

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 06- 3689
OPERATING OFFICER TO PURCHASE PROPERTY)
IN THE GRESHAM CIVIC NEIGHBORHOOD, NE OF) Introduced by Michael J. Jordan, Chief
THE MAX STATION, FOR A TRANSIT-ORIENTED) Operating Officer and Councilors, with
DEVELOPMENT PROJECT) the concurrence of Council President
David Bragdon

WHEREAS, on April 9, 1998, the Metro Council adopted Resolution No. 98-2619 (For the Purpose of Authorizing Start-Up Activities for the Transit-Oriented Development (TOD) Implementation Program at Metro), which authorized start-up activities for the Metro Transit-Oriented Development Implementation Program (the “TOD Program”) and set forth the operating parameters of the TOD Program in a Work Plan providing for the acquisition and joint development of real property satisfying certain criteria and identified as “Opportunity Sites;” and

WHEREAS, in 2001 Metro acquired a total of 11.6 acres adjacent to the MAX Station, including parcels of 7.29 acres to the NW, 4.3 acres to the SW, and 2.1 acres to the SE, in order to help cause the construction of higher density, mixed use that meets or exceeds the “Site Improvement Criteria” of the TOD Program Work Plan; and

WHEREAS, the property at the SE corner is being developed as a 5-story mixed use with housing above commercial and will open next month; and

WHEREAS, the TOD Work Plan authorizes the Chief Operating Officer to purchase Opportunity Sites that have been evaluated by the TOD Steering Committee for compliance with the TOD Work Program Opportunity Site Selection criteria (Section 4.1.2.) and approved by the TOD Steering Committee for acquisition by Metro, subject to seven days notice by the Chief Operating Officer to the Metro Council (the “Seven Day Letter”) providing the Metro Council with the opportunity to request review of the proposed acquisition in executive session; and

WHEREAS, on January 31, 2006, the TOD Steering Committee approved the TOD Program’s proposed acquisition of a 1.9 acre TOD Opportunity Site located in the Gresham Civic Center, Gresham, Oregon, and depicted in Exhibit A attached hereto (the “Gresham Civic Neighborhood – NE Property”), subject to specific preconditions, said purchase to be financed by the Seller for two years; and

WHEREAS, the TOD Steering Committee has approved acquisition of the Gresham Civic Neighborhood – NE Property in order to help ensure that ground floor retail be included in its development, consistent with the Gresham Civic Neighborhood Plan which envisions a vibrant, pedestrian friendly street on Civic Drive with retail on both sides (double-loaded) both north and south of the transit station; and

WHEREAS, Metro Code Section 2.04.026(a)(1) requires that the Chief Operating Officer obtain Metro Council authorization prior to entry into contracts committing Metro to the expenditure of appropriations in future fiscal year budgets; and

WHEREAS, the TOD Work Plan does not specifically authorize the Chief Operating Officer to enter into multi-year financing arrangements with Sellers of Opportunity Sites via the TOD Steering Committee approval/Seven-Day Notice procedure; and


WHEREAS, it is therefore necessary that the Chief Operating Officer obtain the approval of the Metro Council prior to entering into an agreement to purchase the Gresham Civic Neighborhood - NE Property, and secure financing from Seller for said acquisition for a multi-year term; now therefore

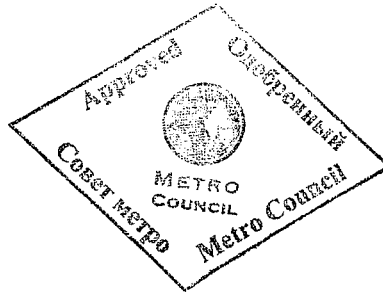
BE IT RESOLVED, that the Metro Council authorizes the Chief Operating Officer to purchase the Gresham Civic Neighborhood - NE Property described in Exhibit A and secure financing for said acquisition from Seller for a term of two years in accord with the provisions of Exhibit B, setting forth the essential terms of the transaction between Metro and Seller, and subject to the TOD Steering Committee preconditions and other legal terms acceptable to the Metro Attorney.

ADOPTED by the Metro Council this 20th day of April, 2006.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney



Resolution No. 06-3689
Exhibit A-1 of 2
Gresham Civic Neighborhood - NE Property
Located at Gresham Civic Center, NE of Max Station

Legal Description

Parcel 2, Partition Plat No. 2005-54, in the City of Gresham, County of Multnomah and State of Oregon.

Resolution No. 06-3689
Exhibit A-2 of 2
Gresham Civic Neighborhood - NE Property
Located at Gresham Civic Center, NE of Max Station

Aerial Photo of Property



Resolution No. 06-3689

Exhibit B

Terms of Sale

Gresham Civic Neighborhood – NE of Station – Parcel 2, Plat No. 2005-54

- Purchase Price: \$1,000,000 (appraised value).
- Down Payment: 50% of purchase price.
- Promissory Note from Metro to an LLC established by Fred Bruning for a two-year term for the balance of the purchase price, secured by a Trust Deed in favor of Seller, two-year term interest-only annual payments to be fully offset by the option fee paid by the LLC established by Fred Bruning.
- Option to purchase at the same price, granted back to an LLC established by Fred Bruning, for a two-year term, subject to development restrictions requiring 3-4 stories with approximately 20,000 square feet ground floor retail. The annual option fee to be paid by the LLC shall be fully offset by the interest fee paid by Metro on the promissory note.
- Purchase Price has been verified by an independent fair market value appraisal, reviewed and approved by an MAI appraiser.
- Phase I Environmental Assessment shall be performed on the Property and the results found satisfactory to Chief Operating Officer, the Metro Attorney and Risk Management.
- Metro standard form Seller representations and warranties.
- Metro to receive fee title by Statutory Warranty Deed subject to no liens or encumbrances except Metro's note and trust deed to the LLC established by Fred Bruning.
- Metro to receive extended Owner's Title Insurance Coverage, subject to no liens or encumbrances except the note and trust deed held by the LLC established by Fred Bruning.
- Closing Costs to be shared equally between Seller and Metro, Seller to pay for title insurance coverage and a pro rata share of taxes and assessments applicable to the property.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3689, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE PROPERTY IN THE GRESHAM CIVIC NEIGHBORHOOD, NE OF THE MAX STATION, FOR A TRANSIT-ORIENTED DEVELOPMENT PROJECT

