

DEPARTMENT OF TRANSPORTATION**SOUTHERN RIGHT OF WAY REGION**21073 PATHFINDER ROAD, SUITE 100
DIAMOND BAR, CA 91765PHONE (909) 468-1500
FAX (909) 468-1501
TDD (800) 735-2929

December 5, 2006

Dave Kiff
City of Newport Managers Office
3300 Newport Blvd.
Newport Beach, CA 92663-3816

Dear Mr. Kiff:

Attached are the signed Purchase and Sale Agreement –Real Property for DD 040766-01-01 and a copy of the recorded Director's Deed. When the original Director's Deed is mailed back to me, I will send it to you.

If you have any questions please don't hesitate to call me at (909)444-0119 or e-mail me at Vince_Lundblad@dot.ca.gov.

A handwritten signature in black ink, appearing to read "Vince Lundblad".

VINCENT LUNDBLAD
Associate Right of Way Agent
Southern Right of Way Region
(909)444-0119

PURCHASE AND SALE AGREEMENT – REAL PROPERTY DD040766-01-01

In this Agreement dated September 26, 2006 by and between CITY OF NEWPORT BEACH hereinafter known as "BUYER" and STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, hereinafter known as "SELLER", the parties agree as follows:

For the sum of Five Million Dollars (\$5,000,000) and no cents, Buyer hereby agrees to purchase and Seller hereby agrees to sell the vacant and unimproved real property located in the City of Newport Beach, Orange County, California, and legally described in Director's Deed # 040766-01-01 (hereinafter referred to as the "property").

Subject to the following conditions:

I

Buyer agrees to pay for the said real property to State the principal sum of Five Million Dollars (\$5,000,000). A series of three payments shall be made to the State of California, Department of Transportation, and delivered to the State of California, Department of Transportation, Southern Right of Way Region, Excess Land Sales, 21073 Pathfinder Road, Suite 100, Diamond Bar, CA 91765. Interest will begin on January 1, 2007. Principal and interest to be due and payable in annual installments as follows:

1. Principal payment of \$2.0 million by December 31, 2006;
2. Principal payment of \$1.5 million plus interest of \$142,500 by December 31, 2007; and
3. Principal payment of \$1.5 million plus interest of \$71,250 by December 31, 2008.

(a) Each annual installment shall be credited first on interest then due and the remainder on principal so credited.

(b) Buyer may make additional payments on the principal at any time before final installment, and interest shall thereupon cease upon said principal so credited.

(c) If Buyer should default in the payment of any annual installment, or any part thereof, when due as herein provided, and such default should continue for thirty (30) days after notice thereof in writing to Buyer, the whole of said purchase price shall at the option of the State become forthwith due and payable.

(d) If the Buyer shall default on any of the payments, title, at the option of the State, will revert back to the State.

(e) It is understood and agreed that the term of this agreement shall end on December 31, 2008 and the buyer shall make payment in full including principal and interest by that date.

(f) The Deed shall record after receiving CTC approval and the 1st payment of \$2.0 million, no later than December 31, 2006.

II

All sales made subject to the approval of the California Transportation Commission. In the event that the California Transportation Commission fails to approve this sale, all monies heretofore paid by the Buyer will be refunded without interest. The CTC meeting is October 12th, 2006.

III

The Seller is willing to process this sale at no charge to the Buyer, except for the items set forth in paragraph IV below. Buyer, at his option, may open an escrow at its own expense. The Seller will pay no escrow fees.

PURCHASE AND SALE AGREEMENT – REAL PROPERTY DD040766-01-01

IV

The Buyer agrees to pay any and all recording fees, documentary transfer tax and monumentation fees chargeable by the County Recorder. At a later date, the Seller will request the fees forwarded, and buyer shall submit to the seller upon demand.

V

The Buyer expressly understands that the right, title and interest in the property to be conveyed shall not exceed that vested in the State of California and that the Seller will furnish no policy of title insurance. If a policy of title insurance is desired, the Seller will obtain one, upon request, at the Buyer's expense.

