

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into as of _____ ("Date") by and between the State of California Department of Transportation ("Caltrans") and _____ ("Purchaser").

Recitals

- A. Caltrans owns the real property commonly known as _____ (the "Property") and more particularly described as set forth in **Exhibit A** attached hereto.
- B. Purchaser is: _____
- C. The parties wish to provide terms and conditions for Purchaser's purchase of the Property from Caltrans.

NOW THEREFORE, the parties agree as follows:

Section 1. Purchase and Sale

Caltrans shall sell the Property to Purchaser and Purchaser shall purchase the Property from Caltrans on the terms and conditions stated in this Agreement.

Section 2. Purchase Price

The Purchase Price for the Property shall be _____ ("Purchase Price"). The Purchase Price shall be paid by Purchaser as set forth below:

- (a) Purchase Deposit: Purchase Deposit is equal to _____% of the Purchase Price.
- Receipt is hereby acknowledged of the Purchase Deposit of _____ Dollars (\$ _____) in the form of a (Cashier's Check Certified Check Money Order Electronic Funds Transfer) made payable to the "California Department of Transportation", which without any interest, will be applied to the Purchase Price.
- (b) Liquidated Damages: THE PARTIES AGREE THAT THE TOTAL DEPOSIT AMOUNT (PURCHASE DEPOSIT) ARE A REASONABLE SUM FOR LIQUIDATED DAMAGES SHOULD THIS TRANSACTION FAIL TO CLOSE DUE TO A MATERIAL BREACH OF THIS AGREEMENT BY PURCHASER, IN THAT, WHEN CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, IT WOULD BE IMPRACTICABLE OR EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES. BY PLACING THEIR INITIALS AT THE PLACES PROVIDED, EACH PARTY AGREES THAT THE FOREGOING CONSTITUTES LIQUIDATED DAMAGES AND NOT A FORFEITURE OR PENALTY.

Purchaser _____; Caltrans MM [Initials of Purchaser and Caltrans]

- (c) Balance of Purchase Price. Balance of Purchase Price is equal to _____% of the purchase price. Purchaser shall remit sufficient funds to cover the Balance of the Purchase Price (\$) _____ ("The Balance") no later than _____ ("Date").

Section 3. Closing and California Transportation Commission Approval

Purchaser understands and agrees that this sale is subject to the approval by the CTC. In the event the CTC fails to approve the sale, all monies paid by the Purchaser will be refunded without interest. Caltrans makes no representations or warranty concerning the CTC's approval of this sale.

Section 4. Close of Escrow

Caltrans will maintain an internal escrow at no charge to Purchaser. Purchaser may open an external escrow at Purchaser's expense but selection of the escrow company is subject to Caltrans' approval, which Caltrans may withhold for any reason within its discretion. Should Purchaser elect to open an escrow, Purchaser agrees to pay any and all fees associated with the escrow, and any and all recording fees, documentary transfer taxes or any other real estate transaction fees involved in the transaction.

Section 5. Extension of The Purchase Period

There may be situations wherein the Purchaser is unable to complete the terms and conditions stated in this Agreement within the time allowed for reasons beyond his/her control. Under these circumstances, the State, at its discretion, may elect to extend the purchase period. A non-refundable charge of 1% of the bid price per month will be made for such extensions. **This fee will not be applied to the purchase price, and is non-refundable.**

Section 6. Closing Costs and Prorations

Purchaser shall pay all recording fees and the premium, if any, for the title insurance policy referred to herein. Prorations of real property taxes and assessments, rents, interest, and other expenses of the Property shall be prorated as of the date of recordation of the deed.

Section 7. Title

The Property is believed to be free of any liens, court judgments, loans, Deeds of Trust, and delinquent or unpaid property taxes. The sale of the Property is subject to all matters of public record and any easements, or reservations not of record or that which is reserved by Caltrans. Caltrans does not assume any liability for any possible encumbrances on the Property.

Purchaser understands and agrees that the right, title, and interest in the Property to be conveyed shall not exceed that vested in the State of California, Department of Transportation, and that Caltrans will furnish no policy of title insurance. If a policy of title insurance is desired, Purchaser may obtain one at Purchaser's sole expense. The property is being conveyed subject to any special assessments, restrictions, reservations or easements of record and subject to any reservations contained in the Director's Deed. Purchaser may examine any information Caltrans has relative to these matters. Purchaser has been given the opportunity to request and inspect all documents, if any, within Caltrans possession regarding the condition of the property.

Section 8. Condition of Property

Purchaser waives any further right to inspect the Property and conduct tests thereon. The Property is sold "AS IS" in its present physical condition as of the date of this Agreement. Purchaser acknowledges and agrees that they are acquiring the property in its present state and condition as of the date of this Agreement, with all defects, both patent and latent, and with all faults of the property whether known or unknown, presently existing or that may hereafter arise, including, without limitation, all existing conditions, if any, of lead paint, mold or other environmental health hazards. Purchaser acknowledges and agrees that Caltrans has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether express, implied, oral or written, past, present or future, of, as to, concerning or with respect to the condition of the property.

Caltrans makes no representation regarding the potential for development, subdivision, zoning, or re-zoning of the Property. Purchaser shall be responsible for compliance with any and all local codes and ordinances for permitted land uses of any kind.

Section 9. No Assignment

Purchaser shall not assign all or any part of the Purchaser's interest in this Agreement without first having obtained the written consent of Caltrans. Any total or partial assignment shall not relieve Purchaser of Purchaser's obligation to this Agreement.

