

**ATTACHMENT 4**

**REQUEST FOR PROPOSALS AND ADDENDA**



For Sale by

The State of California  
Department  
of General Services

October 7, 2009



5:00 p.m., Deadline for  
submittals is  
January 8, 2010

Orange County Fairgrounds RFP

# Request for Proposals

Orange County Fairgrounds, Costa Mesa, CA



150± Acre Fairground and Event Center

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**Note:** *The highlighted and underlined words in this document indicate links to files on the web site or to other internet web sites*

*It is the reader's responsibility to contact the State should the information linked not be available*

## Introduction and Background

By means of this Request for Proposals ("RFP"), the State of California, through the Department of General Services, Real Estate Services Division, Asset Management Branch ("State") is making available for sale the real property comprising the approximate 150 acre site commonly referred to as the Orange County Fairgrounds ("Property"). The Property is located at 88 Fair Drive in the City of Costa Mesa, California ("City") on the west side of the Costa Mesa Freeway (Hwy 55) between Fair and Arlington Drives. The Property represents approximately 1.8% of the total land area within the City.

The State is authorized to dispose of the Property under Sections [3884.2](#) of the California Food and Agricultural Code ("Authorizing Legislation").

The State intends to Execute a Purchase and Sales Agreement with the interested party or parties who, in the sole discretion of the State, pose the best opportunity for the State to achieve the highest and most certain return for the Property from a responsible bidder. Although this sale will be conducted pursuant to a public bidding process, the State is under no obligation to accept the highest bid for the Property if the State determines that said bid is not in the best interest of the State.

The Property is being sold "as-is" excepting a reservation of mineral rights as required under the Authorizing Legislation. In addition, the State requires a profit participation as a deed restriction in the event all or any portion of the Property receives City entitlements for uses other than the Property's current use as a fair and event facility. See the section on State Profit Participation Requirement for more information.

**Interested parties must submit proposals in accordance with this RFP not later than 5:00 p.m. PST on January 8, 2010. Proposals received after specified date and time will be rejected. Proposals must be submitted in sealed envelopes as instructed in this RFP and be addressed to:**

**Dave Kalemba  
Project Manager  
Dept. of General Services  
Real Estate Services Division  
Asset Management Branch  
707 3rd Street, 6th Floor  
West Sacramento, CA 95605**

Parties interested in submitting a bid are encouraged to refer regularly to the property web site at [Orange County Fairgrounds RFP](#) for links to additional information related to the sale of the property, as well as for updates to this RFP.

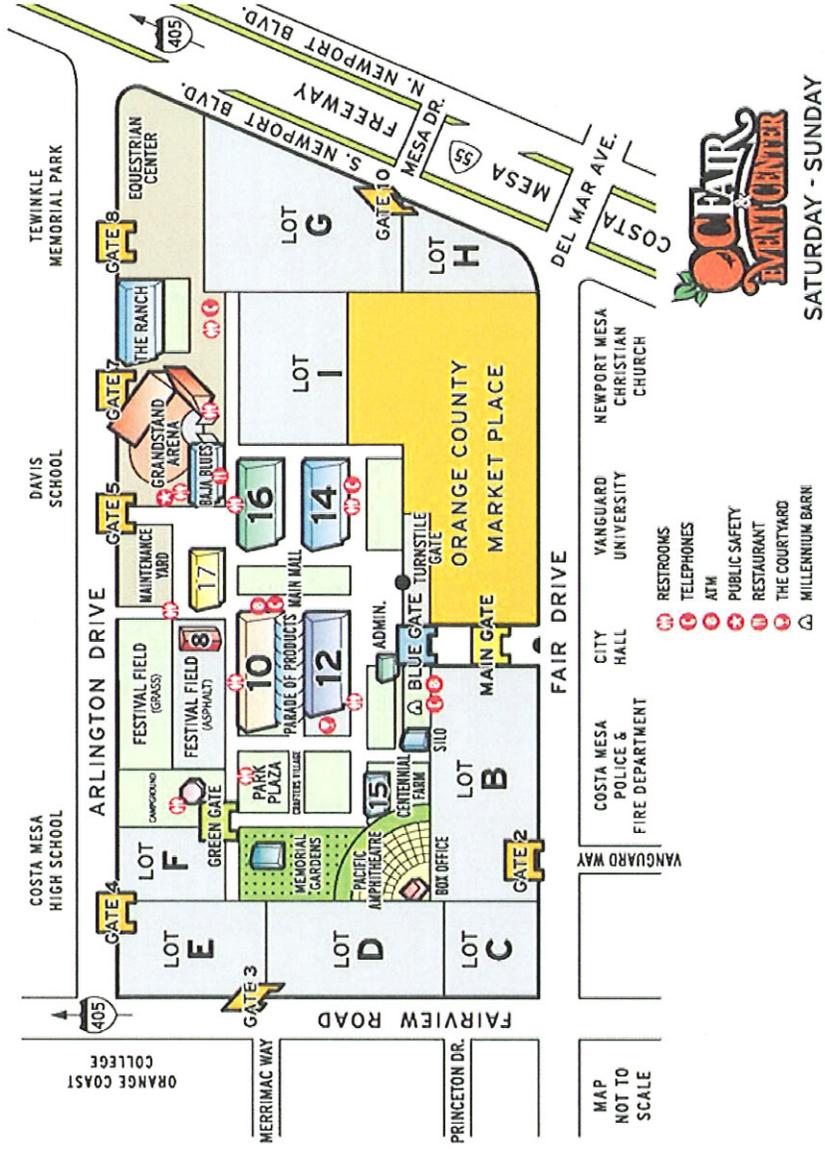




## Property Description

Title to the Property is held by the 32nd District Agricultural Association (32nd DAA), a state entity within the Division of Fairs and Expositions, California Department of Food and Agriculture. The 32nd DAA, doing business as the OC Fair & Event Center, operates the Property as a fairground and event facility that is host to an almost year-round calendar of events. While title is held by the 32nd DAA, jurisdiction of the Property falls under District 32a ("District 32a") which was created pursuant to Authorizing Legislation. More information the extent of the Property's operation as a fair and event facility is available at the following web site:

[Orange County Fair and Event Center](#)







## Property Description - Continued

Due Diligence – Unless otherwise stated herein, interested parties are responsible for undertaking all investigations of the Property that they deem necessary in connection with the evaluation of the conditions of the Property prior to proposal. A due diligence period will not be available under the [Purchase and Sales Agreement](#) executed with the successful bidder.

Property Access – Subject to prior approval of the State, the interested party, its representatives, authorized agents, or contractors, may enter on the Property to make such inspections of the Property. Inspections and/or testing requiring a disturbance to the Property must be completed under the terms of an executed [Right of Entry Agreement](#). See the section Inspection of the Property later in this RFP for more detail on gaining access to the Property for inspection purposes.



## Potential Historic Resources

The Property has a rich history in Orange County and was once part of the Santa Ana Army Air Base. A more detailed account of the Property's history can be found in the Draft Environmental Impact Report (2003 EIR, Volume 1 & 2003 EIR, Volume 2, dated March 2003, collectively referred to as "EIR") prepared on behalf of the 32<sup>nd</sup> DAA in connection with the Property's [Master Plan](#). The Cultural Resources section of the EIR notes that the research conducted did not reveal any recorded archaeological or historic resource sites within the Property. Additionally, the consultant at the time concluded that while several buildings on the Property date from the historic Santa Ana Air Base, none of the buildings retain their integrity or ability to convey historical significance ([consultant memo dated 9/17/09](#)).

## Hazardous Materials

The State is currently in process of completing a Phase 1 Environmental Site Assessment on the Property, and the results of that assessment will be posted to the web site below prior to the deadline for submission of proposals.

[Orange County Fairgrounds RFP](#)





## Regulatory Environment

### City Regulations

The City of Costa Mesa [General Plan](#) designates the Property's land use as [Fairgrounds](#), the only property with such a designation in the City of Costa Mesa. Surrounding General Plan land use designations include: Public/Institutional and Low Density Residential to the north; various land use designations to the east; Public/Institutional, Neighborhood Commercial, and High Density Residential to the south; and Low Density Residential and Public / Institutional to the west. Land uses to the east are not specified as this side of the Property borders Newport Boulevard which parallels Highway 55, the Costa Mesa Freeway.



## Regulatory Environment – Continued

The Property is zoned Institutional and Recreational (I & R) which is describe in the Costa Mesa Municipal Code as:

*“This district is intended to allow land uses which provide recreation, open space, health and public service uses. Development in this designation may occur on either public or private property.”*

The State’s intended sale of the Property has raised public and political interest as evidenced by articles in several media outlets as well as local public meetings. Orange County, the City of Costa Mesa, and the 32nd DAA have all passed resolutions formally taking positions on the sale of the Property. The City of Costa Mesa, responding to inquires regarding the State’s intended sale of the Property, has compiled a Fairgrounds, Facts & Figures summary addressing the City’s current and anticipated land use authority in the event the Property sells to a private entity.

The above information is provided as informational only and does not represent the State’s position as to the sale or conditions to the sale of the Property. The Property is being offered “as-is”, with the State reserving mineral rights as required under Authorizing Legislation. The State also requires a profit participation on the Property through a deed restriction should all or any portion of the property receive City entitlements for uses other than the Property’s current use as a fair and event facility. See the section on State Profit Participation Requirement for more information.



## Key Dates\*



Issuance of Proposal:	October 7, 2009
Deadline for Written Questions:	November 13, 2009
Responses to Questions Posted No Later Than:	December 4, 2009
Final Bid Submission Date:	January 8, 2010
Opening of Bids and Auction:	January 14, 2010
Highest Bid Recorded**:	January 14, 2010
Buyer's Execution of Purchase Contract:	January 21, 2010
State Review & Recommendation	January – February, 2010
State Execution of Purchase Contract: (subject to legislative notice)	March 15, 2010
Escrow Opened, Buyer's Deposit Increased	March 16, 2010
Estimated Close of Escrow	May – September 2010
Buyer Control of Property***	October 1, 2010

\* The State reserves the right to modify the above projected dates at its sole discretion prior to and after the Final Bid Submission Date.

\*\* Same relative dates will apply from this point forward on subsequently ranked bid proposals should a transaction fail to consummate with the initially selected bidder.

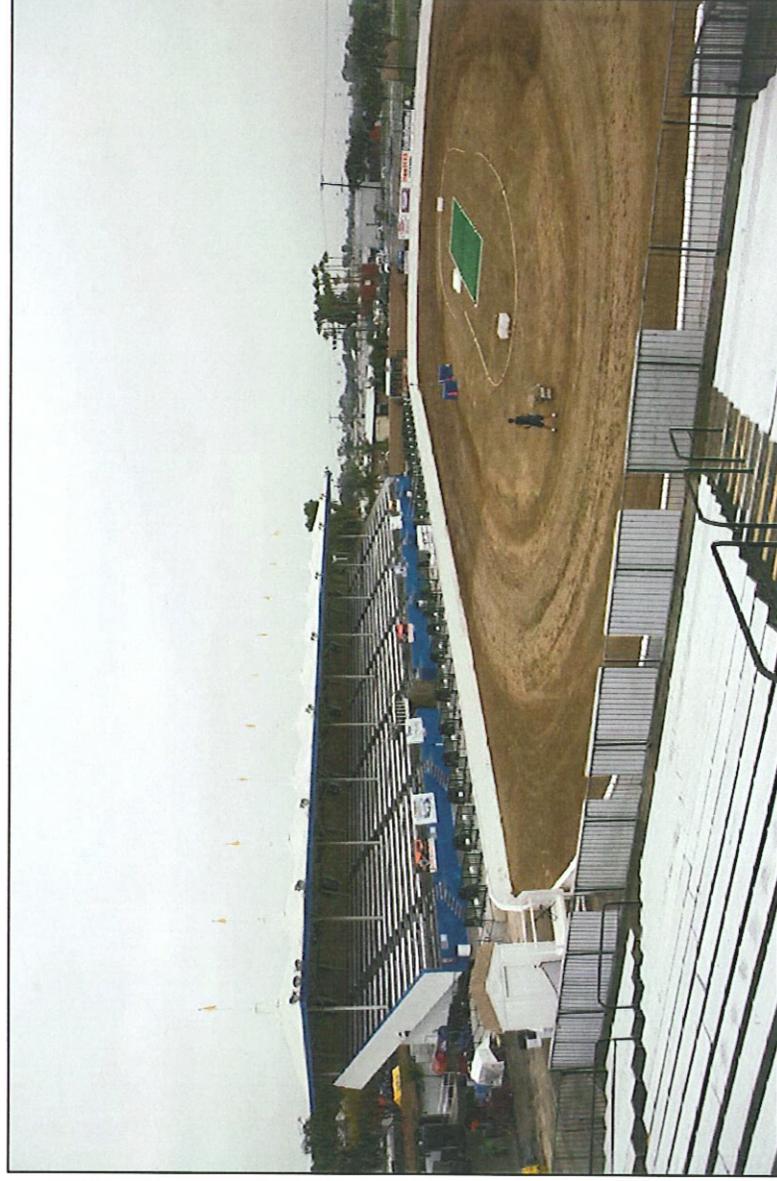
\*\*\* The sale of the Property is conditioned upon the Property's continued operation as the Orange County Fair and Event Center through the 2010 County Fair (slated to end mid-August).



## State Profit Participation Requirement

In addition to the initial cash payment for the Property, the State will retain the right to profit participation in the Property in the event that all or a portion of the Property is no longer used for fairground and event uses. The State will exercise this right through recordation of the profit participation covenant as a deed restriction on the title to the Property.

