Metro's areas of influence in the Strategic Master Plan of the São Paulo Municipality (Art. 122).

However, Metro technical staff estimates that the major hurdles to streamline the real estate market operations in the company are more political than technical. The information flow between the State, in charge of metrorail transportation, and the municipality which has the power over land use policy and occupation laws, is often difficult as there are often conflicting interests between them.

The paper suggests guidelines for exploring new urban interventions through suggestions for the re-orientation of existing practices and by proposing amendments to the legislation that has been tabled and is under review. In this manner, Metro will be provided with the necessary tools required to leverage the necessary resources to facilitate the implementation of Phase 2 of Line 4.

EXISTING URBAN OPERATIONS

Certain areas within the urban network have the potential for land use and occupational change. New urban center poles of activity can be created. These areas are likely to experience land value appreciation through new real estate investments, leveraged by large public investments, implemented or designed by the Municipality.

The financial results to be obtained in the areas that benefit from these legal incentives are directly proportional to the interest shown by the real estate market to undertake such investments. If the result turns out to be positive, the resources

will be applied into a set of civil works that are pre-approved by the specific urban operation law to support the projected change in land use. If the results are negative or null, they will demand public investments to attract real estate capital.

Each Urban Operation has its own generating factor⁶ that enables it to induce the appreciation and the occupation process as well as changes to the land use in the surrounding area.

1. The **Anhangabaú Urban Operation** (1991) was designed to revive the deteriorating old city center, by improving pedestrian access, which was enhanced by the implementation of road and transport system works.
2. The **Urban Center Operation** (1997) carried out a revision of the previous urban operation by enlarging its perimeter range and its forms of interventions. It was supported by direct subsidies (financed by the IADB) and indirect ones through municipal tax exemption.
3. The **Faria Lima Urban Operation** (1995), in the South Zone, was a result of the extension of the Faria Lima Avenue built with public resources. This allowed for the enlargement of a services-oriented development pole supported by the private sector interest in undertaking real estate investments in that area.
4. The **Água Branca Urban Operation** (1995), is located in the West zone, and was initiated due to private sector interest in creating a new "services-oriented" pole.
5. The **Água Espraiada Urban Operation** (2001) was undertaken because of the need to conclude road works connecting 2 express highways leading to the Port of Santos: Pinheiros Riverside (Marginal Pinheiros) Avenue and the Imigrantes Highway. It allows for the southward expansion of the services pole around the Faria Lima – Berrini road axis, which had been already extended by the Faria Lima Urban Operation.
6. The **Rio Verde Urban Operation** (2004) was undertaken to implement the East Zone socio-economic development in the surrounding areas of the Jacu-Pessego Ave, which links the Port of Santos to the Cumbica Airport. These civil works are being implemented at the Government expense since this area is at present of no interest to the private real estate investors.

1.1. Urban Operations Advantages and Limitations

The Urban Operation is the urban instrument which allows the most profound intervention in the urban network. It involves complex physical, social and environmental studies, in order to establish the most adequate project definition intervention that is capable of providing the road social infrastructure network needed to support the increasing construction densification⁷ in the area under study.

For its implementation, the following factors are required: a) the completion of the Environmental Impact Study and the Environmental Impact Report approved by the competent agency; b) the passing of a specific law made by the Urban Planning Office; and c) the City Council approval. These processes are disseminated to the public in a participatory style.

The Urban Operation is the instrument that can generate the largest amount of real estate resources. These would be proportional to the value that could be generated by the transfer of ownership of the Municipal Stock of the Additional Area for Construction⁸ designed for each Urban Operation. The resources are gathered into a specific fund⁹ that is controlled by a Group Manager and has diversified institutional and civil representation in order to make exclusive investments in works approved by the specific law for that Urban Operation.

These requirements guarantee more safety to the investors and thus larger real estate business interest in the Associated Urban Operations areas. The implementation process is long and could involve more than one municipal administration and that may affect the continuity of the process because of the different political interests of each administration.

⁶ A large work construction, executed or projected, or a development guideline, that may be implementing or restraining.

⁷ High Buildings together or not of population densification (stable or pending)

⁸ Total volume of construction area in the perimeter Urban Operation considered.

⁹ Made by an earmarked account to the Urban Operation, controlled by the Manager Agency.

Figure 1: Stock of Composition of the Construction Additional Area That Will Be Sold by an Urban Operation

AREAS WHERE IT IS POSSIBLE TO BUILD MORE HEIGHT		AREAS THAT CANNOT BE CHANGED:	
<i>AREAS THAT WANT PARTICIPATE IN THE URBAN OPERATION</i>	AREAS THAT DON'T WANT URBAN OPERATION	VERTICALIZED, OR WITH EQUIPMENTS, OR GREEN AREAS, ETC.	
<i>AREAS THAT BUY THE POTENTIAL CONSTRUCTION ADDITIONAL AREA</i>	AREAS THAT ARE BUILDING ONLY WHAT IS FREE OF ADDITIONAL FEES	AREAS THAT DO NOT WANT TO BUILD MORE	EXISTING BUILT AREA
<i>THE TOTAL STOCK OF CONSTRUCTION ADDITIONAL AREA</i> <i>BOUGHT WITH FEE-BASED INCENTIVES</i>			
TOTAL FUTURE NEW BUILT AREAS			
TOTAL BUILT AREA			
COMPATIBLE WITH THE EXISTING INFRASTRUCTURE AND UTILITY NETWORKS			

The approval of the Urban Operation law by town councilors requires competent political articulation following a debate with the population. As government mandates are for 4 year terms, these laws are usually proposed by one administration, approved by another, and implemented by still another administration. The process may get stuck when there are incompatible interests between the community and the real estate market, therefore, the financial return expectation is estimated over the long term (10 to 20 years).

The reduction of these long waiting periods is becoming possible through the introduction of the Special Constructive Potential Certificates (Certificados de Potencial Construtivo-CEPACs,2004), as will be explained later in the paper. This process has been evolving positively with wider community approval. For social inclusion, the newer Urban Operations include a Housing Plan (*Plano Habitacional*) that offers dwelling alternatives to the low income population in its area of influence

1.2. Municipal Stock of Potential Additional Construction

Municipal stock of potential additional construction (MSPAC) is the total area that can be added to the existing construction in each Urban Operation (see Fig.1). It is the total construction area potentially available for transfer of ownership, which varies according to the specifications of the Strategic Regional Plans (law nº 13.885/2004) that provides the specific regulations in the 31 Sub-Municipalities under the general guidelines of SP Strategic Master Plan (2002).

