Sale of Orenco Woods Development Parcel

RFP 13-2175

Metro Sustainability Center
600 NE Grand Ave.
Portland, OR 97232
503-797-1700

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Notice is hereby given that proposals from qualified firms and individuals ("Proposers") in response to this RFP 13-2175 for the Sale of Orenco Woods Development Parcel shall be received by Metro, 600 NE Grand Avenue, Portland OR 97232 prior to close of business on September 7, 2012. It is the sole responsibility of the proposer to ensure that Metro receives the proposal by the specified date and time. All late proposals shall be rejected. Proposers shall review all instructions and contract terms and conditions and shall be responsible for complying with all instructions and contract terms and conditions presented in this RFP.

I. INTRODUCTION

The Sustainability Department of Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, is issuing this RFP with the City of Hillsboro (the "City"). Metro and the City are requesting proposals from qualified firms and individuals for Metro's and the City's disposition of real property described in more detail in this RFP. Proposals will be due as indicated on the RFP cover page.

Details concerning the project and proposal are contained in this document.

II. BACKGROUND/HISTORY OF PROJECT

On December 1, 2011, Metro and the City acquired approximately 42 acres of land in the City known as the former Orenco Woods golf course, located at the intersection of NW Cornelius Pass Road and NW Quatama Road. Metro and the City are collaborating to plan and develop a nature park on approximately 31 acres of the land acquired, as depicted on Exhibit A (the "Park Property"). Metro, with the support of the City, is issuing this RFP to sell the remainder of the property (the "SE Corner"). The SE Corner is approximately 9.45 acres in size. The Park Property is adjacent to a 11.36 acre parcel owned solely by the City, which may be developed for a more active neighborhood park (the "City Parcel"). The City Parcel and the SE Corner are also shown on Exhibit A.

The sale of the SE Corner will require a partition of the SE Corner from the Park Property, which will be handled by Metro and the City and which is anticipated to occur in January or February of 2013. The location of the boundary separating the SE Corner from the Park Property is approximately as set forth on Exhibit A, though it is anticipated that the successful Proposer will have input on the precise location of this boundary. For example, through discussions with the successful Proposer or through the planning of the nature park on the Park Property, the trail could move closer to the stream causing an increase in the size of the SE Corner. It is not anticipated that the SE Corner would be any smaller than 9.45 acres as shown on Exhibit A.

The Park Property and the SE Corner are part of the Orenco Woods Crossing subdivision, of which the SE Corner was planned to be developed in the first phase. The Orenco Woods Crossing preliminary subdivision approval contains five separate approvals (Concept Development Plan, Subdivision Plat, Detailed Development Plan, Significant Natural Resource Overlay Permit, and Floodplain Alteration Permit), which approvals will expire on October 13, 2013, without the submittal of a final development plan (the "Existing Approvals"). Proposers are encouraged to familiarize themselves with these approvals, on file with the City of Hillsboro's planning department. The Existing Approvals do not take into account that there will be a nature park on the Park Property, but anticipate instead future phases of residential development. A purchaser of the SE Corner for development purposes may seek to modify the Existing Approvals, though this is not required. It is also not a requirement to have a development proposal for the SE Corner in order to respond to this RFP.

Upon written request, Metro can provide interested Proposers the following information:

- Copy of Metro and the City's Title Policy report covering the SE Corner and the Park Property
- Phase One environmental report dated September 2011

III. RFP AND EVALUATION PROCESS

After the RFP is issued, parties interested in submitting a proposal will meet together with Metro and the City at a pre-proposal conference to discuss issues surrounding the disposition of the SE Corner, and for Metro and the City to answer Proposers' questions regarding this RFP. The pre-proposal conference is mandatory. Following this meeting, Proposers will have approximately three (3) weeks to submit a proposal that complies with Section V of this RFP. Proposals will be reviewed by staff to determine compliance with proposal instructions in this RFP. Complying proposals will be scored and evaluated on the criteria set forth in Section VI, below, and the most favorable offer to Metro and the City will be identified, considering price and other factors, as set forth more fully in Section VI, below.

Once the highest ranked Proposal has been identified, the parties will negotiate a purchase and sale agreement for the SE Corner, substantially in the form attached as Exhibit B to this RFP. If necessary, the identified Proposer will be asked to modify elements of its proposal to achieve the optimal outcome for Metro, the City, and the nature park on the Park Property. If negotiations are unsuccessful with the highest ranked Proposer, Metro and the City reserve the right to enter into negotiations with the next highest ranked Proposer. Once the City, Metro, and the highest ranked Proposer have agreed upon a form of contract, Metro and the City will issue a Notice of Intent to Award.

IV. PROJECT SCHEDULE

Metro and the City anticipate the following schedule, though all dates are approximate and represent time estimates only:

Metro Issues RFP	August 8, 2012
Pre-Proposal Conference (Mandatory)	August 21, 2012
Questions (If Any) Due	August 28, 2012
Proposals Due	September 7, 2012
Identification of Best Offer	September 21, 2012
Form of Purchase and Sale Agreement Negotiated	October 12, 2012
City Council Approval of Form of Purchase and Sale Agreement	October 16, 2012
Notice of Intent to Award	October 17, 2012

V. SUBMISSION REQUIREMENTS

A. Transmittal Letter. Each proposal must be attached to a transmittal letter that identifies the proposed purchaser of the property and the principal who will be the point of contact for this RFP and who has the authority to bind the Proposer in purchasing the SE Corner. The transmittal letter shall indicate that the proposal will be valid for ninety (90) days from the closing of this RFP.

B. Copies. Proposers shall submit three (3) paper copies and one (1) electronic version of the proposal to Metro in a sealed envelope, addressed to:

Metro Procurement Services
Attn: Sharon Stiffler, CPPB, RFP 13-2175
600 NE Grand Avenue
Portland, OR 97232-2736

C. Deadline. Proposals will not be considered if received after the date and time indicated on the RFP cover page.

D. Format. Proposals must be submitted following the format below, and should be submitted on recyclable, double-sided recycled paper (post consumer content). No waxed page dividers, folders, binders or non-recyclable materials should be included in the proposal.

