

**MOTION NO. M2010-97****Artspace USA Transit-Oriented Development Purchase and Sale Agreement**

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:	PHONE:
Board	11/18/10	Final Action	Ric Ilgenfritz, Executive Director <b>Scott Kirkpatrick, TOD Manager</b>	206-398-5239 206-398-5264

**PROPOSED ACTION**

Authorizes the chief executive officer to execute a purchase and sale agreement with Artspace USA for the parcels at 2915 and 2919 Rainier Avenue South, Seattle, WA for a proposed mixed-use affordable housing transit-oriented development project for \$1,520,000.

**KEY FEATURES**

- Approval of this purchase and sales agreement (PSA) furthers the development of transit-oriented development (TOD) at the Mount Baker Station as envisioned in the City of Seattle's McClellan Town Center Plan and Sound Transit policies.
- This action allows Artspace USA to finish its due diligence, seek financing, and design the project.
- The agreement addresses site issues that will affect any party that seeks to do a market project on the site by holding back part of the purchase price to reimburse the buyer for certain expenses incurred during construction.
- The agreement imposes long-term covenants on the buyer to develop and operate the property as TOD.

**PROJECT DESCRIPTION**

The Sound Transit Board established the TOD Program in 1997. Its mission is to create transit supported development and communities at Sound Transit facilities, stations and station areas by working with local jurisdictions, property owners and developers. The Board adopted a TOD Policy in 1998 which states, in part, that "Sound Transit should use all its own sites to demonstrate good transit-oriented design and land use mixes that are appropriate to their setting, transit mode, and market conditions." The policy encourages Sound Transit's consideration of providing incentives to assure that desired types of development are built on surplus land. Resolution No. R99-35, The Real Property Disposition Policy, Procedures and Guidelines, includes as a policy goal: "Utilize the disposition of Sound Transit Real Property to encourage TOD, Joint Development and public and private projects at and around Sound Transit facilities to build transit ridership, enhance communities and aid economic development".

**FISCAL INFORMATION**

This action has no direct cost impact. The agency's long term financial plan has assumed the sale of surplus property from the light rail Initial Segment as a source of additional revenue to the subareas.

**SMALL BUSINESS PARTICIPATION**

Not applicable to this action.

**APPRENTICE UTILIZATION COMMITMENT**

Not applicable to this action.

**EQUAL EMPLOYMENT WORKFORCE PROFILE**

Not applicable to this action.

## **BACKGROUND**

The properties proposed to be sold are left over from development of the Link Initial Segment project, and are directly adjacent to the Mount Baker Station. A request for proposals (RFP) for TOD was issued in late 2009 for development of these properties. Artspace USA was the lone responsive proponent. Artspace is a non-profit live/work housing developer with national experience that includes 23 buildings in 17 cities and 12 states, including Seattle and Everett. Artspace has been conducting its due diligence since May 2010 and seeking preliminary financing commitments.

The proposed PSA results from a September 2010 Board action authorizing the CEO to exclusively negotiate with Artspace USA for the two adjacent parcels at the Mount Baker Station by December 15, 2010. A funding opportunity by the City of Seattle has expedited the process, and the negotiations have concluded.

When sold, the property will be subject to long term restrictive covenants that require the buyer to develop and operate the property in the manner proposed. Sound Transit has discussed a future option to site a transit police office within the Artspace building, but that is not associated with the proposed action.

### Artspace USA Proposal

Sound Transit's RFP encouraged developers to respond to the agency's TOD principles in the RFP. Artspace was very responsive by offering interior tenant bicycle parking, community meeting space, neighborhood retail and other uses supportive of the immediate community, sustainable design features to achieve or exceed a LEED Silver designation, and providing a transit-dependent resident population by proposing no tenant vehicular parking. The project may include a Zip Car and/or electric car stall on-site.

The Artspace project will provide 51 affordable family rental units, constructed as high-ceiling lofts. Artspace's four story building will have an equivalent density of 94 units per acre. Artspace has a residential waiting list of 1,500 in the Seattle area, ensuring the ability to identify tenants who prefer to be transit-dependent and who will take advantage of adjacent light rail and Metro transit. Artspace is making a concerted effort to identify potential retail and commercial lessees with an orientation to the surrounding neighborhood. Artspace will work with Sound Transit to institute a regional transit pass program for tenants.