VI

The property is being sold "as is" and is being conveyed subject to any special assessments, restrictions, reservations or easements of record and subject to any reservations or restrictions contained in the Director's Deed. Buyer has read and understands other information the Seller has relative to these matters.

VII

In the event suit is brought by either party to enforce the terms and provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees. The Buyer agrees that the title of the property being conveyed shall not pass until the Director's Deed has been recorded. The Buyer shall not take possession of the property until the director's Deed is recorded

VIII

Buyer shall defend, indemnify, and hold seller and seller'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 seller 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 potentially 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.

PURCHASE AND SALE AGREEMENT - REAL PROPERTY DD040766-01-01

IX


This New Purchase Agreement supercedes and replaces any and all previous agreements of any kind.

The terms and conditions of the above agreement are hereby accepted, subject to the approval of the California Transportation Commission.

Please indicate exactly how the title should be vested:

City of Newport Beach, California

Buyer: _____



MAYOR

(Signature)

Date: 11/16/06

DON WEBB

(Print Name)

Buyer: _____

(Signature)

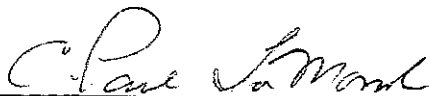
Date: _____

(Print Name)

STATE OF CALIFORNIA

DEPARTMENT OF TRANSPORTATION

By: _____



C. Paul LaMond, Acting Chief
Excess Land, Southern Right of Way Region

Date: 11/30/06

CONFORMED COPY
Not Compared with Original

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

State of California
DEPARTMENT OF TRANSPORTATION
Caltrans - District 12
Office of Right of Way
3337 Michelson Drive Suite CN380
Irvine, CA 92612-1699

Attn: R/W Excess Lands

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

NO FEE

2006000813583 10:16am 12/05/06

106 33 D10 8
0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00

Map No.: E120010-15
RWPE: C. SMYTHE (01/04/01)
Written:CS Check:DO

Space above this line for Recorder's Use

DIRECTOR'S DEED

District	County	Route	Post	Number
12	Orange	1	19.7	DD 040766-01-01

OCT - 2006 01

The STATE OF CALIFORNIA, acting by and through its Director of Transportation, does hereby grant to the
_____ City _____ of _____ Newport _____ Beach

all that real property in the City of Newport Beach County of Orange, State of California, described as:

Parcel No. DD 040766-01-01

That portion of Lot 1 of Tract No. 463 in the City of Newport Beach, County of Orange, State of California as shown per a map filed in Book 32, Pages 2 and 3 of Miscellaneous Maps in the office of the County Recorder of said county; that portion of Lot 1 of Tract No. 2250 as shown per a map filed in Book 104, Pages 6 and 7 of said Miscellaneous Maps; that portion of Melrose Mesa (Tract No. 15) as shown on a map filed in Book 9, Page 19 of said Miscellaneous Maps; that portion of Lot D of the Banning Tract, as shown on a map of said tract filed in the case of Hancock Banning, et al. vs. Mary H. Banning for partition, and being Case No. 6385 upon the Register of Actions of Superior Court of Los Angeles County, California, bounded as follows:

Bounded northeasterly by the northeasterly line of the lands described as Parcel 1 of State Parcel No. 40767 in a Grant Deed recorded February 14, 1966 in Book 7839, Page 739 of Official Records in the office of the County Recorder of Orange County, California;

MAIL TAX
STATEMENTS TO:
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

This office is exempt from
filing fees under Government
Code Section 6103

Bounded westerly by the westerly line of said Grant Deed, said westerly line also being described as a portion of the northerly prolongation of the westerly line of Annexation No. 55 to the City of Newport Beach dated September 19, 1963;

Bounded southwesterly by the northeasterly line of "new" Pacific Coast Highway as described in a Director's Deed (State Parcel No. DD 040767-03-01) from the State of California to the City of Newport Beach, a municipal corporation, recorded May 6, 1993 as Instrument No. 93-0304178 of said Official Records;

and bounded southerly and southeasterly by the center line of "new" Superior Avenue as described in a Director's Easement Deed (State Parcel No. DE 040766-1) from the State of California to the City of Newport Beach, a municipal corporation and charter city, recorded May 6, 1993 as Instrument No. 93-0304175 of said Official Records.