Part 1: Proposer Qualifications. The Proposer must submit a narrative, no longer than five (5) pages in length (not including project/development sales brochures and marketing information which may be attached as an addendum to the proposal), providing the following information:

- Description of the Proposer's experience and background relevant to this transaction. For example, a Proposer purchasing the land for residential development should address the Proposer's development experience in the region, Washington County, and the City of Hillsboro.
- Three (3) references with first-hand knowledge of the Proposer's experience either (a) acquiring property or developing residential land, which references may either be from local governments or sellers from whom the Proposer has purchased property in the past; or (b) if the proposer is not intending to purchase the land for development, in prior real estate acquisitions.

Part 2: Financial Qualifications. Metro and the City must be assured of a buyer's ability to perform. The proposed purchaser identified in the transmittal letter must complete the form attached as Exhibit C, which form addresses the following information:

- Name, address and contact information
- Principals of the firm (if applicable)
- Background information regarding past projects (if applicable), financial condition of the firm/individual and litigation, if any.

The financial portions of these forms may be submitted in confidence to Metro. In accordance with Section VII(C) of the RFP, below, to the extent allowable by the Oregon Public Records Law, Metro agrees to keep this confidential. To ensure confidential handling, completed forms should be placed in a separate envelope from the non-confidential elements of the proposal and marked CONFIDENTIAL.

Part 3: Purchase Proposal Terms. Submit a proposal for the purchase of the SE Corner that includes the following terms and information, as well as any other terms the Proposer will seek in a purchase agreement or in connection with this transaction:

- Purchase price. Proposers are encouraged to propose deal structures involving bonus purchase price payments if certain conditions favorable to the Proposer are met prior to closing, or if the size of the SE Corner is larger than 9.45 acres.
- Due diligence period length
- Earnest money amount
- Closing date (on or after completion of the partition of the Park Property and the SE Corner)
- Describe amount of any brokerage commission that Metro and the City would pay.
- Indicate any changes requested to the form Purchase and Sale Agreement attached to this RFP. This is the standard agreement that successful respondents to this RFP will be required to execute. RFP respondents wishing to propose any exceptions or alternative clauses to the agreement or to any specified criteria within this RFP must propose those exceptions or alternative clauses in their proposal; Metro shall not be required to consider contract revisions

proposed during contract negotiation and award. Proposed exceptions or alternative clauses should be accompanied by explanatory comments that are succinct, thorough and clear.

- If applicable, submit a preliminary concept for development of the SE Corner upon which the purchase is based. This concept plan may be general (outlining type of development anticipated and approximate number of units, for example) or specific. It may be submitted in confidence, as set forth in Part 2 above, and Metro agrees to keep such concept plan confidential to the extent allowable by the Oregon Public Records Law.

Part 4: Diversity in Employment and Contracting. In no more than three (3) pages, describe the following:

- Work Force Diversity – Describe your work force demographics (number of employees, race and gender) and the measurable steps taken to ensure a diverse work force, including company policies and practices that promote the hiring and retention of women and ethnic minorities.
- Diversity in Contracting – Describe your history of working with diverse firms, including any MWESB-certified firms. Describe a project for which you worked with minorities, women or emerging small businesses. Please provide the project name, method used to achieve participation – for example, joint ventures, subcontracts or purchase of equipment or supplies from a certified firm – and the dollar amount or percentage of the project budget expended on such participation.
- Diversity of Firm – Describe the ownership of your firm and whether or not your firm is certified by the State of Oregon as an MBE, WBE or ESB. Provide certification number, if applicable.

Part 5: Sustainable Business Practices. In no more than five (5) pages, describe the following:

- Environment: Describe your business practices to reduce environmental impacts of your operations. This may include energy efficiency, use of non-toxic products, alternative fuel vehicles, waste prevention and recycling, water conservation, green building practices, etc.
- Economy: Describe your support of local businesses and markets within the Portland Metro region. Include what steps your company has taken in the past to support local businesses, and what steps would be taken if selected for this project.
- Community: Describe the employee compensation structure of your organization. Include wage scales for employees, including trainee, probationary, entry level, journey level, and supervisory. Also include policies regarding annual cost of living adjustments (COLA) to employee wages. Details of the healthcare program (including, medical, dental, prescriptions, preventive care, etc.) as well as out of pocket and deductibles, and employee contributions for themselves and family members. All other employee benefits are to be including, such as vacation, sick leave, pension, disability insurance, profit sharing, childcare, health memberships, company vehicle, public transportation, etc.

VI. EVALUATION CRITERIA

The following factors and point ranges will be used in evaluating proposals. The interpretation and application of the evaluation criteria is at the sole discretion of Metro and the City. If the Metro/City evaluation panel believes that information contained in any proposal is inaccurate, the committee reserves the right, after requesting clarification from the proposer, to adjust the data for purposes of evaluation, or to reject the proposal as nonresponsive.

Factors	Maximum Points
1) PROVEN ABILITY OF THE PROPOSED PURCHASER	30
a. Success in delivering high quality development or other projects	
b. Demonstrated ability to secure all financing (debt and equity)	
c. Capacity to close on time	
d. Success in working in public/private partnerships	
e. Feasibility of development concept (if applicable)	
***Please note that it is possible for Proposers who do not intend to develop the SE Corner to achieve the maximum points in this category*	
2) FINANCIAL AND BUSINESS TERMS PROPOSED	55
a. Purchase Price	
b. Closing Timeline	
c. Earnest Money amount	
d. Attractiveness of the terms and conditions of business offer to Metro and the City	
3) DIVERSITY: Work Force Diversity, Diversity in Contracting, Diversity of Firm	5
4) SUSTAINABLE BUSINESS PRACTICES: Environment, Economy, Community	10
	100

VII. GENERAL PROPOSAL / CONTRACT CONDITIONS

A. RFP as Basis for Proposals

This Request for Proposals represents the most definitive statement Metro and the City will make concerning the information upon which Proposals are to be based. Any verbal information which is not addressed in this RFP will not be considered by Metro and the City in evaluating the Proposal. All questions relating to this RFP should be addressed to sharon.stiffler@oregonmetro.gov. Any questions, which in the opinion of Metro, warrant a written reply or RFP addendum will be furnished to all parties receiving this RFP. Metro will not respond to questions received after 3:00 pm on August 28, 2012.

