

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO 02-3148
EXECUTIVE OFFICER TO ENTER INTO AN)	
INTERGOVERNMENTAL AGREEMENT WITH)	Introduced by Mike Burton,
THE CITY OF GRESHAM TO PROVIDE METRO)	Executive Officer
REAL ESTATE SERVICES)	

WHEREAS, at the election held on May 16, 1995, the Metro area voters approved the Open Spaces, Parks and Streams Ballot Measure 26-26 (the "Metro Open Spaces Bond Measure") that authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements; and

WHEREAS, Metro has in its service negotiators and paralegal staff necessary to implement the Metro Open Spaces Bond Measure; and

WHEREAS, the Metro Policy Advisory Committee's Parks Report dated April 4, 2001, encouraged Metro to provide technical assistance to local governments in acquiring local parks and related lands; and

WHEREAS, the city of Gresham (the "City") has requested land acquisition technical assistance, and has agreed to reimburse the Metro Open Spaces Bond Measure fund for all costs associated with the negotiator and paralegal services provided to the City; and

WHEREAS, Metro and the City wish to enter into an Intergovernmental Agreement to provide for the responsibilities and obligations of the parties with respect to the provision by Metro of real estate negotiation and paralegal services to the City for purposes of the City's acquisition of local parks and related lands; and

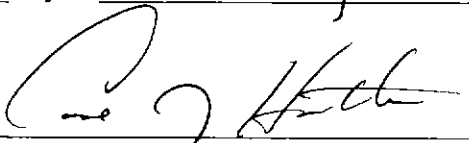
WHEREAS, the Intergovernmental Agreement attached to this resolution as Exhibit A sets forth the roles and responsibilities of the City and Metro for the agreed upon work; and

WHEREAS, Metro can provide the aforesaid technical assistance and still fulfill its obligations to the voters regarding acquiring properties for the Metro Open Spaces Bond Measure; now therefore

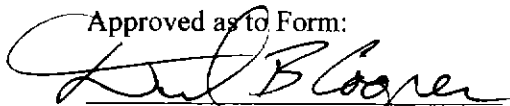
BE IT RESOLVED,

That the Metro Council authorizes the Metro Executive Officer to enter into the Intergovernmental Agreement with the City of Gresham as identified in Exhibit A.

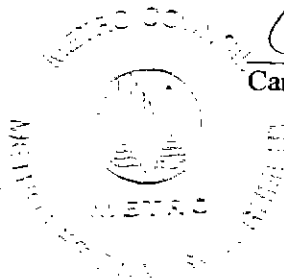
ADOPTED by the Metro Council this 24th day of January, 2002.



 Carl Hosticka, Presiding Officer

Approved as to Form:


 Daniel B. Cooper, General Counsel



CITY OF GRESHAM AGREEMENT NO. 1196
INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF GRESHAM and METRO REGIONAL SERVICES
REGARDING LAND ACQUISITION SERVICES

This agreement is entered into on October 16, 2001, by and between the City of Gresham, Oregon (Gresham) and Metro Regional Services (Metro).

RECITALS

WHEREAS, the goal of this intergovernmental agreement is to provide land acquisition services for the City of Gresham, Department of Environmental Services (DES), by Metro Regional Services and;

WHEREAS, the City of Gresham, Department of Environmental Services (DES) prepared a Fairview Creek Master Plan, conducted Fairview Creek Basin stormwater modeling, and Federal Emergency Management Agency prepared flood plain maps for the areas in question; and

WHEREAS, the results of the FEMA flood plain documents indicate that over 45 acres and 30 homes, within the City of Gresham, are in the 100 year flood plain in and immediately downstream of the project area; and

WHEREAS, the results of stormwater modeling and associated engineering evaluation indicates that the impacts from this flooding could be substantially reduced if the Gresham had area to temporarily hold back peak flood flows and thereby reduce the adverse downstream impacts; and

WHEREAS, the City of Gresham has, in the past, acquired about 9 acres for these and other purposes, which are available for this project; and

WHEREAS, acquisition of additional properties, adjacent to or nearby the existing City of Gresham property, would provide additional project area to reduce flood impacts to a more acceptable level; and

WHEREAS, there are additional projects which require land acquisition services in relation to parcel and easement purchases which may involve other DES Divisions; and

WHEREAS, at least one of these other projects, the North of Chase Road Storm Drain, require land acquisition services this fiscal year; and

WHEREAS, the DES does not have the in-house staff to perform these land acquisition services; and

WHEREAS, the purpose of this Agreement is to identify the responsibilities, compensation and land acquisition services to be provided by Metro to the City of Gresham.