Within 30-days from the date of issuance of this RFP, the State will publish an addendum to this RFP that provides more specific detail on the State profit participation requirement as it shall apply to the disposition of the Subject Property. In general, the provision shall be applicable to the Property in its entirety and such provision will take affect on any portion of the Property once the use or reuse on that portion of the Property is no longer determined by the State to be fairground and event uses.



## Content of Offer

The State is requesting bid offers from parties interested in the purchase of the Property. All bids shall be submitted in sealed envelopes referencing the Orange County Fairgrounds Sale, the legal entity submitting the bid, and the primary point of contact (i.e., contact name, address, phone, fax, and e-mail address). Submittal packages must include the following:

### **A. Bid Deposit**

Bid offers must include a deposit in the amount of \$50,000 in the form of a cashiers check or money order payable to the State of California.

### **B. Bid Form**

All bid offers will be submitted utilizing the [Offer Form](#) provided in this RFP. The Offer Form must be completed in it's entirety and signed by a duly authorized representative of the entity submitting the bid.

### **C. Statement & Support of Sale Financing**

The State will not accept Bid offers with a financing contingency. A Statement of intended sale financing shall accompany the [Offer Form](#) and address the bidders ability to consummate the sale as per the State's objective of receiving the highest and most certain return for the Property from a responsible bidder within the time period prescribed under [Key Dates](#). Bidders must include any information that can assist the State in determining that the bidder has secured the necessary financing to facilitate an all-cash transaction on the sale of the Property at close of escrow.





## Conditions & Contingencies

### Buyer Conditions & Contingencies

Conditional or contingent bids will not be accepted by the State (financing or otherwise). The Property is offered "as-is" subject only to the reservation of mineral rights as stipulated in the Authorizing Legislation and the State's [Profit Participation Requirement](#). All bidders must review and acknowledge the State's [Purchase and Sales Agreement](#) and [Preliminary Title Report](#) and accept title subject to the exceptions listed in the Preliminary Title Report.

### Seller Conditions & Contingencies

It is the State's requirement that the Property remain in control of the State and that the Property continue to be operated as the Orange County Fair and Event Center through the 2010 Orange County Fair (scheduled to end mid-August 2010). Accordingly, the sale of the Property is conditioned upon the transfer of control and possession of the Property to buyer not occurring until October 1, 2010. If the Buyer desires to close escrow and transfer title before October 1, 2010, then Buyer will be required to enter into a lease with the 32nd DAA to allow the 32nd DAA's continued use through October 1, 2010 pursuant to a form of lease to be provided by DGS. There will be no monetary consideration in any lease-back arrangement should the buyer wish to close prior to October 1, 2010.





## RFP Process - Continued

### Selection – (continued)

Upon the high bidder's execution of a Purchase and Sales Agreement, the State will analyze the high bid and make a determination if the high bid represents the highest and most certain return from a responsible bidder (i.e., bidder capable of an all-cash transaction at closing). A 30-day notification period to the California Legislature is required before the State can execute a Purchase and Sales Agreement.

### Execution of Purchase Agreement

Subject to State and legislative approval, the State intends to execute a Purchase and Sales Agreement with the high bidder approximately 60-days after recording bids if, at the sole discretion of the State, the high bid offers the best opportunity to meet the State's objective of receiving the highest and most certain return from a responsible bidder. The State reserves the right to reject any or all offers at any time.

### Deposit & Escrow

The total deposit will equal the greater of \$50,000 or 1% of the purchase price. Upon execution of the Purchase and Sales Agreement, the buyer may be required to increase the initial \$50,000 to comply with the total deposit requirement.

### Closing Costs

All closing costs shall be paid by the buyer, including but not limited to any applicable documentary transfer taxes, premiums for any title policy, escrow fees and costs, and document recording charges for the Deed and Deed of Trust. **In no event shall the State be responsible for any real estate brokerage fees.**



For additional information not contained in this RFP, please call Dave Kalemba at (916) 376-1826.

## Additional Information

### Questions for DGS

Proponents requiring clarification of the intent and content of the RFP, or on the competitive proposal process, may request clarification only by submitting written questions to:

Department of General Services  
Asset Management Branch  
Real Estate Services Division  
707 Third Street, 6th Floor MS-501  
West Sacramento, CA 95605  
Attention: Dave Kalemba

Questions must be received by November 13, 2009. Questions and answer sets will be posted to the web site below no later than ten (10) working days, following the deadline for questions identified in [Key Dates](#). The source of the request for clarification will not be identified.

### [Orange County Fairgrounds RFP](#)

Any verbal representations made by RESD staff or persons affiliated with RESD are not binding on the State or the Proposer(s) and cannot be interpreted as modifications or clarifications of this RFP.

All technical questions should be directed to Dave Kalemba, Senior Real Estate Officer (Specialist), Asset Management Branch at (916) 376-1826. Administrative questions related to the RFP should be directed to Cheryl Bates, Contracts Assistant at (916) 376-1749.

### RFP Updates

The State may modify any part of the RFP, prior to the date fixed for submission of final proposals, by issuance of an addendum to all parties who have required and received a copy of the RFP. Addenda will be numbered consecutively. **THE STATE ENCOURAGES INTERESTED PARTIES TO CHECK THE WEB SITE REGULARLY FOR NEW INFORMATION.**





## Disclosures, Representations, and Warranties

The State obtained the information linked within this RFP from sources deemed reliable. However, the State makes no guarantees, warranties, or representations nor expresses or implies any opinion concerning the accuracy or completeness of the information provided. It is furnished solely as an aid to parties interested in purchasing the Property. Interested parties are responsible for undertaking all necessary investigations on and off the Property. The State will allow interested parties an opportunity to conduct "on-site" investigations of the Sale Property in accordance with the section immediately below. It is the reader's responsibility to contact the State should any linked information within this RFP not be available.

## Inspection of the Sale Property

Parties interested in a non-disturbance visit to the Property should contact Steve Beazley of the OC Fair and Event Center at (714) 708-1551 to arrange for inspection. Parties interested in testing for soils conditions or any other type of inspection that may potentially disturb the property must receive an executed [Right of Entry](#) form from the State by contacting Dave Kalemba at (916) 376-1826. Such request must include the identity of the contractor(s) or entity(ies) conducting the inspection and the nature and scope of the inspections. Subject to the terms of the [Right of Entry](#), the interested party, its representatives, authorized agents, or contractors, may enter on the Property to make such inspections of the Property, provided that the interested party keeps the Property free of liens, repairs all damage to the Property resulting from such inspection, and indemnifies and holds the State harmless from and against all liability, claims, demands, damages, or costs of any kind whatsoever (including attorney's fees) arising from or connected with the inspections. Entry onto the Property for Inspection purposes without contacting the OC Fair and Event Center or receipt of an Executed Right of Entry form is prohibited.





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State and Consumer Services Agency  
DEPARTMENT OF GENERAL SERVICES  
Real Estate Services Division – Asset Management Branch

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**ADDENDUM NO. 1**  
**November 10, 2009**

**REQUEST FOR PROPOSALS FOR**  
**THE SALE OF THE ORANGE COUNTY FAIRGROUNDS**  
(RFP No. AMB – 2009-10-07)

The October 7, 2009 Request for Proposal (RFP) indicated that the following additional information would be posted to this site within 30-days from the date the RFP was issued:

- State's Profit Participation Requirement
- Auction Format
- Purchase and Sales Agreement

The State has postponed the issuance of this additional information until Monday, November 23, 2009.

All other aspects of the request for proposal remain unchanged.

If you have any questions please call Dave Kalemba at (916) 376-1826.



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State and Consumer Services Agency  
DEPARTMENT OF GENERAL SERVICES  
Real Estate Services Division – Asset Management Branch

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ADDENDUM NO. 2  
November 23, 2009

REQUEST FOR PROPOSALS FOR  
THE SALE OF THE ORANGE COUNTY FAIRGROUNDS  
(RFP No. AMB – 2009-10-07)

Addendum No. 1 dated November 10, 2009 indicated that additional information would be posted November 23, 2009. The posting of this additional information is herein postponed indefinitely.

The additional information will be posted in a subsequent addendum which will also include a revised schedule of Key Dates as identified on page 10 of the October 7, 2009 Request for Proposal.

While the November 13, 2009 deadline for questions regarding the RFP has passed, the Key Dates will be revised to include a new deadline for submission of questions pertaining to the additional information.

All other aspects of the request for proposal remain unchanged.

If you have any questions regarding this addendum, please call Dave Kalemba at (916) 376-1826.



## ADDENDUM NO. 3 December 8, 2009

### REQUEST FOR PROPOSALS FOR THE SALE OF THE ORANGE COUNTY FAIRGROUNDS (RFP No. AMB – 2009-10-07)

Addendums No. 1 and No. 2 addressed the postponement of additional information that was to be released as initially indicated in the RFP dated October 7, 2009. This Addendum No. 3 is the posting of additional information previously delayed. Terms not defined herein will carry the same definition as per the RFP.

1. Purchase & Sales Agreement / Profit Participation

The above is a link to the Purchase and Sales Agreement referenced but not provided in the RFP. This agreement also includes the structure and deed language of the State Profit Participation Requirement also referenced in the RFP.

2. Bid Submittal, Opening, and Auction

The above link pertains to the Auction Format referenced but not provided in the RFP. In addition, this document provides clarification and revision to the overall bid submittal, opening, and auction process.

3. Offer Form

The above link is to the Offer Form referenced but not provided in the RFP.

4. Key Dates

The above link is a revised schedule of Key Dates as referenced in the RFP. The schedule has been revised to include an additional question period for Addendum No. 3 questions only. The deadline for all other questions regarding the RFP has passed, and responses to these questions will be posted as per the schedule of Key Dates.

All other aspects of the request for proposal remain unchanged.

If you have any questions regarding this addendum, please call Dave Kalemba at (916) 376-1826.



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## REVISED SCHEDULE OF KEY DATES December 8, 2009

### REQUEST FOR PROPOSALS FOR THE SALE OF THE ORANGE COUNTY FAIRGROUNDS (RFP No. AMB – 2009-10-07)

The RFP dated October 7, 2009 included a schedule of Key Dates. The following is a revised schedule effective December 8, 2009\*.

Issuance of Proposal:	October 7, 2009
Deadline for Written Questions:	November 13, 2009
Responses to Questions Posted No Later Than:	December 8, 2009
Deadline for Addendum 3 Written Questions	December 15, 2009
Responses to Addendum 3 Questions Posted:	December 22, 2009
Final Bid Submission Date:	January 8, 2010
Opening of Bids and Auction:	January 14, 2010
Highest Bid Recorded**:	January 14, 2010
Buyer's Execution of Purchase Contract:	January 21, 2010
State Review & Recommendation:	January – March, 2010
State Execution of Purchase Contract: (subject to legislative notice)	April 2010
Escrow Opened, Buyer's Deposit Increased	April 2010
Estimated Close of Escrow	June – November 2010
Buyer Control of Property***	November 1, 2010

\* The State reserves the right to modify the above projected dates at its sole discretion prior to and after the Final Bid Submission Date.

\*\* Same relative dates will apply from this point forward on subsequently ranked bid proposals should a transaction fail to consummate with the initially selected bidder.

\*\*\* The sale of the Property is conditioned upon the Property's continued operation as the Orange County Fair and Event Center through the 2010 County Fair (slated to end mid-August).



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## OFFER FORM

### REQUEST FOR PROPOSALS FOR THE SALE OF THE ORANGE COUNTY FAIRGROUNDS (RFP No. AMB – 2009-10-07)

The undersigned buyer ("Buyer") offers to purchase the property identified in the Request for Proposal (RFP) dated October 7, 2009 and referenced as the Orange County Fairgrounds (Property) for a total purchase price of:

\$ \_\_\_\_\_

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Spell Out Offer Price:

Buyer has reviewed the state's Purchase and Sales Agreement and Preliminary Title Report referenced in RFP or subsequent addendums to the RFP. Buyer will accept title subject to the exceptions listed in the Preliminary Title Report, and Buyer agrees to execute the Purchase and Sales Agreement substantially in the form provided.

Along with this offer to purchase, Buyer has submitted a bid deposit in the form of a Cashiers Check/Money Order in the amount of \$50,000.00 (Fifty Thousand Dollars and No/100) payable to the "State of California". If Buyer's offer is accepted by DGS and DGS executes the Purchase and Sales Agreement with the Buyer, Buyer will increase this deposit to an amount equal to the greater of \$50,000 or one percent (1%) of the offered purchase price plus any increase to the offered purchase price as allowed under the auction format prescribed in the RFP and subsequent addendums to the RFP.

Buyer acknowledges that State reserves the right to reject any and all offers to purchase the Property.

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Authorized Signature

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Date



## BID SUBMITTAL, OPENING, AND AUCTION December 8, 2009

### REQUEST FOR PROPOSALS FOR THE SALE OF THE ORANGE COUNTY FAIRGROUNDS (RFP No. AMB – 2009-10-07)

1. All bids must be received by the Department General Services in Sacramento on or before Friday, January 8, 2010 at 5:00 PM. The bid package must be submitted in compliance with the RFP instructions with the following revisions and/or clarification:

The submittal package must include two separate envelopes enclosed with the information as follows:

- I. Sealed Bid Envelope

- Completed Offer Form

The sealed bid envelope must be labeled as follows:

- Orange County Fairgrounds Sale, RFP No. AMB – 2009-10-07
- Legal name of entity submitting bid
- Primary point of contact for entity (i.e., contact name, address, phone, fax, and e-mail address).