B. Information Release

All Proposers are hereby advised that Metro or the City may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all Proposers agree to such activity and release Metro and the City from all claims arising from such activity.

C. Confidentiality

This paragraph shall apply to information that the Proposer is submitting to Metro that Proposer considers to be confidential and proprietary, and which Proposer does not want Metro or the City to disclose to third parties. To protect such information from disclosure, Proposers should specifically identify the pages of the proposal containing such information by marking the applicable pages “CONFIDENTIAL.” However,

Proposers shall not identify the entire proposal "CONFIDENTIAL." Provided that, in Metro's and the City's sole discretion, such information should reasonably be considered confidential, and to the extent otherwise permitted by law, Metro and the City oblige themselves in good faith not to disclose such properly identified confidential information to any person outside of Metro or the City. Proposers should be aware that Oregon Public Records Laws require public disclosure of most records deemed to be "public records." Accordingly, Metro and the City cannot guarantee to protect the confidentiality of any records submitted, even if the Proposer believes them to be exempt from disclosure under Oregon law. If properly identified confidential information is requested, and if Metro and the City determine that such information should reasonably be considered confidential, Metro and the City will not disclose it unless ordered to do so by the Multnomah County District Attorney, and, if Metro and the City receive such an order, Metro and the City will provide Proposer with the opportunity to appeal the District Attorney's decision to the State courts. Metro and the City shall not release for public inspection proposals received until they conclude negotiations, and Metro issues a Notice of Intent to Award.

D. Minority, Women and Emerging Small Business Program
In the event that any subcontracts are to be utilized in the performance of this agreement, the Proposer's attention is directed to Metro Code provisions 2.04.100, which encourages the use of minority, women and emerging small businesses (MWESB) to the maximum extent practical. Copies of these MWESB requirements are available from the Metro Procurement Services, 600 NE Grand Avenue Portland, OR 97232, 503-797-1648.

E. Pre-Proposal Conference
A mandatory pre-proposal conference will be held at **Metro, 600 NE Grand Ave, Portland, OR, Room 401, on August 21, 2012 at 2:00 p.m**., as described in Section III, above. Interested Proposers must attend the conference in order to be able to propose on this RFP.

F. Limitation and Award: This RFP does not commit Metro or the City to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro and the City reserve the right to waive minor irregularities, accept or reject any or all proposals received as the result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.

G. Conflict of Interest. A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or the City has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro and/or the City; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

H. Equal Employment and Nondiscrimination Clause Metro, the City and their contractors will not discriminate against any person(s), employee or applicant for employment based on race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability for which a reasonable accommodation can be made, or any other status protected by law. Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, see www.oregonmetro.gov.

VIII. APPEAL OF CONTRACT AWARD

Aggrieved proposers who wish to appeal the award of this contract must do so in writing within seven (7) days of issuance of the notice of intent to award by Metro. Appeals must be submitted to Metro Procurement Officer, 600 NE Grand Avenue, Portland, Oregon 97232 and must state the specific deviation of rule or statute in the contract award. Metro will issue a written response to the appeal in a timely manner.