The MSPAC must be calculated by the municipality by considering the direct factors that are based on the characteristics of existing buildings, as well as indirect factors given by the real estate market. The calculation is complex and involves more than 60 articles¹⁰.The physical limitations are given by the existing real estate stock, considering just the part that can be increased in height. According to the maximum allowed rates in each place, the projected total area excludes the existing built areas as well as the ones that cannot be built vertically (for ex: equipment, tall buildings, etc).

Finally, it should be stressed that an Urban Operation is optional. Part of the owners involved may not adhere to the Urban Operation, using only the free densification rates allowed by SMP. The total projected stock comprehends the taxed and free additional supplement.

1.3. Anticipation of Resources through SCAPC (CEPACS)

The total available stock may be used up by the transfer of individual lots or virtually, through property certificates of built area denominated Special Additional Potential Construction Certificates – SCAPC (CEPACs), which are not linked to any specific lot. In which case, the approved stock is transformed into shares of built area of variable value (1 to 3 m2) according to rental advantages within the same Urban Operation. The value of each bond is smaller in area when involving changes to the usage of the areas to be constructed. The selling price value of each bond is set by the respective Urban Operation law.

These real estate bonds are issued by the Municipality Movable Values Property Commission (*Comissão de Valores Mobiliários*), commercialized and guaranteed by financial institutions (*Banco do Brasil and Caixa Economica Federal*), as any other bond, offered to the Brazilian real estate market through electronic auctions sponsored by the SP Stock Exchange (*BOVESPA – Bolsa de Valores São Paulo*), through the Market Assets Operator Corporation (*Sociedade Operadora de Mercados Ativos*).

This form of syndication of additional construction area allows the anticipation of resources for the implementation of public works, which are going to enhance the appreciation of the value of the areas which they serve. The sale of potential construction through auction by the Stock exchange also allows for a faster process and gets significant resources in volume in a shorter period of time.

¹⁰ According to the standard used by the Urban Planning Office of SP Municipality.

1.4. Results Obtained to Date

Urban Operation (Operação Urbana Anhangabaú) was initially a timid experience. Only 10% of the stock of 150mil m² was consumed as it introduced important indirect results such as the creation of an autonomous administration of the central area, which was supported by a non-governmental (NGO) institution. A small income equivalent to R\$ 8.5 million¹¹, was generated in 5 years as a result of updating the cadastre for the taxation of old buildings (1930-1940).

In approximately two years following the Urban Center Operation approval in 1997, widened the interventions of the previous experiment by leveraging resources to about R\$ 2,5million¹² in approximately 2 years. The central area was of no interest to the real estate market for new investments, therefore, this sum cannot be considered non negligible. The Constructive Potential Transfer¹³ is the proper instrument to recover old buildings that have cultural value.

This Operation did not trigger resource mobilization, but set in motion initiatives that generated an important set of relevant works which produced land value appreciation in the central area. These works are underway through both external financing (IADB/2003) and fiscal exemption incentives. In 2006 a revision of this law may take place¹⁴, thus, turning it into a consortium and allowing for other ways of obtaining financial resources with privately-owned companies.

The Água Branca Urban Operation enabled the creation of a Managerial Center with a private investment of R\$ 600million¹⁵ in an area of 75,000m². In this case, the compensation¹⁶ demanded in exchange for granting the right to build to the private initiative, the construction of public works instead of cash payments. The public works value being implemented was estimated at R\$ 20 million (for road accesses to the buildings, drainage works and railroad track relocation). By 2004, they were partially built. The project foresees also the cession of 14,000m² for green areas and 5,000m² for the construction of a museum. This law will be revised in 2006 when it will become a consortium. Other projects include the urbanization of 500,000 m² (New District)¹⁷, where the implementation of an express connection Terminal to the Cumbica International Airport¹⁸ is expected to be negotiated with the land owners involved.

The Faria Lima Associated Urban Operation was the most successful urban operation to date. This area was selected by the SP real estate market as a pole (1970/80) for services in substitution of the Paulista Avenue pole. There has been a repressed potential for real estate value appreciation which was enhanced with the Faria Lima Avenue extension project that had been financed by the government treasury. There was an appreciation of the value of the nearby land. Land value before the use of Urban Operations was U\$300/ m²; afterwards, it increased to U\$7,000/m²¹⁹. This increase in value is the basic concept behind a fee-based additional construction area granted to the market with the generated resources transferred to the government.

¹¹ Historic value of the rest existent in set/1996 – according EMURB

¹² Official returns of the Center Urban Operation, published by EMURB.

¹³ Fróes Marilda. New incentive instruments for the rehabilitation of buildings. USP,SP,2005.

¹⁴ The Strategic Master Plan SP, will be revised in 2006, like the Urban Operations and all the others urbans instruments.

¹⁵ Investment value done by the Ricci Real State Cia, according to data obtained at Urbanization Municipal Company.

¹⁶ The obligation in exchange for the received benefit.

¹⁷ Publish National Contest of projects promoted by the SP Municipality.

¹⁸ According to the Integrated Urban Transport Program , 2001, made by the SP State Government.

¹⁹ “The appreciation of the m2 built area by the Faria Lima Urban Operation” in: Folha de Sao Paulo, SP, 1994,may,22.

