

REQUEST FOR COUNCIL ACTION

Date: May 11, 2015
Item No.: 14.b

Department Approval



City Manager Approval



Item Description: Request by the Community Development Department for an approval of a Predevelopment Agreement with the Greater Metropolitan Housing Corporation (GMHC) for the Dale Street Fire Station Site

BACKGROUND

As a result of the recent approval of the Purchase Agreement with the Roseville Housing and Redevelopment Authority (HRA) for acquisition of all of the lots in the redevelopment area, the City Council is now the entity that must enter into the various legal documents with GMHC required to redevelop this property.

The first step in the process is the approval of a Predevelopment Agreement (Attachment B) which allows the developer to undergo the process of due diligence and obtaining the necessary approvals. The approval of the Predevelopment Agreement is the item before the City Council at this time.

The Predevelopment Agreement is similar to the agreement that was entered into by the HRA. However, there are several notable modifications:

1. Simplifying the process to recognize the due diligence items that have already been completed
2. Clarifying language that was found to be confusing in the previous agreement
3. Adding a paragraph recognizing the past efforts of the HRA and legally severing and discharging any claims related to it for either the City or the HRA
4. Providing for an escrow to cover the cost of City consultants and other expenses necessary to implement the Predevelopment Agreement

As part of the City's obligations in the due diligence process, an updated Phase 1 Environmental Site Assessment has been completed on April 30 and delivered to GMHC. The cover letter outlining the conclusions is contained in Attachment C. The investigation results were in line with expectations.

NEXT STEPS

- GMHC has scheduled a meeting with the neighborhood for May 14, 2015.
- City and GMHC will enter into a development agreement, including demonstration of lender approval
- GMHC needs to complete project approvals
- City needs to close on the HRA's property

- GMHC needs to close on the site per the development agreement

POLICY OBJECTIVE

This project supports the City's Comprehensive Plan goal of providing a wide variety of housing options in order to retain and attract a diverse mix of people and family types with varying economic statuses, ages and abilities and the goal of continuing to support of housing and neighborhood programming provided by the HRA that address community needs.

BUDGET IMPLICATIONS

It is anticipated that the funds to purchase the property will be coming out of TIF funds, not the General Fund. Staff time will be necessary to prepare, review and process the documents and take other actions to satisfy the City's obligations in the Predevelopment Agreement.

STAFF RECOMMENDATION

Staff recommends the approval of the attached resolution that will authorize taking all actions necessary to enter into the Predevelopment Agreement with GMHC.

REQUESTED COUNCIL ACTION

Offer a motion to approve the attached Resolution authorizing entering into a Predevelopment Agreement with the Greater Metropolitan Housing Corporation for the Dale Street Fire Station Redevelopment project area and performance of the actions necessary to meet the City's obligations identified in the executed Predevelopment Agreement.

Prepared by: Paul Bilotta, Community Development Director
Attachments: A: Resolution
B: Draft Predevelopment Agreement
C: Letter from Vieau Associates dated April 30, 2015

**EXTRACT OF MINUTES OF MEETING
OF THE
CITY COUNCIL OF THE CITY OF ROSEVILLE**

* * * * *

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota was duly held on the 11th day of May, 2015, at 6:00 p.m.

The following members were present: , , , and Mayor .
and the following were absent: .

Member introduced the following resolution and moved its adoption:

RESOLUTION No.

**RESOLUTION APPROVING A PREDEVELOPMENT AGREEMENT WITH THE
GREATER METROPOLITAN HOUSING CORPORATION BY THE CITY OF
ROSEVILLE**

WHEREAS, the City of Roseville (the “City”) owns or controls certain land that comprises the Dale Street Fire Station Redevelopment Project Area (the “Project”); and

WHEREAS, the Greater Metropolitan Housing Corporation (the “Developer”) has requested that the City enter into a Predevelopment Agreement with it in order to provide the Developer with certain rights and obligations to facilitate the redevelopment of the Project; and

WHEREAS, the City found and determined that entering into a Predevelopment Agreement with the Developer is in the public interest.