- II. Deposit & Financing Statement Envelope

- Deposit in the amount of \$50,000 in the form of a cashiers check or money order payable to the State of California.
- Statement & Support of Sale Financing as required under the RFP.

2. The State will evaluate submittal packages for completeness and notify bidders no later than Monday, January 11, 2010 as to their eligibility to participate in the bid opening and auction to be held at the Orange County Fairgrounds. Eligibility is based solely on submittal package compliance as described above. Eligible bidders will also be provided with the location and time of the bid

opening and auction to be held on January 14, 2010. Only eligible bidders will be allowed to attend the bid opening, and eligible bidders need not be present unless they wish to participate in the auction format.

3. At the bid opening to be held Thursday, January 14, 2010 all bidders will be required to check-in and receive a number which is to be used during the auction portion of the event. Once bidders are checked in, the sequence of events shall be as follows:
  - I. Sealed envelopes containing the Bid Form will be opened in the presence of eligible bidders, and the amount of each bid will be announced and recorded. Bids will only be identified by the bidder number issued at check-in.
  - II. Once all sealed envelopes have been opened and recorded, the bids will be ranked in order of highest to lowest. The highest bid will be announced and then there will a short 15 minute break before the auction format begins.
  - III. At the end of the break, the highest bid will be announced once again at which time an open auction format will ensue and all eligible bidders will have the opportunity to increase their bids above the announced highest bid in increments to be determined.
  - IV. The process will continue until responses from eligible bidders cease, at which time the open auction will be closed. The highest bid resulting from the bid opening or open auction will be recorded as the high bid at the conclusion of the bidding process. All other bids will be ranked in order of highest to lowest.
  - V. This will conclude the bid opening and auction. Deposits from unsuccessful bidders will be returned at the conclusion of the bidding process or sent to those bidders not present.
4. The successful bidder will be required to execute the Purchase and Sales Agreement within 1-week following the conclusion of the bidding process. The State's execution of the Purchase and Sales Agreement will follow an evaluation period during which time the State will:
  - I. Evaluate the highest recorded bid to determine if the bid represents the highest and most certain return for the Property. If the highest recorded bid is not determined to represent the highest and most certain return for the Property, the bid will not be accepted by the State, the transaction shall cease, and deposits will be returned.
  - II. Evaluate the successful bidder's Statement & Support of Sale Financing to determine successful bidder's capacity to consummate transaction.

III. Notify fiscal committees of the State Legislature of the impending transaction 30-days prior to execution of the Purchase and Sales Agreement as required under Authorizing Legislation.

If the State determines that the successful bidder does not have the financial capacity to consummate the transaction, or if the successful bidder does not execute the Purchase and Sales Agreement within the time frame prescribed or as extended at the discretion of the State, or if the transaction otherwise fails for any reason whatsoever outside the control of the State, the State reserves the right to terminate the transaction with the successful bidder and offer the bidder with the next highest ranked bid as determined at the conclusion of the bidding process the opportunity to purchase the Property at a purchase price representing the next highest ranked bid.

**PURCHASE AND SALES AGREEMENT**  
**Orange County Fairgrounds**  
**Costs Mesa, CA**

This Purchase and Sales Agreement (Agreement) is made and entered into on this xx day of January, 2010 (Effective date), by and between the STATE OF CALIFORNIA, acting by and through the Department of General Services ("STATE"), and the           ("BUYER")          , collectively "PARTIES".

**RECITAL**

- A. **The State of California** owns that certain real property located at 88 Fair Drive in the city of Costa Mesa, county of Orange, California, and more particularly described in **Exhibit A**, which is incorporated herein as if fully set forth, ("Property") which has been authorized to be disposed of pursuant to Section 3884.2 of the California Food and Agricultural Code.
- B. **BUYER** has submitted the offer to purchase the Property, deemed most acceptable to the State, from multiple offers received in response to State's Invitation to Bid.

**AGREEMENT**

In consideration of the foregoing Recitals which are incorporated herein as if fully set forth and for other good and valuable consideration, the **PARTIES** agree as follows:

**1. PROPERTY**

**1.1 Property.** STATE agrees to sell and convey to BUYER, and BUYER agrees to purchase from STATE, the Property, including all improvements, subject to the terms and conditions set forth in this Agreement.

**2. PURCHASE PRICE**

**2.1 Purchase Price.** The total purchase price to be paid by BUYER to STATE for Property shall be \_\_\_\_\_ Dollars.

**2.2 Deposit** BUYER has made a bid deposit of FIFTY THOUSAND AND NO/100 Dollars (\$50,000.00) which will be increased to a total deposit of the greater of \$50,000 or one percent (1%) of the purchase price set forth in section 2.1 above prior to the STATE'S execution of this Agreement. Upon the STATE'S execution of the Agreement, the BUYER'S total deposit shall be non-refundable except upon STATE'S breach of agreement or BUYER'S right to terminate. The total deposit will applied to the purchase at the close of escrow.

**2.3 Terms of Payment.** The total purchase price set forth in section 2.1 above shall be delivered in cash at the close of escrow.

### 3. CONDITIONS OF SALE

**3.1 Close of Escrow, Title and Escrow.** The date upon which **STATE** executes this Agreement shall constitute the commencement of the escrow period during which time the **BUYER** will complete the purchase of the Property and close escrow on November 1, 2010 unless otherwise agreed in writing between **PARTIES** or as allowed in section 3.3 below.

Title to said Property shall pass immediately upon close of escrow. The **PARTIES** shall jointly issue escrow instructions and shall also jointly govern the escrow. An escrow account has been established with Fidelity National Title Company ("Title Company"), 1300 Dove Street, Suite 310, Newport Beach, CA, 92660, 949-622-5000. Title Company has issued a Preliminary Title Report dated August 12, 2009 ("Prelim") for the Property indicating the exceptions to title. The escrow account number established for this transaction is 628685-NP.

**3.2 Buyer's Costs.** **BUYER** shall pay all recording fees, documentary transfer taxes, escrow fees, policies of title insurance issued by Title Company, and any other costs connected with the closing of this transaction.

**3.3 Leaseback.** In **BUYER's** submitted offer to **STATE** to purchase the Property, **BUYER** stated a desire to close escrow prior to November 1, 2010. **BUYER** and **STATE** shall endeavor to enter into a separate Leaseback agreement allowing **STATE** to continue occupying Property and operating the Property in a manner consistent with previous years operation under the business name Orange County Fair and Event Center until November 1, 2010 for a total consideration of ONE DOLLAR (\$1.00). If the **BUYER** and **STATE** fail to reach a Leaseback agreement within 60-days following the date of this Agreement, the close of escrow shall be as stipulated in section 3.1 above. [Note: This section 3.3 will only be included if **BUYER** in its proposal expressed a desire to close escrow before November 1, 2010.]

**3.4 As-Is Purchase.** **BUYER** acknowledges that **BUYER** is purchasing the Property solely in reliance on **BUYER'S** own investigations. Except as provided in paragraph 4.4, **BUYER** specifically acknowledges and agrees that **STATE** will sell and **BUYER** will purchase the Property on an "as-is with all faults" basis, and that **BUYER**, having been given the opportunity to inspect the Property and review information and documentation affecting the Property, including any investigations, studies or documents identified under section 6.3 below, is not relying on any representations or warranties of any kind whatsoever, express or implied, from **STATE** or its agents as to any matters concerning the Property, including without limitation: (i.) the quality, nature, adequacy, and physical condition of the Property including soils, geology, and any groundwater; (ii.) the existence, quality, nature, adequacy, and physical condition of utilities serving the Property; (iii.) the development potential of the Property and the Property's use, merchantability, fitness, suitability, value, or adequacy of the Property for any particular purpose; (iv.) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property; (v.) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions, and restrictions of any governmental or quasi-governmental entity or of any other person or entity; (vi.) the presence of Hazardous Materials (as defined in section

3.4.2) on, under, or about the Property or the adjoining or neighboring property; (vii.) the condition of title to the Property; and (viii.) the economics of the operation of the Property. BUYER agrees to purchase the Property in the condition that it is in at close of escrow. BUYER assumes the risk of loss to any improvements and structures on the Property prior to close of escrow, and in the event of damages or destructions to improvements STATE or the 32 DAA shall be entitled to any insurance proceeds, if any, attributable to such damage or destruction. BUYER shall be responsible at BUYER'S sole expense for all demolition and any Hazardous Materials remediation required to make Property usable for BUYER'S intended purpose and BUYER releases the State of California, STATE, the 32nd District Agricultural Association and their employees or agents from any claims, damages, costs or damages related to any Hazardous Materials on, under or in the Property or releases of any Hazardous Materials from the Property.

**3.4.1 Land Use Entitlements & CEQA Requirements.** Pursuant to Section 3884.2 (h) of the California Food and Agricultural Code, BUYER shall be subject to any local governmental land use entitlement approval requirements and to Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the California Public Resources Code.

**3.4.2 Hazardous Materials.** As used herein, the term "Hazardous Materials" includes, without limitation, any flammable explosives, radioactive materials, Hazardous Materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq. ), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §1801 et seq.), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §6901 et seq.), Section 25117 of the California Health and Safety Code, Section 25316 of the California Health and Safety Code, and in the regulations adopted and publications promulgated pursuant to them, or any other Federal, State, or local environmental laws, ordinances, rules, or regulations concerning the environment, industrial hygiene or public health or safety now in effect or enacted after this date.

**3.5 Title Conditions.** BUYER has reviewed the Prelim referred to in section 3.1 above.

**3.5.1 No Buyer Exceptions.** BUYER agrees that a CLTA title policy will be issued by Title Company in accordance with the title exceptions identified in the Prelim, and that there are no conditions or contingencies related to title.

**3.6 Further Documents and Assurances.** BUYER and STATE shall each, diligently and in good faith, undertake all actions and procedures reasonably required to place the escrow in condition for closing as and when required by this Agreement. BUYER and STATE agree to execute and deliver all further documents and instruments reasonably required by Title Company. STATE shall deliver or cause to be delivered to escrow holder in time for delivery to BUYER at the closing an original ink signed Quitclaim Deed, should BUYER be a public agency, or Grant Deed, should BUYER be a private entity, duly executed and in recordable form, conveying fee title to the Property to BUYER. Deeds to be in a form substantially consistent with the sample deeds included herein as **Exhibit B**.

**3.7 Personal Property.** BUYER acknowledges that this Agreement pertains only to the acquisition of the Property's real property and improvements. Excluded from this Agreement are items of personal property such as furniture, vehicles, equipment and/or other items not affixed to the real property including, but not limited to, those items of personal property specifically identified in **Exhibit C**.

**3.8 Profit Participation.** Upon a change in land use or other occurrence as specified, BUYER agrees to pay to STATE in the manner specified below the percentage increase in the amount of land value attributable to a Change in Use or for another occurrence as specified below.

**3.8.1 Definitions.** The following definitions are applicable to section 3.8 only unless otherwise stated in this Agreement:

**"Entity":** shall mean an individual, partnership, joint venture, corporation, limited liability company, trust, association, unincorporated organization or any governmental authority.

**"Affiliate":** an Affiliate of an Entity shall mean any other Entity that (a) has any legal or financial interest in the Entity whether a controlling interest or not; (b) directly or indirectly controls the specified Entity; (c) is controlled by or is under direct or indirect common control with the specified Entity; (d) is an officer, director, employee, representative or agent of the Entity; (e) is a wholly-owned subsidiary of the Entity; or (f) acquires all or substantially all of the assets of such Entity. For the purposes of this definition, "control", when used with respect to any specified Entity, means the power to direct the management or policies of the specified Entity, directly or indirectly, whether through the ownership of voting securities, partnership or limited liability company interests, by contract or otherwise.

**"General Plan & Municipal Code":** shall mean those certain City of Costa Mesa governing documents commonly referred to as the 2000 General Plan adopted January 2002 and the Municipal Code Codified through City of Costa Mesa Ordinance No. 09-10, enacted Aug. 4, 2009 (Supplement No. 117).

**"Fairgrounds":** shall mean the Property's use as currently described in the General Plan and operation as is consistent with the current operation under the business name Orange County Fair and Event Center.

**"Change in Use":** shall mean any of the following: a change in the land use designation(s) for any portion of the Property under the General Plan or the zoning designation as identified in the Municipal Code; a change in the current "Institutional and Recreational (I and R)" zoning of the Property as described in the Municipal Code; and/or a Specific Plan for the Property or Planned Development Zoning, a Master Vesting Tentative Map, or a Development Agreement that provides for different land use designations and recreation and open space uses as identified in the General Plan and Municipal Code; and any entitlement, approval, or agreement related to the development of hospital or other medical or

healthcare-related uses, and/or educational institutions that may be permitted under the zoning designation described in the Municipal Code. A Change in Use shall also include, but not be limited to, any agreement, contract, lease, management agreement between BUYER, or its heirs, successor and assigns, and a Entity or Affiliate or subsequent buyer, ground lessee, joint venture partner or for the development of residential, retail, office, industrial, hotel, hospital or other medical or healthcare-related uses, educational uses not associated with the current use or operation of the Fairgrounds, or any other uses, buildings, and developments not directly related to and for the purpose of Fairgrounds. A Change in Use shall also be deemed to include the reuse or occupancy of an existing or future improvement, including but not limited to the Administration Building and Exhibition Hall, by a public entity for purposes unrelated to the current operation as a Fairgrounds. The effective date of a Change in Use shall be that date which the Change in Use is approved by the local governing body.