Table 1: Associated Existing Urban Operations - General Characteristics

AUO Associated Urban Operation	Main Public Work	Proposed Pole	Area Hectares	Works to be Executed	Offered Legal Resources	Compensations		Potential Value	Crossing Lines Metrô CPTM
						Stocks of CAA Works or Others	Collected Value Remaining Value		
1. Anhangabaú (City Center)	pedestrian river valley flagstone	Urban Recovery Old City Center	84.16ha	drainage street works monuments recovery	fee-based CAA regularization of buildings Construt Potent Transf	AAC=150,000m2 sold = 15,000m2	R\$ 10 million balance R\$8.5 million (1993 values)		
2. Center	old city center underutilized built areas high demand for transportation infrastructure urban recovery	Urban Recovery real estate built social inclusion social housing	662.9ha	utilities network Recovery: public buildings old buildings 2 water basin / road term. / building rehab.	Special incentives merging lots Construction Potent Transf historical buildings incentive usages hotel, edu, cult, habit (R2.02) Center Program / BID	free usages usage taxes no stocks CAA rehabilitation incentives rehabilitation investments exemption IPTU/ISS/ITIB	indirect benefit PCT: R\$ 3.04 million R\$2.69 million balance R\$0.90 million (2004 values) investim/direct: US\$168 million		Metrô line 1 line 3 line 4 CPTM line A line B line D line E
3. Agua Branca (west side)	no public investment only private investment	new pole trade services and medium standard housing	504ha	land lot project street connections bridges/viad/tunnels land use change Social Housing	fee-based grant CAA to use air space/underg. areas Incentived usages Potenc. Construt. Transf. built area regulariz. free of tax regularization old buildings	CAA = 1.2 mi m2 works compensations 2km avenue to build 1 tunnel to build museum area 5,000 m2 parks 14,000 m2	R\$600 mi invest priv ACT = 280,000 m2 13 edif = 18 m2/each AAC = 210,000 m2 new service pole private resources		Metrô line 3 CPTM line A line B
4. Faria Lima (south side)	Faria Lima avenue extention	trade/service polarity	450 ha	street works macro drainage public areas recovery industry use Social Housing	incentive to land grouping 2,500 m2 total area or more	CAA = 2,250,000 m2 sold = 940,000 m2 reman = 1,310,000 m2	1995 to 2004 362.36 million US\$ 195.34 million or US\$ 200 million		line 4 CPTM line C line B
5. Água Espraida (south side)	stream channelling and avenue work	trade/service high standard housing	1.413ha	express avenue work channel avenue civ. Works Social Housing	fee-based grant CAA to use air space/und areas Potent. Construct. Transf. Land use incentives	stock AAC=3,750,000 m2 sold = 117,000 SCAPC	3,750,000 SCAPC 117,000 SCAPC expectation to sell 20 years R\$ 1.12 billion		Metrô line 5 CPTM line C
6. Rio Verde Jacu (east side)	Jacu-Pêssego Ave. (ringroad)	industrial trade/services pole	7,600ha	avenue works Jacu and Radial L. public transportation	built area regulariz. free of tax fee-based grant CAA Economic Development Program of the East Zone	CAA = 3,570,000 m2 Fiscal Incentives Education incentives	low expectation to sell R\$190 million Direct investments: R\$ 700 million		Metrô line 3 CPTM line E line F

**Table 2: Faria Lima Urban Operation
Collected and Projected Constructive Potential Resources 1995-2004**

Stock CAA	DIRECT Area	INDIRECT	Approved Total	Sold	Remaining	Collected value (millions)
Law n° 11.732/95 1995 APPROVED (*)	1,250,000 m2	1,000,000 m2	2,250,000 m2			
Law n° 13.769/04 consumed 9 years: 1995 to July 2004	0.25%	0.50%		940,000 m2		362 US\$195.32 (****)
Art. 8°, Law N° 13.796/2004 LIQUID STOCK REMAINING (estimate) Maximum Volume of estimated SCAPC					1,310,000 m2 650,000 SCAPC	(estimate available US\$200)
1° auction December 2004 TOTAL SCAPC offered/registered CVM sold (**) unit value (***)			90,000 SCAPC R\$1,100 / SCAPC	9,091 SCAPC		R\$ 10 US\$3.70
Total 1995 to 2004						R\$372.36 US\$199.02

Source: (*) annual values published in daily journal: DOM - Urban Planning Office of the São Paulo Municipality
 (**) São Paulo Stock Exchange - Bolsa de Valores de São Paulo (BOVESPA)
 (***) 1US\$=R\$2.8 (February 2005)
 (****) conversion US\$ calculated year by year in the period, including the Cruzeiro and the Real
 • SCAPC - Special Construction Additional Potential Certificates
 • CAA - Construction Additional Area - constructed area that goes twice or three times as much beyond the lot boundaries

**Table 3: Agua Espriada Associated Urban Operation
Collected (2005) and Projected Constructive Potential Resources**

Supply	Approved Total	Estimated Value	SCAPC Sold	Collected Value (millions)	
Aprov. Law ° 13.260/01 Maximum Volume of Estimate SCAPC	3,750,000 m2 3,750,000 SCAPC	R\$ 1,100			
1st Auction July 20, 2004					
TOTAL SCAPC offered / registered CVM unit value sold	633,333 SCAPC R\$ 300.00 / SCAPC	R\$ 190 million	100,000	R\$ 30	US\$ 10.14
2nd Auction December 22, 2004					
TOTAL SCAPC offered / registered CVM unit value sold	70,000 SCAPC R\$ 310 / SCAPC	R\$ 21.7 million	16,899	R\$ 5.24	US\$ 1.94
Subtotal 2004			116,899	R\$ 35.24	US\$ 12.08

Source: (*) the São Paulo Stock Exchange - Bolsa de Valores de São Paulo - BOVESPA

This Operation offered the market an additional construction area equivalent to 2.25 million m². Significant resources have been acquired equivalent to R\$ 311 M (US\$ 195mi) in 9 years²⁰, by granting 940,000 m² (42% of the stock: see Attached – Table 2). These resources in 2003/2004 were used and implemented on other projects such as the Largo da Batata re-urbanization and two tunnels.

This law was updated in 2004. The remaining stock has been converted into SCAPC²¹ with 0.8 and 1.5m² for R\$1100 each. There are 1.3million m² available for transfer of ownership with long term potential for a US\$200 million generation. An experimental auction in December of 2004 received R\$10 million (US\$ 3.5mi) in capital through the electronic transfers in the ownership of 9091 bonds. Although the government support has been decisive for its success in these first sales, there were indications that it is possible to make private and public interests converge.

The start of the construction of the Faria Lima Metro Station (May 2005), along with the new city administration, might possibly revise the priorities of this Operation. This is an opportunity for the Metro to suggest to the Municipality ways of tapping resources to be invested in the Faria Lima and Pinheiros Stations works. For example, there is a densification potential of the area between these stations, which spontaneously began through the interest from real estate markets.