NOW, THEREFORE, BE IT RESOLVED, that the City Council (“Council”) of the City of Roseville, Minnesota as follows:

1. The Council approves the Predevelopment Agreement, subject to modifications that do not alter the substance of the transaction and that are approved by the City Attorney, provided that execution of the Purchase Agreement shall be conclusive evidence of approval.
2. City staff and officials are authorized to take all actions necessary to perform the City’s obligations under the Predevelopment Agreement as a whole.

The motion for the adoption of the foregoing resolution was duly seconded by Member ,
and upon a vote being taken thereon, the following voted in favor thereof: , , ,
, and Mayor .
and the following voted against the same: .

WHEREUPON said resolution was declared duly passed and adopted.

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

I, the undersigned, being the duly qualified City Manager of the City of Roseville, County of Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of said City Council held on the day of, , 20 with the original thereof on file in my office.

WITNESS MY HAND officially as such Manager this day of , 20

SEAL

Patrick Trudgeon, City Manager

PRELIMINARY DEVELOPMENT AGREEMENT

(Dale Street Redevelopment)

THIS AGREEMENT is dated May 11, 2015, by and between the City of Roseville, a Minnesota municipal corporation (the “City”), and Greater Metropolitan Housing Corporation, a Minnesota nonprofit corporation (the “Developer”).

RECITALS

WHEREAS, the City, together with the Roseville Housing and Redevelopment Authority (“Authority”), owns a portion of certain property within the City, which property is legally described in Exhibit A attached hereto (“Property”); and

WHEREAS, the City has executed a purchase agreement with the Authority to acquire the property which the Authority owns; and

WHEREAS, the Developer has submitted a preliminary proposal (“Proposal”) for the acquisition and redevelopment of the Property (the “Development”), which is attached hereto as Exhibit B; and

WHEREAS, the Developer requests that the City explore the use of certain public assistance to assist with the Development; and

WHEREAS, the City has determined that it is in the City’s best interest that the Developer be designated sole developer of the Property during the term of this Agreement and that a Preliminary Development Agreement be negotiated between the City and the Developer (the “Agreement”); and

WHEREAS, the parties mutually wish this Agreement to replace and supersede entirely any prior agreements, proposals, and understandings concerning the Property and development thereon; and

WHEREAS, the City and the Developer are willing and desirous to undertake the Development if (i) a satisfactory agreement can be reached regarding the commitment for public costs necessary for the Development; (ii) satisfactory mortgage and equity financing, or adequate cash resources for the Development can be secured by the Developer; and (iii) the economic feasibility and soundness of the Development and other necessary preconditions have been determined to the satisfaction of the parties; and

WHEREAS, the City is willing to evaluate the Development and work toward all necessary agreements with the Developer if the Developer agrees to make the nonrefundable deposit and

undertake all other obligations described herein.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and obligations set forth herein, the parties agree as follows:

1. Negotiations between the parties shall proceed in an attempt to formulate a definitive purchase and redevelopment contract ("Contract") based on the following:

(a) the Developer's Proposal, which shows the scope of the proposed Development in its latest form as of the date of this Agreement, together with any changes or modifications required by the City;

(b) a mutually satisfactory Contract to be negotiated and agreed upon in accordance with negotiations contemplated by this Agreement;

(c) such documentation regarding economic feasibility of the Project as the City may wish to undertake during the term of this Agreement; and

(d) other terms and conditions of this Agreement.

2. It is the intention of the parties that this Agreement: (a) documents the present understanding and commitments of the parties; and (b) will lead to negotiation and execution of a mutually satisfactory Contract for the Development prior to the termination date of this Agreement. The Contract (together with any other agreements entered into between the parties hereto contemporaneously therewith) when executed, will supersede all obligations of the parties hereunder.

3. During the term of this Agreement, the Developer shall:

(a) No later than thirty (30) days after the effective date of this Agreement, submit to the City a design proposal to be approved by the City and Authority showing the location, size, and nature of the proposed Development, including floor layouts, renderings, elevations, and other graphic or written explanations of the Development.

(b) No later than thirty (30) days after the effective date of this Agreement, submit an overall cost estimate for the design and construction of the Development.

(c) No later than thirty (30) days after the effective date of this Agreement, submit a time schedule for all phases of the Development.

(d) Undertake and obtain such other preliminary economic feasibility studies, income and expense projections, and such other economic information as the City may reasonably desire to further confirm the economic feasibility and soundness of the Development.

