PUBLIC SEALED-BID AUCTION

Standing near the corner of SR-76 and Gird Road, facing northwest towards the subject

PROPERTY LOCATION
Northwest corner of the intersection at SR-76 and Gird Road, Fallbrook, CA 92028

MINIMUM BID
$61,000

REGISTRATION FEE/BIDDER DEPOSIT
$7,500
Cashier's check, money order, or certified check payable to California Department of Transportation—PERSONAL CHECKS WILL NOT BE ACCEPTED.

BID OPENING
Date: October 16, 2023
Time: 10:00 AM (Pacific Standard Time)
Sealed Bids will be accepted by the State of California, Department of Transportation until the above date and time at which time they will be publicly opened, read and the winning bidder is announced. **This is not an in-person event. Bid opening will be broadcast live via YouTube.**

AUCTION LOCATION
Click here on 10/16/23 at 10:00 AM for Live-streamed bid opening.

CONTACT
Name: Brandon Burns
Phone Number: 619-952-4538
Email: brandon_burns@dot.ca.gov
District Office Mailing Address: 4050 Taylor St, MS 310, San Diego, CA 92110

We reserve the right to omit the sale of any auction item prior to the auction date

PROPERTY SOLD IN "AS IS" CONDITION

DATA SHEET

DD 34788-01-01

The information contained in these sources is deemed reliable, but accuracy and completeness are not guaranteed. This material is provided merely as a courtesy to the prospective bidders. All prospective bidders are encouraged to make visual inspections prior to the auction. The property is sold in "**AS IS**" condition.

PROPERTY
Unimproved lot

LOCATION
NW corner of SR-76 and Gird Road intersection, Fallbrook, CA 92028 (GOOGLE MAP)

SIZE
2.44 Acres

ZONING
Parcel is not currently zoned, consult San Diego County for zoning possibilities.

SHAPE
Irregular

TOPOGRAPHY
Mostly level with some sloping, parcel is approximately 10 feet below street level.

UTILITIES
Available in the area.

TENANCY
No tenant

ENCUMBRANCES
7,314 SF drainage easement located at western corner of the parcel. No direct access to/from SR-76.

REMARKS
This sale is subject to the approval of the California Transportation Commission (CTC). The winning bid will be submitted for approval at the CTC meeting tentatively scheduled for **January 26, 2024.**

Parcel is in FEMA flood zone A – high risk. Structural development not likely to be allowed by the County of San Diego.

NOTE: Parcel may have mitigation enhancement potential, due to presence of numerous environmentally sensitive habitats/species on the parcel.

