

FOR SALE (IG2) COLUMBIA CORRIDOR INDUSTRIAL PROPERTY

NEW PRICING:
\$119,750
Purchase Price and
Settlement Payment

7039 NE 46th Ave, Portland, OR
Tax Account: R317597
2.27 Acres
2016 Roll Value: \$294,140



Multnomah County acquired this property through tax foreclosure. The Property has been the site of extensive environmental remediation. According to the Oregon Department of Environmental Quality: *The Nuway Oil Company operated a used oil re-refining facility at the site from 1935 to 1987. The Record of Decision was issued in January 2006. The cleanup at the site included soil excavation, sediment dredging, bank stabilization, and site capping. Long term maintenance of the property is required due to contamination remaining under the cap.*

Because of the complexity of the property, the sale approval is dependent upon a purchaser's ability to successfully negotiate a Prospective Purchaser Agreement and related agreements with DEQ. The Purchase Price is fixed at \$39,750, however, the full acquisition cost will include a Settlement Payment of \$80,000 to a dedicated Columbia Slough Fund through DEQ as a condition of the PPA.

Please review the attached Earnest Money Agreement and the DEQ website:

<http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceIdType=11&SourceId=88> After review, please contact Mike Sublett, michael.a.sublett@multco.us. Upon qualification of experience with PPAs and related agreements, a conference with DEQ Regional staff will be scheduled for next steps, including a site visit. **All properties are sold "AS IS".** Potential purchasers should thoroughly investigate all aspects of the Property prior to entering into an agreement. Multnomah County does not guarantee or warrant that any parcel is usable for any particular purpose.



Earnest Money Agreement

DATE: May 1, 2017

SELLER: MULTNOMAH COUNTY, OREGON by and through its Tax Title Program, 501 S.E. Hawthorne Blvd., Suite 175, Portland, Oregon, 97214-3577, ("County" or "Seller").

PURCHASER:

Name: _____

Address: _____

Telephone: _____

(hereafter, the "Purchaser")

Recitals

1. On March 23, 2016, County conducted a Public Sheriff's Sale consistent with ORS 275.110 to 275.190 of tax-foreclosed real properties, including the property described herein.
2. Certain real property, situated in Multnomah County, Oregon, more particularly described in **Exhibit 1**, and hereinafter referred to as "Property" remained unsold after the Public Sheriff's Sale. As such, the Property may be sold subject to the requirements of ORS 275.200, at a price not less than \$39,750.00
3. Purchaser acknowledges and stipulates the Property has been the site of extensive environmental remediation, including but not limited to, cleanup of hazardous materials and other contamination, by the Oregon Department of Environmental Quality ("DEQ"), as further documented at the DEQ website for this property: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceIdType=11&SourceId=88> DEQ identifies the Property as: Nuway Oil Co. (ECSI Site ID: 88) CERCLIS (EPA) ID 009055534.
4. Purchaser acknowledges and stipulates that because of the Property's condition as documented and shown in the DEQ records identified in Recital 3, that any access to, activity on, use of, control of, or possession of the Property for any purpose (collectively "Activities") during the term of this Agreement would be subject to compliance with obligations and requirements imposed under Federal and State law relating to such Activities and that a transfer of ownership of the Property by the County to the Purchaser shall only be allowed upon the successful execution of a Prospective Purchaser Agreement and related agreements with DEQ, pursuant to ORS 465.327(3) ("PPA"). Purchaser acknowledges and stipulates that the PPA will include a payment to DEQ in the amount of \$80,000.00 ("Settlement Payment") which will be in addition to the Purchase Price, defined herein. The Scope of Work (**Exhibit 2**) and Columbia Slough Sediment Project Settling Potential Cleanup Liability Fact Sheet (**Exhibit 3**) outline the PPA requirements to be negotiated with DEQ.