(e) No later than thirty (30) days after the effective date of this Agreement, submit to the City the Developer's financing plan, which shall at a minimum include all sources and uses of financing setting forth all private and public financial assistance in any form (including reduced land cost, waiver of fees, and tax increment financing), establishing that such assistance is reasonably necessary to make the Development financially feasible.

(f) No later than thirty (30) days after the effective date of this Agreement, furnish satisfactory financial data to the City evidencing the Developer's ability to undertake the Development, including without limitation a written commitment from the provider of any private financing.

(g) No later than sixty (60) days after the effective date of this Agreement, proceed with appropriate land use and zoning applications, including without limitation an updated application for re-platting of the Property and other administrative proceedings necessary to the negotiation and execution of a definitive Contract for the Development.

4. During the term of this Agreement, the City agrees to:

(a) Commence the process necessary to undertake such public assistance as is necessary pursuant to the terms of the Proposal, including without limitation commencement of actions necessary to create a tax increment financing district that includes the Property.

(b) Proceed to seek all necessary information with regard to the anticipated public costs associated with the Development.

(c) Estimate the City's level and method of financial participation, if any, in the Development and develop a financial plan for the City's participation.

(d) Grant to the Developer a right of access to the Property for purposes of environmental and soil testing, as well as lawful marketing signage. Developer agrees to indemnify, save harmless, and defend the City and the Authority, their officers, and employees, from and against any and all claims, actions, damages, liability and expense in connection with personal injury and/or damage to the Property arising from or out of any occurrence in, upon or at the Property caused by the act or omission of the Developer in connection with Developer's entry on the Property. Further, Developer shall not permit any mechanics', materialmens' or other liens to stand against the Property or any part thereof for work or materials furnished to Developer in connection with the right of entry granted pursuant to this Agreement and Developer agrees to indemnify, defend and hold harmless the City and Authority from and against the same.

(e) Proceed with appropriate approval processes in response to the Developer's land use, zoning, and re-platting applications regarding the Property, and other administrative proceedings necessary to the negotiation and execution of a

definitive Contract for the Development.

5. It is expressly understood that execution of a definitive Contract for the Development shall be subject to:

(a) A determination by the City in its sole discretion that its undertakings are feasible based on (i) the projected tax increment revenues and any other revenues designated by the City (to the extent requested by Developer); (ii) the purposes and objectives of any tax increment, development, or other plan created or proposed for the purpose of providing financial assistance for the Development, if any, including the determination that such assistance is reasonably necessary in order to make the Development possible; and (iii) the best interests of the City.

(b) A determination by the Developer that the Development is feasible and in the best interests of the Developer.

(c) Successful conveyance of the Authority-owned portion of the Property to the City.

6. This Agreement is effective one-hundred and twenty (120) days after the effective date of this Agreement, unless extended with approval of the city council of the City. After expiration of the term of this Agreement, no party shall have any obligation hereunder except as expressly set forth to the contrary herein.

7. The Developer shall be solely responsible for all costs incurred by the Developer. In addition, the Developer shall reimburse the City for Administrative Costs, as hereafter defined. For the purposes of this Agreement, the term "Administrative Costs" means out of pocket costs incurred by the City together with staff costs of the City, all attributable to or incurred in connection with the negotiation and preparation of this Agreement, a definitive Contract for the Development, and other documents and agreements in connection with the Development, including without limitation all costs in connection with re-platting of the Property, tax increment financing analysis, and the cost of financial advisors, attorneys, and planning and environmental consultants.

In order to secure payment of the Administrative Costs incurred by the City during the term of this Agreement, the Developer shall deliver to the Authority cash or a certified check in the amount of \$15,000.00, such delivery to occur upon execution of this Agreement. The City will utilize the funds delivered by the Developer to pay or reimburse itself for Administrative Costs. If Administrative Costs exceed the initial amount paid by the Developer, the Developer shall pay such additional Administrative Costs within 10 business days of a demand by the City evidencing such additional Administrative Costs. Upon termination of this Agreement, the City will return to the Developer the funds paid by the Developer to the City pursuant to this Section 7, less an amount equal to the Administrative Costs incurred by the City through the date of notice of termination, provided that if the parties proceed to the negotiation of the definitive Contract, any portion of the funds delivered by the Developer under this Agreement may be applied to any Administrative Costs incurred in connection with the negotiation and preparation of the Contract and payable by the

Developer. For the purposes of this paragraph, Administrative Costs are considered to be incurred if they have been paid, relate to services performed, or are payable under a contract entered into, on or before the date of the notice of termination.

