

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 96-2279
AN INTERGOVERNMENTAL AGREEMENT)
WITH TRI-MET TO ASSIST IN) Introduced by
ESTABLISHING A TRANSIT-ORIENTED) Mike Burton,
DEVELOPMENT AND IMPLEMENTATION) Executive Officer
PROGRAM AT METRO)

WHEREAS, By Resolution No. 95-2176B \$3 million of Surface Transportation Program funds were allocated for establishment of a Transit-Oriented Development Revolving Fund and Implementation Program; and

WHEREAS, Such a program will help implement Metro's Region 2040 Growth Concept, both by encouraging higher density development and reinforcing light rail ridership; and

WHEREAS, Tri-Met currently operates a Joint Development Program and has experience in both the development process and federal laws and regulations affecting transit-oriented development grants; and

WHEREAS, It is in the interest of both Metro and Tri-Met to coordinate these efforts; now, therefore,

BE IT RESOLVED,

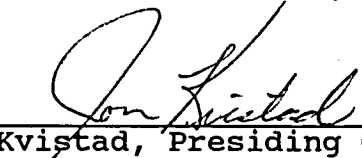
That the Metro Council authorizes execution of an Intergovernmental Agreement with Tri-Met, substantially in the form of the attached Exhibit A, providing for the following:

1. Loaned staff support from Tri-Met to Metro to assist in securing the \$3 million grant from the Federal Transit Administration for the TOD Revolving Fund and Implementation Program for the period through approximately June 30, 1996.

2. The transfer of the transit-oriented development function and an associated 1.0 FTE from Tri-Met to Metro to establish a TOD Revolving Fund and Implementation Program at Metro upon receipt of the grant from the Federal Transit Administration (FTA), anticipated on July 1, 1996.

3. Coordination between Metro and Tri-Met on the effect of the transit-oriented development projects on Tri-Met's facilities and services.

ADOPTED by the Metro Council this 16th day of May, 1996.



Jon Kvistad, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

STAFF REPORT

CONSIDERATION OF 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

Date: April 4, 1996

Presented by: Andrew Cotugno

PROPOSED ACTION

It is recommended that the Metro Council authorize the execution of an Intergovernmental Agreement with Tri-Met providing for the following:

1. Loaned staff support from Tri-Met to Metro to assist in securing the \$3 million grant from the Federal Transit Administration for the TOD Revolving Fund and Implementation Program.
2. The transfer of 1.0 FTE from Tri-Met to Metro to establish a TOD Revolving Fund and Implementation Program at Metro upon receipt of the federal grant.
3. Coordination between Metro and Tri-Met on the effect of the transit-oriented development projects on Tri-Met's facilities and services.

BACKGROUND

Metro has undertaken many efforts to encourage compact, transit-supportive development around light rail stations. It is a critical element of the Region 2040 Growth Concept and its success is essential to maintaining a compact region, minimizing the need for expansion to the Urban Growth Boundary and increasing LRT ridership. Metro has participated in and facilitated station area planning related to Eastside MAX, the Westside LRT project and now the South/North LRT project.

In March 1995, the Federal Transit Administration (FTA) provided a favorable response to Metro's questions regarding the eligibility for use of federal transit funds for transit-oriented development projects. Included is an expanded eligibility for capital improvements directly tied to transit-oriented development projects, eligibility to acquire land for transit-oriented development physically or functionally connected to a light rail station, and eligibility to use the proceeds from a subsequent land sale for another eligible project.

By Resolution No. 95-2176B, these goals were furthered through allocation of the Region 2040 Reserve including a \$3 million

allocation to Metro to establish a TOD Revolving Fund and Implementation Program. Efforts are now underway to secure that grant award during 1996 after which the initial land acquisition can be undertaken.