### Purchase and Sale Agreement

Artspace intends to finance its project with City of Seattle Housing Bond Levy funds, State Housing Finance Agency bonds, private foundation grants, conventional loans, and owner's equity. Artspace will apply for Low Income Housing Tax Credits, an annual competitive process which affects the timing and feasibility of the Artspace proposal. The funding package, including an award of tax credits, will not be completed until late 2011. Entering into the PSA at this time provides Artspace with effective site control, demonstrating to funders that the land component of their project is secured. Actual site control and transfer of title would not occur until project funding is obtained and a City of Seattle building permit is issued. Sound Transit's final sale and price for this action will not occur until closing.

### Sales Price Justification

Due diligence by both parties determined that the subsurface soil condition is not suitable for constructing the proposed four story building unless it has a foundation pile system. The parties, utilizing structural engineering and architectural expertise, have agreed that the soil condition creates an extraordinary construction requirement which reasonably affects land value. Accordingly, the proposed PSA provides that a portion of the purchase price be placed in an escrow account to reimburse the buyer's actual expenses incurred for an auger cast pile foundation system, up to a maximum of \$614,000. This amount was arrived at based on a maximum bearing depth of pilings, and a not-to-exceed reimbursement cost per lineal foot. Sound Transit staff and its engineering consultants would review the piling logs and actual expenses prior to release of any escrowed funds.

The parties also agreed to escrow funds from the purchase price to pay the buyer's actual expenses incurred to dispose of contaminated soil brought to the surface by the piling methods. This risk exists because of

existing groundwater contamination. A not to exceed amount of \$27,720 would be held back in escrow for this purpose, with similar provisions regarding review of expenses incurred before release of funds.

Based on a September 2010 appraisal by Sound Transit, the fair market value of the combined parcels is \$1,520,000, soils conditions not taken into account. If the buyer draws against the entire amount of the escrowed funds, Sound Transit will net \$878,280. The parties elected to use this approach because it was not feasible to incorporate soil conditions into a fair market value appraisal. The soils conditions affect the value of the land because they must be remediated to achieve the highest and best use of the property. It is not feasible to try to use comparable sales to determine how much the value of the land is affected by the soil conditions. Using an approach such as a holdback to pay for the mitigation achieves a more accurate transaction price. For historical perspective, after deducting land used for Initial Segment Project purposes, the land available for redevelopment was worth approximately \$990,000 in the years purchased (2004, 2006).

The Federal Transit Administration (FTA) has been informed of the previous surplus property action, intended change of use, and of this potential transaction. The focus of the FTA review is on the agency's selected method of disposition, which is to retain the sales proceeds for other capital projects, not on the PSA transaction or its purpose.

### **ENVIRONMENTAL COMPLIANCE**

The appropriate NEPA environmental review for this property disposition action will be complete before the closing. Any future additional SEPA review required for Artspace's project is the responsibility of Artspace.

JL 11/10/2010

### **PRIOR BOARD AND CONCURRENT/COMMITTEE ACTIONS**

Resolution No. R2010-20 - Approved a declaration of surplus real property by the chief executive officer, including the method of disposition for using future proceeds from selling or leasing the property for the open Central Link Project.

Motion No. M2010-91 - Authorized the chief executive officer to execute a short-term exclusive negotiating agreement for a future purchase and sale agreement with Artspace USA for a proposed transit-oriented development project at Mount Baker Station.

Resolution No. R99-35 – Adopted the Real Property Disposition Policy, Procedures and Guidelines for the disposition of surplus real property.

### **TIME CONSTRAINTS**

A one month delay could create a significant impact on Artspace's timeline for obtaining project funding.

### **PUBLIC INVOLVEMENT**

The RFP notices stimulated public inquiries about the potential change of use on these parcels. Community meetings have occurred in the surrounding neighborhood explaining property disposition plans in the Mount Baker Station area. Artspace provided notice to area properties of its intent to obtain City and federal housing funds, and has met with the Mount Baker Community Council, as has Sound Transit staff.

### **LEGAL REVIEW**

JB 11/10/10

## **MOTION NO. M2010-97**

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute a purchase and sale agreement with Artspace USA for the parcels at 2915 and 2919 Rainier Avenue South, Seattle, WA for a proposed mixed-use affordable housing transit-oriented development project for \$1,520,000.

### **BACKGROUND:**

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**MOTION:**

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to execute a purchase and sale agreement with Artspace USA for the parcels at 2915 and 2919 Rainier Avenue South, Seattle, WA for a proposed mixed-use affordable housing transit-oriented development project for \$1,520,000.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on November 18, 2010.

  
Aaron Reardon  
Board Chair

ATTEST:

  
Marcia Walker  
Board Administrator