

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF ) RESOLUTION NO. 06-3711  
OPERATING OFFICER TO ENTER INTO AN )  
AGREEMENT TO PURCHASE REAL PROPERTY ) Introduced by Michael J Jordan, Chief  
IN DOWNTOWN GRESHAM, OREGON ) Operating Officer, with the concurrence of  
 ) David Bragdon, Metro Council President

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

WHEREAS, the TOD Work Plan was amended to expand the TOD Program area to include Interstate MAX, South Corridor, Airport MAX, Streetcar, Frequent Bus Routes and initiate an Urban Centers Program by Resolution No. 04-3479 (For the Purpose of Amending the Transit-Oriented Development (TOD) Program to Expand the TOD Program Area and Initiate an Urban Centers Program), adopted July 15, 2004; and

WHEREAS, the TOD Work Plan authorizes the Chief Operating Officer to enter into agreements to fund TOD Projects on Frequent Bus Routes that have been evaluated by the TOD Steering Committee for compliance with the TOD Program's site selection criteria (the "TOD Selection Implementation Criteria") and approved by the TOD Steering Committee for funding by Metro; and

WHEREAS, the TOD Work Plan requires that the Chief Operating Officer provide seven days' written notice to the Metro Council (the "Seven-Day Letter") prior to funding TOD Steering Committee approved projects, affording the Metro Council the opportunity to request review of the proposed project in executive session, and if no review is requested the proposed project may proceed; and

WHEREAS, on May 10, 2006, the TOD Steering Committee approved the TOD Program's entry into an agreement to purchase real property in downtown Gresham, Oregon, (hereafter, the "Property"), as further set forth in the Seven-Day Letter issued by the Chief Operating Officer on May 11, 2006, notifying the Metro Council of said pending actions to acquire the Property; and

WHEREAS, the Metro Council responded to the Chief Operating Officer's Seven-Day Letter, requesting review of the proposed acquisition of the Property in executive session, which review was held on May 30, 2006 and on June 6, 2006; and

WHEREAS, upon review of the proposed acquisition of the Property in executive session, the Metro Council elected to provide further direction to the Chief Operating Officer regarding the acquisition of the Property by resolution; now, therefore

BE IT RESOLVED, that the Metro Council hereby authorizes the Chief Operating Officer to enter into an agreement to purchase the Property, subject to the conditions set forth by the TOD Steering Committee.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_ 2006.

WITHDRAWN

\_\_\_\_\_  
David Bragdon, Metro Council President

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3711 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO AGREEMENTS TO PURCHASE REAL PROPERTY IN DOWNTOWN GRESHAM

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Date: June 1, 2006

Prepared by: Andy Cotugno  
Phil Whitmore

### BACKGROUND

#### *Transit Oriented Development and Centers Implementation Program*

In July 2004, the Metro Council approved Resolution Number 04-3479 (For the Purpose of Amending the Transit-Oriented Development (TOD) Program to Expand the TOD Program Area and Initiate an Urban Centers Program). The TOD Implementation Program is a joint development program focusing on site-specific project implementation. Joint Development refers to a collection of public and private sector partnership techniques, strategies, and development "tools" that can be used to link development to transit stations to increase the efficiency of a mass transit system. The increase can take the form of new ridership (caused by the construction of TOD Projects), new revenue to a transit agency, or a combination of both. The TOD Program seeks to increase transit ridership and lessen the risk and costs associated with the construction of TOD projects. Projects considered for the Program will exhibit a mix of moderate- to high-intensity land uses, a physical or functional connection to the transit system, and design features that reinforce pedestrian relationships and scale. The TOD Program utilizes joint development tools such as land acquisition and development agreements to implement projects located in close proximity to rail transit stations and "Frequent Bus" stops throughout the region. The primary focus of the original TOD Program was to buy land, write down its value and help cause higher density and mixed-use projects that supported added transit ridership. By purchasing sites, Metro could get the parcel into the hands of a capable developer more supportive of our development goals or hold the site for a more opportune time.

#### *Real Property Acquisition*

In September 2000, the TOD Steering Committee approved the TOD Program's proposed entry into an agreement to acquire real property in downtown Gresham (the "Property"). At a "Lively Centers" tour of Gresham that summer, TOD staff had remarked to business people from the Gresham Downtown Development Association (GDDA) that the Property was, in their opinion, the most important site in historic downtown Gresham and that the TOD Program would be interested in helping to create a signature project on the Property. TOD staff have long believed the site was important because it provides the pedestrian transition between Roberts, which connects to the light rail transit station, and Main Street, which is the center of historic downtown. Thereafter, a representative of the GDDA notified Metro that the Property was for sale and urged the TOD Program to work with the GDDA to help find a suitable developer for a signature project on the Property. The Property initially listed at a sale price significantly higher than the price the TOD Program was authorized to pay by the TOD Steering Committee, and was subsequently bid up well over the initial asking price. The TOD Program did not compete during the bidding frenzy. Three prospective developers optioned the property and turned it back because of the financial challenges inherent to mixed-use development and the lack of comparables for dense housing. Developers remain very interested in the Property.