EXHIBIT A
MAP SHOWING APPROXIMATE LOCATIONS OF PARK PROPERTY, SE CORNER AND CITY PROPERTY

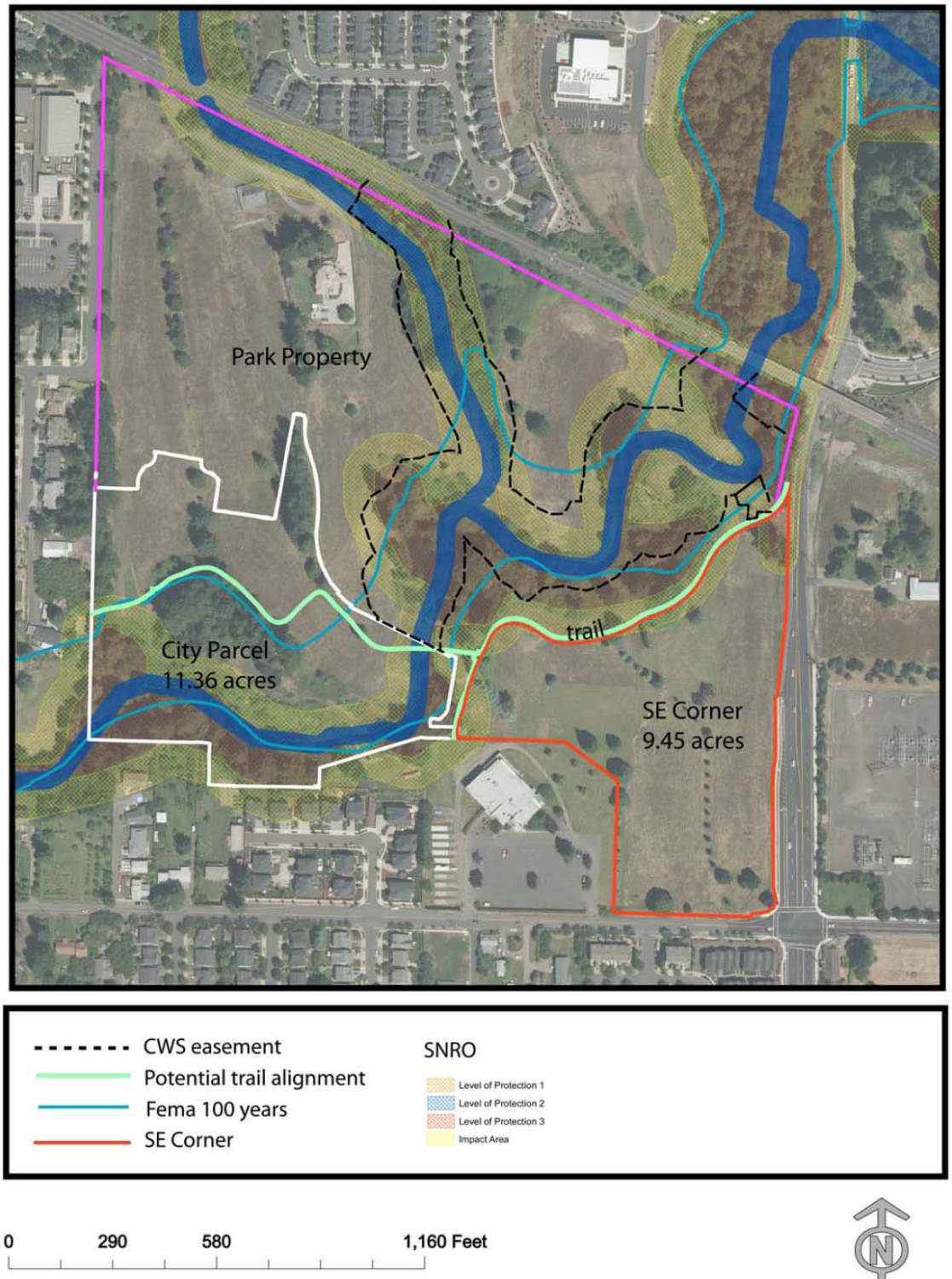


EXHIBIT B
FORM OF PURCHASE AND SALE AGREEMENT

DATED: _____, 2012 (the "Effective Date")

BETWEEN: Metro, an Oregon municipal corporation, and
The City of Hillsboro, an Oregon municipal corporation (together, "Seller")

AND: _____,
an _____ ("Buyer")

RECITALS

A. Seller owns certain real property at the intersection of NW Cornelius Pass Road and NW Quatama Road, in the City of Hillsboro, Washington County, Oregon, commonly referred to as Washington County Assessor's Tax Map 1N235, Tax Lot 3400 (the "Orenco Parcel"), which property is depicted on the attached Exhibit A.

B. Seller intends to partition the Orenco Parcel (the "Partition") into one (1) approximately 31-acre parcel (the "Park Property") and one (1) approximately 9.45-acre parcel (the "Property"). The approximate configuration of the Park Property and the Property is shown on Exhibit A.

C. Buyer desires to purchase the Property from Seller, and Seller desires to sell the Property to Buyer, for the price and on the terms and conditions described in this Purchase and Sale Agreement (the "Agreement").

NOW, THEREFORE, in consideration of the foregoing and the agreements set forth below, the parties agree as follows:

1. Purchase and Sale. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property for the price and in accordance with the terms and conditions set forth in this Agreement.

2. Purchase Price and Payment.

2.1 Purchase Price. The purchase price of the Property (the "Purchase Price") shall be _____ Dollars ($_____.00) and shall be paid in cash by Buyer at the Closing, as defined below.

2.2 Earnest Money. Within one (1) business day following the Effective Date, Buyer shall deposit in escrow with Chicago Title Insurance Company (the "Title Company"), located at 1211 SW Fifth Avenue, Suite 2130, Portland, Oregon 97204, Attention: Cheryl Stahel-Eastman, Phone (503) 973-

7410, the sum of _____ Dollars ($_____.00) (the "Earnest Money"). The Title Company shall hold the Earnest Money in a federally insured account for the account of Buyer, to be held in strict accordance with the terms of this Agreement. The accrued interest will be treated as part of the Earnest Money. If the Earnest Money is retained by Seller, Seller will receive the interest. If the Earnest Money is retained by Buyer, Buyer will receive the interest. At Closing, the Earnest Money, together with any interest on it, if any, shall be credited against the Purchase Price.

3. Title.

3.1 Permitted Exceptions. Buyer has obtained a preliminary title report on the Property from the Title Company, Order No. _____, dated _____, along with legible copies of all exception documents listed in the report (the "Title Report"). All such exceptions shall be deemed "Permitted Exceptions". Should the Title Company inform Buyer of any new title exceptions not appearing on the initial Title Report, such new exceptions shall be deemed "Unacceptable Exceptions," unless specifically accepted in writing by Buyer, in which event they shall be considered additional Permitted Exceptions. If Seller elects not to remove any of the Unacceptable Exceptions, and Buyer is not then satisfied with the condition of title, Buyer may elect to terminate this Agreement, in which event the Earnest Money shall be returned to Buyer. If Seller fails to eliminate any Unacceptable Exception by the Closing Date, as defined below, then Buyer may, without limiting any of its otherwise available remedies, elect to either (a) accept title to the Property subject to such exception, or (b) refuse to accept the Property and terminate this Agreement, in which case the Earnest Money shall be refunded to Buyer.

3.2 Title Policy. Seller shall deliver title to the Property to Buyer subject only to the Permitted Exceptions. Evidence of title shall be the Title Company's issuance at Closing of its Standard ALTA Owner's Policy of Title Insurance in form acceptable to Buyer insuring that fee title in the Property is vested in Buyer subject only to the Permitted Exceptions, with such endorsements as may reasonably be requested by Buyer (the "Title Policy").

4. Property Documents. Seller has provided Buyer a Phase 1 Environmental Site Assessment and Addendum, dated September 2011, related to the Property, and is aware of no additional relevant information. Seller shall provide Buyer an opportunity to inspect Seller's files at the offices of Metro and to make copies of non-confidential documents. If this Agreement terminates, Buyer shall promptly deliver to Seller, without representation or warranty, all third-party studies, reports, surveys, and other information and materials Buyer has received or obtained pertaining to the Property, except Buyer's proprietary information, such as *pro formas*.

5. Property Investigations. Upon reasonable prior notice, Seller shall allow Buyer, its agents and consultants access to the Property for purposes of investigating the Property. With respect to any inspection or testing that is invasive, Buyer must first submit to Seller a written plan for any such invasive testing which shall include a plan to deal with any hazardous materials that may be encountered during such testing, and Buyer may not proceed with any such invasive testing or any other sampling or core drilling unless Seller has approved of Buyer's plan in writing (which approval may be withheld by Seller in its sole discretion). Buyer shall conduct any such invasive testing in strict

accordance with the plan approved by Seller. Buyer shall indemnify, defend, and protect Seller against and hold Seller harmless from all losses, costs, damages, liabilities and expenses, including attorneys' fees and defense costs, resulting from any acts or omissions of Buyer or Buyer's representatives in connection with their entry upon, or inspection or investigation of, the Property. This indemnification obligation shall survive the Closing or termination of this Agreement.