MINIMUM BID
$61,000

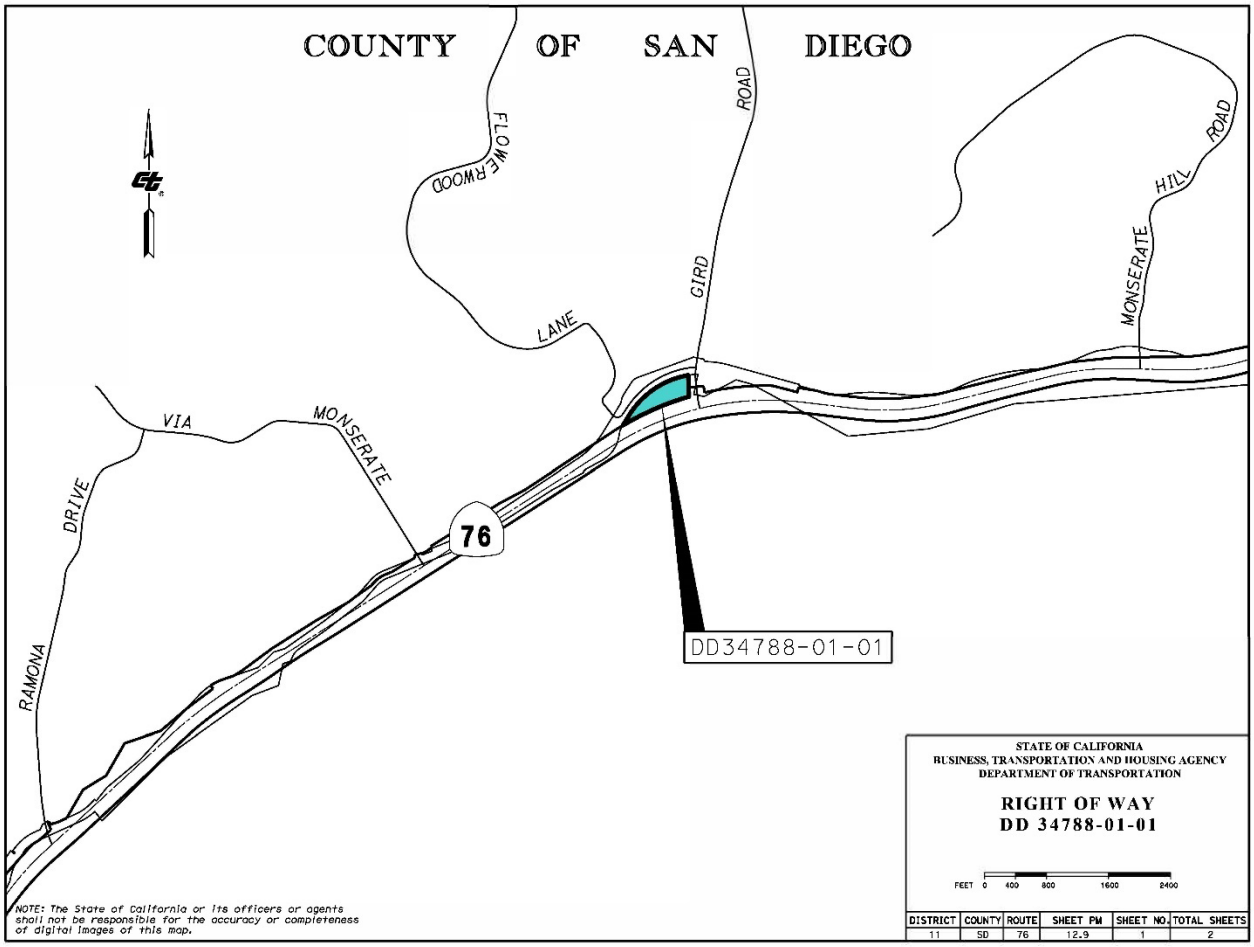
REGISTRATION FEE/BIDDER DEPOSIT
$7,500

DATE OF AUCTION
October 16, 2023

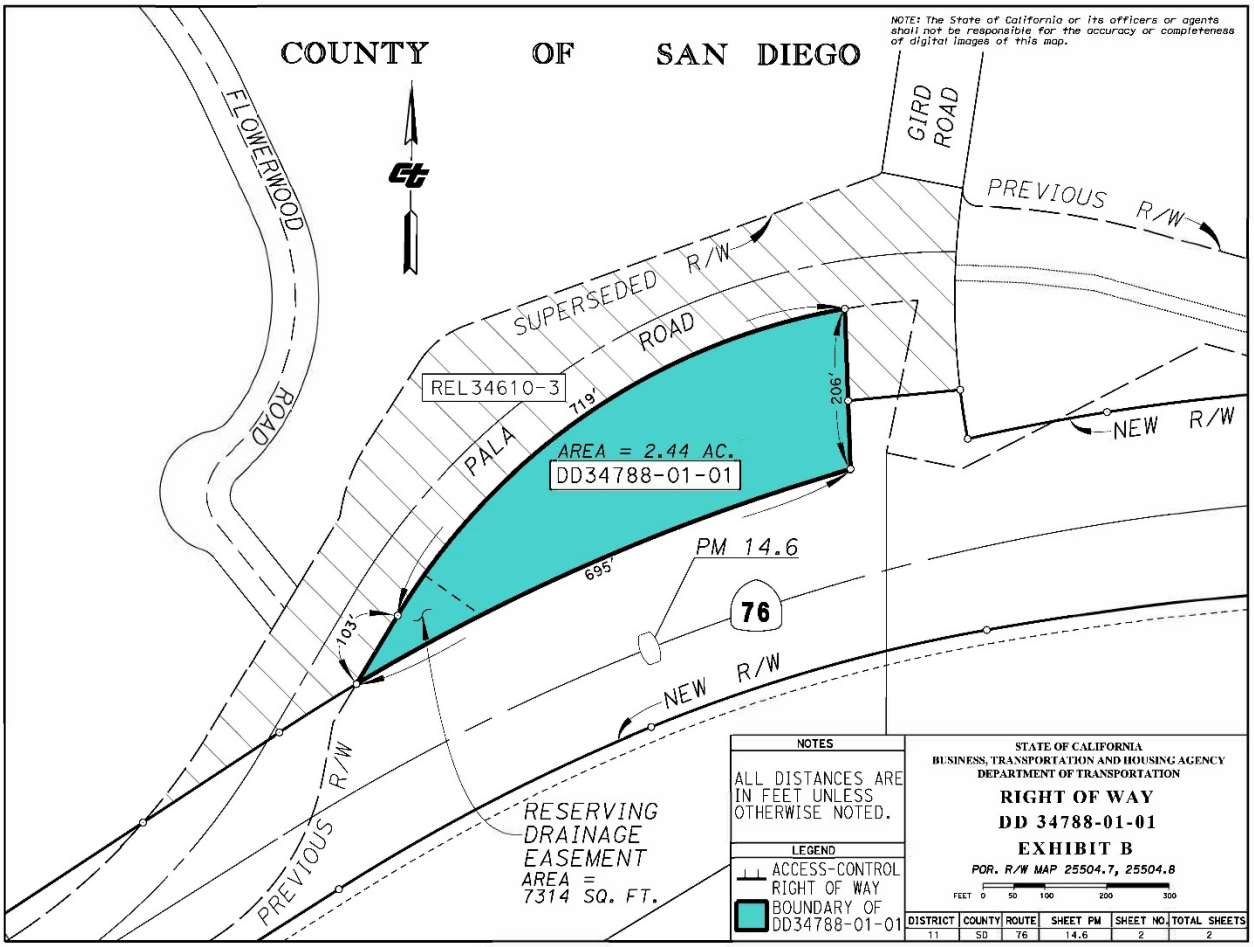
PURCHASE DEPOSIT
If needed, based on winning bid amount, winning bidder shall remit an additional deposit to bring total amount to **10% of the total winning bid within five (5) working days** but in no event shall be later than **Friday October 23, 2023 at 3:00 PM**, or the Registration Fee/Bidder Deposit is forfeited, and the parcel may be awarded to subsequent highest bidders at the high bid price.

PURCHASE PERIOD
Balance in full on or before Friday January 12, 2024 at 3:00 PM.

REMITTANCE OF PAYMENT
Payments shall be delivered to: Caltrans, Right of Way Division, ATTN: B. Burns 4050 Taylor St, MS 310, San Diego, CA 92110. All payments, including Bidder deposit, the additional Purchase Deposit and Balance of Purchase Price must be in the form of a money order cashier's check, EFT (EFT available for purchase deposit and final payment only), or certified check made payable to California Department of Transportation. ****Caltrans does not accept personal checks or cash.****



Map of the location of the parcel.



Map of the parcel.

View of the parcel from westbound SR-76.

TERMS OF DEPOSIT AND PURCHASE AND SALE AGREEMENT

MINIMUM BID
The State of California, Department of Transportation (Caltrans) has agreed to consider all bids equal to or greater than the advertised starting bid. **NO BID BELOW CALTRANS STARTING VALUE WILL BE RECOGNIZED.**

BID REGISTRATION
In order to participate in this auction, **all bidders must submit a Bidder Deposit along with a completed Bid Form**. The Bidder Deposit must be in the form of a **cashier's check, money order, or certified check made payable to the California Department of Transportation.** The Bidder Deposit will be refunded by either certified mail or in person pick up to all unsuccessful bidders immediately following the auction.

LIQUIDATED DAMAGES
The parties agree that deposits paid are a reasonable sum for liquidated damages should this transaction fail to close due to a material breach of this agreement by the Bidder, in that, when considering all the circumstances existing on the date of this agreement, it would be impracticable or extremely difficult to fix the actual damages. Bidder Deposit is considered liquidated damages if the winning bidder breaches, defaults, or withdraws after remittance of this deposit. Bidder/Registration Deposit AND Purchase Deposit are considered liquidated damages if the winning bidder breaches, defaults, or withdraws after remittance of purchase deposit.