EXCEPTING THEREFROM those rights and interests previously excepted from that parcel of land described in the deed from A.E.S. Chaffey, et al., to the State of California (State Parcel No. 40766), recorded January 7, 1966 in Book 7801, Page 108 of said Official Records.

ALSO EXCEPTING THEREFROM those rights and interests previously excepted from those parcels of land described in the deed from BEECO, LTD., to the State of California (State Parcel No. 40767), recorded February 14, 1966 in Book 7839, Page 739 of said Official Records.

SUBJECT TO an easement for storm drain purposes, 35.00 feet wide; and an easement for sanitary sewer purposes, 30.00 feet wide, both as described in a Director's Deed (State Parcel No. DE 040767-01-02) from the State of California to the Newport Crest Homeowners Association, a California Nonprofit Mutual Benefit Corporation, recorded September 11, 1990 as Instrument No. 90-479322 of said Official Records.

There shall be no abutter's rights of access appurtenant to the above-described real property in and to the adjacent state highway over and across those portions of the northeasterly line of "new" Pacific Coast Highway hereinabove described in said deed recorded as Instrument No. 93-0304178 of Official Records, said portions of the northeasterly line being further described as having a bearing and a distance of "North 54°21'52" West, 215.42 feet" and "North 53°13'07" West, 167.37 feet".

PARCEL 040766-3

RESERVING UNTO THE GRANTOR AN EASEMENT FOR SCENIC VIEW AND OPEN SPACE PURPOSES OVER THE AFOREMENTIONED PROPERTY, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF LOT 3 OF TRACT NO. 7817, PER MAP FILED IN BOOK 308, PAGES 33 AND 34 OF MISCELLANEOUS MAPS, IN SAID OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, WITH A LINE PARALLEL WITH AND DISTANT 100.00 FEET WESTERLY OF THE WESTERLY LINE OF SAID LOT 3; THENCE ALONG SAID PARALLEL LINE, S00°19'10"W 505.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE N71°14'04"E 254.46 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT 263.60 FEET SOUTHWESTERLY OF SAID SOUTHWESTERLY LINE OF SAID LOT 3; THENCE ALONG SAID PARALLEL LINE S62°13'53"E 838.20 FEET TO A POINT ON THE NORTHERLY LINE OF "NEW" SUPERIOR AVE AS DESCRIBED IN A DOCUMENT RECORDED MAY 6, 1993 AS INSTRUMENT NO. 93-0304175 OF SAID OFFICIAL RECORDS.

EXCEPTING THEREFROM THAT PORTION OF SUPERIOR AVENUE AS DESCRIBED IN SAID DOCUMENT RECORDED MAY 6, 1993 AS INSTRUMENT NO. 93-0304175 OF SAID OFFICIAL RECORDS.

GRANTEES USE OF SAID EASEMENT AREA SHALL BE LIMITED TO THOSE "PERMITTED" USES UNDER GRANTEE'S ZONING DESIGNATION OPEN SPACE - ACTIVE AS DEFINED UNDER TITLE 20 OF GRANTEE'S ZONING CODE AS IT EXISTED ON OCTOBER 12, 2006. ADDITIONALLY THE GRANTEE IS PROHIBITED FROM PLACING PERMANENT STRUCTURES OR PAVEMENT WITHIN THE EASEMENT AREA, AND NO PARKING OF MOTORIZED VEHICLES SHALL BE PERMITTED WITHIN THE EASEMENT AREA.

GRANTEE SHALL BE RESPONSIBLE FOR ALL MAINTENANCE WITHIN THE EASEMENT AREA.