Agreement (hereafter, “Agreement”)

Now, therefore, for valuable consideration, the parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated by this reference and are made a part of this Agreement.
2. **Sale and Purchase.** Purchaser agrees to purchase the Property from County and County agrees to sell the Property to Purchaser for the sum of \$39,750.00 (“Purchase Price”).
3. **Earnest Money.** County hereby acknowledges receipt of the sum of \$10,000.00 paid by Purchaser as earnest money. The earnest money shall be applied to the Purchase Price on the Closing Date, as that term is defined herein.
4. **Payment of Purchase Price.** The Purchase Price shall be paid as follows: At closing, the earnest money shall be credited to the Purchase Price and the Purchaser shall pay the balance of the Purchase Price in cash.
5. **Closing.** Closing shall take place upon the execution of a PPA pursuant to ORS 465.327(3) and related agreements between DEQ and Purchaser, but, not later than January 4, 2018. (“Closing Date”)
6. **Inspection and Right of Entry.** Purchaser shall have an opportunity to conduct risk-assessments or inspections of the Property prior to Closing for purposes of negotiating and executing a PPA with DEQ (“Inspections”). Inspections will be at reasonable, mutually agreeable times scheduled with County or DEQ by Purchaser. Purchaser may terminate this sale by delivering to County written notice of Purchaser’s disapproval of initial risk-assessment or inspection within sixty (60) days of this Agreement, unless Purchaser has waived the opportunity. If Purchaser delivers to County a timely notice of disapproval for any reason, this Agreement terminates and will be cancelled and County will promptly refund Purchaser’s earnest money deposit. Purchaser shall indemnify, hold harmless and defend County from all liens, costs, claims, demands, suits and expenses including reasonable attorney fees and expert fees, arising from or relating to Purchaser's entry on or inspection of the property as provided under this paragraph. This covenant to indemnify, hold harmless and defend Seller shall survive closing or any termination of this Agreement. Sixty (60) days after the date of this Agreement, the earnest money deposit is non-refundable.
7. **Deed.** Within ten (10) business days of the Closing Date, County shall execute, record, and make delivery to Purchaser at Program Offices a statutory bargain and sale deed conveying the Property to Purchaser.
8. **Title Insurance.** County does not provide title insurance.

- 9 Possession.** Purchaser shall be entitled to possession immediately upon recording with closing.
- 10 Property Sold “AS IS, WHERE IS.”** Purchaser stipulates that it has accepted and executed this Agreement on the basis of its own examination and personal knowledge of the Property, including but not limited to review and investigation by Purchaser to Purchaser’s personal satisfaction of the DEQ information and records regarding the Property as noted in Recital 3.; County makes no representations or warranties with respect to the physical condition or any other aspect of the Property, including, without limitation, that the Property may have conformed to past, current, or future applicable zoning or building code requirements, the existence of soil and stability, past soil repair, soil additions, or conditions of soil fill of susceptibility to landslides, the sufficiency of any undershoring, the sufficiency of any drainage, whether the Property is located either wholly or partially in a flood plain or a flood hazard boundary or similar area, or any other matter affecting the stability or integrity of the Property. Purchaser expressly acknowledges that the Property is being sold and accepted “**AS IS, WHERE IS,**” and Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights Purchaser may have regarding any form of warranty, express or implied, of any kind or type, relating to the Property, except as may be set forth in this Agreement. Such waiver is absolute, complete, total, and unlimited in any way.
- 11 Binding Effect/Assignment Restricted.** This Agreement is binding on and will inure to the benefit of County, Purchaser, and their respective heirs, legal representatives, successors, and assigns. Nevertheless, Purchaser will not assign its rights under this Agreement without County’s prior written consent which consent shall not be unreasonably withheld.
- 12 Remedies. TIME IS OF THE ESSENCE REGARDING THIS AGREEMENT.**
- a. If the conditions described in Paragraph 6 above are satisfied or waived by Purchaser and the transaction does not thereafter close, through no fault of County, before the close of business on the Closing Date, Purchaser shall forfeit the earnest money deposit of \$10,000.00 to County as liquidated damages.
 - b. If County fails to deliver the deed described in Paragraph 7 above on the Closing Date or otherwise fails to consummate this transaction, the earnest money deposit shall be refunded to Purchaser.
 - c. The parties agree the remedies for the failure to close this transaction shall be limited to the remedies set forth above and the parties waive any further remedies, which may be available to either.
 - d. Provided, nothing herein shall be interpreted to limit the Purchaser’s obligations under Paragraphs 5 and 6 as applicable, to defend, hold harmless and indemnify the County.
- 13 Notices.** All notices and communications in connection with this Agreement shall be given in writing and shall be transmitted by certified or registered mail, return receipt requested, to the appropriate party at the address first set forth above. Any notice so

transmitted shall be deemed effective on the date it is placed in the United States mail, postage prepaid. Either party may, by written notice, designate a different address for purposes of this Agreement.