NOW THEREFORE, the parties agree to the following:

1. SCOPE OF METRO'S SERVICES

A. Metro shall provide to the City of Gresham services as shown in the attached Scope of Work (Exhibit A). In addition, each project shall require a project specific scope of work (consistent with this Agreement) and a written notice to proceed from Gresham prior to commencing work.

2. SCOPE OF GRESHAM'S SERVICES

A. Gresham shall be responsible to review, provide comments and accept all refined products prepared by Metro.

3. COMPENSATION

The City of Gresham shall reimburse Metro promptly for costs incurred in accordance with Section 5 STATEMENT AND PAYMENT PROCEDURE. Gresham shall pay Metro within 60 days of being invoiced. It is not anticipated that land acquisition service costs would exceed \$65,000 during FY01-02.

Gresham shall pay Metro for land acquisition services according to the following hourly rates:

Real Estate Negotiator	\$90.00 per hour
Paralegal Services	\$75.00 per hour

4. EFFECTIVE AND TERMINATION DATES

This agreement shall be effective as of the date it is signed by all parties and shall terminate as of June 30, 2002.

5. STATEMENT AND PAYMENT PROCEDURE

Metro's statement and Gresham's payment procedures shall be as set out below.

Within 60-days of land acquisition services, Metro shall submit to Gresham a detailed statement describing the services performed. The statement shall include all land acquisition costs related to this Agreement. Metro will furnish Gresham such statements or reports of expenditures as may be needed to satisfy fiscal requirements.

Payment of the amounts set out in paragraph 3 above shall be made to Metro, no later than 60 days of being invoiced, and shall be sent to:

Metro Accounts Receivable
600 NE Grand Ave
Portland, Oregon 97232

Res. 02-3148
Exhibit A, page 2

6. EARLY TERMINATION OF AGREEMENT

- A. Metro and Gresham, by mutual written agreement, may modify, amend, or terminate this Agreement at any time.
- B. Either Metro or Gresham may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not cured the breach within thirty (30) days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.
- C. This Agreement is expressly conditioned upon Metro Council approval and City of Gresham Council approval.

7. INDEMNIFICATION

To the extent permitted by the Oregon Tort Claims Act, Metro agrees to indemnify, defend, and hold harmless Gresham from any and all claims, demands, suits, and actions (including attorney fees and costs) resulting from or arising out of the acts of Metro and its officers, employees, and agents in performance of this intergovernmental agreement. To the extent permitted by the Oregon Tort Claims Act, Gresham agrees to indemnify, defend, and hold harmless Metro from any claims, demands, suits, and actions (including attorney fees and costs) resulting from or arising out of the acts of Gresham and its officers, employees, and agents in performance of this intergovernmental agreement.

8. FUNDS

Gresham certifies that sufficient funds are available during the 2001-2002 fiscal year and that these funds are authorized for expenditure to finance the 2001-2002 costs of the Agreement. Funds for projects in subsequent fiscal years are subject to City of Gresham Council budget approval.

9. PROJECT MANAGER

Metro's project manager shall be Nancy Chase, unless designated otherwise. Gresham's project manager shall be James Soli, unless designated otherwise by the manager.

METRO REGIONAL SERVICES

By: _____
Mike Burton, Executive Director
Date: _____

By: _____
Charles Cicko, Parks Director
Date: _____

APPROVED as to form:
Joel Morton, Assistant
Counsel for Metro

By: _____

CITY OF GRESHAM

By: Charles J. Becker
Mayor Charles J. Becker
Date: Oct 18, 2001

By: Bonnie Kraft
Bonnie Kraft, City Manager
Date: 1001 22, 2001

David Ris, Attorney
for the City of Gresham, Oregon

By: David R. Ris

EXHIBIT A

to Resolution 02-3148, Exhibit A
City of Gresham Agreement No. 1196

SCOPE OF WORK

All products and work descriptions, unless noted otherwise, are the responsibility of Metro.