6. Due Diligence Period. Buyer shall have _____ (____) days commencing on the Effective Date to inspect and investigate the Property (the "Due Diligence Period"), including soils, water, sewer, engineering, legal status and requirements pertaining to the Property (including building codes, zoning, environmental, public health and fire safety laws), hazardous substance inspections including preparation of an environmental assessment, suitability of the Property for Buyer's purposes and all other matters of significance to Buyer. Buyer agrees to keep the results of such testing and inspections confidential, except to the extent that disclosure is required by law (in which case, Buyer will notify Seller prior to making any such disclosure). Buyer shall order and pay for all costs and expenses with respect to such inspections and investigations. If, prior to the expiration of said Due Diligence Period, Buyer notifies Seller in writing that it disapproves the Property for any reason, in its sole discretion, this Agreement will terminate and the Earnest Money will be returned to Buyer. If Buyer notifies Seller in writing before the end of the Due Diligence Period that the Property is acceptable, or if Buyer fails to send any notice by the end of the Due Diligence Period, the parties shall proceed to complete the Closing pursuant to the terms of this Agreement.

7. Acceptance of Property "As Is". Buyer acknowledges and agrees that prior to Closing it will have had full opportunity to inspect and investigate every aspect of the Property, including all matters related to legal status or requirements, physical condition, zoning, environmental condition, title, contracts and all other matters of significance. Buyer specifically acknowledges and agrees that the Property is being sold in an "AS IS" condition and "WITH ALL FAULTS" as of the date of the Closing. Except as expressly set forth in this Agreement, no statements, representations or warranties have been made or are made and no responsibility has been or is assumed by Seller, or by any officer, employee, manager, person, firm, agent or representative acting or purporting to act on behalf of Seller, as to any matters concerning, or that might in any manner affect, the Property, including but not limited to the condition of the Property or the value, or income potential thereof, and Buyer is not relying upon any such statement, representation or warranty. Further, to the extent that Seller has provided to Buyer information or reports regarding any environmental or other matters regarding any aspect of the Property, Seller makes no representations or warranties with respect to the accuracy, completeness, methodology of preparation or otherwise concerning the contents of such reports. Buyer acknowledges that Seller has requested Buyer to inspect fully the Property and investigate all matters relevant thereto and to rely solely upon the results of Buyer's own inspections or other information obtained or otherwise available to Buyer, rather than any information that may have been provided by Seller to Buyer, other than Seller's express representations and warranties set forth in this Agreement.

8. Partition.

8.1 Survey and Application. As of the Effective Date, the Property is not a separately conveyable legal lot. Following the Effective Date, Seller shall commence work to obtain the Partition from Washington County, Oregon (the "County"), and all other required governmental authorities.

8.2 Survey. Seller shall perform a survey of the Property and the Park Property in order to (a) create legal descriptions of the Property and the Park Property, and (b) provide the diagrams and other survey information required to apply for and obtain the Partition. Following the survey, the Property shall be specifically and legally described by metes and bounds and in a manner that will permit the issuance of the Title Policy consistent with Section 3.2 of this Agreement. Seller shall use good faith efforts to ensure that the Property and the Park Property are generally configured as shown on Exhibit A and that the Property contains approximately 9.45 acres; provided, however, that Buyer acknowledges and agrees that in order to obtain the Partition the size and location of the Property and the Park Property may need to be adjusted. In addition, in the course of master planning a nature park on the Park Property, Seller may deem it necessary, in Seller's sole discretion, to adjust the location of this boundary. Notwithstanding the foregoing, Seller shall not reduce the size of the Property by more than .5 acres, without Buyer's prior written consent, which consent may not be unreasonably withheld. There shall be no adjustment to the Purchase Price based on the number of acres ultimately conveyed as part of the Property.

8.3 Completion of the Partition. The Partition shall be considered complete when (a) it is final, binding, and non-appealable, (b) any final survey or plat required to evidence the Partition is filed with and accepted by the County, and (c) the Property and the Park Property are comprised solely of legal, insurable lots.

8.4 Fees and Costs. All costs associated with the achieving the Partition, including the cost of any survey and any filing, application, or other administrative fees required by the Washington County shall be split equally between Buyer and Seller, with Buyer's share to be reimbursed to Seller at Closing. Notwithstanding the foregoing, Buyer shall be solely responsible for paying any Washington County Transportation Development Tax, and each party shall be responsible for its own attorneys and consulting fees incurred.

9. Cooperation of the Parties; Access Easement.

9.1 Cooperation. In addition to the Partition, Seller intends to plan and seek modifications to the existing land use approvals applicable to the Park Property, in order to develop a nature park on the Park Property. At the same time, Buyer may desire to modify the existing land use approvals to permit its desired development of the Property, and Buyer shall have the right, during the term of this Agreement, to apply for and obtain any and all land use approvals and building permits for the Property as are desired by Buyer, at Buyer's expense. Neither Seller nor Buyer may require any particular form of development on the other's property in connection with this process.

9.2 Easement. Seller may require bicycle, pedestrian and non-motorized access to the Park Property over the Property on behalf of itself and members of the public prior to development of the Property, and over any streets, sidewalks, and paths to be constructed on the Property in the future. If Seller so elects, Seller shall notify Buyer prior to Closing, and Buyer shall grant back to Seller an easement over the Property at Closing, substantially in the form attached as Exhibit B (the "Easement").

10. Conditions to Closing.

10.1 Buyer's Conditions to Closing. Buyer's obligation to purchase the Property is conditioned upon the satisfaction of each of the following conditions each of which is for the exclusive benefit of Buyer. Buyer may, at any time or times before the Closing, waive one or more of the following conditions, without affecting its rights and remedies with respect to the remaining conditions:

10.1.1. The performance by Seller of all its obligations hereunder, and the truth, completeness and accuracy of each representation and warranty made by Seller as of the Effective Date and the Closing.