This Section 7 shall survive termination of this Agreement and shall be binding on the Developer regardless of the enforceability of any other provision of this Agreement.

8. This Agreement may be terminated upon 5 days written notice by a party to the other party if:

(a) in the respective sole discretion of the City or Developer, an impasse has been reached in the negotiation or implementation of any material term or the completion or execution of any material condition of this Agreement or the Contract; or

(b) a party fails to perform any of its obligations under this Agreement.

If any party terminates the Agreement under this Section 8, the Developer shall remain liable to the City to the extent provided under Section 7 of this Agreement.

9. During the term of this Agreement, the City agrees that it will not negotiate or contract with any other party concerning the sale or development of the Property. The Developer shall not assign or transfer its rights under this Agreement in full or in part, or enter into any subcontracts to perform any of its obligations hereunder, without the prior written consent of the City.

10. In the event that the Developer, its heirs, successors or assigns, fail to comply with any of the provisions of this Agreement, the City may proceed to enforce this Agreement by appropriate legal or equitable proceedings, or other similar proceedings, and if the City is the prevailing party, the Developer, its heirs, successors or assigns, agree to pay all costs of such enforcement, including reasonable attorneys' fees.

11. If any portion of this Agreement is held invalid by a court of competent jurisdiction, such portion shall be deemed stricken from this Agreement, leaving all remaining portions of the Agreement in full force and effect.

12. In the event any covenant contained in this Agreement should be breached by one party and subsequently waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach.

13. Notice or demand or other communication between or among the parties shall be sufficiently given if sent by mail, postage prepaid, return receipt requested or delivered personally:

(a) As to the City: City of Roseville
2660 Civic Center Drive

Roseville, MN 55113
Attn: City Manager

(b) As to the Developer: Greater Metropolitan Housing Corporation
15 South Fifth Street, Suite 710
Minneapolis, MN 55402
Attn: President

14. This Agreement may be executed simultaneously in any number of counterparts, all of which shall constitute one and the same instrument.

15. This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

16. The Developer hereby agrees to protect, defend and hold the Authority, the City and their officers, elected and appointed officials, employees, administrators, commissioners, agents, and representatives harmless from and indemnified against any and all loss, cost, fines, charges, damage and expenses, including, without limitation, reasonable attorneys fees, consultant and expert witness fees, and travel associated therewith, due to claims or demands of any kind whatsoever caused by Developer or arising out of actions of Developer (and excluding those caused by or arising out of the City's own acts or conduct) with regard to (i) the development, marketing, sale or leasing of all or any part of the Property, including, without limitation, any claims for any lien imposed by law for services, labor or materials furnished to or for the benefit of the Property, or (ii) any claim by the state of Minnesota or the Minnesota Pollution Control Agency or any other person pertaining to the violation of any permits, orders, decrees or demands made by said persons or with regard to the presence of any pollutant, contaminant or hazardous waste on the Property deposited or released by Developer; and (iii) or by reason of the execution of this Agreement or the performance of this Agreement. The Developer, and the Developer's successors or assigns, agree to protect, defend and save the City and its officers, agents, and employees, harmless from all such claims, demands, damages, and causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys fees, consulting engineering services, and other technical, administrative or professional assistance incurred by the City as a result of the actions of Developer. This indemnity shall be continuing and shall survive the performance, termination or cancellation of this Agreement. Nothing in this Agreement shall be construed as a limitation of or waiver by the City of any immunities, defenses, or other limitations on liability to which the City is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466.

17. The Developer further agrees that it does not possess, will not pursue and, in any event, forever discharges the City or the Authority from and against any and all liabilities, claims, demands, obligations, actions, causes of action, rights, damages, costs, interest, expenses,

reimbursement, and compensation of any nature whatsoever, whether or not now known or contemplated, under any theory of recovery at law or equity, arising from any previous agreements, understandings, or undertakings between the Developer, the Authority, and/or the City regarding the purchase and/or development of the Property.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in their name and behalf and their seal to be duly affixed hereto and the Developer has caused this Agreement to be duly executed as of the day and year first above written.