EXTENSION
There may be a situation wherein the winning bidder is unable to complete the terms within the time allowed for reasons beyond his/her control. Under these circumstances, Caltrans, at its discretion, may elect to extend the payment due date. A charge of 1% of the Purchase Price/Winning Bid Price per month shall be made for such extensions. This charge **SHALL NOT** be applied towards the Purchase Price/Winning Bid Price.

REJECTED AND DISQUALIFIED BIDS
Caltrans reserves the right to reject any and all offers, and to waive any informality or irregularity in any offer or to accept any offer deemed in the best interest for Caltrans at any time prior to the recordation of the Director's Deed. Any agreement between two or more prospective bidders to set their bid prices, or not to submit bids against each other, for the purpose of purchasing any parcel at a more advantageous price or terms, is prohibited. Where such an agreement comes to the knowledge of Caltrans, any bids made pursuant to such agreement will be disqualified. The above prohibitions do not preclude single bids submitted by one or more persons or entities or both partners or joint ventures or other similar legally permissible combination.

PURCHASE AND SALE AGREEMENT
After the auction the successful bidder shall sign a Purchase and Sale Agreement, for cash and shall be bound to the terms specified in the Purchase and Sale Agreement. The highest bid will be submitted to the CTC for approval.

ESCROW
Caltrans will maintain an internal escrow at no charge to winning bidder. Winning bidder may open an external escrow at his/her expense but selection of the escrow company is subject to Caltrans' approval, which Caltrans may withhold for any reason within its discretion. Should winning bidder elect to open an escrow, winning bidder and the escrow officer shall notify Caltrans by letter within 10 days from the date of the auction. The notification letters shall be mailed directly to Caltrans, Right of Way Division at the address listed on the data sheet of this brochure. Winning bidder agrees to pay any and all fees associated with the escrow, and any and all recording fees, documentary transfer taxes or any other real estate transaction fees involved in the transaction.

SUBSEQUENT HIGHEST BIDDERS
In the event the winning bidder fails to execute the Agreement within the Purchase Period or defaults in the completion of the sale, Caltrans, at its discretion, may offer the parcel to subsequent highest bidders at the high bid. If the subsequent highest bidder accepts, the deposit requirements and Terms of the Purchase and Sale Agreement shall be the same as stated in this sales brochure, except that the agreement period shall commence on the day the parcel is awarded by Caltrans to the Subsequent High Bidder.

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

INDEMNIFICATION
Winning bidder shall defend, indemnify, and hold Caltrans and Caltrans' elected and appointed officers, agents, and employees free and harmless from and against any and all liabilities, damages, claims, costs, and expenses (including and without limitation to attorney's fees, legal expenses and costs, and consultant's fees, and investigation and remediation costs) arising in whole or in part from the existence of Hazardous Substances or Hazardous Substance Conditions. The indemnity is intended to address that liability for which Caltrans may be responsible solely out of its mere ownership of

said Property. This provision shall survive transfer of the title to said Property and any rescission of said transfer.

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

When used in this Agreement, "Hazardous Substance Condition" shall mean the existence on or under Property of a hazardous substance that requires remediation and/or removal and/or to be otherwise mitigated pursuant to applicable law.

NO ASSIGNMENT
Winning bidder shall not assign all or any part of his/her interest in this process without first having obtained the written consent of Caltrans. Any total or partial assignment shall not relieve winning bidder of winning bidder's obligation to this Agreement.

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

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

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

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

NOTICES
All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the person to whom notice is to be given or, on the second (2nd)

day after mailing if mailed to the party to whom notice is to be given, by First Class Mail, registered or certified, return receipt requested, postage prepaid and properly addressed to contact person and address listed on the data sheet of this brochure.

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

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

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

SURVIVAL OF REPRESENTATIONS AND WARRANTIES
All covenants, representations, warranties, and other agreements under this Agreement shall survive the Close of Escrow.