Água Espraiada Urban Associated Operation (2001) is the continuation to the south of the Faria Lima Urban Operation, by the road axis expansion until Santo Amaro (3.5km). It is already in the implementation process by encouraging the formation of an advanced technology services pole in connection with huge investments projected for the regional and local street systems, as well as in public transportation (bus and metro). Innovation is introduced via incentives that merge some small lots encouraging big enterprises to undertake bigger scale investments; it encourages donation of areas for the widening of sidewalks, and it includes the social counterpart component called the Works Program, Program of Housing Alternatives²² for the directly affected poor population by offering alternatives of new rentals, so that the low income population can enjoy the urban benefits generated by the Urban Operation (social inclusion).

In this case, the stock of construction additional area (3.75million m²) will be commercialized through the emission of 3.75million in bonds (SCAPC). In 20 years, the projected real estate taxes should reach R\$ 1.1 billion (US\$ 440million) for the implementation of a set of projects approved by the law: avenues, tunnels, bridges and viaducts, canals, drainage and housing programs. The total of US\$ 12million in 2004 was obtained by the transfer of ownership of 16,899 SCAPC, through electronic auctions (see Table 3).

The Rio Verde Jacu Urban Operation encourages the occupation of the surrounding areas of Jacu Pêssego Ave., which connects (Santos Port to Cumbica Airport) until the conclusion of the Rodoanel Metropolitan SP (Metropolitan Ringroad). This area does not interest the real estate capital; however, most planned investments have been public in an effort to revert this situation. Besides road works, investments in education as well in fiscal incentives towards productive activities and installation of services are planned to generate jobs and income. The stock of construction additional area is equivalent to 3.57million m² and the resource capture expectation is a low R\$ 190 million (US\$ 70 million)²³. It is interesting to note that the value of the m² of SCAPC, varies according to the proposed use (residential / commercial and services and industrial have higher values of 10 to 20m²). This area will be connected to the Line 3 of the metro and Line A and Line F of CPTM (Cia Paulista de Trens Metropolitanos), the SP Metropolitan Railway.

2. PROPOSALS FOR NEW URBAN OPERATIONS

Three new projects are under review. They already have a preliminary Draft Project Law. These include the Urban Associated Operations (Operações Urbanas Consorciadas) Vila Maria/Carandiru; Vila Leopoldina and Vila Sônia. They will be sent to the Municipal Council, for public debate and approval. Therefore, they can still be the object of some changes and supplements which could be introduced by the São Paulo Metro.

²⁰ Obtained in daily journal, DOM, year by year, Urban Plainning Office of the SP Municipality.

²¹ These titles were proposed in 1995, but only issued in 2004, by the Água Espraiada Urban Operation

²² This program offers 4 housing alternatives solutions for the families affected by the proposed works by the Urban Operation: relocation, reform, land or change for equivalent value. All of them supported by financing incentives.

²³ Source: Urbanization Municipal Company (EMURB)

Of special interest is the Vila Sônia Urban Associated Operation, whose generator factor is the densification being triggered by Line 4 of the Metro. It is necessary that the Metro and the Urban Planning Office discuss this law thoroughly, ensuring the feasibility of the benefits already granted as well as suggesting some new ones. The estimated stock for the transfer of ownership is of 1million m² evaluated at R\$160million (US\$ 64million). An incentive of 250,000 m² of construction additional area close to the Vila Sônia yard is expected for the Metro Company. Other incentives could be studied in the nearby areas of Butantã and Morumbi Stations.

For the implementation of new lines to the Metro, what has been suggested is the start of a joint working group that includes the Municipality²⁴ to plan the resource mobilization required before the execution of the projects. Thus the resource mobilization and capture possibilities will be increased, since a specific administrative unit would be created to meet this objective. Other suggestions would be to study ways of delegating this competence to the private initiative.

3. THE USE OF THE TRANSFER OF THE CONSTRUCTIVE POTENTIAL BY THE METRO

A suggestion that could be discussed by Metro and the Urban Planning Office of SPM would be the right of Metro to use the construction potential generated by the areas where the system is being implemented. For example, taking into account the use of the areas for the train switching yards, it would be possible to obtain a stock of 1 million m² that could be commercialized through the Constructive Potential Transfer²⁵ option. This would be an exchange of areas according to their equivalent values between the involved parties, the grantor owner (Metro) and the receiving owner (real estate investor who purchases the Metro shares of constructive potential).

There are liquidity problems with this stock. This matter could be discussed by Metro's technical staff and the Municipality. However, it is an attractive option to the Metro because the resources obtained in this way do not go into the Municipality's Treasury and instead remain in a special earmarked account of the Metro. This facilitates the use of the resources in encouraging joint ventures close to the Stations and the completion of some of the station works such as accesses and parking garages..

4. THE URBAN INTERVENTION AREAS – UIA

These are the 300m wide bands along the metro rail lines of special interest to urban developers, namely Specific Urban Projects (SUP), in which the intervention instruments allowed in the Statute of the City can be applied. UIA's perimeters were redefined by the Strategic Regional Plans.

UIA are interventions in smaller areas where the construction densification will occur in specific points that are spread along the transportation axis and respecting the services and existing infrastructure network capacity constraints. They do not require environmental studies and a specific law. The spots of major interest are located within a 600m radius of the Stations²⁶.

The resources leveraged through fee-based license of the UIA are collected by the Urban Development Fund – UDF - for several municipal urban investment programs, such as, housing, sewage, drainage, cleaning, green areas and other urban needs. Therefore, they must be assigned and transferred to the State to be used in the Metro Station works. This is a non-negligible constraint, which makes it harder to use this instrument.

They can be developed in the spots where there is real estate market demand, e.g. SUPs for housing densification, mixed usage, social interest, and urban equipment. The areas surrounding the stations, could be much more useful for the Metro, since their accessibility has been improved, standing therefore a better change of improving their commercial potential. It is advisable to study joint ventures using transfer of stock areas belonging to Metro. In short, it is up to Metro to make a concerted effort with the Urban Planning Office of the SP Municipality to get the following:

²⁴ For example, now, others 3 new Urbans Operations are in study, all of them involving mass transportation lines.

²⁵ This intervention urban instrument is regularized in the Strategic Master Plain only for the recovery buildings, but is also defined the use of this instrument for other cases.