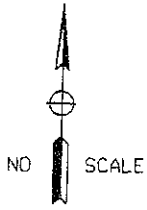
Attached hereto and made a part hereof is a map entitled "Exhibit 'A'". This map is for informational purposes only and is subordinate in all respects to the above legal description.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Signature: Scott E. Estep
SCOTT E. ESTEP, PLS 7066
EXPIRATION: 12-31-2006

Date: 9-24-2006





SITE

SUPERIOR AVENUE

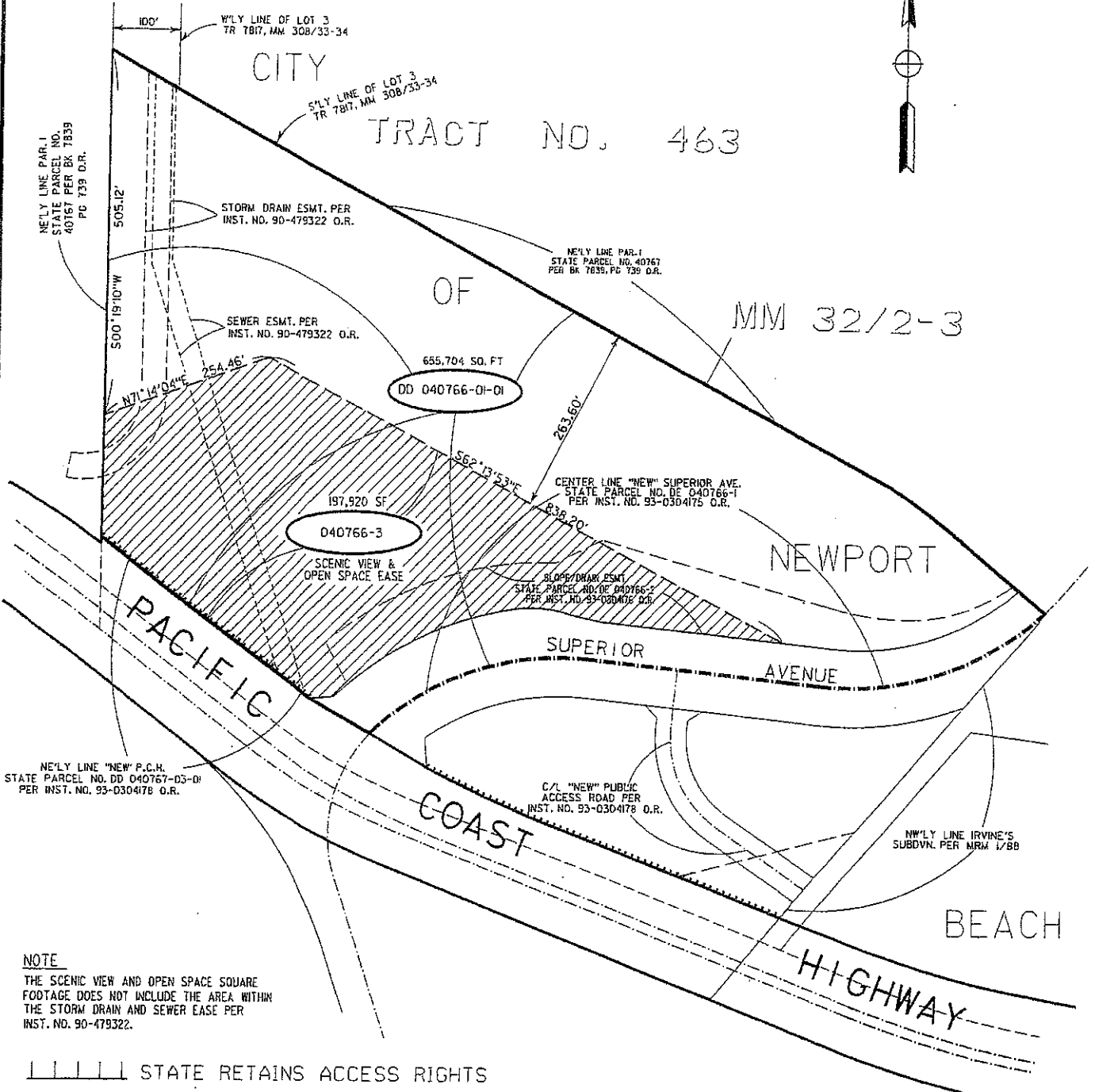
ROUTE 55
NEWPORT FREEWAY

PACIFIC COAST HIGHWAY
STATE ROUTE 1

SITE

DIST	COUNTY	RTE	P.M.
12	ORA	1	19.7

EXHIBIT "A"