14 Severability: If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to person 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.

15 Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the purchase and sale of the Property. This Agreement supersedes any and all prior negotiations, discussions, agreements, and understandings between the parties. This Agreement may not be modified or amended except by a written agreement executed by both parties.

16 Applicable Law. This Agreement shall be construed, applied, and enforced in accordance with the laws of the state of Oregon.

17 Statutory Warning.

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 TO INQUIRE ABOUT 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.

FOR MULTNOMAH COUNTY:

FOR PURCHASER:

Michael Vaughn

Dated: _____, 2017

Dated: _____, 2017

Exhibit 1 to Earnest Money Agreement

Legal Description:

A parcel of land located in the Northwest quarter of Section 18, Township 1 North, Range 2 East, Willamette Meridian, City of Portland, State of Oregon, more particularly described as follows:

Commencing at the Road Angle Number 12, a point in the center of Columbia Boulevard, as shown on County Survey Number 37970, Multnomah County Survey Records; thence North 01° 23' 45" East, 1115.25 feet to a 5/8 inches rebar with a plastic cap marked "Filsinger PLS 2613", the true point of beginning of this description; thence continuing North 01° 23' 45" East, 308.42 feet to a 5/8 inches rebar with a plastic cap marked "Filsinger PLS 2613"; thence South 79° 32' 55" East, 433.69 feet to a 5/8 inches rebar with a plastic cap marked "Filsinger PLS 2613", marking the Northwest corner of Lot 17, Plat of London Acres; thence South 01° 23' 45" West, 145.16 feet along the West line of said Lot 17; thence North 88° 36' 15" West, 194.02 feet to a 5/8 inches rebar with a plastic cap marked "Filsinger PLS 2613"; thence South 01° 25' 00" West, 95.00 feet to a 5/8 inches rebar with a plastic cap marked "Filsinger PLS 2613" marking the Northwest corner of that certain parcel of land conveyed to Residential, Commercial, Industrial Roofing, Inc., in Document Number 99043010, Multnomah County Deed Records; thence North 88° 36' 15" West, 40.00 feet to a 5/8 inches rebar with a plastic cap marked "Filsinger PLS 2613", a point on the West right-of-way line of NE 46th Avenue; thence North 88° 36' 15" West, 194.23 feet to the true point of beginning.

Tax Account Number:

R317597

EXHIBIT 2



Oregon

Kate Brown, Governor

Department of Environmental Quality

Northwest Region

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5263

FAX (503) 229-6945

TTY 711

April 17, 2017

Michael Sublett

Tax Title Property Coordinator

Multnomah County Division of Assessment, Recording and Taxation

501 SE Hawthorne Blvd.

Portland, OR 97214

Dear Mike:

Enclosed is the revised preliminary scope of work (SOW) for the NuWay Oil property Prospective Purchaser Agreement (PPA). The SOW will be an attachment to the PPA so in addition to the SOW all the typical requirements in the PPA, requirements not necessarily specific to the NuWay Oil site will apply. This SOW can be provided to any prospective purchasers of the NuWay Oil property so the prospective purchaser can understand DEQ's requirements. We assume that anyone who remains interested in the property following receipt of the SOW will meet with DEQ to discuss the process to complete the PPA.

Please let me know if you have any questions about this SOW.

Sincerely,

Deborah Bailey, D. Env.