Section 10. Disclaimers

The Property and the fixtures and personal property contained therein, if any, are not new, and have been subject to normal wear and tear. Purchaser understands that Caltrans makes no express or implied warranty with respect to the condition of any of the Property, fixtures or personal property. Caltrans makes no oral or written representation regarding the age of improvements, the size and square footage of the parcel or building, or the location of property lines. Apparent boundary line indicators such as driveways, fences, hedges, walls, or other barriers may not represent the true boundary lines which may only be determined by a surveyor. If any of these issues are important to Purchaser's decision to purchase, then Purchaser should investigate the Property independently. Purchaser acknowledges that it has not relied upon any representations by Caltrans with respect to the condition of the Property, the status of permits, zoning, or code compliance. Purchaser is to satisfy itself concerning these issues.

Section 11. Changes During Transaction

During the pendency of this transaction, Caltrans agrees that no changes in the existing leases, if any leases exist, shall be made, nor new leases or rental agreements entered into, nor shall any substantial alterations or repairs be made or undertaken to the Property without the written consent of the Purchaser.

Section 13. Destruction of Improvements

If the improvements of the Property are destroyed, materially damaged, or found to be materially defective as a result of such damage prior to Close of Escrow or approval by the CTC, Purchaser may terminate the transaction by written notice delivered to Caltrans, and all Deposits shall be returned to Purchaser.

Section 14. Commissions

Each party represents and warrants to the other party that no broker or finder or other real estate agent is entitled to any commission, finder's fee or other compensation resulting from any action on its part. Purchaser and Caltrans each agree to indemnify the other and defend and hold harmless the other party from and against any loss, cost, or expense, including attorney's fees, incurred by such party, and against any claims, causes of action or the like brought by any broker, finder or similar agent for a commission or fee on account of this Agreement. This section does not prohibit a Purchaser from obtaining a broker at their own expense.

Section 15. Effective Headings

The subject headings of the paragraphs and subparagraphs of this Agreement are included for convenience only and shall not affect the construction or interpretation of any of its provisions.

Section 16. Entire Agreement

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the parties.

Section 17. Counterparts

This Agreement may be executed simultaneously in one (1) or more counterparts, each of which shall be deemed an original, but all of which shall constitute one (1) and the same instrument.

Section 18. Binding on Successors and Assigns

This Agreement shall be binding on, and shall inure to the benefit of, the parties to it and their respective legal representatives, successors, and assigns.

Section 20. Agreement to Perform Necessary Acts

Each party agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions in this Agreement.

Section 21. No Third-Party Beneficiaries

This Agreement is for the sole benefit of the parties hereto. There are no third-party beneficiaries, intended or otherwise.

Section 22. Notices

All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the person to whom notice is to be given or, on the second (2nd) day after mailing if mailed to the party to whom notice is to be given, by First Class Mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

To Caltrans at: 464 W. 4th Street, MS-950 San Bernardino, CA 92401-1400 ATTN: EXCESS LANDS

To Purchaser at: _____

Any party may change its address for purposes of this paragraph by giving the other party written notice of the new address to the other party contained herein.

Section 23. Governing Law

This Agreement has been negotiated and entered into in the State of California and shall be governed by, construed and enforced in accordance with the laws of the State of California and according to its fair meaning, and not in favor of or against any party.

Section 24. Severability

If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all the other provisions of this Agreement be construed to remain fully valid, enforceable and binding on the parties.

Section 25. Survival of Representations and Warranties

All covenants, representations, warranties, and other agreements under this Agreement shall survive the Close of Escrow.

Section 26. Time is of the Essence

Time is of the essence and performance of this Agreement in respect to all provisions of this Agreement that specify a time for performance, and failure to comply with this provision shall be a material breach of this Agreement.

Section 27. Saturdays, Sundays, and Holidays

If any date by which an election or a notice must be given falls on a Saturday, Sunday or holiday, then the date by which an election or notice must be given is extended to 5:00 p.m. on the next business day following such Saturday, Sunday or holiday.

Section 28. Waiver

No breach of any provision of this Agreement can be waived unless in writing. Waiver of any one breach of a provision hereof shall not be deemed to be a waiver of any other breach of the same or any other provision, including the time for performance of any such provision. The exercise by a party of any provided in this Agreement or at law shall not prevent the exercise by that party of any other remedy provided in this Agreement or at law.

Section 29. Default

If there is a default by the Purchaser, Caltrans shall notify the Purchaser the sale is cancelled and liquidated damages shall be retained. The State may, at its discretion, offer the purchase to the next highest bidder(s), at the existing purchase price, or place the property in another auction.

Section 30. Vesting

Title shall be vested as follows:

- As Husband and Wife
- A Single Man / Woman
- A Married Man / Woman as his / her sole and separate property
- As Joint Tenants
- As Tenants in Common
- Other (specify): _____

Section 31. Additional Terms & Conditions

Additional Terms & Conditions are / are not attached.

- Exhibit A – Legal Description
- Pre-Bid Registration
- Terms of Option to Purchase (from Public Auction Brochure)
- Other (specify): _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Recommended for Approval by:
STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: Marina Megalla
Right of Way Agent

Signature: _____
Dated: _____

By: Joy Granflor
Chief Excess Land Branch, Right of Way Agent

Signature: _____
Dated: _____

APPROVED:

By: _____
Deputy District Director, Right of Way

Signature: _____
Dated: _____

PURCHASER (_____):

By:

By: CURT HAGMAN
Chairman, Board of Supervisors

Signature: _____
Dated: _____