"Purchase Price Per Square Foot": is defined as the Purchase Price specified in the Agreement divided by 6,534,000 square feet of land area, or by a more accurate calculation of the land area conveyed if approved in writing by STATE prior to the close of escrow.

**3.8.2 Calculation of Participation in Increase in Land Value.**

"Participation in Increase in Land Value" attributable to a Change in Use shall mean fifteen percent (15%) of the amount by which the land value per square foot for any portion or all of the Property exceeds the Purchase Price per Square Foot. The per square foot increase in land value shall be multiplied by the amount of land in square feet whose value has increased due to a Change in Use.

**3.8.3 Payment of Participation in Increase in Land Value.** At any and all times, a Change in Use occurs, BUYER (and any buyer or buyers of undeveloped land within the Property (all such parties referred to below as "BUYER") will provide to STATE the report, appraisal, and payment described below.

**3.8.3.1 Report on Change of Use.** BUYER shall notify STATE of any Change in Use upon BUYER'S formal submittal for approval of such Change in Use to the local governing body. BUYER shall describe the details of the Change in Use, including amount of land in square feet, location of land, type of land use designated or approved for the applicable portion of the Property, the amount and type of building space and other improvements permitted to be constructed as the result of the Change in Use, whether an agreement to sell, ground lease, joint venture or otherwise convey the portion of the Property subject to a Change in Use exists and if so, the terms of the contemplated conveyance; and whether the BUYER or any Affiliates will have any interest or control of the buyer, ground lessee, or joint venture (the "Report on Change of Use").

**BUYER** must provide **STATE** with updated Report on Change of Use no less than 30-days but no more than 60-days prior to the date a Change of Use is approved by the local governing body. During this time period, **BUYER** shall have the option to include with the updated Report on Change of Use a statement not supported by an appraisal on the per square foot land value of the applicable portion of the Property ("**BUYER'S** Statement of Land Value"). If the **STATE** does not accept in writing "**BUYER'S** Statement of Land Value" within thirty (30) days of its submission, then the appraisal process for determining the per square foot land value of the applicable portion of the Property shall be conducted as described in section 3.8.4.2 below regarding Appraisal.

**3.8.3.2 Appraisal.** If **STATE** does not accept **BUYER'S** Statement of Land Value and **BUYER** and **STATE** do not reach a written agreement on the per square foot land value of the applicable portion of the Property, within thirty (30) days of **STATE'S** written request, **BUYER** at its sole cost, shall engage an independent appraiser holding the MAI designation from the Appraisal Institute who shall determine the per square foot fair market land value of the applicable portion of the Property as of the date of notice of the Change in Use. **BUYER** shall promptly notify **STATE** of the appraiser retained. The appraisal obtained by **BUYER** pursuant to the preceding sentence ("**BUYER'S** Appraisal") shall be delivered not later than sixty (60) days following **STATE'S** request that **BUYER** obtain an appraisal. If **STATE** disagrees with **BUYER'S** Appraisal, **STATE** may order an appraisal by a different independent MAI appraiser, which appraisal ("**STATE'S** Appraisal") shall be delivered to **BUYER** not later than ninety (90) days after receipt of **BUYER'S** Appraisal. **BUYER** will pay the cost of **STATE'S** Appraisal as a deposit to **STATE**, the cost of which will be deducted from the Payment due **STATE**. The failure of **STATE** to deliver **STATE'S** Appraisal within ninety (90) days shall not result in the presumption that **STATE** accepts **BUYER'S** Appraisal. If **STATE** delivers a **STATE'S** Appraisal and **BUYER'S** Appraisal and **STATE'S** Appraisal differ by ten percent (10%) or less, then the average of **BUYER'S** Appraisal and **STATE'S** Appraisal shall constitute the average per square foot land value of the applicable portion of the Property subject to a Change in Use. If **STATE'S** Appraisal differs from **BUYER'S** Appraisal by more than ten percent (10%), the appraisers preparing **BUYER'S** Appraisal and **STATE'S** Appraisal, shall, within fourteen (14) days after delivery of **STATE'S** Appraisal, select a third independent MAI appraiser to make a third appraisal to be submitted to **STATE** and **BUYER** not later than sixty (60) days after the selection of the third appraiser. If the third appraisal (i) matches either **BUYER'S** Appraisal or **STATE'S** Appraisal or (ii) falls anywhere in between **STATE'S** Appraisal and **BUYER'S** Appraisal, then the per square foot land value specified in the third appraisal shall be the final determination of land value per square foot. If the third appraisal does not match **STATE'S** Appraisal or **BUYER'S** Appraisal or fall between them, then the land value per square foot shall constitute the average of (i) the third appraisal and (ii) whichever of **STATE'S** Appraisal or **BUYER'S** Appraisal as shall have been closer in amount to the third appraisal. The fees and costs of the third appraiser shall be paid by **BUYER** but shared equally by

**BUYER** and **STATE** with **STATE'S** share of such costs deducted from the amount of the Payment due Seller.

In considering the impact on value of any conveyances and developments pertaining to the Property, the appraisers are instructed to take note and make upward adjustments as warranted with respect to conveyances to Affiliates not the result of arms-lengths negotiations and independent parties. In addition, the appraisal value shall be based on the fair market value and specific uses and scale and type of building space permitted under the Change in Use.

**3.8.3.3** **Payment.** The amount by which the per square foot land value of the applicable portion of the Property subject to a Change in Use exceeds the Purchase Price Per Square Foot shall be multiplied by the number of square feet of land subject to the Change in Use. Within thirty (30) days following the written agreement between **BUYER** and **STATE** concerning the **STATE'S** Participation in Increase in Land Value or the appraisal determination of the land value per square foot, **BUYER** shall pay **STATE** fifteen percent (15%) of the increase in land value. For example, if the Purchase Price per Square Foot equals \$10.00 and **BUYER** obtains entitlement for a Change in Use to retail on 15 acres of land, and as a result, the land value per square foot is found by the appraisal process to increase to \$20.00 per square foot, the Increase in Land Value attributable to a Change in Use totals \$10.00 per square foot. The \$10.00 per square foot increase in land value is multiplied by 653,400 square feet of land. The resulting product of \$6,534,000 is then multiplied by fifteen percent (15%) to determine the amount of Participation in the Increase in Land Value. In this example, the total payment due from **BUYER** to **STATE** is \$980,100.

**3.8.3.4** **Additional Payment if Initial Change in Use is Not Developed and a Subsequent Additional Change in Use Occurs.** If within ten (10) years following the initial Change of Use, development reflective of that Change in Use does not occur and a subsequent additional Change in Use occurs (the "Subsequent Change in Use"), then the same process specified in sections in 3.8.4.1 and 3.8.4.2 will apply and if the Subsequent Change in Use results in an appraisal determination that the land value per square foot associated with the Subsequent Change in Use is higher than the appraisal determination of the land value per square foot of the earlier Change in Use, then section 3.8.4.3 will apply to the Subsequent Change in Use. For example, if 25 acres of the Property is subject to a Change in Use to industrial with a land value of \$9.00 per square foot but no industrial space is subsequently developed and then within 10 years from the initial Change in Use, the 25 acres of Property is rezoned from industrial to office, then **BUYER** will be required to furnish to **STATE** the Report on Change in Use and Appraisal and the Payment provision specified in section 3.8.4.3 will apply

**3.8.4** **Allocation of Condemnation or Inverse Condemnation Action Proceeds.** Should **BUYER** receive proceeds for negotiated sale with a

governmental entity or for any full or partial taking pursuant to any eminent domain action on some or all of the Property, and such proceeds reflect the value of a land use that qualifies as a Change in Use under section 3.8.1, or the payment exceeds the land value per square foot paid by BUYER, then the **STATE'S** allocation and payment of said proceeds shall be as prescribed in section 3.8.3.3, except that the **BUYER** shall pay **STATE** 50% of the increase in land value. The basis for the Change in Use land value shall be as established in the eminent domain settlement or judgment. The **STATE** shall have the right to intervene in the action and receive payment directly.

Should **BUYER** receive proceeds for any full or partial taking pursuant to any inverse condemnation action on some or all of the Property, and such proceeds reflect the value of a land use that qualifies as a Change in Use under section 3.8.1, the **STATE'S** allocation of said proceeds shall be 50% of the total compensation received and **BUYER** shall pay **STATE'S** allocation of proceeds to **STATE** no later than 30-days of **BUYER** receiving said proceeds. The **STATE** shall have the right to intervene in the action and receive payment directly.

**BUYER** shall inform **STATE** promptly if **BUYER** has knowledge of the pendency of any such taking as described in this section and shall keep **STATE** informed about such action.

**3.8.5** **Additional Consideration in Event Buyer is Public Entity and a Change of Use Occurs.** Should **BUYER** be a local government, county government, Joint Powers Authority or other municipal or public entity, and use, occupy, lease, sale, or convey existing or future improvements, including but not limited to the Administration Building or Exhibition Hall, for non-Fairgrounds purposes, **BUYER** will pay to **STATE** additional consideration. The additional consideration shall be equal to fifty percent (50%) of the amount by which the value of all or the applicable portion of Property associated with non-Fairgrounds operations or uses exceed the value of all or the applicable portion the Property as a Fairgrounds (referred to below as the "Value Increase").

**BUYER** shall not later than within 30 days after a Change in Use furnish **BUYER'S** best good faith estimate of the Value Increase and provide a report similar in detail to the Report on Change of Use specified in section 3.8.3.1. If the **STATE** does not accept in writing **BUYER'S** estimate of the Value Increase, then the appraisal process described in section 3.8.3.2 used to determine the per square foot land value of the Property subject to a Change in Use will be used to determine the Value Increase.

Within thirty (30) days following the written agreement between **BUYER** and **STATE** concerning the Value Increase or the appraisal determination of the Value Increase, **BUYER** shall pay **STATE** fifty percent (50%) of the Value Increase.

**3.8.6** **No Cost Deductions in the Calculation of State Participation Payments.** In calculating any participation payments that may be due to **STATE** under section 3.8, no deductions of any kind will apply for any costs whatsoever including but not limited to; legal, accounting, appraisal, architectural, planning, engineering or other consulting services; insurance expenses, property taxes,

escrow, closing, brokerage commission, and loan fee and interest costs; cost of capital improvements, utilities costs, overhead costs, and any costs in applying for and processing entitlements or for operating, finance or capital costs associated with the current use or potential future use

**3.8.7 First Priority Lien and Non-subordination.** The profit participation provisions of section 3.8 shall constitute a first priority right against the Property and the State will not subordinate these rights to any other lender or lien holder.

**3.8.8 Covenants Running With the Land.** The provisions of the Profit Participation in section 3.8 shall constitute a covenant upon and subject to the property and every portion of it shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The Profit Participation provisions of section 3.8 shall run with the land, shall inure to the benefit of and pass with each and every portion of the Property and shall apply to and bind the respective successors in interest for the benefit of the State of California. All buyers, lessees, or occupants of any portion of the Property shall be deemed by their purchase, leasing, or possession of the Property or any portion thereof to be subject to the provisions hereof. The recordation of the Profit Participation provisions of section 3.8 shall be deemed binding on all successors and assigns, and lessees of **BUYER** regardless of whether the Profit Participation provisions of section 3.8 has been attached or incorporated into any deed or lease or other conveyance or transfer agreement.

**3.8.9 Right to Inspect the Property, Books and Records.** The **STATE** or its designees will have the right to review and copy all **BUYER** records pertaining to the Property, including but not limited to any internal files and records, financial records, agreements, leases, contracts, and accounting records. **BUYER** agrees to provide the **STATE** or its designee with any requested relevant information and shall permit the **STATE** or its designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees, contractors, consultants, tenants, and inspecting the Property and copying such books, records, accounts, and other material that may be relevant to a matter under review to determine compliance with this Agreement. **BUYER** further agrees to maintain such records until three (3) years after final payment as provided for in section 3.8.

**3.8.10 Professional Fees and Costs.** The **STATE** shall be entitled to recover from **BUYER**, all its fees and costs for all attorneys, auditors, accountants and any other professional services needed to enforce these provisions.

**3.8.11 APPLICABLE LAW.** These provisions shall in all respects be governed by the laws of the State of California and any action to enforce the terms of these provisions shall be commenced and maintained in the Superior Court of the County of Sacramento.

**3.8.12 Survival.** The Profit Participation provisions of section 3.8 shall survive the close of escrow and recordation of the deed to Buyer.

#### 4. SELLER'S REPRESENTATIONS, WARRANTIES, AND DISCLOSURES

In addition to any express agreements of **STATE** contained herein, the following constitute representations and warranties of **STATE to BUYER**, of this Agreement:

4.1 **Reliability of Information.** **STATE** obtained the information contained in this Agreement from sources deemed reliable; however, **STATE** makes no representations, warranties or guarantees as to the accuracy of the information provided. **STATE** provides the information solely as an aid to **BUYER** and **BUYER** should conduct its own investigations of the Property.

4.2 **Authority of State.** **STATE** is a government entity, duly organized and validly existing under the laws of the State of California. **STATE** has full power and authority to sell, and convey the Property to **BUYER** and to enter into and perform its obligations pursuant to this Agreement.

4.3 **Taxes.** The State of California is exempt from property taxes and assessments and none are or will be owing at close of escrow.

4.4 **Disclosures.** **BUYER** acknowledges that **BUYER** is purchasing the Property solely in reliance on **BUYER'S** own investigations and no representations or warranties of any kind whatsoever, expressed or implied, have been made by **STATE**, **STATE'S** agents, or brokers (if any), including in any investigations, studies or documents identified under section 6.3 below.