10.1.2. Buyer's election (or deemed election) to accept the Property pursuant to Section 6.

10.1.3. Completion of the Partition.

10.1.4. The issuance at Closing of the Title Policy.

10.1.5. Conveyance of the Property to Buyer at the Closing, subject only to the Permitted Exceptions.

10.2 Seller's Conditions. Seller's obligation to sell the Property is conditioned upon the satisfaction of each of the following conditions, each of which is for the exclusive benefit of Seller. Seller may, at any time before the Closing, waive one or more of the following conditions, without affecting its right, and remedies with respect to the remaining conditions:

10.2.1. Completion of the Partition.

10.2.2. The performance by Buyer of all its obligations hereunder, and the truth, completeness and accuracy of each representation and warranty made by Buyer as of the Effective Date and the Closing.

11. Closing.

11.1 Closing Date. The purchase of the Property shall be closed in escrow at the Title Company (the "Closing"). The time for Closing (the "Closing Date") shall be on or before the date that is _____ (_____) days after the end of the Due Diligence Period.

11.2 Seller's Deposits. On or before the Closing Date, Seller shall deliver to the Title Company, the following:

(a) An executed and acknowledged bargain and sale (the "Deed") conveying fee simple title to the Property to Buyer subject only to the Permitted Exceptions.

(b) The Easement, if required by Seller, executed and acknowledged by Seller.

(c) Seller's share of the closing costs as described in Section 12, below, or instructions to Title Company to deduct same from the Purchase Price.

(d) Such other documents as may reasonably be required to complete the Closing.

11.3 Buyer's Deposits. On or before the Closing Date, Buyer shall deliver to the Title Company, the following:

(a) The Purchase Price less any credit to Buyer pursuant to this Agreement and for the Earnest Money.

(b) The Easement, if required by Seller, executed and acknowledged by Buyer.

(c) Buyer's share of the closing costs as described in Section 12, below.

(d) Such other documents as may be reasonably required to complete the Closing.

12. Closing Costs; Taxes.

12.1 Seller shall pay the premium for a standard form owner's policy of title insurance and one-half the escrow fee. Buyer shall pay for any upgrades to the title insurance policy to extended coverage and any required title endorsements. Buyer shall pay one-half the escrow fee and all recording fees.

12.2 Given that the Property is in public ownership as of the Effective Date, any real property taxes and assessments levied or assessed against the Property shall be solely Buyer's responsibility.

13. Default; Remedies.

13.1 Buyer's Failure to Close. In the event that Buyer is obligated to pay the Purchase Price and fails to do so, then Seller shall be entitled as its sole remedy to retain the Deposit, as liquidated damages.

13.2 Seller's Failure to Close. In the event that Seller is obligated to convey the Property to Buyer but fails to do so, then Buyer shall be entitled as its sole remedy to recover the Deposit and its third-party, out of pockets costs spent for this transaction.

14. Representations and Warranties

14.1 Seller's Representations. Seller hereby makes the following representations and warranties to Buyer, which representations and warranties shall survive the Closing for a period of one (1) year, and all of which (i) are material and are being relied upon by Buyer; and (ii) are true, complete and accurate as of the Effective Date and shall be true, complete and accurate at the Closing Date. All of Seller's representations are based on Seller's actual knowledge (as used herein, "Seller's actual knowledge" means the actual and present knowledge of _____, without investigation or inquiry). In no event shall _____ have any personal liability under this Agreement.

14.1.1. Seller has full power and authority to enter into and perform this Agreement in accordance with its terms, and all requisite action has been taken by Seller in connection with the execution of this Agreement and the transactions contemplated hereby.

14.1.2. There is no condemnation proceeding, litigation, action, suit, or proceeding pending, or threatened in writing within six (6) months prior to the date of this Agreement, which affects the Property.

14.1.3. Seller has not received any written notice of violation of any law or ordinance affecting the Property.

14.2 Buyer's Representations. Buyer hereby makes the following representations and warranties to Seller, which representations and warranties shall survive the Closing and all of which (i) are material and are being relied upon by Seller; and (ii) are true, complete and accurate in all respects as of the date hereof and shall be true, complete and accurate as of the Closing Date:

14.2.1. Buyer is a _____ duly organized, validly existing and in good standing under the laws of _____;

14.2.2. This Agreement and all documents executed by Buyer which are to be delivered to Seller at the Closing are, or at the time of Closing will be, duly authorized, executed, and delivered by Buyer, and are, or at the Closing will be, legal, valid, and binding obligations of Buyer, and do not, and at the time of Closing will not, violate any provisions of any agreement to which Buyer is a party or to which it is subject or any law, judgment or order applicable to Buyer.

14.2.3. No proceedings under any federal or state bankruptcy or insolvency laws have been commenced by or against Buyer which have not been terminated; no general assignment for the benefit of creditors has been made by Buyer; and no trustee or receiver of Buyer's property has been appointed.

15. Risk of Loss, Condemnation. Seller bears the risk of all loss or damage to the Property from all causes, through the Closing Date. If, before the Closing Date, a substantial portion of the Property is damaged, destroyed, condemned, or threatened with condemnation, Seller shall give Buyer written notice of such event. Buyer may terminate this Agreement by giving written notice to Seller within fifteen (15) days following receipt by Buyer of written notice from Seller of such casualty or condemnation and the Title Company shall return the Earnest Money to Buyer.

16. Miscellaneous Provisions

16.1 Notices. Notices under this Agreement shall be in writing and shall be effective when actually delivered or two days after being deposited in the United States mail, directed to the other party at the address set forth below, or when sent by fax directed to the other party at the fax number set forth below, provided the receiving party's fax machine confirms delivery. Any party may change its address or fax number for notice by written notice given to the other in the manner provided in this Section.

Seller: City of Hillsboro
Parks and Recreation Department
4400 NW 229th Avenue
Hillsboro, OR 97124
(503) 681-6120
Attn: Director

Metro
Office of Metro Attorney
600 NE Grand Avenue
Portland, OR 97232
(503) 797-1792
Attn: Hope S. Whitney

Buyer: _____
_____
_____
(503) _____
Attn:_____

16.2 Waiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit such party's right to enforce such provision, nor shall any

waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.