²⁶ Maximum Rate of Optimization is 4.0 , but may be more, according to the stocks of potential construction additional areas, specified case by case by the Strategic Regional Plans. Specific Urban Projects can do by demonstrating the proper ratios with the infra structure capacity.

1. Definition of the rules that are to be followed concerning the UIA application, along the Metro lines, excluding the already existing and projected Urban Operation areas. Clarify the steps for submission and approval of projects which will benefit from this fee-based instrument.
2. Confirmation of the limitations and incentives defined in the Strategic Regional Plans (law nº 13.885/0, which defined UIA by 31 projects).
3. Definition of guidelines for urban projects in the areas surrounding the stations, verifying the levels of occupation in the existing lots, the street network, the traffic capacity, modal connections with or without terminal, and integrated parking lots, as well as, the existing conflict points, for the definition of the densification options and the land use that is to be encouraged in each location.
4. Research possibilities to apply the totality or a portion of the income collected by the fee-based AIU, in the implementation of the subway lines. It is advisable to study administrative financial instruments that allow for the separation of the UIA revenue within the Urban Fund, e.g., earmarked account, as a way of facilitating the transfer of the resources for the Metrorail projects and equipment.
5. The Metro should, together with the Board of the Urban Fund and with the City Council study the feasibility of assigning resources of the UDF for the implementation of works in the public transportation system as a whole and the Metro lines in particular.
6. Possibility to study a proposal for “mini Urban Operations” that would allow wider real estate capital attraction, where the stock conversion resource in SCAPC (CEPACs) could be incorporated, thus, creating the viability of the anticipation of income from UIA.

5. CONSORTIUM and ASSOCIATED ENTERPRISES

The tapping of non-operating revenues in Metro is obtained from four sources:

- a) Income of the Tietê Terminal: 8 passenger boarding taxes, per vehicle, regardless of the number of riders that board the buses.
- b) Store rentals: 76 spaces in the stations rented to others and 2 fairs.
- c) Media: advertisement panels, totems and events to promote the sale of products and services.
- d) Shopping Centers – commercial centers located in the Metro Stations remaining areas. The successful examples are: The Tatuapé and the Santa Cruz shopping centers. The bids for the Itaquera Shopping projects were underway at the time this article was written, with the opening expected for 2006. Also underway was the bidding for the Tatuapé Shopping project.

The existing real estate exploration in SP Metro is done through joint ventures with the enterprises built in Metro’s land property and in the exploration of the remaining areas close to the Stations. They are called Associated Enterprises, which consist of areas for project implementation and operation by third parties. The Metro’s compensation is the monthly lease payment for the Gross Leasing Area available.(Shopping Center). The income collected is proportional to the value of sales in a certain period in each Shopping Mall. The exploration of the existing real state associated enterprises in 2004 was about R\$ 8.0m (US\$ 2.9 million) a year. All the non-operating revenues amounted to R\$ 36.5million (US\$ 13.5 million) in 2004; 22% of this total is from real estate developments.

With the implementation of the projects underway, it is estimated that a target of R\$ 50million per year is achievable. The optimization of these revenues in the Line 4 case, where the expropriation area is small, is expected in only 3 Stations: Luz, Butantã, and Tietê. In the Luz Station, a consultant has been hired to evaluate the most adequate commercial exploration model.

In Butantã Station, it is recommended that a study be undertaken to evaluate the possibility of a consortium to integrate some real state commercial areas close to the area expropriated for the Station and bus terminal. This is an opportunity for Metro to test new ways of intervention encouraged by the SMP of the SP Municipality.

In the Vila Sonia yard, there is a study underway to evaluate²⁷ the construction of an Intermunicipal Terminal that would be integrated to the Metro Station, in the area above the train switching yard. This could be an interesting solution to avoid new expropriations as well as to take advantage of the existing grade denivelations. Furthermore, the commercial viability of an integrated real estate enterprise, with a built area of 100mil m², must be studied to take advantage of the incentive of the Vila Sonia Urban Operation.

This review has also suggested specific negotiations for the Metro Stations case by case with the owners that are ceding land to the Metro for their construction sites located in private land which will be home to future stations. Considering that these owners will benefit with direct access to the stations; it is necessary to use creativity to propose to the beneficiaries new forms for their participation in the enhancement of the Stations facilities and integration with its surrounding area.

Metro needs to be more aggressive in marketing potential commercial initiatives and attracting the real estate companies and entrepreneurs in order to take advantage of incentives created by the land use legislation with the goal of setting more optimistic resource mobilization goals as well as in minimizing the necessary investments costs. Metro is breaking with tradition by taking such steps, but the task is difficult because the São Paulo real estate market is still too risk averse. What would be almost a certainty in places like Montreal, Washington D.C. and Hong Kong, requires much more work on the part of Metro in São Paulo, which must find ways to mitigate the risks perceived by the real estate companies.

²⁷ That are being developed by the Engineering Department of the Metro

Example of an Urban Operation

CONSORTIUM and ASSOCIATED ENTERPRISES HYPOTHESIS

Potential Additional Construction law to create incentive for the reconstruction of the Terminal at Vila Sonia Station

VILA SONIA ASSOCIATED URBAN OPERATION

This urban operation is under study by the Municipality.

CONSTRUCTIVE POTENTIAL POSSIBILITIES EVALUATION

Constructive Additional Area = total stock estimate = 1 million m²

This Stock has to be sold to leverage real estate public – private enterprises

Value of the m² = R\$ 150,00/ m²

TOTAL POTENTIAL STOCK value = R\$ 160 or US\$ 53 million

HOW MAY THIS STOCK BE USED IN URBAN WORKS, LIKE THE METRO STATIONS?

The developments proposed by Metro to the Urban Planning Office of the Sao Paulo Municipality are:

1. Station Substitution : 3 Poderes Station by the Vila Sonia Terminal Station.
2. In connection with the Terminal Station are in study some real estate enterprises
2. Construction of a Municipal Bus Terminal.
3. Construction of a Inter- municipal Terminal by bus on State Sao Paulo responsibility.
4. Implantation of a private enterprise, to leverage resources to the proposed Stations works.
5. Study underway to build the terminal above the yard in Lot A.
6. A new private real estate enterprise, **Lot B**, with 100-mil m² of construction area.