4.5 **Broker.** **STATE** has not retained the services of any broker for the transactions contemplated under this Agreement.

4.6 **Absence of Fraud and Misleading Statements.** To the best of **STATE'S** knowledge, no statement of **STATE** in this Agreement or in any document, certificate, or schedule furnished or to be furnished to **BUYER** pursuant hereto or in connection with the transaction contemplated hereby contains any untrue statement of material fact.

#### 5. BUYERS REPRESENTATIONS AND WARRANTIES

In addition to any express agreements of **BUYER** contained herein, the following constitute representations and warranties of **BUYER to STATE**, of this Agreement:

##### 5.1 **Representations Regarding BUYER'S Authority.**

(a) **BUYER** has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated in this Agreement.

(b) The individual(s) executing this Agreement and the instruments referenced herein on behalf of **BUYER** have the legal power, right, and actual authority to bind **BUYER** to the terms and conditions hereof and thereof.

(c) This Agreement is, and all other instruments, documents and agreements required to be executed and delivered by **BUYER** in connection with this Agreement are and shall be, duly authorized, executed and delivered by **BUYER** and shall be valid, legally binding obligations of and enforceable against **BUYER** in accordance with their terms.

(d) No further approvals or actions are required for **BUYER** to consummate the transactions contemplated in this Agreement and **BUYER** has the funds necessary to consummate the transaction contemplated in this Agreement.

**5.2 Regulatory Authority.** **BUYER** further acknowledges, represents and warrants that as of the close of escrow **BUYER** is aware of all zoning regulations, other governmental requirements, site and physical conditions, including the presence of Hazardous Materials or other adverse environmental conditions if any, and other matters affecting the use and condition of the Property.

**5.3 Broker.** **BUYER** has not retained the services of any broker for the transactions contemplated under this Agreement.

**5.4 General Representation.** No representation, warranty or statement of **BUYER** in this Agreement or in any document, certificate or schedule furnished or to be furnished to **STATE** pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading. **BUYER'S** representations and warranties made in this Agreement shall be continuing and shall be true and correct as of the date of the close of escrow with the same force and effect as if remade by **BUYER** in a separate certificate at that time. The truth and accuracy of **BUYER'S** representations and warranties made herein shall constitute a condition for the benefit of **STATE** to the close of escrow (as elsewhere provided herein) and shall not merge into the close of escrow or the recordation of the quitclaim in the Official Records, and shall survive the close of escrow.

## **6. DUE DILIGENCE**

**6.1 Buyer's Investigation of Property Condition.** Real property often contains defects and conditions which are not readily apparent and which may affect the value or desirability of the Property. Therefore, it is the affirmative duty of **BUYER** to exercise reasonable care to discover those facts which are unknown to **BUYER** or within the diligent attention and observation of **BUYER**. **BUYER** acknowledges that **BUYER** has been given the opportunity to complete an investigation of the Property prior to the execution of this Agreement, and that **BUYER** accepts the condition of the Property "as-is" as of the date of this Agreement.

**6.2 Buyer's Acceptance of Property Condition and Inspections.** **BUYER'S** acceptance of the condition of the Property is not a condition to performance under this Agreement. **BUYER** accepts the "as-is" condition of the Property as of the date of this Agreement. **BUYER** may, however, continue to conduct inspections, investigations, tests, surveys, and other studies during from the date of this Agreement until Close of Escrow at **BUYER'S** expense upon execution of a Right of Entry (ROE) from **STATE** in the form attached as **Exhibit D**. **BUYER** agrees to provide to **STATE**, at no cost, upon

request of **STATE**, complete copies of all inspection reports obtained by **BUYER** concerning the Property. **BUYER** shall provide to **STATE** in writing the identity of the contractor(s) or entity(s) conducting the inspections and the nature and scope of the inspections for inclusion in the ROE. **STATE PROHIBITS ENTRY ONTO THE PROPERTY WITHOUT AN EXECUTED ROE.** Subject to the terms of the ROE, the **BUYER**, its representatives, authorized agents, or contractors may enter on the Property to make such inspections of the Property provided that **BUYER** keeps the Property free of liens and repairs all damage to the Property resulting from such inspection(s).

**6.3** **Scope of Buyer's Investigations.** **BUYER** agrees and warrants, or by the failure to do so shall have waived any rights to do so hereunder, that prior to the execution of this Agreement **BUYER** has investigated the condition and suitability of all aspects of the Property and all matters affecting the value or desirability of the Property, including but not limited to the following:

**6.3.1** **Condition of systems and components.** Building foundations, improvements, plumbing, siding, electrical, heating, mechanical, roof, air conditioning, built-in appliances, security, and any other structural or nonstructural systems and components, and the energy efficiency of the Property.

**6.3.2** **Size and age of improvements.** Structure count, room count, room dimensions, square footage in improvements, lot size, and age of the improvements.

**6.5.3** **Lines and boundaries.** Property lines and boundaries.

**6.5.4** **Waste disposal.** Type, size, adequacy, and condition of sewer and/or septic systems and components.

**6.3.5** **Governmental requirements and limitations.** Availability of required governmental permits, inspections, certificates, or other determinations affecting the Property, including historical significance. Any limitations, restrictions, zoning, building size requirements, or other requirements effecting the current or future use or development of the Property.

**6.5.6** **Rent and occupancy controls.** Any restrictions that may limit the amount of rent that can legally be charged and the maximum number of persons who can lawfully occupy the Property.

**6.5.7** **Water and utilities; well systems and components.** Availability, adequacy, and condition of public or private systems.

**6.5.8** **Environmental hazards.** The presence of asbestos, formaldehyde, radon, methane, other gases, lead based paint, other lead contamination, fuel or chemical storage tanks, waste disposal sites, electromagnetic fields, and other substances, materials, products, or conditions.

**6.5.9** **Geologic conditions.** Geologic/seismic conditions, soil stability/suitability, and drainage.

**6.5.10 Neighborhood, area, subdivision requirements.** Neighborhood or area conditions including schools; proximity and adequacy of law enforcement; proximity to commercial, industrial, or agricultural activities; crime statistics; fire protection; other governmental services; existing and proposed transportation; construction and development which may affect noise, view or traffic; airport noise; and noise or odor from any source, wild or domestic.

**6.5.11 Matters of record.** Covenants, conditions, and restrictions; deed restrictions; easements; and other title encumbrances of record.

**6.5.12 Other matters.** Any and all other matters such as availability of suitable public infrastructure, assessment, other special service districts, and soil or other conditions on the Property, not herein listed, which are or may be pertinent to **BUYER'S** purpose for acquiring the Property.

## **7. INDEMNIFICATION**

**BUYER** shall defend, indemnify, and hold the **STATE** harmless from and against any and all claims, liabilities, obligations, losses, damages, costs, and expenses, including, but not limited to, attorney's fees, court costs, and litigation expenses that **STATE** may incur or sustain by reason of or in connection with any misrepresentation made by the **BUYER** pursuant to this Agreement or by **BUYER's** or **BUYER'S** representatives, authorized agents, or contractors exercise of rights under section 6.5 of this Agreement.

## **8. MINERAL RESERVATIONS**

The **STATE** shall except and reserve all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits without rights of surface entry in a plane from the surface to a depth of 500 feet below the surface.

## **9. PRIOR AGREEMENTS**

This Agreement, in effect as of the Date of Agreement, supersedes any and all prior agreements between **STATE** and **BUYER** regarding the Property.

## **10. NOTICES**

Any notice, tender, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered, mailed or sent by wire or other telegraphic communication in the manner provided in this Agreement, to the following persons:

**TO STATE:**                    **DEPARTMENT OF GENERAL SERVICES  
ASSET MANAGEMENT BRANCH  
707 3<sup>RD</sup> STREET, 6<sup>TH</sup> FLOOR  
WEST SACRAMENTO, CA 95605  
ATTN: Dave Kalemba, Senior Real Estate Officer**

TO BUYER:

11. CALCULATION OF TIME

Under this Agreement, when the day upon which performance would otherwise be required or permitted is a Saturday, Sunday or holiday, then the time for performance shall be extended to the next day which is not a Saturday, Sunday or holiday. The term "holiday" shall mean all and only those State holidays specified in Sections 6700 and 7701 of the California Government Code.

12. TIME OF ESSENCE

Time is of the essence of this Agreement and each and every provision hereof.

13. ENTIRE AGREEMENT

This Agreement shall constitute the entire understanding and agreement of the **PARTIES** hereto regarding the purchase and sale of the Property and all prior agreements, understandings, representations or negotiations are hereby superseded, terminated and canceled in their entirety, and are of no further force or effect.

14. AMENDMENTS

This Agreement may not be modified or amended except in writing by the **PARTIES**.

15. APPLICABLE LAW

The **PARTIES** hereto acknowledge that this Agreement has been negotiated and entered into in the State of California. The **PARTIES** hereto expressly agree that this Agreement shall in all respects be governed by the laws of the State of California and any action to enforce the terms of this Agreement shall be commenced and maintained in the Superior Court of the County of Sacramento.

16. SEVERABILITY

Nothing contained herein shall be construed as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present statute, law, ordinance or regulation as to which the **PARTIES** have no legal right to contract, the latter shall prevail, but the affected provisions of this Agreement shall be limited only to the extent necessary to bring them within the requirements of such law.

**17. SEPARATE COUNTERPARTS**

This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original. Such counterparts shall, together, constitute and be one and the same instrument.

**18. EXHIBITS**

The following Exhibits are attached to this Agreement and incorporated by reference herein.

- Exhibit A. Legal Description
- Exhibit B: Sample Deeds
- Exhibit C: Partial List of Personal Property
- Exhibit D: Right of Entry Agreement

**19. SURVIVAL**

All terms and conditions in this Agreement, which represent continuing obligations and duties of the **PARTIES**, that have not been satisfied prior to close of escrow shall survive close of escrow and transfer of title to **BUYER** and shall continue to be binding on the respective obligated party in accordance with their terms. All representations and warranties and statements made by the respective parties contained herein or made in writing pursuant to this Agreement are intended to be, and shall remain, true and correct as of the close of escrow, shall be deemed to be material, and, together with all conditions, covenants and indemnities made by the respective parties contained herein or made in writing pursuant to this Agreement (except as otherwise expressly limited or expanded by the terms of this Agreement), shall survive the execution and delivery of this Agreement and the close of escrow, or, to the extent the context requires, beyond any termination of this Agreement.

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

**BUYER**

By: \_\_\_\_\_

By: \_\_\_\_\_

**STATE**

STATE OF CALIFORNIA  
DEPARTMENT OF GENERAL SERVICES

REAL ESTATE SERVICES DIVISION

BY: \_\_\_\_\_

\_\_\_\_\_  
707 Third Street, 5<sup>th</sup> Floor  
West Sacramento, CA 95605  
(916) 376-1814

Date: \_\_\_\_\_

## EXHIBIT A

### LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THAT PORTION OF LOT A OF THE BANNING TRACT, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP OF SAID TRACT FILED IN THE CASE OF HANCOCK BANNING VS. MARY H. BANNING FOR PARTITION AND BEING CASE NO. 6385 UPON THE REGISTER OF ACTIONS OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF LOS ANGELES, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF THE OLD SANTA ANA ROAD WITH THE NORTH LINE OF LOT A OF SAID BANNING TRACT, AS SHOWN ON A MAP FILED IN BOOK 20 PAGE 31 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, THENCE ALONG THE NORTH LINE OF SAID LOTA OF BANNING TRACT; SOUTH 89' 56' 13" EAST 876.58 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 2400.86 FEET; THENCE EAST 2087.88 FEET TO THE NORTHWESTERLY LINE OF A 50 FOOT RIGHT OF WAY, FORMERLY THE SOUTHERN PACIFIC RAILROAD RIGHT OF WAY, AS PER DEED TO THE STATE OF CALIFORNIA, RECORDED NOVEMBER 20, 1935 IN BOOK 790, PAGE 155 OF OFFICIAL RECORD OF SAID ORANGE COUNTY, AS SHOWN ON SAID MAP FILED IN BOOK 20 PAGE 31 OF RECORD OF SURVEYS; THENCE ALONG THE NORTHWESTERLY BOUNDARY OF SAID RIGHT OF WAY, NORTH 40' 15' 50" EAST 3140.18 FEET TO THE NORTH LINE OF SAID LOT A OF BANNING TRACT; THENCE ALONG THE NORTH LINE OF SAID LOT A OF BANNING TRACT; NORTH 89' 56' 13" WEST 4121.55 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT ALL MAIN LINES OF THE POWER SYSTEM, ALL MAIN LINES OF THE WATER SYSTEM AND ALL MAIN LINES OF THE SEWAGE SYSTEM NOW LOCATED THEREON, AS RESERVED BY THE UNITED STATES OF AMERICA IN DEED RECORDED AUGUST 19, 1949 IN BOOK 1891, PAGE 112, OFFICIAL RECORDS, TOGETHER WITH THE APPURTENANCE PERTAINING TO SAID MAIN LINES.

ALSO EXCEPT ALL OIL, GAS AND OTHER ASSOCIATED HYDROCARBON SUBSTANCES LOCATED THEREIN, TOGETHER WITH EASEMENTS FOR DRILLING SITES ADEQUATE FOR DRILLING, OPERATING, EXTRACTING AND PRODUCING SAID SUBSTANCES, EASEMENTS FOR NECESSARY EXPLORATION, PIPE LINES AND OTHER STRUCTURES NECESSARY FOR THE DEVELOPMENT OF SAID RESERVED MINERALS, WITH EASEMENTS FOR NECESSARY MEANS OF INGRESS TO AND EGRESS FROM SAID IMPROVEMENTS, AS RESERVED BY THE UNITED STATES OF AMERICA IN DEED RECORDED AUGUST 19, 1949 IN BOOK 1891, PAGE 112, OFFICIAL RECORDS.