Date: April 11, 2006

Prepared by: Phil Whitmore,
Meganne Steele

BACKGROUND

The TOD Steering Committee has approved acquisition of the last remaining undeveloped parcel along Civic Drive in the Gresham Civic Neighborhood in order to help ensure that ground floor retail be included in its development. Plans for the Gresham Civic Neighborhood have always envisioned a vibrant, pedestrian friendly street on Civic Drive with retail on both sides (double-loaded) both north and south of the transit station. Uses that have been developed nearby without TOD assistance include a three-story health club and a real estate office without retail; these types of uses do not create as much foot traffic to activate the street.

Metro now owns property on the west side of Civic Drive both north and south of the future Gresham Civic MAX station. The Crossings project is nearing completion on the parcel southeast of the station. As the TOD Program worked with TriMet and the City of Gresham in station and plaza planning, we became aware of the strategic importance of acting promptly to acquire property to the northeast of the station, directly opposite property Metro owns, to encourage ground floor retail.

The Gresham Civic Neighborhood - NE Property to be acquired consists of 1.9 acres of vacant land, currently owned by Gresham Land Partners (GLP) 4 LLC. The GLP 4 LLC's former partner, Center Oak, required that properties be developed as quickly as possible and sold. Fred Bruning now has a new capital partner that is more patient. This acquisition will allow the property to be developed with a longer look at community benefit. When developed, the new building will be 3-4 stories high with ground floor retail and office or housing above the retail. It is anticipated that the property will be sold for the same value as its acquisition costs, providing it is developed as office/medical above retail. However, additional TOD Program financial support and/or other public financing may be required to develop housing on the upper floors if that is desired.

The Gresham Civic Neighborhood – NE Property is located on the east side of Civic Drive, one block northeast of the future Gresham Civic MAX station.

The Steering Committee approved the acquisition price to be up to \$880,000 subject to an appraisal, with 50% down and the balance carried for 2 years from the sellers. As a condition of the acquisition, an LLC established by Bruning will have an option for 2 years conditioned upon development restrictions requiring that the property be developed into a mixed-use project containing 3-4 stories with ground floor retail and office, medical, or residential above.

Because repayment of the purchase price will extend beyond one year, Metro Council action is required.

ANALYSIS/INFORMATION

1. **Known Opposition** – There is no known opposition to this action.
2. **Legal Antecedents** - The Federal Transit Administration (FTA) approved a grant for Metro to start the TOD Program in 1997. Authority to use FTA funds for joint development are included in the Intermodal Surface Transportation Act of 1991 (ISTEA) and codified under 49 USC 5309, 49 USC 5307, 23 USC 133 (STP) and 23 USC 149 (CMAQ). According to these laws, TOD Program activities are defined as transportation projects provided there is (1) a physical or functional relationship to the transit project; and (2) an enhanced effectiveness of the existing transit system.

The TOD Program was originally transferred from TriMet to Metro by Intergovernmental Agreement (IGA) adopted by the Metro Council, Resolution No. 96-2279 (For the Purpose of Authorizing an Intergovernmental Agreement With Tri-Met to Assist in Establishing a Transit-Oriented Development and Implementation Program at Metro), on May 16, 1996. The Metro Council authorized start-up activities on April 9, 1998, by Resolution No. 98-2619 (For the Purpose of Authorizing Start-Up Activities For the Transit-Oriented Development (TOD) Implementation Program at Metro).

The Metro Council adopted Resolution 05-3621A, For the Purpose of Amending the Terms of the Transaction Set Forth in Resolution No. 05-3555A to Acquire Property in Milwaukie Town Center For a Transit-Oriented Development/Centers Project. In that action, the Council authorized a financing plan similar to that proposed in Resolution 06-3689. The Chief Operating Officer was authorized to purchase the Milwaukie TOD/Centers Property subject to, among other things, securing financing from Seller for a term of no more than five years.

3. **Anticipated Effects** - Approval of this resolution will enable Metro to move forward with the site acquisition as planned, and thereby support realization of the Gresham Civic Neighborhood plan even more effectively.
4. **Budget Impacts** -- MTIP Funds were appropriated in the 2005-06 Adopted Budget for property acquisition by the TOD & Centers Implementation program. Sufficient funds are remaining to support this property acquisition. Funds will be set aside to repay the promissory note in the unlikely event that the option is not exercised.

RECOMMENDED ACTION

Staff recommends that the Metro Council authorizes the Chief Operating Officer to purchase the Gresham Civic Neighborhood - NE Property described in Exhibit A to the Resolution and secure financing for said acquisition from Seller for a term of two years in accord with the provisions of Exhibit B to the Resolution, setting forth the essential terms of the transaction between Metro and Seller, and subject to the TOD Steering Committee preconditions and other legal terms acceptable to the Metro Attorney.