Project Manager

NWR Cleanup Program

Cc: Cheyenne Chapman, DEQ
Sarah Miller, DEQ
Kevin Parrett, DEQ
Gary Vrooman, DOJ

Preliminary Scope of Work for the NuWay Oil Property Prospective Purchaser Agreement

1. Respondent agrees to maintain the two foot soil cap and asphalt cap on the property to prevent direct contact with contaminants present under the caps.
2. Respondent agrees to refrain from any activity that could lead to destabilization of the bank, which may result in migration into the Whitaker Slough of contaminants remaining in the subsurface soil on the property. Respondent will notify DEQ of any activity that could lead to destabilization of the bank (e.g., excavating on the bank or within the environmental zone or constructing a boat ramp) and gain DEQ approval before proceeding with the activity. Maintenance includes repairs to erosional and subsidence areas and maintenance of vegetative cover (e.g., not cutting down or burning vegetation).
3. Respondent agrees to formally inspect and report results of inspections and maintenance of the cap and the bank every five years.
4. Respondent shall comply with the Contaminated Media Management Plan (CMMP) for the property. The CMMP establishes procedures for handling, characterizing and disposing of contaminated soil or groundwater encountered at the Property during future construction. Respondent will maintain the CMMP in anticipation of future implementation and will convey it to future Property owners.
5. Respondent agrees to comply with the Easement and Equitable Servitude on the property which will include restrictions on land and groundwater use and will require implementation of the CMMP.
6. Respondent will be required to pay \$80,000 into the settlement account for the Columbia Slough. Please see the attached link for the information about the settlement fund.

<http://www.deq.state.or.us/lq/cu/nwr/ColumbiaSlough/ColumbiaSloughSedimentProjectCULiability.pdf>

Fact Sheet

Columbia Slough Sediment Project Settling Potential Cleanup Liability

Background

In 2005, the Department of Environmental Quality (DEQ) issued a Record of Decision for the Columbia Slough that described the framework for cleanup of sediment contamination in the slough. The three primary components of the sediment cleanup approach are:

1. Pollutant source reduction
2. Specific site cleanup
3. Long-term monitoring.

There are numerous industrial/commercial facilities located along the Columbia Slough that may have contributed to sediment contamination in the slough. DEQ is actively working with a number of facilities in the Columbia Slough watershed to cleanup upland contamination, control sources of contamination to the slough, and cleanup or otherwise resolve their contribution to in-water sediment contamination. As workload permits, DEQ will ask additional facilities to complete assessment and cleanup of their facilities..

DEQ requires a thorough evaluation of all potential sources of contamination to Columbia Slough sediments. Potential sources of contamination to the slough include bank erosion, stormwater runoff, groundwater discharges and direct discharges to the slough. Site-specific cleanup will include controlling these sources to levels protective of human health and the slough environment.

Some facilities have been hesitant to conduct site-specific Columbia Slough sediment investigations due to concerns that DEQ would hold them responsible for investigation and cleanup of contamination caused by others. Investigation and cleanup of contaminated sediments associated with historical stormwater discharges to the slough from municipal stormwater systems is difficult to implement using a site-specific approach. This is because these systems receive stormwater from numerous private, commercial and industrial facilities.

Alternative approach

DEQ has developed an alternative approach to sediment cleanup that allows parties to settle potential sediment cleanup liability with the

State without conducting in-water investigation and cleanup themselves. DEQ has developed a settlement framework that calculates a payment amount for each facility based on estimated costs that would be incurred in a sediment investigation and cleanup. Facilities would pay this amount to a State fund to be used for the necessary environmental cleanup work required in the impacted area. Each facility would still be required to complete necessary upland cleanup and associated source control measures under existing agreements with DEQ.

The settlement approach for facilities is based on a site with one private stormwater outfall to the slough. DEQ estimates a cost of \$270,000 for necessary characterization and cleanup of sediment hot spots associated with an outfall. DEQ adds a premium of 25 percent for each additional facility outfall or release mechanism to account for increased cleanup anticipated as a result of the additional discharge points. A facility with two outfalls, for example, would pay \$335,000. The assumptions DEQ used to derive the settlement amount are outlined in the table below.