ALSO EXCEPT IN ACCORDANCE WITH EXECUTIVE ORDER 9908 APPROVED DECEMBER 5, 1947 (12 F. R. 8223), ALL URANIUM, THORIUM AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5 (B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761). TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION

OF FISSIONABLE MATERIAL, CONTAINED, IN WHATEVER CONCENTRATION, IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT, TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND RESERVE THE SAME, MAKING JUST COMPENSATION FOR ANY DAMAGE OR INJURY, OCCASIONED THEREBY. HOWEVER, SUCH LAND MAY BE USED, AND ANY RIGHTS OTHERWISE ACQUIRED BY THIS DISPOSITION MAY BE EXERCISED, AS IF NO RESERVATION OF SUCH MATERIALS HAD BEEN MADE, EXCEPT THAT, WHEN SUCH USE RESULTS IN THE EXTRACTION OF ANY SUCH MATERIAL FROM THE LAND IN QUANTITIES WHICH MAY NOT BE TRANSFERRED OR DELIVERED WITHOUT A LICENSE UNDER THE ATOMIC ENERGY ACT OF 1946, AS IT NOW EXISTS OR MAY HEREAFTER BE AMENDED, SUCH MATERIAL SHALL BE THE PROPERTY OF THE UNITED STATES ATOMIC ENERGY COMMISSION, AND THE COMMISSION MAY REQUIRE DELIVERY OF SUCH MATERIAL TO IT BY ANY POSSESSOR THEREOF AFTER SUCH MATERIAL HAS BEEN SEPARATED AS SUCH FROM THE ORES IN WHICH IT WAS CONTAINED. IF THE COMMISSION REQUIRES THE DELIVERY OF SUCH MATERIAL TO IT, IT SHALL PAY TO THE PERSON MINING OR EXTRACTING THE SAME, OR TO SUCH OTHER PERSON AS THE COMMISSION DETERMINES TO BE ENTITLED THERETO, SUCH SUMS, INCLUDING PROFITS AS THE COMMISSION DEEMS FAIR AND REASONABLE FOR THE DISCOVERY, MINING, DEVELOPMENT, PRODUCTION, EXTRACTION, AND OTHER SERVICES, PERFORMED WITH RESPECT TO SUCH MATERIAL PRIOR TO SUCH DELIVERY, BUT SUCH PAYMENT SHALL NOT INCLUDE ANY AMOUNT ON ACCOUNT OF THE VALUE OF SUCH MATERIAL BEFORE REMOVAL FROM ITS PLACE OF DEPOSIT IN NATURE, IF THE COMMISSION DOES NOT REQUIRE DELIVERY OF SUCH MATERIAL TO IT, THE RESERVATION HEREBY MADE SHALL BE OF NO FURTHER FORCE OR EFFECT, AS RESERVED BY THE UNITED STATES OF AMERICA, IN DEED RECORDED AUGUST 19, 1949 IN BOOK 1891, PAGE 112, OFFICIAL RECORDS.

ALSO EXCEPT THAT PORTION THEREOF CONVEYED TO SOUTHERN CALIFORNIA BIBLE COLLEGE BY QUIT CLAIM DEED RECORDED FEBRUARY 4, 1955 IN BOOK 2946, PAGE 337 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY.

ALSO EXCEPT THEREFROM THAT PORTION THEREOF DESCRIBED IN THE AGREEMENT FOR TRANSFER OF CONTROL AND POSSESSION OF LAND OWNED BY THE STATE FOR HIGHWAY PURPOSES RECORDED JANUARY 22, 1962 IN BOOK 5982, PAGE 815 OF OFFICIAL RECORDS.

ALSO EXCEPT THEREFROM THAT PORTION THEREOF DESCRIBED IN THE AGREEMENT FOR THE TRANSFER OF CONTROL AND POSSESSION OF STATE-OWNED LAND FOR HIGHWAY PURPOSES NEWPORT FREEWAY ORA-55 RECORDED AUGUST 5, 1971 IN BOOK 9748, PAGE 806 OF OFFICIAL RECORDS.

PARCEL 2:

THAT PORTION OF LOT A OF BANNING TRACT, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FLIED IN THE CASE OF HANCOCK BANNING VS. MARY H. BANNING FOR PARTITION IN CASE NO. 6385, UPON THE REGISTER OF ACTION OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF THE OLD SANTA ANA ROAD WITH THE NORTH LINE OF LOT A OF SAID BANNING TRACT AS SHOWN ON A MAP FILED IN BOOK 20 PAGE 31 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY; THENCE SOUTH 89' 56' 13" EAST 876.98 FEET ALONG THE NORTH LINE OF SAID LOT A; THENCE SOUTH 1775.86 FEET TO THE NORTHERLY LINE OF THE 100 FOOT STRIP OF LAND DESCRIBED IN DEED OF RIGHT OF WAY FOR "FAIR DRIVE" TO ORANGE COUNTY, RECORDED AUGUST 2, 1950 IN BOOK 2050, PAGE 59 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY; THENCE NORTH 89' 56' 13" WEST 881.63 FEET TO THE CENTER LINE OF SAID OLD SANTA ANA ROAD; THENCE NORTH 1775.86 FEET TO THE POINT OF BEGINNING.

SAID LAND IS INCLUDED WITHIN THE AREA SHOWN ON A MAP FILED IS. BOOK 20 PAGE 31 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

ALSO EXCEPT IN ACCORDANCE WITH EXECUTIVE ORDER NO. 9908, APPROVED ON DECEMBER 5, 1947 (12 F. R. 8223), BY DEED RECORDED JUNE 12, 1948 IN BOOK 1652, PAGE 267 OF OFFICIAL RECORDS, ALL URANIUM, THORIUM; AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5 (B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761) TO BE PECULIARLY ESSENTIAL, TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED, IN WHATEVER CONCENTRATION, IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT ARE HEREBY RESERVED FOR THE USE OF THE UNITED STATES, TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVE AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND REMOVE THE SAME, MAKING JUST COMPENSATION FOR ANY DAMAGE OR INJURY OCCASIONED THEREBY. HOWEVER, SUCH LAND MAY BE USED, AND ANY RIGHTS OTHERWISE ACQUIRED BY THIS DISPOSITION MAY BE EXERCISED, AS IF NO RESERVATION OF SUCH MATERIALS HAD BEEN MADE; EXCEPT THAT, WHEN SUCH USE RESULTS IN THE EXTRACTION OF ANY SUCH MATERIAL FROM THE LAND IN QUANTITIES WHICH MAY NOT BE TRANSFERRED OR DELIVERED WITHOUT A LICENSE UNDER THE ATOMIC ENERGY ACT OF 1946, AS IT NOW EXISTS OR MAY HEREAFTER BE AMENDED, SUCH MATERIAL SHALL BE THE PROPERTY OF THE UNITED STATES ATOMIC ENERGY COMMISSION, AND THE COMMISSION MAY REQUIRE DELIVERY OF SUCH MATERIAL TO IT BY ANY POSSESSOR THEREOF AFTER SUCH MATERIAL HAS BEEN SEPARATED AS SUCH FROM THE ORES IN WHICH IT WAS CONTAINED. IF THE COMMISSION REQUIRED THE DELIVERY OF SUCH MATERIAL, TO IT, IT SHALL PAY TO THE PERSON MINING OR EXTRACTING THE SAME, OR TO SUCH OTHER PERSONS AS THE COMMISSION DETERMINES TO BE ENTITLED THERETO, SUCH SUMS, INCLUDING PROFITS, AS THE COMMISSION DEEMS FAIR AND REASONABLE FOR THE DISCOVERY, MINING, DEVELOPMENT, PRODUCTION, EXTRACTION, AND OTHER SERVICES PERFORMED WITH RESPECT TO SUCH MATERIAL PRIOR TO SUCH DELIVERY, BUT SUCH PAYMENT SHALL NOT INCLUDE ANY AMOUNT ON ACCOUNT OF THE VALUE OF SUCH MATERIAL BEFORE REMOVAL FROM ITS PLACE OF DEPOSIT IN NATURE. IF THE COMMISSION DOES NOT REQUIRE DELIVERY OF SUCH MATERIALS TO IT, THE RESERVATION HEREBY MADE SHALL BE OF NO FURTHER FORCE OR EFFECT, AS RESERVED BY THE UNITED STATES OF AMERICA, IN THE DEED RECORDED MARCH 9, 1949 IN BOOK 1812, PAGE 313 OF OFFICIAL RECORDS.

ALSO EXCEPT ALL MAIN LINES OF THE POWER SYSTEM AND ALL MAIN LINES OF THE WATER SYSTEM AND ALL MAIN LINES OF THE SEWAGE SYSTEM NOW LOCATED THEREON, AND AS RESERVED BY THE UNITED STATES OF AMERICA, IN DEED

RECORDED MARCH 9, 1949 IN BOOK 1812, PAGE 313 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY, WHICH RECITES "AS SHOWN ON RECORD OF SURVEY MAP FILED IN BOOK 20 PAGE 31 OF RECORDS OF SURVEYS OF SAID ORANGE COUNTY."

ALSO EXCEPT THE OIL, GAS AND OTHER ASSOCIATED HYDROCARBON SUBSTANCES LOCATED THEREIN, TOGETHER WITH EASEMENTS FOR DRILLING SITES ADEQUATE FOR DRILLING, OPERATING, EXTRACTING AND PRODUCING SAID SUBSTANCES, EASEMENTS FOR NECESSARY EXPLORATION, PIPE LINES AND OTHER STRUCTURES NECESSARY FOR THE DEVELOPMENT OF SAID RESERVED MINERALS, WITH EASEMENTS FOR NECESSARY MEANS OF INGRESS TO AND EGRESS FROM SAID IMPROVEMENTS, AS RESERVED BY THE SOUTHERN CALIFORNIA BIBLE COLLEGE IN DEED RECORDED FEBRUARY 4, 1955 IN BOOK 2946, PAGE 325 OF OFFICIAL RECORDS.

PARCEL 3:

THAT PORTION OF LOT A OF THE BANNING TRACT, IN THE RANCHO SANTIAGO DE SANTA ANA, CITY OF COSTA MESA, COUNTY OF ORANGE, AS SHOWN ON A MAP RECORDED IN CASE NO. 6385 UPON THE REGISTER OF ACTIONS IN THE SUPERIOR COURT OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF A 50 FOOT STRIP OF LAND, FORMERLY THE SOUTHERN PACIFIC RIGHT OF WAY, AS DESCRIBED IN DEED TO THE STATE OF CALIFORNIA RECORDED IN BOOK 790, PAGE 155, OFFICIAL RECORDS OF ORANGE COUNTY, WITH THE NORTHERLY LINE OF FAIR DRIVE, 100 FEET WIDE, DESCRIBED IN DEED TO ORANGE COUNTY RECORDED IN BOOK 2050, PAGE 59, OFFICIAL RECORDS OF SAID ORANGE COUNTY; THENCE ALONG SAID NORTHERLY LINE NORTH 89° 39' 07" WEST 1108.66 FEET TO A POINT OF TANGENCY, IN THE NORTHERLY LINE OF SAID FAIR DRIVE AS RELOCATED, OF A CURVE CONCAVE SOUTHWESTERLY WITH A RADIUS OF 1050 FEET, THENCE SOUTHEASTERLY ALONG THE LINE OF SAID CURVE TO AN ANGLE POINT WITH A NON-TANGENT LINE IN THE NORTHERLY LINE OF THE LAND OF THE STATE OF CALIFORNIA FOR NEWPORT FREEWAY; THENCE ALONG SAID NON-TANGENT LINE TO ITS INTERSECTION WITH A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 830 FEET; THENCE CONTINUING ALONG THE NORTHERLY LINE OF SAID FREEWAY AND ALONG SAID CURVE TO THE INTERSECTION OF THE NORTHERLY LINE OF FAIR DRIVE AS CONVEYED TO THE COUNTY OF ORANGE BY DEED RECORDED IN BOOK 2050, PAGE 59, OFFICIAL RECORDS OF SAID ORANGE COUNTY; THENCE NORTH 89° 39' 07" WEST ALONG SAID NORTHERLY LINE 514.34 FEET TO THE POINT OF BEGINNING.

SAID LAND IS ALSO SHOWN ON THAT CERTAIN RESOLUTION NO. 842 OF THE CITY COUNCIL OF COSTA MESA WHICH RECORDED MAY 18, 1961 AS INSTRUMENT NO. 12646 IN BOOK 5725, PAGE 604 OF OFFICIAL RECORDS.