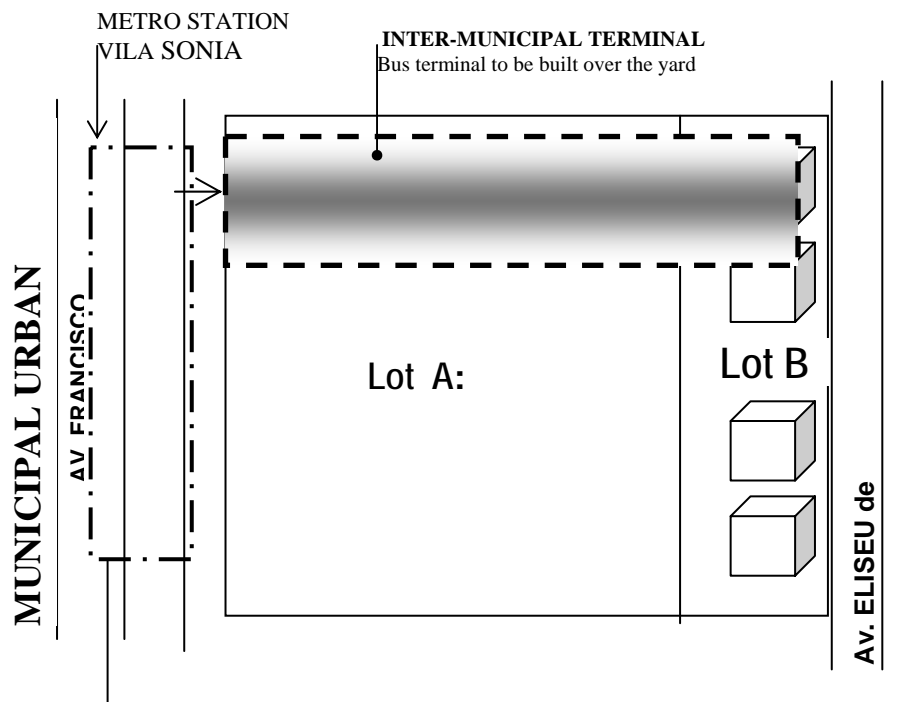
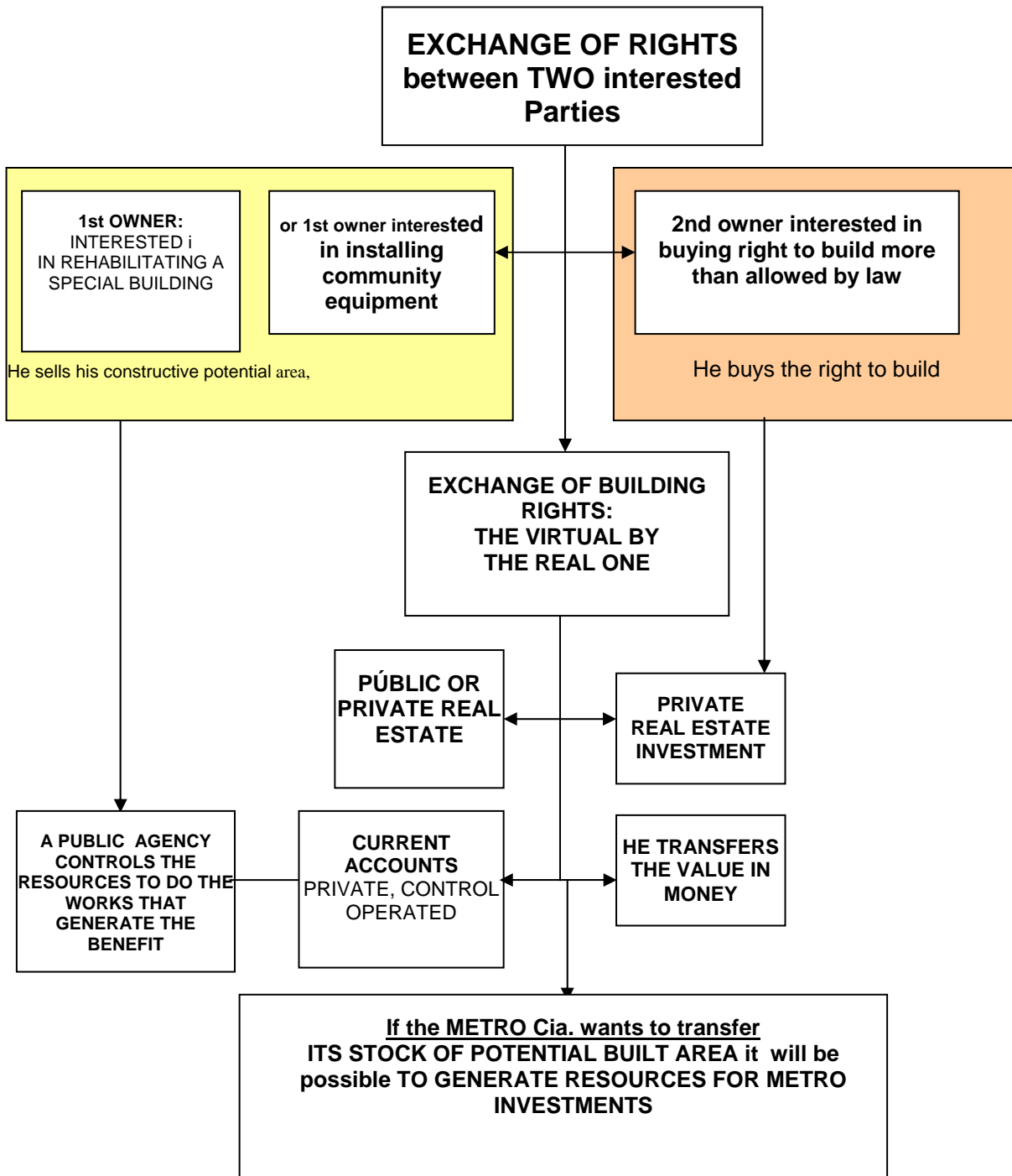


Figure 2: Potential Constructive Transfer



6. CONCLUSIONS

The amount of fee-based instruments generated through additional “floor space” is exclusively dependent on the competence of the Municipality. Since the Metro is under the jurisdiction of the State, it is necessary to study the possibility of converging municipal and state interests, through joint political, technical, and institutional work, thereby, facilitating the transfer of municipal resources to projects under State jurisdiction. Such projects are indispensable to the quality of life of the municipality and the metropolitan region where the municipality is inserted. This requires political will and coordination between the two levels of Government and agreement on the type of projects which have priority.