NE'LY LINE "NEW" P.C.H.
STATE PARCEL NO. DD 040767-03-01
PER INST. NO. 93-0304178 O.R.

C/L "NEW" PUBLIC
ACCESS ROAD PER
INST. NO. 93-0304178 O.R.

NW'LY LINE IRVINE'S
SUBDVN. PER MRM 1/88

NOTE
THE SCENIC VIEW AND OPEN SPACE
FOOTAGE DOES NOT INCLUDE THE AREA WITHIN
THE STORM DRAIN AND SEWER EASE PER
INST. NO. 90-479322.

||||| STATE RETAINS ACCESS RIGHTS

STATE OF CALIFORNIA--DEPARTMENT OF TRANSPORTATION--DISTRICT 12

PLAT ACCOMPANYING

DIRECTOR'S DEED DD 040766-01-01

SCALE: N.T.S.
DRWN:SEE CHKD:GBG
DATE: 11/18/04

REF. MAP: E120010-15

SHEET 4 OF 5

Subject to special assessments if any, restrictions, reservations, and easements of record.

This conveyance is executed pursuant to the authority vested in the Director of Transportation by law and, in particular, by the Streets and Highways Code.

WITNESS my hand and the seal of the Department of Transportation of the State of California, this 30th day of OCTOBER 2006.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Will Kempton
Director of Transportation

By

George L. Pink Jr.
Attorney in Fact

APPROVED AS TO FORM AND PROCEDURE

Janine van Benschoten
ATTORNEY
DEPARTMENT OF TRANSPORTATION

STATE OF CALIFORNIA }
County of Sacramento } SS

PERSONAL ACKNOWLEDGMENT

On this the 30th day of OCTOBER 2006, before me SAMANTHA PENNALA, NOTARY PUBLIC

Name, Title of Officer-E.G., "Jane Doe, Notary Public"

personally appeared GEORGE L. PINK JR.

Name of Signer

personally known to me

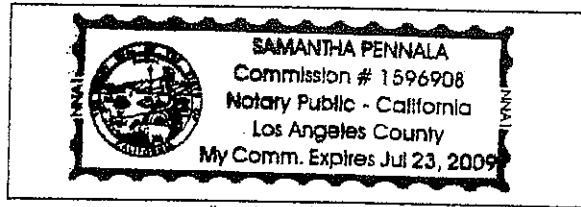
proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that _____ he/~~she~~ executed the same in _____ his/~~her~~ authorized capacity, and that by _____ his/~~her~~ signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Samantha Pennala

(Notary Public's signature in and for said County and State)



(for notary seal or stamp)

THIS IS TO CERTIFY that the California Transportation Commission has authorized the Director of Transportation to execute the foregoing deed at its meeting regularly called and held on the 12th day of October 2006, in the City of Santa Rosa.

Dated this 16th day of October 2006.

John F. Barna, Jr.
JOHN F. BARNA, JR., Executive Director
CALIFORNIA TRANSPORTATION COMMISSION

RESOLUTION 2006-89

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF NEWPORT BEACH
AUTHORIZING THE PURCHASE OF SUNSET RIDGE PARK
AND AGREEING TO TERMS AND CONDITIONS ASSOCIATED WITH A
PURCHASE AND SALE AGREEMENT FOR THE PARK PROPERTY

WHEREAS, the City of Newport Beach and its residents have long envisioned the 15 acres of land at the corner of Superior Avenue and West Coast Highway as a park, including both active and passive components; and

