

DATE SUBMITTED 06/09/2016  
 SUBMITTED BY GALVAN  
 DATE ACTION REQUIRED 06/15/16

COUNCIL ACTION (x)  
 PUBLIC HEARING REQUIRED ( )  
 RESOLUTION (x)  
 ORDINANCE 1<sup>ST</sup> READING ( )  
 ORDINANCE 2<sup>ND</sup> READING ( )  
 CITY CLERK'S INITIALS ( )

**IMPERIAL CITY COUNCIL  
 AGENDA ITEM**

SUBJECT: **DISCUSSION/ACTION: PURCHASE OF PROPERTY AT THE CORNER OF EAST 15<sup>TH</sup> STREET AND SR 86.**

1. APPROVAL OF PURCHASE AGREEMENT BETWEEN CITY OF IMPERIAL AND STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, FOR PROPERTY LOCATED AT THE CORNER OF 15<sup>TH</sup> STREET AND SR 86.
2. APPROVAL OF RESOLUTION NO.2016-20 TO ACCEPT PROPERTY AT THE CORNER OF EAST 15<sup>TH</sup> STREET AND SR 86.

DEPARTMENT INVOLVED: PLANNING/CITY MANAGER'S OFFICE

**BACKGROUND/SUMMARY:**

On June 17, 2015 the City Council of the City of Imperial approved the agreement between the State of California, Department of Transportation and City of Imperial to accept the Relinquishment of State Route 86 within Imperial City Limits. In conjunction with this agreement, the City of Imperial has been in negotiations with the DOT regarding property located at the corner of SR 86 and 15<sup>th</sup> Street. The purchase agreement before you is by and between the DOT and City of Imperial for the City to accept the property as part of the relinquishment.

The property is valued at \$600,000.00. In lieu of receiving a cash payment, the DOT will use the payment to off-set against costs to relinquish the parcel.

FISCAL IMPACT: NONE

F.O. INITIALS: \_\_\_\_\_

STAFF RECOMMENDATION: It is staff's recommendations to proceed with the purchase of the property between the DOT and City of Imperial.

MANAGER'S RECOMMENDATION: The City Manager agrees with Staff's recommendation to approve the purchase of the property in conjunction with the HWY 86 Relinquishment Agreement

MANAGER'S INITIALS \_\_\_\_\_

**MOTION:**

SECONDED:  
 AYES:  
 NAYES:  
 ABSENT:

APPROVED ( ) REJECTED ( )  
 DISAPPROVED ( ) DEFERRED ( )  
 REFERRED TO:

**CERTIFICATE OF ACCEPTANCE**

(Form #)

**(CERTIFICATE OF ACCEPTANCE, GOVERNMENT CODE SECTION 27281)**

THIS IS TO CERTIFY, That the State of California, grantee herein, acting by and through the Department of Transportation hereby accepts for public purposes the real property, or interest therein, conveyed by the attached instrument and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Director of Transportation

By \_\_\_\_\_

\_\_\_\_\_ and Attorney in Fact

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 11 – RIGHT OF WAY DIVISION

4050 TAYLOR STREET, MS 310

SAN DIEGO, CA 92110



*Serious Drought.  
Help save water!*

**PURCHASE AGREEMENT**

Imperial, California	District	County	Route	Director's Deed Number	Sales Price
,2016	11	Imp	86	DD 1999-01-01	\$600,000.00

Name	City of Imperial
Address	420 S. Imperial Avenue, Imperial, CA 92251

The Purchase Agreement is by and between the State of California, Department of Transportation, hereinafter called the Department, and City of Imperial, herein called Buyer. Buyer agrees to the conditions of purchase herein set forth and the TERMS AND CONDITIONS OF PURCHASE AGREEMENT attached hereto, and further agrees to deliver to the Department, Right of Way Division at 4050 Taylor Street, San Diego, CA 92110, the amount of \$ 600,000.00 dollars as full payment for the purchase of the above-referenced property per Relinquishment Agreement 11-8398 dated March 22, 2016.