This resolution is the next step in implementing the TOD Revolving Fund and Implementation Program at Metro. In order to secure the grant award from FTA, it is necessary to determine and gain their agreement on proper federal procedures for the following activities required under the grant:

1. Initiate site selection for land acquisition;
2. Appraisals for land acquisition;
3. Feasibility studies for subsequent development and establishment of financial pro forma;
4. Addressing all requirements of the National Environmental Policy Act;
5. Execution of an agreement between Metro and the affected local government;
6. Conducting a re-use appraisal for the property assuming implementation of the desired development;
7. Carrying out a Request for Proposals process for the subsequent private development;
8. Selection of a qualified developer;
9. Execution of a development agreement between Metro and the selected developer;
10. Implementation of the development;
11. Sale and transfer of title for the land; and
12. Use of proceeds from the sale on future transit-oriented development projects.

This Intergovernmental Agreement provides for loaned staff from Tri-Met to Metro to assist in addressing these issues in order to secure the grant and the subsequent transfer of staff from Tri-Met to Metro once the grant is awarded to implement the grant. The staff involved is the Manager of Tri-Met's Joint Development Program and was instrumental in developing the case to the Federal Transit Administration, leading to their favorable interpretation on eligibility.

To reflect implementation of this program, the proposed Executive Officer's budget to the Metro Council includes staff, materials

and services, and capital costs for the program (see Attachment A). The staff costs of 2.5 FTE, paid for by the grant, reflect transfer of 1.0 of Tri-Met personnel to Metro and subsequent hiring of 1.5 FTE (.5 of the Secretary position is included in other aspects of the Transportation Department budget). The staff in question is Tri-Met's Joint Development Manager.

Finally, this agreement provides for Metro coordinating with Tri-Met on future activities to implement the TOD Revolving Fund and Implementation Program to ensure compatibility with Tri-Met's facilities and services; in particular, design coordination with Tri-Met's stations and service coordination (bus and LRT) resulting from ridership demand created by the transit-oriented development projects.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Metro Resolution No. 96-2279.

Transportation Planning Section

TOD Revolving Fund

Program Narrative**Fiscal Year 1996-97**

History of the Program

The Portland region has long recognized the importance of the land use/transportation link to increase the effectiveness of its light rail projects. Articles have appeared in publications during the past year ranging from *Urban Land*, May 1995, to *Newsweek*, July 1995, citing Portland and Oregon as an example of a city and state that attempt to manage their growth with a variety of innovative methods. Much of the past effort has focused on planning and regulation.

Awareness has been growing that good transit supportive development will not result automatically from constructing the track and station. Nor will land use plans alone be enough to implement the kind of TODs consistent with an evolving regional vision. What is lacking is a full program that will ensure that some regionally significant TOD demonstration projects are undertaken and that the development tools needed for this effort are in place.

Metro has been laying the foundation for a TOD implementation program through three different kinds of activities: a) defining areas of eligibility for elements of transit/land use (referred to in federal transit enabling legislation as *joint development*), b) identifying and securing sources of capital funds to create a Regional Revolving Fund for TOD site acquisition, and c) providing support services and activities for specific projects and for the creation of an ongoing implementation program.

The technical assistance by Metro - funded by a TGM grant - involved a collaborative effort with Tri-Met staff and used a steering committee comprised of representatives from ODOT, Tri-Met, Metro, and the business community.

Current Year's Program - FY 1995-96

A TOD is a more dense development with strong pedestrian connections at a transit station that induces significantly more transit trips than conventional development. This then improves the efficiency of the existing transit system, reduces congestion, and improves air quality.

Last year Metro initiated a dialogue with FTA headquarters in Washington, DC, concerning the eligibility of certain TOD related project activities for FTA capital funds. As a result of Metro's effort, important national policies were set in place that recognize the value of land use/transit implementation, encourage *joint development* projects, and provide eligibility for capital expenditures. These policies are in the form of letters and legal opinions from FTA headquarters in Washington, DC, (dated March 15, 1995) and notice in the Federal Register (dated May 9, 1995). In addition, the Region, through JPACT and Metro Council with ODOT's participation, approved \$3 million funding for a Regional Revolving Fund to acquire TOD sites. This program represents the first of its kind in the country under ISTEA and has resulted in a number of requests for information from other jurisdictions nationally.