APN: 141-342-38, 141-342-39, 141-342-40 and 141-342-41

**EXHIBIT B**  
**SAMPLE DEEDS**  
**(FORTHCOMING)**

## EXHIBIT C

### PARTIAL LIST OF PERSONAL PROPERTY NOT INCLUDED IN SALE

Number of Items	Description	Number of Items	Description
1	Pac Amp Production Equipment	1	Storage Container (SN #BZ12NAP004)
1	Time Clock Upgrade	1	Genie Scissor Lift (SN #47787)
1	Backhoe	1	Taylor-Dunn Cart (SN #151092)
1	Info Booth Improvements	1	Taylor-Dunn Cart (SN #151091)
1	Forklift	2	Taylor-Dunn Carts (SN #151089/151090)
1	Ford Escape	1	Taylor-Dunn Cart (SN #151088)
1	Portable Traffic Reader Board	1	Bobcat Loader
1	Ford F-150 Pick Up Truck	1	Backhoe
1	Gas Cart - Parking Dept.	1	Dell PowerEdge 2550 Server
1	Trash Compactor Refurbishment	1	Cardboard Baler
1	Exhibit Display Walls	2	Electric Carts
14	Copiers	3	Electric Carts
1	Striping Spray Rig	1	Electrical Generator
1	Hussongs Design	1	80' Man Lift
1	Generator	1	Portable Reader Board
3	Ticket Booths	2	Light Tower
1	Exhibit Wall System	1	Floor Scrubber
1	Floor Scrubber	1	Ungerboeck Systems - Software
1	Parking Cart	1	Laminator
1	Asphalt roller	1	Panel Fencing
1	Dump Truck	2	Utility Trailers
1	Electronic Readerboard - S/N: 1M9BM14105C570590	1	Yamaha Cart (Seats/Roof)
1	LaserFiche and Scantuit Image Processing software	1	2000 GMC Sierra Pickup Truck
1	Color Scanner - S/N: 003944	1	Tent #8 Fabric Replacement
1	Admissions Cart - Serial No. 042044154	1	2000 GMC Sierra Pickup Truck
1	Community Relations Cart Model #B2-48	1	Automated Ticketing System
1	Maintenance Operation Cart Model #B2-48	1	Carnival POP Ticketing System
1	Maintenance Operation Cart Model #B2-48	1	2000 Heli Forklift
1	Parking Department Cart - Yamaha G-16AL	2	Taylor-Dunn Carts (Tugs)
1	Postage/Folding Machine	1	Taylor-Dunn Cart (Flatbed)
1	Livestock Fencing	1	Jeep Cherokee
1	Automated Time Clock System	1	Tractor - Eberhard Equip
1	Rider Sweeper/Scrubber	1	1999 Lasher GMC/Dodge Truck
1	Centennial Farm Cart	1	1999 Lasher GMC/Dodge Truck
1	Forklift	1	Trash Compactor
1	Dell PowerEdge 2650 Server / Software	1	Photo ID system
2	Taylor-Dunn 4 Wheel Elec Burden Carrier	1	Riding Lawn Mower
1	8-Port Serial & Ethernet Communication Server (HR)	1	1998 GMC Pick-up Truck
3	Ticket Booths (SN #2236/2237/2238)	6	Taylor-Dunn Electric Carts
		2	Trash Compactor containers, 40 cubic yds

EXHIBIT D

RIGHT OF ENTRY (ROE) AGREEMENT

RIGHT OF ENTRY

STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES
ORANGE COUNTY FAIR AND EVENT CENTER
COSTA MESA, CALIFORNIA

This Right of Entry is made and entered into on this \_\_\_ day of \_\_\_\_\_, 2009, between the State of California, acting by and through its Director of General Services hereinafter called STATE, and \_\_\_\_\_ hereinafter called PERMITTEE.

WHEREAS, STATE is in the process of offering for sale the improved property consisting of approximately 150 acres located at 88 Fair Drive, Costa Mesa, California, and more commonly referred to as the Orange County Fair and Event Center

WHEREAS, as a part of the due diligence process, STATE will allow interested parties access to the property where designated herein and approved by STATE to inspect the property or to conduct inspections, studies and evaluations including, but not limited to: paleontological, archeological, geotechnical, historical, hazardous materials and other studies and investigations on the property to assist them in making certain decisions concerning the property.

NOW, THEREFORE, STATE does hereby give permission to PERMITTEE to enter upon those lands outlined, on the attached Exhibit "A", consisting of one (1) page, and by this reference made a part hereof, for the purpose of conducting those inspections, evaluations and studies identified herein.

This Right of Entry is subject to the following terms and conditions:

- 1. PERMITTEE'S entry onto said property shall be allowed by STATE only upon STATE'S and PERMITTEE'S execution of this Right of Entry.
2. PERMITTEE acknowledges that entry onto the property under this Right of Entry shall be at PERMITTEE'S own expense and risk
3. PERMITTEE may conduct the following inspections, studies and/or evaluations of the property:
A. Paleontological, archeological, geotechnical, historical, hazardous materials and other physical studies and/or investigations.
4. Only PERMITTEE'S contractors or the entities identified below shall conduct the inspections, studies, and/or evaluations of the property specified herein. (Attach additional sheets if necessary):

A. Entity/Contractor \_\_\_\_\_, Telephone \_\_\_\_\_
Address \_\_\_\_\_, City \_\_\_\_\_, State \_\_\_\_\_
Personnel \_\_\_\_\_, Telephone \_\_\_\_\_
Personnel \_\_\_\_\_, Telephone \_\_\_\_\_
B. Entity/Contractor \_\_\_\_\_, Telephone \_\_\_\_\_
Address \_\_\_\_\_, City \_\_\_\_\_, State \_\_\_\_\_
Personnel \_\_\_\_\_, Telephone \_\_\_\_\_
Personnel \_\_\_\_\_, Telephone \_\_\_\_\_

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C. Entity/Contractor \_\_\_\_\_, Telephone \_\_\_\_\_  
 Address \_\_\_\_\_, City \_\_\_\_\_, State \_\_\_\_\_  
 Personnel \_\_\_\_\_, Telephone \_\_\_\_\_  
 Personnel \_\_\_\_\_, Telephone \_\_\_\_\_

In the event PERMITTEE wishes to bring additional contractors or entities, other than those named on this *Right of Entry*, onto said property, PERMITTEE shall provide the STATE the same information, as outlined above, for all such contractors or entities as part the notification process as described in item 5. below. This Right of Entry is subject to existing contracts, leases, licenses, encumbrances and claims which may affect said property.

5. Entry onto the property will be available on a daily basis, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m. Prior to each entry onto said property at the specified times, PERMITTEE shall contact by E-Mail and telephone Dave Kalemba, Senior Real Estate Officer, Department of General Services, Asset Management Branch, Asset Enhancement Section, Appraisals, E-MAIL: dave.kalemba@dgs.ca.gov, TELEPHONE: (916) 376-1826 at least Forty Eight (48) hours prior to the expected date and time of inspection. Fax notice shall include the name of company or person requesting access under this agreement, a general description of the equipment to be brought to the site for the inspection as well as a description of the inspection to be performed on that date. Access to said property shall be as designated by State.
6. PERMITTEE waives all claims against STATE, its officers, agents, and employees, for loss or damage caused by, arising out of, or in any way connected with the exercise of this *Right of Entry* and PERMITTEE agrees to protect, save harmless, indemnify, and defend STATE, its officers, agents, and employees from any and all loss, damage, or liability, including, without limitation, all legal fees, expert witness or consultant fees and expenses related to the response to, settlement of, or defense of any claims or liability, which may be suffered or incurred by STATE, its officers, agents and employees caused by, arising out of, or in any way connected with exercise by STATE of the rights hereby granted, except those arising out of the sole negligence of the STATE. PERMITTEE shall be solely responsible and liable for any damage to crops, equipment, structures, personal property, or persons caused by, arising out of, or in any way connected with the exercise of the rights hereby granted to PERMITTEE.
7. Following any such entry or work, unless otherwise directed by STATE, PERMITTEE shall return the property to the condition it was in prior to such entry or work, including the recompaction or removal of any disrupted soil or material as STATE may direct. All such work and any other work conducted or materials furnished with respect to the property by and for PERMITTEE shall be paid for by PERMITTEE. In the event, PERMITTEE fails to leave the property in the condition it was in prior to such entry, STATE may restore property to its original condition and all costs of such restoration shall be paid by PERMITTEE upon demand by STATE.
8. PERMITTEE may use only that equipment on the property approved by STATE and necessary to conduct the inspections or studies specified herein. PERMITTEE agrees to remove all equipment from the property within twenty-four (24) hours of completion of work and, upon completion of all work, agrees to provide STATE with lien releases or waivers from all contractors authorized to conduct such inspections and/or studies. List all equipment below (*Attach additional sheets if necessary*):
 

1.	<u>Cars/pickups</u>	Approved	Yes _____	No _____
2.	<u>Truck</u>	Approved	Yes _____	No _____
3.	<u>Utility locator &amp; vehicle (1-2)</u>	Approved	Yes _____	No _____
9. PERMITTEE acknowledges its sole responsibility for identifying easements encumbering the property. PERMITTEE may conduct only visual inspections in the easement areas. PERMITTEE

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shall not allow heavy equipment over any easement area of the property or conduct any study or investigation in any easement area without the express written permission of the easement owner. **PERMITTEE** shall provide such permission to **STATE** upon request. **PERMITTEE** shall abide by the conditions set forth by the easement owners when conducting investigations in the easement areas.

10. **STATE** reserves the right to use said property in any manner, provided such use does not unreasonably interfere with **PERMITTEE'S** rights herein.
11. As a condition to this **RIGHT OF ENTRY**, **PERMITTEE** agrees to provide to **STATE** copies of all reports, evaluations, studies and analyses prepared for or by **PERMITTEE** as a result of **PERMITTEE'S** inspection of the property, as well as any communications between **PERMITTEE** and its consultants and/or agents regarding the content, conclusions and/or recommendations contained in such reports, evaluations, studies and analyses.
12. **STATE** reserves the right to temporarily prevent entry upon said lands in the event of an emergency.
13. **PERMITTEE'S** entry onto the property for the purposes stated herein shall constitute acceptance by **PERMITTEE** of all the terms and conditions of this *Right of Entry*.
14. This *Right of Entry* shall be for a period beginning on \_\_\_\_\_, 2009, and ending on \_\_\_\_\_, 2009.

APPROVED:

*[Name of Entity]*

BY: \_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

APPROVED:

DEPARTMENT OF GENERAL SERVICES  
Real Estate Services Division  
Asset Management Branch

\_\_\_\_\_  
JOE MUGARTEGUI, Branch Chief

DRK:drk

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ADDENDUM NO. 4  
December 8, 2009

REQUEST FOR PROPOSALS FOR  
THE SALE OF THE ORANGE COUNTY FAIRGROUNDS  
(RFP No. AMB – 2009-10-07)

The following is a compilation of the 1<sup>st</sup> series of questions submitted to the DGS on the RFP dated October 7, 2009 regarding the sale of the Orange County Fairgrounds. The questions were submitted on or before November 13, 2009 as per the instructions in the RFP. Following each question is the DGS response to the submitted question. Unless otherwise defined herein, all defined terms will carry the same definition and meaning as indicated in the RFP

*Note: A 2<sup>nd</sup> series of questions pertaining to RFP Addendum No. 3 will be accepted by the State up to and including December 15, 2009. See Addendum No. 3 for parameters and instructions for submitting Addendum No. 3 questions.*

- 1. Why did Admissions Revenue decline sharply in 2006 and then increase strongly in the next two years and what, if anything, does this portend for the future?

A: Admissions Revenue varies with the number of paid admissions, and the price of admission tickets.

Paid admissions for the OC Fair:

2005	731,867
2006	652,867
2007	837,599
2008	864,727

Admission ticket prices for the OC Fair:

2005	Adult \$8 / Senior \$6 / Child \$4
2006	Adult \$8 / Senior \$6 / Child \$4
2007	Adult \$8 / Senior \$6 / Child \$4
2008	Adult \$9 / Senior \$7 / Child \$5

The decline in 2006 was attributable to lower attendance and a lower number of paid admissions to the fair. While the causes of lower attendance can never be determined with certainty, there was a heat wave during the run of the 2006 fair which is believed

to have adversely affected attendance

2. Similarly, what drove the strong increase in Concessions Revenue in 2007 and 2008 and why/why not are such increases likely durable?

A: See paid attendance figures above. Concessions Revenue is strongly driven by attendance, but also by factors such as points of sale, available seating, and food and beverage pricing.

3. Why did expenditures for Maintenance and General spike in 2008? Was this a one-time event or the beginning of a trend?

A: Expense increases in 2008 occurred in the Salaries & Wages – Permanent line item (which would be ongoing); Salaries & Wages – Temporary (variable costs which fluctuate based on factors such as the amount of construction or other projects); and Professional Services (variable cost - construction management).

4. Why did Fair Entertainment Expense spike in 2007 and 2008?

A: A major component of Fair Entertainment Expense is the performance fees for the Pacific Amphitheatre acts. In 2007 and 2008, acts with higher performance fees were selected. Additionally, some costs of production in the Pacific Amphitheatre increased in 2007 and 2008.

5. Construction in Process totaled \$6.3 million in 2008. Were these expenditures related to implementation of the Master Plan? What were the projects that were undertaken and what is their current status? Pending the sale of the property, are any new construction contracts being entered into to implement the Plan? When the property is turned over to the buyer in 2010, what elements and what percentage of the Master Plan improvements will have been completed?

A: Major components of Construction in Process at the end of 2008 included a breezeway connecting Buildings 14 and 16, and a new administration office building. Both these projects have been completed during 2009. A new exhibit building is currently under construction and is expected to be completed by mid-2010. See Question No. 21 for list of completed projects.

6. We note that that for 2008 there were Unrestricted Net Resources of \$23.7 million; we take it that this is cash and we assume that this will become the property of the state when the affairs of the 32nd DDA are concluded; please comment.

A: Unrestricted Net Resources will be retained by the 32<sup>nd</sup> DAA upon conveyance of the Property.