CITY OF ROSEVILLE

Dated: _____

By: _____
Its Mayor

Dated: _____

By: _____
Its City Manager

GREATER METROPOLITAN HOUSING CORPORATION

Dated: _____

By: _____
Its _____

EXHIBIT A

Description of Property

Lots 18, 19, 20, 21, and 22, Block 1, O'Neil's Addition, according to the recorded plat thereof, County of Ramsey, State of Minnesota.

And

Copes Subdivision of LOT 1 of Cope's Subdivision of the SE $\frac{1}{4}$ of Section 11, Township Subject to Road; Then 134 FT of E 247 FT & N 131 FT of W 78 FT of E 325 FT of LOT 12

EXHIBIT B
Project Proposal



April 30, 2015

Paul Bilotta
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113

RE: Phase I Environmental Site Assessment
Roseville Fire Station and Vacant Lots
2325 and 2335 Dale Street North & 657, 661, 667 and 675 Cope Avenue West
Roseville, Minnesota 55113

Dear Mr. Bilotta:

We have completed the Phase I Environmental Site Assessment for the above referenced property in Roseville, Minnesota. An invoice for the Phase I Environmental Site Assessment has been provided along with a web link to an electronic copy of the report.

In summary, this assessment has revealed no evidence of *recognized environmental conditions* in connection with the property, except the following:

- A petroleum release was identified during subsurface investigation activities in 2012. Low concentrations of DRO were encountered in one soil boring, and based on the low concentrations and limited extent, the MPCA issued the release regulatory closure on January 25, 2013, indicating that no further response actions are required for this petroleum release. The identified petroleum impacts to soil qualify as a *recognized environmental condition*. However, based on the file closure issued for the petroleum impacts, they are viewed as a *controlled recognized environmental condition*.

There is a potential for higher concentrations of petroleum contaminated soil in the vicinity of the removed UST which may require proper handling and disposal if encountered during redevelopment. If contaminated soil is encountered during redevelopment, it must be properly managed and may require disposal at a permitted landfill. Prior to beginning redevelopment activities, a Response Action Plan and Construction Contingency Plan should be developed for the property and submitted for review and approval by the MPCA Voluntary Brownfield Program.

The following issues of environmental concern within the scope of assessment were identified in connection with the property:

Polychlorinated biphenyls and asbestos-containing materials

- Based on limited sampling and testing completed in 2012, no polychlorinated biphenyls (PCBs) were detected in any caulking samples collected. Asbestos was detected at greater than one percent in the silver edged flashing material, and materials presumed to contain asbestos included the metal fire door and duct-reported underground transite. Note that since the fire station was in use at the time of the sampling and testing, a non-destructive survey was conducted evaluating exposed materials and not materials that may be located within walls, ceilings, other inaccessible areas, or any materials that affected operations on the property.

Phase I Environmental Site Assessment: Roseville Fire Station and Vacant Lots
2325 and 2335 Dale Street North & 657, 661, 667 and 675 Cope Avenue West, Roseville,
Minnesota 55113
D15-147

April 30, 2015

A more intrusive survey with sampling and testing of previously unobserved or unsampled materials will be required prior to the proposed demolition. Prior to demolition activities, the confirmed and presumed ACM should be removed by a licensed contractor with certified workers and supervisors.

Radon

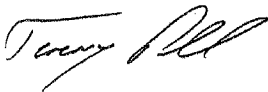
- The subject property is located in Ramsey County, MN which is identified in US EPA Radon Zone 1, with predicted average indoor radon screening concentrations above the EPA Action Level of 4.0 picoCuries per liter (pCi/L) of air. Based on the current vacant and non-residential use of the property, we do not view potential elevated radon gas concentrations as a concern.

Radon resistant design should be considered prior to and during the redevelopment of the property for residential land use.

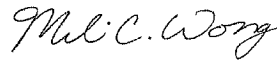
Please review the report in its entirety and contact us with any questions. Thank you.

Sincerely,

Vieau Associates Inc.



Jeremy Pavlish, PG
Senior Project Manager



Melissa Colletti Wong
Environmental Professional