Metro's program for TOD implementation can justifiably take credit for resolving a number of eligibility issues that have become national policy, as stated in the Federal Register Notice, *Innovative Financing Techniques*.

Transportation Planning Section

TOD Revolving Fund

Program Narrative

Fiscal Year 1996-97

Current Year's Program - FY 1995-96 (continued)

Issues of eligibility on the Regional Revolving Fund are being resolved and a draft application to FTA is being prepared. Ongoing efforts on eligibility issues and applications on specific projects that were included in the Metro to FTA letter of November 16 are also moving forward. The first of these, the Gresham Central Project in downtown Gresham is well along with construction and is being coordinated with FTA, FHWA, ODOT, and Tri-Met.

Next Year's Program - FY 1996-97

Next year's work scope will move toward implementation of smaller TOD projects utilizing property remnants and Development Agreements, and establishing a program for the Regional Revolving Fund.

Identifiable Measurements, Products & Targets - FY 1996-97

- Leverage the eligibility gained from the Revolving Fund to be established from Region 2040 Funding, with smaller TOD projects constructed on right-of-way fragments from Portland's light rail projects.
- Provide the technical, factual, and legal basis for Metro to begin the TOD Implementation Program.
- Gain broader acceptance of the program by enlarging the informal steering committee.
- Establish the Revolving Fund, including safeguards, process for deposits and disbursements, selection of a TOD site, criteria for project selection, and representation of public and private interests on fund use.
- Refine the governance structure for the program.
- Prepare site plans for small projects or a master plan for larger ones for the first Revolving Fund TOD.
- Complete the environmental assessment for specific TODs.
- Complete appraisals for site acquisitions.
- Enter into Development Agreements on specific projects.

FY 1996-97 Budget Summary

Expenditures	Amount	ETE	Resources	Amount
Personal Services	\$141,379	2.50	ODOT FY 97 STP	\$2,628,310
Transfers	45,241		Tri-Met Match	<u>60,000</u>
Contingency	3,990		Total	\$2,688,310
Materials & Services	97,700			
Capital Outlay	<u>2,400,000</u>			
Total	\$2,688,310			

ATTACHMENT A

Regional TOD Revolving Fund Budget

	FY 97	FY 98	FY 99	Total
<u>Personnel</u>	\$108,753	\$115,278	\$122,195	\$346,226
Fringe @ 30%	\$32,626	\$34,583	\$36,658	\$103,867
Overhead @ 32%	\$45,241	\$47,956	\$50,832	\$144,029
TOTAL PERSONNEL	\$186,620	\$197,817	\$209,685	\$594,123
<u>Materials & Services</u>				
Appraisals	\$3,000	\$10,000	\$10,000	\$23,000
Development Feasibility Studies	\$10,000	\$5,000		\$15,000
Master Planning	\$40,000			\$40,000
Environmental Impact Assessmen	\$35,000			\$35,000
RFP Development		\$10,000		\$10,000
Legal/Permitting	\$5,000		\$10,000	\$15,000
Typesetting/printing/photo/etc.	\$3,000	\$3,000	\$3,000	\$9,000
Travel	\$1,700	\$2,150	\$2,282	\$6,132
TOTAL MATERIALS & SERVICE	\$97,700	\$30,150	\$25,282	\$153,132
CONTINGENCY	\$3,990	\$2,558	\$1,197	\$7,745
SUBTOTAL	\$288,310	\$230,525	\$236,164	\$755,000
CAPITAL	\$2,400,000	\$0	\$0	\$2,400,000
GRAND TOTAL	\$2,688,310	\$230,525	\$236,164	\$3,155,000
REVENUES - Soft Cost				
Federal STP Funds	\$228,310	\$183,025	\$188,665	\$600,000
Metro	\$30,000	\$25,000	\$25,000	\$80,000
Tri-Met	\$30,000	\$22,500	\$22,500	\$75,000
Subtotal	\$288,310	\$230,525	\$236,165	\$755,000
REVENUES - Acquisition				
Federal STP Funds	\$2,400,000	\$0	\$0	\$2,400,000
Deffered Match @ 10.27%	\$274,691	\$0	\$0	\$274,691
Subtotal	\$2,674,691	\$0	\$0	\$2,674,691
REVENUES - TOTAL PROGRAM				
Federal STP Funds	\$2,628,310	\$183,025	\$188,665	\$3,000,000
Metro	\$30,000	\$25,000	\$25,000	\$80,000
Tri-Met	\$30,000	\$22,500	\$22,500	\$75,000
Deffered Match	\$274,691	\$0	\$0	\$274,691
GRAND TOTAL	\$2,963,001	\$230,525	\$236,165	\$3,429,691