7. Further in respect to the previous question: Interest Earnings (part of "Other Operating Revenue") in recent years have ranged from \$800,000 to \$1,400,000 (rounded) and have constituted an important element of Net Operating Income; presumably, some or all of these earnings are derived from cash balances that will be eliminated when the present operation is terminated (see above). Please comment and provide detail on the calculation of Interest Earnings in the past

several years.

A: The DAA has generally deposited most of its funds with the state's Local Agency Investment Fund. Interest Earnings has varied with the rates paid by LAIF and the balance of invested funds. Historical data on LAIF rates is available from the State Treasurer's website at [http://www.treasurer.ca.gov/pmia-laif/historical/qrtly\\_appor\\_rates.pdf](http://www.treasurer.ca.gov/pmia-laif/historical/qrtly_appor_rates.pdf).

8. As a general matter, it is possible/likely that a successful bidder will operate the existing improvements and, in effect, would be purchasing a business. Any purchaser of this business would expect/require substantive discussion regarding operation and financial performance with the present operator, since many aspects of the Fair Operation are not evident solely from review of operating statements and balance sheets. We request that the state provide a venue, open to all proposers, whereby proposers can spend 1-2 days interviewing the operator regarding operations and finance.

A: The Authorizing Legislation allows for the sale of the Property's real property only. Personal property and business interest are not components of this transaction. Operational and financial information on the Orange County Fair and Event Center are provided in the RFP only because of the specialized nature of the Property's use. Arrangements should be made with the Orange County Fair and Event Center regarding any additional information pertaining to the operational elements of the Property.

9. Has the District identified items of deferred maintenance that require correction, and the cost of the work? Please provide any details that are available.

A: Improvements need to be made in the Pacific Amphitheatre to accomplish ADA compliance. These include addressing line of sight issues, concession stand service windows, and semi-ambulatory seating throughout the venue. No estimates in total. A budget is established in each year's capital expenditure plan, then items of deferred maintenance are prioritized and the budget allotted accordingly.

10. The RFP states that since "the Master Plan has not been adopted by the City of Costa Mesa... upon the property's transfer to a private entity, the Master Plan will carry no authoritative backing." Since the qualifier in the statement above is "private," do you have an opinion as to Master Plan approvals if the transfer were to a public entity such as the County?

A: The comment in the RFP would apply just the same to a public entity as it would to a private entity.

11. Has the District developed operating projections that show financial results upon full implementation of the Master Plan? If so, we would like to review the estimates and the assumptions underlying the projections.

A: No, no recent projections have been developed by the District.

12. At peak operation, is all of the parking area required? What is the extent, if any, of

excess parking area? At what times and conditions and to what extent is there a shortage of parking?

A: At peak operation, all of the onsite parking is utilized. OCFEC currently utilizes approximately 2,500 offsite parking spaces as well. During the OC Fair parking capacity is often reached on weeknight evenings and weekends. During certain non-fair events, offsite parking is utilized as well.

13. Will the state hold the successful bidder harmless from any shortfall resulting from operation of the Fair through August 2010?

A: The operation of the Fair through November 1, 2010 is not related to the conveyance of the Property.

14. Will the state guarantee that the property is free of mechanics and other liens at time of conveyance?

A: At this time, there are no mechanics or other liens against the property, and none are anticipated. See Purchase and Sales Agreement regarding State's representations at time of conveyance.

15. We wish to reserve the ability to ask subsequent questions related to the Purchase and Sale Agreement, State Profit Participation Requirement, Auction Format, and Offer Form, which have not been made available as of this date.

Refer to Addendum No. 3.

16. Assuming that the sale of the OCFEC does occur, what impact does the sale have on the ultimate disposition of the 32nd District Agricultural Association (DAA)? Will the DAA continue to exist and function? If yes, will the DAA simply move the annual Orange County Fair to another location in Orange County?

A: The future of the 32<sup>nd</sup> DAA or relocation of the OCF have not been determined.

17. Has DGS or the DAA prepared a cost/fiscal analysis of operating the Orange County Fair at another location in Orange County?

A: No.

18. What are the details of the State Profit Participation Requirement? Does the requirement apply if the property continues to operate as a fairgrounds and event center? Or is the profit participation requirement tied to the new owner's ability to secure a General Plan amendment and Zone Change from the City of Costa Mesa?

A: Refer to Addendum No. 3.

19. The City of Costa Mesa intends to place an initiative measure on the June 2010 ballot requiring voter approval of any future land use change at the Orange County Fair and Event Center. Does this pending action have any impact on DGS' position

relative to the sale of the property?

A: No.

20. Please provide a listing of all available environmental reports that have been prepared for the property, including any reports regarding potential onsite environmental hazards and contaminated soils.

A: the attached files (Doc 1 and Doc 2) are the only known environmental reports other than what is referenced in the documentation linked in the RFP. As additional information, the next link is a compilation of several geotechnical reports that that have been completed for projects at the OCFEC over the years.

21. Please provide a listing of all unbuilt capital improvements that are approved pursuant to the adopted OCFEC master plan, including both onsite and offsite improvements in the public right-of-way. This list should also include any off-site improvements that were included as mitigation measures in conjunction with the adoption of current OCFEC Master Plan. Please identify the estimated cost of all the unbuilt improvements and funding sources.

A: The following improvements are approved and are currently underway: exhibit building; main mall renovation; and commercial kitchen. The Master Plan includes additional projects which are not approved at this time. The linked file: 1203120043\_001.pdf indicates projects under the master plan with "C" written next to completed projects. The Master Plan document (Implementation section) includes cost estimates for the various phases of the Plan. These cost estimates are very general in nature and were prepared in 2003. There is no total budget for the master plan projects. Individual budgets are established as each project is initiated.

22. Regarding Addendum #1, issued November 10, 2009, which states that the State's Profit Participation requirement, Auction Format, and, Purchase and Sales Agreement, will all be delayed until November 23, 2009, will the deadline for questions be extended beyond November 13, 2009? What is the new deadline for questions?

A: Refer to Addendum No. 3.

23. After the November 23rd addendum is released, is a subsequent addendum anticipated?

A: Unknown. Addendums will be released as necessary.

24. Are there any circumstances in which the state will participate in financing the sale of the Fairgrounds?

A: No.

25. In evaluating a purchaser that is a newly formed entity with no assets other than the Fairgrounds to be acquired, will you consider the credit worthiness of non-guarantor affiliates? Or, will you consider only the credit worthiness of the

purchasing entity?

A: As indicated in the RFP, bid offers must include a Statement & Support of Sale Financing addressing the bidders ability to consummate an all-cash transaction on the sale of the Property at close of escrow.

26. Will a single recommended bid be given to the Fiscal Subcommittee for approval or will a ranked slate of bidders be provided for Subcommittee consideration and selection?

A: Bids will be posted and ranked at time of auction. If the State deems the highest posted bid to be acceptable, the State will enter into a Purchase and Sales Agreement with the qualified bidder posting the highest bid. If a sale with the bidder posting the highest bid can not be consummated, the State will repeat the process with the bidder posting the next highest bid.

27. What actions will the Fiscal Subcommittee of the State Senate and Assembly take to approve a potential sale? Who are the members of the Fiscal Subcommittee?

A: As per the Authorizing Legislation, the Director of the Department of General Services must report to the fiscal subcommittees 30-days prior to executing a Purchase and Sales Agreement. Make up of the fiscal subcommittees not pertinent to RFP.

28. Is the business of the Fair for sale or only the real property? If the Fair itself is not being sold why is the operational information included in the RFP?

A: Only the real property is offered for sale through the RFP. The OCFEC or going concern of the business operation are not offered for sale. The operational information is provided only because of the specialized nature of the Property's use.

29. Does the 32<sup>nd</sup> Agricultural District reserve the right to transfer the operations of the Fair separately from the ownership of the real property?

A: The 32<sup>nd</sup> DAA is a state entity governed by its own Board operating within the Division of Fairs and Expositions, California Department of Food and Agriculture. Questions of operation should be directed to the 32<sup>nd</sup> DAA.

30. The Unrestricted Net Resources of \$23.7 million at the end of 2008 may have constituted some or all of the working capital necessary to make deposits and the many other commitments and payments necessary to put on the Fair in early 2009. If the State removes this working capital (cash) at the time of sale in 2010, what is the estimated amount of working capital the operator of the 2010 Fair will need to fund including deposits, payments, and other working capital requirements necessary to put on the 2010 Fair or will the cash be considered a fair asset and be transferred to the buyer?

A: The 2010 fair will be operated by the OC Fair & Event Center/32nd District Agricultural Association. Unrestricted Net Resources will be retained by the 32nd DAA upon conveyance of the Property.

31. Is what is referred to in the audit as Net Resources – Operations, the same as what is referred to as Unrestricted Net Resources in the RFP. Are these funds used for working capital to set-up and hold the fair?

A: Unrestricted Net Resources is the excess of total assets (excluding capital assets) over total liabilities. It can generally be considered working capital, as the District has no long-term non-capital assets or liabilities, except for Compensated Absence Liability.

32. Will the State move the employees of the Fair Board to other locations, or does the State intend to release the employees if the buyer does not want them?

A: Question not pertinent to RFP.

33. If employees are released by the State, how will their accrued retirement benefits be handled? What options will the employees have?

A: Question not pertinent to RFP.

34. What method of depreciation is used for buildings, improvements, and equipment?

A: Straight-line depreciation has been used for buildings, improvements, and equipment.

35. The numbers in the "Income and Expense Comparison December 31, 2004 through 2008" provided in the RFP appear to be nearly the same as those found in the California Department of Food and Agriculture Audit Office's Audit Report #08-031 for the years ended December 31, 2007, and 2006, are these correct?

A: The numbers in the audit reports are correct.

36. Are audited financial statements available for 2004, and 2005? If so, please post copies on the RFP website or post the link to them.

A: Yes, audited financial statements are available for 2004 and 2005.

37. Is counsel representing the State in-house or is the State being advised about the sale by outside counsel? Who is the State's counsel on this matter?

A: Question not pertinent to RFP.

38. Will there be any deed restrictions other than the reservation of mineral rights and the profit participation requirement?

A: The Property is offered for sale "as-is" subject to the reservation of mineral rights and the profit participation requirements. Refer to Addendum 3 for more information.

39. According to the RFP, the Purchase and Sales Agreement would be available in

approximately 30 days from October 7, 2009. As of November 13, 2009, the Purchase and Sales Agreement has not been made available. When will this document be made available?

A: Refer to Addendum 3.

40. The RFP indicates that a State profit participation requirement would be issued within 30 days of October 7, 2009. As of November 13, 2009, the State profit participation requirement has not been made available. When will this document be made available?

A: Refer to Addendum 3.

41. The City of Costa Mesa General Plan designates the land use as fairgrounds with the area being zoned "Institutional and Recreational". This use is important to the CCCD in its mission as a community college. We also have joint agreements. Will the property be sold with the Buyers being advised that the zoning is limited to those uses defined by the City of Costa Mesa? Is there any plan by the State to override this zoning or rezone it? Will current public or private users of this property be allowed to continue those use agreements and will Buyers be so advised?

A: The property is zoned Institutional and Recreational (I & R) as represented in the RFP. No plan by the State to override zoning. The Property is being sold "as-is" subject to the reservation of mineral rights and the State's profit participation requirement. Refer to the Purchase and Sales Agreement for more information.

42. It is our understanding that some of this property may be included in a local government community redevelopment agency district. What effect will the proposed sale have on the redevelopment agency and vice versa?

A: Redevelopment questions should be directed to the City of Costa Mesa.

43. We understand that the fairgrounds property was a grant to the County from the federal government for a public purpose. In these cases any change of use by the grantee would be cause for the property to revert to the Grantor. Are there any such limitations on this property now, and will the public and potential Buyers be notified?

A: Refer to the title report provided in the RFP. There are no title issues preventing the sale of the Property.

44. We understand that there may be some real property ownership by a private party (Whittier) which contains reversionary rights to the heirs of that family, which limitations could run with the land use on some of the fairgrounds property. Will the public and potential Buyers be fully advised of this matter?

A: Refer to the title report provided in the RFP. There are no title issues preventing the sale of the Property.

45. Doesn't real property sale of County/public property require that the legislative body declare that the property is "surplus" and will no longer be needed for the purpose it is currently used? Also, in compliance with the surplus property laws aren't other public agencies (such as the City of Costa Mesa or Coast Community College District) able to seek the property for a similar public use prior to any sale? Has this been done? How does the law not apply to this property?

A: As per the Authorizing Legislation, the sale of the Property does not constitute a sale or other disposition of state surplus property within the meaning of Section 9 of Article III of the California Constitution and shall not be subject to subdivision (g) of Section 11011 of the Government Code.

46. In the 58 counties in the State of California, are any other county fairgrounds being offered for sale under the law that governs this sale? If not, is this a form of special legislation that requires a higher test or super majority vote of the state legislature? Does it require a vote of the people of Orange County?

A: Question not pertinent to RFP.

47. The RFP indicates that a Phase 1 Environmental Site Assessment is in process. Is there an estimated due date for this assessment? Will this assessment cover archaeological concerns?

A: The Phase 1 Environmental Site Assessment is scheduled to be posted at the end of December, 2009. An archaeological assessment will not be included in the Phase 1 report.

48. Under the California Public Records Act, the Coast Community College District is requesting documents (written questions with DGS answers) submitted by potential buyers in relation to the Request for Proposals Orange County Fairgrounds.

A: This Addendum 4 represents a compilation of all questions (and subsequent responses) submitted to the DGS as provided for in the RFP – including duplicate and/or questions of a similar nature.