Recently, representatives of the GDDA have again asked the TOD Program to purchase the Property to assist the development of a signature housing-retail mixed-use development there. The GDDA is

concerned that a one-story office building with surface parking will be developed on it, underutilizing the site and not serving as a site for a signature building. There is some sensitivity to the extensive effort made by the TOD Program to date in Gresham Civic neighborhood and the appearance that historic downtown (where the Property is located) has been slighted.

On May 10, 2006, the TOD Steering Committee voted 5-1 to reauthorize acquisition of the Property at an increased purchase price, subject to an appraisal. The Chief Operating Officer issued a Seven Day Letter on May 11, 2006, notifying the Metro Council of the pending project as stipulated in the TOD workplan.

On June 2, 2006, the TOD Staff learned that an offer has now been made on the Property. However, the offerors have indicated that they would like the TOD Program to participate in the deal through a TOD Easement, to enable housing to be incorporated into the project along with the other commercial uses they are contemplating. Historic downtown Gresham appears to be nearing “lift-off” on establishing a market for higher-density condominiums. While establishing a condo market is important, a higher density/mixed-use product alone will not complete a Center or TOD with all of the uses necessary for a vital center. Rental housing, including moderate income housing, and other uses are important contributions to creating a viable center. These uses may require public investment long after a higher density condo market is established.

### **TOD PROGRAM PROCESS**

In accord with the TOD Program Work Plan adopted by Council Resolution 98-2619 (For the Purpose of Authorizing Start-Up Activities for the Transit-Oriented Development (TOD) Implementation Program at Metro), “as soon as practical upon approval by the Steering Committee, the Executive Officer will provide written notification to the Metro Council of potential TOD projects and the Council will have seven (7) days to notify the Executive of a request to review a potential project in executive session...” The Chief Operating Officer issued a Seven Day Letter notifying the Metro Council of the pending project as required, and the Metro Council elected to review the proposed project in executive session. The Metro Council may provide further direction to the Chief Operating Officer on the acquisition of the Property via Resolution.

### **ANALYSIS/INFORMATION**

#### **1. Known Opposition**

The TOD Steering Committee approved this project at their May 10, 2006 meeting, with one committee member voting no. There is no known opposition to providing funding for this project although there are groups and individuals who oppose TOD projects and public private partnerships.

#### **2. Legal Antecedents**

The Federal Transit Administration (FTA) approved a grant for Metro to initiate the TOD Program in 1997. Authority to use FTA funds for joint development is 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) executed by 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 Work Plan was amended to include provisions for initiation of additional light rail corridors, streetcar, Frequent Bus Routes and initiation of an Urban Centers Program on July 15, 2004 by Resolution No.04-3479 (For the Purpose of Amending the Transit-Oriented Development (TOD) Program to Expand the TOD Program Area and Initiate an Urban Centers Program).

### **3. Anticipated Effects**

#### Public Benefit

The property is a key transition site to guide pedestrian traffic from the MAX Station down Roberts Avenue towards the core of downtown Gresham and westward onto Main Street. Business leaders have indicated a preference for the TOD Program to acquire the site so that the highest quality project could occur, preferably higher density loft condos.

### **4. Budget Impacts**

There are no budget impacts to the Metro General Fund as a result of the project since funds that are part of the IGA with TriMet are used for the program.

## **RECOMMENDED ACTION**

The Council may:

- 1) affirm the TOD Steering Committee's May 10, 2006 approval of the acquisition of the Property, and authorize the Chief Operating Officer to enter into agreements to purchase the Property; or
- 2) affirm the TOD Steering Committee's approval to purchase the Property, but authorize the Chief Operating Officer to enter into agreements to fund the project subject to conditions directing the Chief Operating officer to modify Metro's participation; or
- 3) elect not to affirm the TOD Steering Committee's approval to acquire the Property, and withhold authorization for the Chief Operating Officer to enter into agreements to purchase the property.

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# MEMORANDUM

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**DATE:** December 29, 2006

**TO:** Metro Council

**FROM:** Becky Shoemaker, Metro Records Officer

**RE:** Resolution No. 06-3711

**TITLE:** *For the Purpose of Authorizing the Chief Operating Officer to Enter Into Agreements to Purchase Real Property in Downtown Gresham.*

This resolution was withdrawn from consideration; may be reconsidered at a future date.