16.3 Amendment. This Agreement may not be modified or amended except by the written agreement of the parties. No modification or amendment or attempted waiver of any provision of this Agreement shall be binding unless in writing and signed by the party to be bound. This Agreement may not be modified or amended orally.

16.4 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16.5 Brokers. Each party represents and warrants to the other that it has not used or engaged a real estate broker in connection with this Agreement or the transaction contemplated by this Agreement. In the event any person or entity asserts a claim for a broker's commission or finder's fee against one of the parties to this Agreement, then Seller shall indemnify, hold harmless, and defend Buyer from and against any such claim if based on any action, agreement, or representations made by Seller; and Buyer shall indemnify, hold harmless, and defend Seller from and against any such claim if based on any action, agreement, or representations made by Buyer.

16.6 Further Actions of Buyer and Seller. Buyer and Seller agree to execute all such instruments and documents and to take all actions pursuant to the provisions of this Agreement in order to consummate the purchase and sale contemplated and both parties shall use their best efforts to accomplish Closing in accordance with the provisions hereof.

16.7 Representation. This Agreement was prepared by Seller. Buyer represents that Buyer had an opportunity to consult with its own legal counsel prior to executing this Agreement. Buyer waives any claim that any term or condition herein should be construed against the drafter of the Agreement. This Agreement shall be construed as if it had been prepared by both parties.

16.8 Integration. This Agreement contains the entire agreement and understanding of the parties with respect to the purchase and sale of the Property and supersedes all prior and contemporaneous agreements between them with respect to such purchase and sale.

16.9 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

16.10 Assignment. This Agreement may not be assigned by either party without the consent of the other party.

16.11 Time of Essence; Counting of Days. Seller and Buyer hereby acknowledge and agree that time is strictly of the essence with respect to every term, condition, obligation, and provision

contained in this Agreement. Unless otherwise specified herein, in computing any period of time described in this Agreement, whenever a date for an action required to be performed falls on a Saturday, Sunday, or a state or federal holiday, then such date shall be extended to the following business day.

16.12 Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures to each counterpart were upon a single instrument, and is intended to be binding when all parties have delivered their signatures to the other parties. Signatures may be delivered by facsimile transmission or by e-mail. All counterparts shall be deemed an original of this Agreement.

16.13 Statutory Disclaimer. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

[*Signatures follow on next page*.]

IN WITNESS WHEREOF, Buyer and Seller have executed this Agreement effective as of the Effective Date.

METRO,
an Oregon municipal corporation

By: _____
Martha J. Bennett
Chief Operating Officer

Date: _____

BUYER:

By: _____

Print Name: _____

Title: _____

Date: _____

THE CITY OF HILLSBORO, an Oregon municipal Corporation

By:_____

Print Name:_____

Title:_____

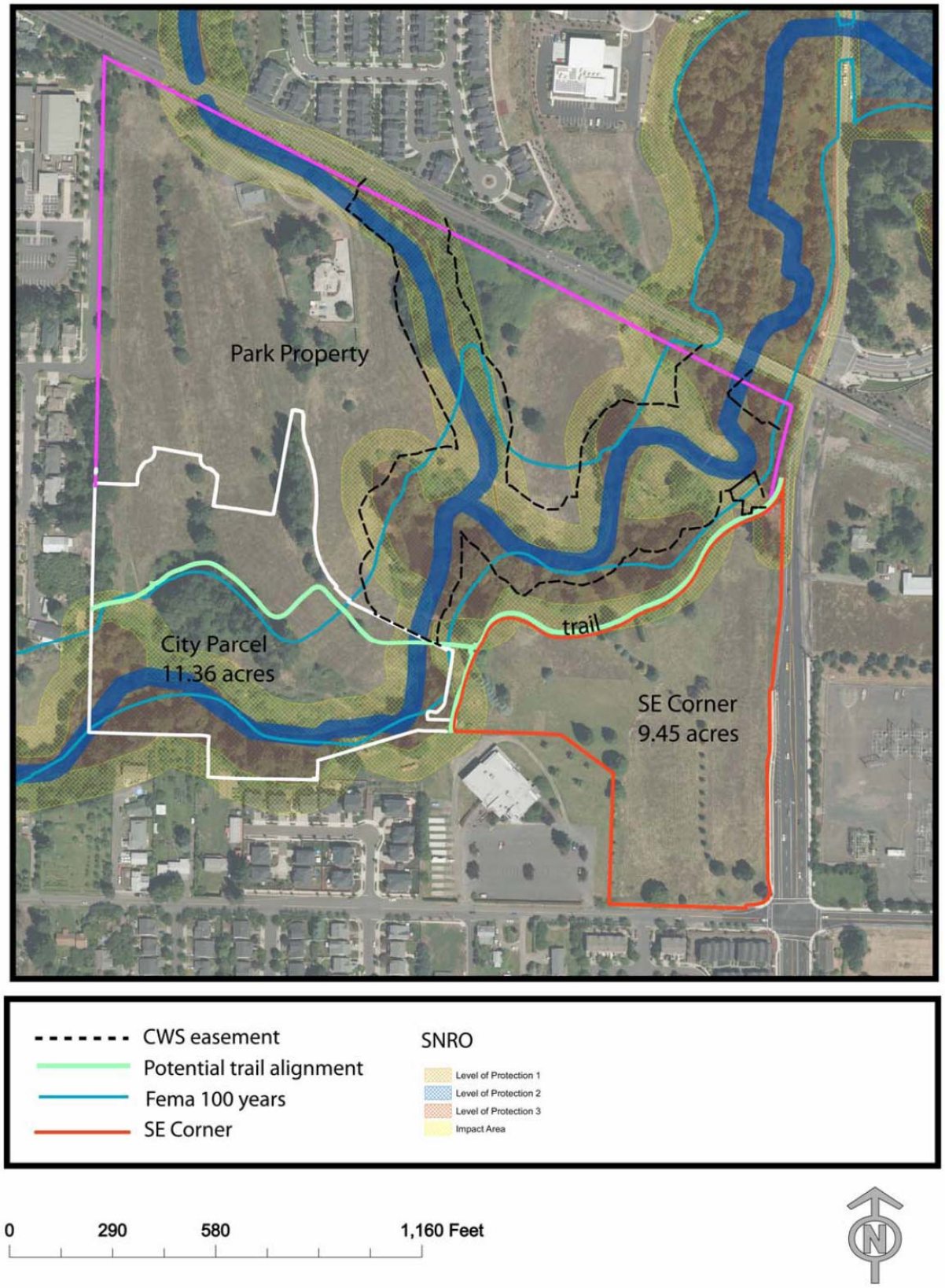
Date:_____

Metro
600 NE Grand Ave.
Portland, OR 97232-2736
503-797-1700

Request for Proposals (RFP 13-2175)