Note: In lieu of receiving cash payment of \$600,000, the Department will use the payment to off-set against the costs to relinquish parcel to City of Imperial.

The Property shall be conveyed by Director's Deed to:

	Husband and Wife as Joint Tenants		A Single Man
	Husband and Wife as Community Property		A Single Woman
	A Married Man/Woman as His/Her Sole and Separate Property		As Tenants In Common
X	Other: City of Imperial		As Joint Tenants

# TERMS AND CONDITIONS OF PURCHASE AGREEMENT

This sale is subject to the approval of the California Transportation Commission (CTC), tentatively scheduled to meet on **August 17, 2016**. Title will transfer after full purchase price is received, the CTC has approved the sale and the Director's Deed has been recorded. If the CTC does not approve the sale, all funds deposited with the State of California, Department of Transportation (the Department) will be refunded without interest.

**Financing:** Credit terms are not available.

**\*\*Financing is the responsibility of the Buyer, together with all costs, including appraisal and loan fees, credit reports, points, title insurance, premiums, surveys, documentary transfer taxes, escrow and recording fees and any other charges.\*\***

**Escrow:** Buyer may open an escrow account at the Buyer's expense. If Buyer chooses to open escrow, the escrow officer shall notify the Department by letter within 10 days from the date of the Purchase Agreement. The notification letter shall be mailed directly to the Department of Transportation, Right of Way Division, M.S. 310, 4050 Taylor St., San Diego, CA 92110, Attention: Lena Young.

**Due Diligence:** Buyer must fully complete their property due diligence prior to the date of the Purchase Agreement. Buyer shall represent, covenant and warrant that they are purchasing the property relying solely on their independent inspection of the property in its existing condition. The Department shall not be liable for any allowance, adjustment or revision based upon the failure of the property, appliances or floor plans to conform to any specific standards. It is the responsibility of Buyer to fully investigate zoning and land use restrictions with local authorities concerning the potential uses of the sale property. The Department makes no warranty regarding whether or not the current use of the property is in compliance with the present zoning and/or permitted use.

**Inspection Indemnity:** In connection with any due diligence, any inspection, visit and/or investigation of the property by Buyer or any person/entity on their behalf (the "Inspectors") shall 1) keep the property free and clear of liens, 2) repair all damage arising from such inspection, and 3) indemnify, defend and hold the Department harmless from all liability, claims, demands, damages and/or costs directly or indirectly arising there from. Inspectors shall carry, or require anyone acting on Inspector's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting the Department from liability for any injuries to persons or property occurring during any inspection prior to close of the transaction.

**Disclaimer of Warranty:** The property is sold in an "AS IS" condition. Buyer acknowledge and agree that they are acquiring the property in its present state and condition as of the date of the Purchase 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 or health hazards. Buyer acknowledge and agree that the Department 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.

**Repairs:** All properties will be sold in an “AS IS” condition. Repairs, if any, are the responsibility of the Buyer. Buyer agrees that the property is acquired in an “AS IS” condition with all faults and conditions then existing on the property, including any hazardous substances or hazardous wastes that may be located on, under, or around the property, whether known or unknown, and the Buyer assumes all responsibilities for such faults and conditions.

Buyer shall defend, indemnify, and hold Department and Department’s elected and appointed officers, agents and employees free and harmless from and against any and all liabilities, damages, claims, costs and expenses (including without limitation, attorney’s fees, legal expenses and consultant’s fees, and investigation and remediation costs) arising in whole or in part from the existence of hazardous substance, or hazardous substance conditions. This indemnity is intended to address that liability for which Department may be responsible arising solely out of its mere ownership of said real property. This provision shall survive transfer of title of the said real property and any rescission of the said transfer.

“Hazardous Substance” shall mean any substance whose nature and/or quantity of existence, use, manufacture, disposal of effect, render it subject to federal, state or local regulation, investigation, remediation or removal as potential injurious to public health or welfare, including the comprehensive Environmental Response Compensation and Liability Act or Resource Conservation and Recovery Acts as now in effect.