TASK 1 Preliminary and General Services

Objective: Initiate project and provide services in a coordinated and efficient manner. Facilitate mutual understanding of the work to be done.

Description: Meet with the City, on a project-by-project basis, for a “kick off meeting” to confirm roles, responsibilities and expectations for each specific project in relation to the Intergovernmental Agreement. Establish clear lines of communication. Discuss project goals and identify specific concerns. Review the project and the land acquisition schedule.

Request City Project Manager review and approval of all written correspondence prior to distribution to property owner or other parties.

Coordinate activities with the City and other firms, as appropriate.

Metro Products: Propose project specific budget and schedule. Correspondence.

City Products: Project specific goals and target properties. Key project deadlines and milestones. Schedule and host project specific “kick off meeting”. Review and approve project specific budget and schedule.

Assumptions: City will obtain legal review of all documents, as appropriate.

TASK 2. Acquisition Services

Objective: Acquire properties targeted by the City for acquisition. Conduct Acquisition Negotiations.

Description: METRO will perform acquisition negotiations. Steps to be taken include the following activities:

1. Set up negotiation files to preserve documents and a record of the negotiations. Propose the organization, form, and content of the negotiation files before conducting acquisition negotiations.
2. Paralegal review of title reports, title exception documents, vesting deed legal description and other documents, writing a report and recommendations in memo form submitted to the Negotiator, Project Manager and City Attorney.
3. Set up and maintain diaries documenting property owner contacts. The diaries may be handwritten and kept on sequential contact sheets, including date and time of correspondence or conversation and material substance of conversation or contact;

4. Prepare the appropriate documents, for Project Managers and City Attorney review, which shall consist of Gresham's standard form Purchase and Sale Agreement, modified or supplemented with property-specific detail and legal descriptions and other documents, as needed;
5. Prepare offer letters and other communications required to establish contact with property owners;
6. Explain the offer to the property owner or a representative and provide an understanding of the acquisition process;
7. Advise and coordinate with the City Project Manager.

Metro Products: Negotiation file recommendations. Property specific negotiation file including diaries, offer letters, and documentation of other communications. Transaction Specific Preparation of the Purchase and Sale Agreement, and other documents, as needed.

City Products: City will provide legal services, engineering, appraisals, environmental site assessments, survey services and other required studies and will provide the names, addresses and tax identification information, which is available.

Assumptions: The files shall conform substantially to Metro Open Space Acquisition Program standards.

TASK 3. Purchase and Closing Services/Escrow Liaison

Objective: Conduct escrow and closing services.

Description: Metro shall perform the following services:

1. Negotiate with property owners, or their representatives, in a timely and professional manner.
2. Open escrow
3. Prepare escrow instructions
4. Place documents in escrow
5. Coordinate payments between the City and the Title Company
6. Assist in obtaining releases, if necessary
7. Review closing statements, including deeds and make recommendations to the City.
8. Deliver documents for recording and track the recording process to ensure that recording has occurred.

Metro Products: Escrow instructions, Escrow account set up, documents placed in escrow, payment coordination, closing statements, recorded documents. Recorded documents to the City with book and page numbers.

City Products: Legal review of appropriate documents.

Assumptions: City will pay for the cost of the escrow fees, recording fees, title insurance premiums and for any title endorsements or special reports required by the City, including escrow cancellation fees.

NATURAL RESOURCES COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 02-3148, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF GRESHAM TO PROVIDE METRO REAL ESTATE SERVICES

Date: January 24, 2002

Presented by: Councilor Park

Committee Action: At its January 16, 2002 meeting, the Natural Resources Committee voted 4-0 to recommend Council adoption of Resolution 02-3148. Voting in favor: Councilors Bragdon, Hosticka, Park and McLain.

Background: Charlie Ciecko and Jim Desmond, Regional Parks and Greenspaces Department director and manager gave the staff presentations. Resolution 02-3148 authorizes the Executive Officer to enter into an intergovernmental agreement with the City of Gresham. Under the terms of the IGA, Metro Open Spaces Acquisition staff will provide real estate acquisition, negotiation and paralegal services to the City of Gresham in their efforts to purchase parks and related lands. Gresham's own staff capacity has been reduced due to budget cuts. However, Gresham will fully recompense Metro for our staff time.