WHEREAS, extensive dealings with the owner of the property, California Department of Transportation ("Caltrans"), have occurred in the nearly thirty years since this property was declared surplus in 1976; and

WHEREAS, the City of Newport Beach was successful in sponsoring Senate Bill 124 (Johnson, 2001) which authorized the transfer of Sunset Ridge Park to the California Department of Parks and Recreation from Caltrans for a purchase price of \$1.3 million as long as the City entered into an Operating Agreement with State Parks to operate the land as a state park facility; and

WHEREAS, further discussions with Governor Schwarzenegger's administration, the State Department of General Services, members of the Legislature, and others, have led the City and Caltrans to propose a direct sale of the property to the City at a price of \$5,000,000; and

WHEREAS, the direct sale would be completed through a Purchase and Sale Agreement, a scenic easement, and deed restrictions that would provide that:

- The \$5 million be paid in three installments and at 4.75% interest;
- The property must be used as a park consistent with the current Open Space-Active (OS-A) zoning; and
- The City agrees to a 197,920 square foot Scenic Easement that would allow only uses of the property that are consistent with the OS-A zoning in place as of the date of this Resolution with the exception of permanent structures and pavement in the Scenic Easement Area.

WHEREAS, this Purchase and Sale Agreement requires the approval of the California Transportation Commission (CTC); now, therefore, be it:

RESOLVED by the City Council of the City of Newport Beach that it hereby:

1. Finds and declares that the Caltrans West Parcel (15.05 acres) shall be used by the City to develop Sunset Ridge Park and shall use the Parcel solely for park purposes, consistent with OS-A zoning; and

2. Authorizes the purchase of the Caltrans West Parcel from Caltrans at a price of \$5 million paid in three installments at 4.75% interest; and
3. Authorizes the placement of a Scenic Easement (or similarly-named easement) over 197,920 square feet of the parcel, within which all Open Space-Active (OS-A) uses that exist as of the date of this Resolution are permitted except for permanent structures and pavement (the latter two uses are not permitted); and
4. Authorizes the Mayor of the City of Newport Beach to execute a Purchase and Sale Agreement to this effect; and
5. Authorizes the City Manager to execute any related documents that might accompany the Purchase and Sale Agreement in order to accomplish the sale of the property.

ADOPTED this 26th Day of September, 2006.



DON WEBB
Mayor of Newport Beach

ATTEST:



LAVONNE HARKLESS
City Clerk



STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, LaVonne M. Harkless, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2006-89 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 26th day of September 2006, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Curry, Selich, Rosansky, Ridgeway, Daigle, Nichols, Mayor Webb
Noes: None
Absent: None
Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 27th day of September 2006.

LaVonne M. Harkless
City Clerk
Newport Beach, California

(Seal)





CITY OF NEWPORT BEACH

OFFICE OF THE MAYOR

Mayor

Don Webb

Mayor Pro Tem

Steven Rosansky

Council Members

Keith D. Curry

Leslie J. Daigle

Richard A. Nichols

Tod W. Ridgeway

Edward D. Selich

November 16, 2006

California Department of Transportation
21073 Pathfinder Road, Suite 100
Diamond Bar, CA 91765
Attn: Vincent Lundblad

LETTER OF ACCEPTANCE – DD #040766-01-01

Dear Mr. Lundblad:

The City of Newport Beach hereby accepts the property described in Director's Deed #040766-01-01 and agrees to the terms of the Purchase and Sale Agreement (attached to this letter).

I have also enclosed a check for \$2,000,000.00. This is the initial payment as prescribed by the Purchase and Sale Agreement.

The City appreciates Caltrans' assistance and support of this important purchase. If you have any questions about these documents, please do not hesitate to contact us at 949-644-3000.

Sincerely,

DON WEBB
Mayor of Newport Beach

Attachments

cc: Members of the Newport Beach City Council
City Manager Homer Bludau
Assistant City Manager Dave Kiff
Caltrans Director Will Kempton
Ms. Bimia Rhinehart, Caltrans