On the other hand, the resource mobilization will only be possible with effective private real estate investments around Line 4. Therefore, it is necessary to implement ways of attracting investments from privately owned companies in the short-term. All institutional actions listed here must be implemented by Metro in conjunction with the Urban Planning Municipal Office (law amendment) and the Urban Company of the Municipality (manager of the Urban Operation). This agency is responsible for the amendments to the law for the Strategic Master Plan and of the Urban Associated Operations. Insofar as the private sector participation is concerned institutional actions in tune with private interests which will finance the real state investment must be undertaken, yet they should never compromise the social objectives of the administration.

In the analysis of these transformation processes induced in the city, the challenge will be to find ways to transform some of the long term returns of the real estate investments into short term returns which can be readily used to complete Phase 2 of Line 4. This mainly applies to the UIA's case, where SCAPCs cannot be used. How quickly can municipal resources generated with the fee-based instruments be directed towards the Metro projects? This is the main challenge faced by the São Paulo Metro.

Following is a summary of the actions for project development outlined in the World Bank financed study:

1. Establish criteria for implementation of new urban densification models in areas surrounding Line 4, through the use of different urban instruments (SUPs).
2. Fine tune the estimated volume of resources expected to be captured by Metro to account for the limitations established by the new law on land use: review of new perimeter densification and of the established specific indices, case by case, according to the several Regional Plans.
3. Compare the estimated value to be captured and the estimated values for the conclusion of the works of the 6 Metro stations of Phase 2 of Line 4.
4. Verify the actions implemented by the technical staff concerning the several options on how to mobilize and capture resources, either by optimizing existing practices or revamping them with more market-oriented strategies and by introducing new forms of negotiation. For example:
 - Optimize the exploration of land owned by the Metro: these associated enterprises are close to the stations. Since in Line 4 expropriation was small to reduce costs, the results will be limited.
 - Introduce new business in private areas, through joint ventures with private investors: make associated enterprises possible, anchored on the transportation intermodal transfer Stations.
 - Design guidelines for the investments surrounding the Luz, Butantã and Vila Sônia Stations, the latter located in the train switching yard, where transportation terminals were suggested in the upper floor. The study in the Luz Station was contracted with the objective of optimizing the results.
 - Set targets for resource mobilization and capture to be achieved through associate enterprises and consortia
 - Evaluate the resources that can be mobilized through UIA for investments in Line 4. Reevaluate the existing estimate of the amount to be raised.
 - Analyze the area of influence around the Stations, identifying those areas with better chances of mobilizing resources, so that a pilot project could be undertaken for Line 4.
 - Work with the Secretary of Planning of the Municipality (SEMPPLA) so that the Transfer of Constructive Potential of the Metro is possible as a way of encouraging private sector in areas contiguous to the Stations. Discuss ways of speeding up the necessary administrative procedures for the transfers approval by the Municipality so that resources can become available in the short-term.
 - Verify which free densification indices can be used by the investors, adding the fee-based indices to be captured directly by Metro, through the constructive potential transfer instrument.
 - Study the ways of implementing the proposals for intervention defined in the Vila Sonia Urban Operation: revision of the densification indices proposed close to the Stations; revision and definition of the stock of m² of

built area destined to the Metro, as a way of creating incentives for the implementation of works in stations and of the proposed investments close to the switching yard.

- Support and guide the initiatives for mixed use housing in the areas of influence of the lines focusing on Line 4 to minimize the negative impact on low income population.
- Support housing options Programs to be offered to low-income dwellers, defined as the core for Special Social Interest Zone affected directly or indirectly by the construction of the line, as a way of settling the population, assuring them the housing densification in the areas close to mass transportation.

Metro should consider creating a permanent unit in charge of putting together specific strategies to explore real estate market opportunities allowed by the new legislation making it possible to induce them to invest by exploring existing trends as well as new opportunities. This unit should be a permanent feature demonstrating Metro's effort and resolve to get non-budgetary resources for expansion. This would be a major change in Metro's organization in line with most North American and Asian metros are doing. This way it will be possible to act quickly in dealing with the Municipality by defending proposals in the City Council and the Real Estate Values Commission providing the inputs required to the Stock Exchange and to the Real Estate market, as well as to inform the potential investors with ample time for them to react.

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Consulta aos técnicos de SEMPLA – Secretaria Municipal de Planejamento Urbano especialmente, Domingos Theodoro de Azevedo Netto, e Clementina De Ambrosis, Pedro Salles, José Geraldo e ao consultor Antonio Cláudio Moreira Lima e Moreira, Hussein Aref Saab, José Magalhães Junior, Hani Ricardo Barbara,

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Eduardo Della Mana – Sindicato das Empresas de Compra, Venda, Locação e Administração de Imóveis residenciais e comerciais de São Paulo - SECOVI

BASIC LEGISLATION:

Federal Law nº 10.257/2001 – Statut of the City

Municipal Law nº 13.430/2002 – Strategic Master Plain of the São Paulo
Decree 44.703/2004 - To regulament the articles 209-216 - taxed grant of the construtive potencial; It revokes the Decree 43.232/2003 and 43.394/2003

Municipal Law nº 13.885/2004 - Strategic Regional Plains – Specialy the Anexo X – Livro X – about the Butantã Sub-Municipality and the Anexo XI – Livro XI – about the Pinheiros Sub- Municipality.

Municipal Law nº 11.090/1991 – Anhangabaú Urban Operation

Municipal Law nº 12.349/1997 – Center Urban Operation

Municipal Law nº 11.774/1995 – Água Branca Urban Operation

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Municipal Law nº 13.260/2001 – Água Espraiada Associeted Urban Operation
Decree 44.845/2004 – To regulament by the law before..

Municipal Law nº 13.872/2004 – Operação Urbana Consorciada Rio Verde Jacú
Decree nº 45.082/04 – To regulament the law before.