“Hazardous Substance Condition” shall mean the existence on or under, said property of a hazardous substance that requires remediation and/or removal and/or to be otherwise mitigated pursuant to applicable law.

**Fees:** Buyer is responsible for ALL FEES associated with this sales transaction including but not limited to broker’s commission, surveys, title, insurance premiums, escrow, documentary transfer tax, recording fees, points, repairs and costs, documentary stamp taxes, and any other real estate transaction taxes or fees by whatever name known, including any personal property sales tax, where applicable. The Department does not pay a broker’s commission.

**California Transportation Commission (CTC):** The sale under the Purchase Agreement is subject to the approval of the CTC, tentatively scheduled for **August 17, 2016**.

Title will transfer after full purchase price is received, CTC approves the sale and the Director’s Deed is recorded. If CTC does not approve the sale, all funds deposited with the Department will be refunded without interest.

The Department reserves the right to reject and to cancel the sale, in part or in its entirety at any time prior to recordation of the Director’s Deed. In the event of rejection and/or cancellation of sale, payment will be refunded without interest.

**Title:** The property is believed to be free of any liens, court judgments, loans (Deeds of Trust, etc) and delinquent or unpaid property taxes. The sale of the property is subject to all matters of public record and any easements, claims of easements, or reservations not of record or being reserved by the Department. The Department does not assume any liability for any possible encumbrances on this property.

The right, title and interest in the property conveyed shall not exceed that vested by the Department. The sale is subject to all title exceptions and reservation whether or not of record. Buyer should consult local title companies if more complete information regarding the title of the property is required. Buyer may obtain a policy of title insurance at his or her own expense.

Should the Buyer desire a survey of the property, this may be accomplished with the expressed consent of the Department and performed by an independent survey at the Buyer's expense. No warranty is made by the Department relative to the ground locations of property lines, other than monument highway right of way lines.

**Land Use:** The concerned local agency should be contacted to determine whether, in the future, the parcel may come under the provisions of the Subdivision Map Act, if the Buyer wants to adjust lot lines, divide the property or sell each separately described parcel. It is recommended that Buyer fully investigate zoning and land-use restrictions with local authorities concerning the potential uses. The Department makes no warranty regarding the zoning or rezoning of any property or land-use determinations. Buyer shall be responsible for checking and complying with local codes and ordinances for permitted land uses.

**Environmental Act:** The sale of this excess property is Categorically Exempt from the requirements of the California Environmental Quality Act of 1970 (CEQA). The environmental determination by the Department is for the sale of this property only. It does not mean that the Buyer may not have to obtain subsequent environmental clearance or prepare an environmental document for any further actions, as required by any local agency. Buyer should also be aware that when the Buyer seeks some form of approval/permit for development subsequent to Buyer's purchase of this excess property, the local agency might require an environmental document and/or environmental analysis before giving its approval or issuing a permit.

**Taxes:** The property is currently exempt from local taxes but will return to tax rolls upon recordation of the Director's Deed to the Buyer.

*It is understood that conveyance of this property is subject to the approval of the California Transportation Commission. It is also agreed that all notices and matters arising in connection with this transaction will be given to Buyer in person or by registered mail.*

CITY OF IMPERIAL

By: \_\_\_\_\_  
Doug Cox  
Mayor

\_\_\_\_\_  
Date

APPROVED AS TO FORM AND PROCEDURE

\_\_\_\_\_  
Dennis H. Morita  
Attorney/Counsel

Recommended for Approval:

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

By \_\_\_\_\_  
Lena Young  
Associate Right of Way Agent

By \_\_\_\_\_  
Amy Lamott-Vargas  
Deputy District Director  
Right of Way Division

By \_\_\_\_\_  
Rainna Ford, Chief  
Asset Management/RAP Branch  
Right of Way Division

**No Obligation Other Than Those Set Forth Herein Will Be Recognized**