The settlement approach is particularly useful for facilities that contributed contamination to the slough via a common storm water conveyance such as a City storm water line or where contamination from adjacent properties may be commingled. Establishing a settlement fund to further investigate and cleanup sediments contaminated from multiple sources will be less complicated than coordinating and evaluating independent investigations and cleanups. This in turn will provide a degree of certainty to individual facilities on the cleanup of upland properties and future marketability of these properties.

The settlements are in the form of consent judgments filed with Multnomah County Court. The settlements require the settling parties to satisfactorily complete cleanup and source control measures at their upland facilities, pay DEQ specified amounts to be used by DEQ for sediment cleanup work. In return, the settling parties would receive protections from potential lawsuits from the State or third parties for cleanup costs.



State of Oregon
Department of
Environmental
Quality

**Northwest Region
Cleanup Program**
2020 SW 4th Ave
Portland, OR 97201
Phone: (503) 229-5263
Fax: (503) 229-6945
TTY: (800) 735-2900
or 711
Contact: Bruce Gilles
Phone: (503) 667-8414
extension 55009

DEQ, in collaboration with Oregon Department of Fish and Wildlife, also has developed a settlement framework for potential natural resource damages caused by the impairment of the Columbia Slough beneficial uses. Each settling party has an option to pay an additional \$50,000 to address natural resource damages. The additional payments would be dedicated to habitat restoration within the slough. For parties that choose not to include the additional payment, the covenant not to sue from the State would exclude natural resource damages.

DEQ has finalized 8 settlements for sites located in the lower Slough, and is in the process of finalizing two additional settlements in the middle Slough. DEQ has collected \$1,750,000 for sediment cleanup, and an additional \$500,000 for natural resource damages.

For more information

Copies of the completed settlements between DEQ and each of the settling parties are available at the DEQ Northwest Region Office, 2020 SW 4th Ave., Suite 400 or <http://www.deq.state.or.us/lq/cu/nwr/columbiaslough/index.htm>

To review files at DEQ's office, contact DEQ's file review coordinator at (503) 229-6729 to make an appointment.

If you are interested in pursuing a settlement of potential sediment liability for your facility, please contact DEQ Project Manager, Jennifer Sutter at (503) 229-6148 or sutter.jennifer@deq.state.or.us; or DEQ Cleanup Program Manager Bruce Gilles at, (503) 667-8414 extension 55009, or gilles.bruce.a@deq.state.or.us

Settlement Framework Cost Factors

Activity	Unit Cost	Total Cost	Comment
Investigation Work Plan:	\$15,000	\$15,000	\$10K Draft/ \$5Kfinal
Field Investigation	\$7,000	\$7,000	2 persons * 10 hours for 2 days at ~\$100/hr plus \$2K for equipment rentals, & supplies,
Analytical Testing	\$1000/sample	\$15,000	15 samples with Standard turn-around times (includes QA/QC samples)
Data Management/Validation	\$2,000	\$2,000	Estimate.
Data Report	\$5,000	\$10,000	\$5K Draft/ \$5Kfinal
Sediment Hot Spot Removal Plan	\$10,000	\$15,000	\$10K Draft/ \$5Kfinal
Permitting/ESA	\$10,000	\$10,000	COE 404, DEQ 401, & DSL Removal-Fill (scope of ESA consultation and permit fees yet to be determined)
Mobilization Fee	\$10,000	\$10,000	Rough estimate.
Dredging	\$70/cy * 200cy	\$14,000	Assumed hot spot area at outfall of 50'x50' and 2' depth
Dewatering, bank restoration following construction	\$25,000	\$25,000	Assumes focused dredging from bank and temporary dewatering facility; post removal bank restoration work.
Transport and Disposal	\$100/ton * 300	\$30,000	Solid waste landfill; 200cy of sediment equivalent to 300 tons.
Analytical Testing	\$600/sample	\$12,000	20 confirmation samples Quick turn around on 1/2 of samples collected
Sediment Removal Report	\$10,000	\$15,000	\$10K Draft/ \$5Kfinal
DEQ Oversight	\$140/hr	\$28,000	200 hours total
Subtotal		\$208,000.00	
Contingency		\$62,000	30 percent
Grand Total		\$270,000	

Note: Does not include DEQ costs associated with settlement agreement negotiations, which would be charged to settling party.