GLOSSARY

◆ **Additional Urban Rights**

Rights granted by the Municipality to (i) enlarge the real estate built areas that exceed the Basic Usage Rate pre-established in the Strategic Master Plan; (ii) increase the occupation rate; (iii) allow the land use changes and the change on the Urban Limits pre-established for the area; and (iv) the already established benefits on the specific regulating laws.

◆ **Administration Group**

Executive group in charge of the implementation of the Urban Operation Works, supervised by EMURB, formed by: municipal agencies and civil society representative entities. It is highly recommended that Metro participates in this group.

◆ **Associated Urban Operation - AUO**

Urban instrument used to induce value appreciation of a city area or to implement and/or enlarge urban infrastructure; it can alter the Land Use and Occupation law.

◆ **Compensation rate**

Economic value referent to the payment on the benefits acquisition, or Additional Urban Rights granted by the Municipality. This economic value can be either in cash, or in public works equal in monetary value, or Social Interest Housing, or in areas donated by the City Hall, according to what is specified in each Urban Operation law.

◆ **Construction densification (with or without population densification)**

Vertical Construction in a lot or land (with or without the increase of the population density)

◆ **Construction Additional Area - CAA**

Constructed area that is twice or three times the normal size lot allowances.

◆ **Constructive Potential**

Total built area (m²) that can be used in a lot or land, result of the multiplication of the lot area (m²) by the Optimization Rate allowed by law.

◆ **Constructive Potential Transfer**

It is the instrument that allows the non – used constructive potential in a lot, to be transferred. It should have as reference a value in m² and a monetary value of the area to be transferred.

◆ **EIS – EIR**

Environmental Impact Study & Environmental Impact Report: to do for the approval of Urban Operations.

◆ **Additional Floor Space (Solo Criado)**

It refers to the possibility of building in height related to the real size of the lot on the ground.

◆ **Land Use Law**

Municipal law n° 7.805 of 1972 and its post alterations, which establishes the index of optimization and limitations of the usage and occupation of the soil in São Paulo Municipality.

◆ **Legal Incentives**

Facilities offered to land owners for the occupation and usage of the areas, altering law requirements.

◆ **Managers Board**

Board composed by members of the government and the society to take care of the financial investments on the Urban Municipal Funds: see: Metro Shares Property.

◆ **Municipal Stock of Additional Construction Area**

Limitation on the Potential Additional Construction Area, m², pre-established for each Urban Operation. It is a potential area to be offered to the Real Estate Market for building purposes, through taxed grant.

◆ **Occupation Rate**

Urban index through which the building occupation on the land is evaluated. It is achieved by dividing the real estate buildings horizontal projection by the lot area.

◆ **On Ground (Surface) Rights**

Municipal right to receive the permission of usage not only of the land but also of the aerial space and of the conceded underground area, or permit its own spaces usage on an taxed basis.

◆ **Poles**

Places of the city with characteristics of specific usages (ex: service pole, industrial pole). They could exist already or be suggested by the Strategic Master Plan.

◆ **Potential Appreciation**

It is the way of exploring the value appreciation that can be reached in a certain area. This valuation can be caused by the investments in the area or in its surroundings. (ex.: subway)

◆ **Rate of Optimization**

Relation between the built area and the corresponding lot, excluding the non considered area, such as:

Basic (*) = 1.0 to 2.0 all the city: Freely granted

Maximum = that can not be exceeded= 4.0 or larger, according to specific allowed incentives by law, e.g.,

in the Urban Operation Areas.

Minimum = below which the building will be considered underutilized.

◆ **Real Estate Consortium**

Real Estate investments made by the City Hall in real estate buildings transferred by third parties, who will receive as payment built real estate units equal in value to the soil, before the starting of the works.

◆ **Real Estate Regularization**

It is the way of approving the City Hall building projects according to the patterns required by law.

◆ **SCAPC**

Special Construction Additional Potential Certificates issued by the districts under the Associated Urban Operations, used as payment for the Compensation of fee-based Grant, and not representing debt or credit.

◆ **SIH**

Social Interest Housing designated to the most needy families with an income equal or lower to 6 (six) minimum wages a month. Art. 146, Strategic Master Plan of the SP Municipality.

◆ **Specific Urban Proj. – SUP**

They are projects to be defined and approved by the Municipality to the specific development of a locality.

◆ **SSIZ –**

The Special Social Interest Zone - Zones delimited by the Strategic Master Plan as areas for investment in

Social Interest Housing – SIH – in Popular Habitation Market - PHM

◆ **Statute of the City**

Federal law that regulates the use of urban instruments and allows greater autonomy to the municipality on conducting the urban policy.

◆ **Strategic Master Plan**

Approved by law n° 13.430, of September 13th 2002: it consists of general guidelines for urban policy of development determinative to all agents both public or private who act in the municipality.

◆ **Strategic Regional Plans**

Approved by the law 13.885/04, of August 25th 2004: they are the 31 City Hall sub-districts that have detailed in a local level the guidelines proposed by the Master Plan.

◆ **Fee-based Grant**

To grant means to concede. To tax means to charge. Therefore it is a concession made by the Public Power of Additional Urban Rights, through a Compensation fee.

◆ **Land Use changes**

Changes the property use, other than the one permitted by law.

◆ **Urban Concession**

The City Hall can delegate the projects implementation, works and exploration of areas to a third party, through auction bidding, with or without corresponding fees. (taxed or free); Strategic Master Plan of SPM art. 239.

◆ **Urban Development Fund**

Municipal special bank account, responsible for collecting the acquired resources through the transfer of ownership of the built additional areas, other than those obtained through areas inserted in Urban Operations (which are linked to each Specific Operation Fund).

◆ **Urban Intervention Areas (UIAs)**

Areas that can grow in density by taxed grant, along the bands of the metrorail transport right-of-way.

◆ **Urban Instruments**

There are 41 types of interventions in the city approved by the Strategic Master Plan, Art. 198 , among which the fee-based grant, the transfer of construction potential, the urban operations and the real estate consortium are the most relevant.

◆ **Urban Interventions**

Set of urban related actions performed by the Municipality through public works and expropriations, whose cost includes not only all the necessary expenditures for its accomplishment but also the expenses that go along with the projects, issues of the SCAPC, management ,third parties services contracted and applicable taxes.