The contract expires at the end of the current fiscal year.

- Existing Law: Metro code 2.04.026(a)(2) requires that the Executive officer obtain the authorization of the Council prior to entering Intergovernmental Agreements, pursuant to ORS chapter 190.
- Budget Impact: None. Costs of administering the IGA are covered by charges for staff. This arrangement does stretch out the expenditure of Open Spaces bond funds that pay for staffing of Metro's Open Spaces program.

Committee Issues/Discussion: This agreement is consistent with an MPAC parks subcommittee recommendation that urged that Metro's expertise in acquisitions be made available to local jurisdictions. In response to a committee question, Mr. Desmond said that it is possible that more agreements like this one could be forthcoming, and that this specific agreement could be renewed with Gresham in the next fiscal year. Staff also clarified that the requirements of our own acquisitions program come first, and that staff will be made available to Gresham on that basis.

Staff Report

CONSIDERATION OF RESOLUTION NO. 02-3148 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF GRESHAM TO PROVIDE METRO REAL ESTATE SERVICES.

Date: January 8, 2002

**Presented by: Charles Ciecko
Jim Desmond**

DESCRIPTION

Resolution No. 02-3148, requests authorization for the Executive Officer to execute an Intergovernmental Agreement (IGA) with the City of Gresham, Bureau of Environmental Services, enabling the Open Spaces Acquisition Division of Metro's Regional Parks and Greenspaces Department to provide real estate acquisition services, including negotiation and paralegal services, to the City of Gresham for the purposes of acquiring local parks and related lands.

EXISTING LAW

Metro Code § 2.04.026 (a) (2) requires that the Executive Officer obtain the authorization of the Metro Council prior to entering into certain agreements, including Intergovernmental Agreements, pursuant to ORS Chapter 190.

BACKGROUND AND ANALYSIS

The city of Gresham's Bureau of Environmental Services (the "City") has requested technical assistance from Metro to help in the acquisition of private property from willing sellers. The properties in question are targeted for parks and open space use, including wetland construction for water quality projects. Currently the City does not have staff available with real estate expertise to negotiate and process the acquisition of these properties.

This request is in accordance with the recommendations set out in the final report of the Metro Policy Advisory Committee's Parks Report, dated April 4, 2001. Some of the relevant portions of the report related to the use of Metro technical assistance for local governments are as follows:

Local park providers in the region face chronic constraints in securing adequate, stable funding for local parks and related lands and facilities. Metro should expand its mission to assist its local partners in this policy area in a variety of ways, most importantly by providing technical and financial assistance. [Page (i)]

Specific Recommendations

2.1.D. Technical and financial assistance should be aimed at both (I) assisting local park providers with planning, acquiring, and developing local parks and related lands and facilities for the public uses and intrinsic values they provide...

2.1.E. Metro should continue its work towards creating an integrated Regional System of regional-scale parks and related lands and facilities regardless of their ownership.

The IGA with the City proposes a multi-year contract for real estate services, to be provided by Metro to the City on an as-needed basis. This multi-year agreement is subject to annual budget approval by both the City and Metro and the availability of Metro staff. At this point in the Open Spaces program, small blocks of Open Spaces program staff time may be available for technical assistance to other jurisdictions. However, because the Metro Open Spaces bond measure funds are restricted to expenses related to open space acquisitions and related expenses authorized by the bond measure and subsequent Council action, all time spent on non-bond local jurisdiction projects must be reimbursed by the local government. Accordingly, the City has agreed to reimburse Metro for staff time at a predetermined rate set by Metro, based on, but not limited to salary, benefits, transportation and administrative overhead.

FINDINGS

This IGA between Metro and the City is recommended based on the following:

- Entering into the IGA will allow for the efficient use of public money and services.
- The City has signed the IGA and committed funds for the current fiscal year for real estate services.
- Approval of the IGA is consistent with the recommendations of the Metro Policy Advisory Committee's Parks Report.
- The IGA will relieve Metro's Open Spaces bond measure fund of some of its staff and administrative expenses.

BUDGET IMPACT

None. Costs of administering the IGA are covered by the rate charged for Metro real estate services.

OUTSTANDING QUESTIONS

None.

Executive Officer's Recommendation

The Executive Officer recommends passage of Resolution No. 02-3148.