EXHIBIT A

Map of Orenco Parcel, Park Property and Property



600 NE Grand Ave.
Portland, OR 97232-2736
503-797-1700

EXHIBIT B

Form of Easement

[*To be negotiated*]

Metro
600 NE Grand Ave.
Portland, OR 97232-2736
503-797-1700

EXHIBIT C
Statement of Legal Status and Financial Capability

For official and confidential use by Metro

Purpose / Instructions: The following information will be used by Metro and the City in determining whether or not the identified Proposer has, in the opinion of Metro and the City, the financial capability to successfully complete the acquisition of the SE Corner.

NOTE: In accordance with ORS 192.502.4, Metro and the City consider this information as a public record exempt from disclosure under ORS 192.410 to 192.505.

If space on this form is inadequate for any requested information, please furnish on attach pages with a reference to the appropriate question number on this form.

A. Proposer Information

1. Official Company/Entity Name: _____ (hereinafter "Proposer")
2. Mailing Address: _____
   State/Zip: _____
3. If at this address less than 1 year, prior address: _____
4. Primary contact regarding this information: _____
5. Telephone Number: _____
6. Email Address: _____

B. Proposer Entity. The Proposer named above is:

- ☐ A sole proprietorship – Soc. Sec. # _____
- ☐ A corporation – FID # _____
- ☐ A nonprofit or charitable institution or corporation – FID # _____
- ☐ A partnership _____ – FID # _____
- ☐ A business association or a joint venture – FID # _____
- ☐ A limited liability company – FID # _____
- ☐ A Federal, State, or local government or instrumentality thereof
- ☐ An individual - Soc. Sec. # _____
- ☐ Other / explain: _____

C. Date and State of Organization. If the Proposer is not an individual or a government agency or instrumentality:

1. Date of organization: _____
2. State of organization: _____

D. Proposer **Principals.** Names of owners, officers, directors, trustees, and principal representatives of the entity

Name, Title, Address, ZIP Code	**Description of interest/relationship**	**% of Ownership Interest**

E. Affiliations. Is the Proposer a subsidiary or parent of or affiliated with, any other corporation or corporations or any other firm or firms? ☐ Yes ☐ No

If Yes, provide the following information:

Corporation / Firm	Relationship to Proposer	Common Officers/Directors/Owners/ Trustees/Representatives
Name Address		
Name Address		

If the Proposer is different than the parent corporation or firm, will the parent corporation or firm guarantee performance under this proposal?

☐ Yes ☐ No

F. Bankruptcy. Has the Proposer or the parent corporation (if any), or any subsidiary or affiliated corporation of the Proposer or said parent corporation, or any of the Proposer's officers or principal members, shareholders or investors filed for bankruptcy, either voluntary or involuntary, within the past 10 years? ☐ Yes ☐ No

If Yes, provide the following information:

Name	Court	Date	Status

G. Loan Defaults. Has the Proposer or the parent corporation (if any), or any subsidiary or affiliated corporation of the Proposer or said parent corporation, or any of the Proposer's officers or principal members, shareholders or investors defaulted on a loan or other financial obligation? ☐ Yes ☐ No

If Yes, explain: _____

H. Criminal Litigation. Is the Proposer or the parent corporation (if any), or any subsidiary or affiliated corporation of the Proposer or said parent corporation, or any of the Proposer's officers or principal members, shareholders or investors party to any past or pending criminal litigation? ☐ Yes ☐ No

If Yes, provide the following information, and attach any additional information or explanation deemed necessary:

Date Filed	Court	Charge / Current Status

I. Civil Litigation. Is the Proposer or the parent corporation (if any), or any subsidiary or affiliated corporation of the Proposer or said parent corporation, or any of the Proposer's officers or principal members, shareholders or investors party to any pending civil litigation that could potentially impact the financial capability of the Proposer to complete the proposed development? ☐ Yes ☐ No

If Yes, provide the following information, and attach any additional information or explanation deemed necessary:

Date Filed	Court	Current Status

J. Conflict of Interest. Does any member or employee of Metro or the City of Hillsboro have any direct or indirect personal interest in the Proposer or in the redevelopment or rehabilitation of the property being proposed by the Proposer? ☐ Yes ☐ No

If Yes, explain: _____

K. Financial Condition. Attach to this statement a **certified financial statement** showing the assets and the liabilities, including contingent liabilities, of the Proposer fully itemized in accordance with accepted accounting standards and based on a proper audit. If the date of this certified financial statement precedes the date of this submission by more than nine months, also attach an interim balance sheet not more than 60 days old.

L. Additional Information. Attach any additional evidence deemed helpful to demonstrate the Proposer's financial capacity and capability to complete the proposed transaction.

CERTIFICATION

I[1] _____ certify under penalty of perjury under the laws of the State of Oregon that I am authorized to submit this information on behalf of the Proposer and that the statements made in this Statement of Qualifications are true and correct.[2]

I further authorize Metro, or any employee or agent acting on behalf of the Metro, to undertake any investigation deemed appropriate to verify the information contained herein.

Printed Name _____ **Title** _____

Signature _____ **Date** _____

[1] If the Proposer is an individual, this statement should be signed by such individual; if a partnership, by one of the partners; if a corporation or other entity, by one of its chief officers having knowledge of the facts required by this statement.

[2] ORS 162.055 to 162.425 makes it a crime to knowingly make a false statement to a public servant with regard to a material issue. Such false statement is a Class C Felony punishable by up to 5 years in prison and/or a fine of $100,000.