Exhibit A

TRANSIT-ORIENTED DEVELOPMENT REVOLVING FUND COORDINATION AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 1996, by Metro, a metropolitan service district under ORS Chapter 268 and a regional government under the 1992 Metro Charter, and Tri-County Metropolitan Transportation District of Oregon, hereinafter Tri-Met, a mass transit district under ORS 267.

Recitals

1. Compact, transit-supportive development around light rail stations is a critical element of Metro's 2040 Growth Concept.
2. Increased compact development around light rail stations reduces traffic congestion by increasing transit ridership and minimizes the need for expansion of the Urban Growth Boundary.
3. Metro has participated in and facilitated land use planning in station areas on Eastside MAX, the Westside Project and now the South/North LRT Project.
4. Eligibility for use of federal transit funds for transit-oriented development (TOD) projects was confirmed by the Federal Transit Administration (FTA) in March 1995.
5. Metro allocated three million dollars (\$3,000,000) of the Region 2040 Reserve to establish a TOD Revolving Fund in Resolution No. 95-2176B.
6. Efforts are now underway to secure the federal grant needed to implement the \$3,000,000 allocation during 1996 for the initial TOD land acquisition. Metro and Tri-Met both have interests in securing and implementing this federal grant, and no conflicts of interest are anticipated.
7. Securing the grant includes establishing agreement with the FTA on the proper federal procedures to use to carry out the steps in the TOD Revolving Fund during the program.
8. The intent of this agreement is to provide loaned staff support from Tri-Met to Metro to assist in securing the \$3,000,000 grant from the FTA for the TOD Revolving Fund, to transfer staff upon Metro receipt of the grant, and to assure consideration of the effect of the transit-oriented development projects on Tri-Met's facilities and services by transferring these Tri-Met employees to Metro if the grant is secured.
9. This agreement is consistent with Metro Executive Order No. 95-56 on loaned employees.

Exhibit A

Agreements

1. Tri-Met agrees to provide loaned staff as needed through approximately June 30, 1996 to secure award of the \$3,000,000 grant from the Federal Transit Administration.
2. Tri-Met shall remain responsible for all salary and benefits and continue to be the subject employer under Oregon Worker's Compensation Law and comply with ORS 656.017, which requires them to provide Worker's Compensation coverage for all their subject workers so long as staff are loaned to Metro to secure the grant.
3. Tri-Met shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this agreement during the period that Tri-Met provides loaned staff.
4. Tri-Met agrees to transfer the transit-oriented development function and an associated Full Time Equivalent (FTE) of 1.0 employee to Metro to establish a TOD Revolving Fund and Implementation Program upon receipt of sufficient grant funds from the FTA anticipated July 1, 1996 consistent with ORS 236.605 et seq.
5. Metro agrees to accept the transfer of up to the Full Time Equivalent of 1.0 employee from Tri-Met subject to receipt of sufficient grant funds and inclusion in the 1996-97 Metro budget.
6. Metro agrees to administer the TOD Revolving Fund and Implementation Program and assure coordination between Metro and Tri-Met on the effect of TOD projects using the Revolving Fund on Tri-Met's facilities and services.
7. The Project Manager for Metro is Andy Cotugno. The Project Manager for Tri-Met is Bob Post.
8. This agreement is intended to benefit only Metro and Tri-Met. The parties specifically disclaim any benefits to third parties from this agreement.

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