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

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

LIMITING CONDITIONS

1. CASH TERMS: THIS TRANSACTION WILL BE AN ALL-CASH SALE.

2. The sale is subject to the approval of the CTC. In the event the CTC fails to approve the sale, all monies paid by the winning bidder will be refunded without interest. Caltrans makes no representations or warranty concerning the CTC's approval of this sale. All vesting issues for this sale must be resolved at least six weeks prior to the date of the CTC meeting listed in this brochure. Title is transferred after full payment is received, CTC approves the sale and the Director's Deed is recorded.

3. Caltrans reserves the right to reject any and all bids and cancel the sale in part or in its entirety at any time prior to recordation of the Director's Deed. In the event of cancellation of the sale and/or rejection of any bids, the respective deposits of monies shall be refunded without interest.

4. The property is warranted to be free of any liens, court judgments, loans and delinquent or unpaid property taxes. The sale of this property is subject to all matters of public record and any easements, claims of easements, or reservations not of record. Caltrans does not assume any liability for any possible encumbrances on this property. The right, title, and interest in the property to be sold shall not exceed that vested in the State of California, Department of Transportation, and this sale is subject to all title exceptions and reservation whether or not of record. The buyer may obtain a policy of title insurance at his or her own expense. The sale of this property is subject to all matters of public record, any claim of easements or reservations not of record. Prospective bidders should consult with their local title company to obtain additional information regarding title concerns. Caltrans does not provide a preliminary title report

5. The winning bidder is responsible for **ALL FEES** associated with this sales transaction including but not limited to broker's commission, surveys, title, insurance premiums, escrow, documentary transfer tax, recording fees, points, repairs and costs, documentary stamp taxes, and any other real estate transaction taxes or fees by whatever name known, including any personal property sales tax, where applicable. Caltrans <u>does not</u> pay a broker's commission.

6. Winning bidder waives any further right to inspect the Property and conduct tests thereon at the time auction occurs unless Caltrans and buyer mutually agree to a written amendment. The Property is sold **"AS IS"** in its present physical condition as of the date of the auction, unless otherwise agreed upon and amended by both winning bidder and Caltrans mutually. Winning bidder acknowledges and agrees that they are acquiring the property in its present state and condition as of the date of the auction, with all defects, both patent and latent, and with all faults of the property whether known or unknown, presently existing or that may hereafter arise, including, without limitation, all existing conditions, if any, of lead paint,

mold, asbestos or other environmental health hazards. Winning bidder acknowledges and agrees that Caltrans has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether express, implied, oral or written, past, present or future, of, as to, concerning or with respect to the condition of the property. Each prospective bidder should consider these matters when placing his/her bids.

7. Properties are not zoned under State ownership; therefore, it is recommended that all prospective bidders fully investigate zoning and land-use restrictions with local authorities concerning the potential uses. Caltrans makes no warranty regarding the zoning or rezoning of any property or land-use determinations. Bidder shall be responsible for checking and complying with local codes and ordinances for permitted land uses. Caltrans makes no representation regarding the potential for development, subdivision, zoning, or re-zoning of the Property. Winning bidder shall be responsible for compliance with any and all local codes and ordinances for permitted land uses of any kind.

8. Caltrans does not assume any liability for any damage which may be caused by flood hazards. Caltrans recommends bidder fully investigate the potentiality of such hazards with the appropriate Federal, State and local agencies. **This parcel is in FEMA Flood Zone A- High Risk.**

9. All Caltrans employees may bid to acquire excess State property except employees who have direct access to information not generally available to the public or who influence the purchase or sale of right of way or other real property.

10. The property is currently exempt from local taxes and will return to tax rolls upon recording of the Deed.

11. Should the bidder desire a survey of the property, this may be accomplished with the expressed consent of Caltrans and performed by an independent surveyor at the bidder's expense. Caltrans makes no warranty relative to the ground locations of property lines other than monumented highway right of way lines.

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

13. Any Caltrans leasehold interests in the sale property held at the time of purchase is hereby transferred and assigned by Caltrans to Successful Bidder as of the recording date of the transfer of the property. Caltrans shall provide the Successful Bidder copies of any current leases for these interests, and lessee security deposits, or remainder for these leases after settlement of outstanding rent and other reimbursable charges owed to Caltrans. Caltrans shall retain rights to collect from lessees all outstanding rent and other reimbursable charges owed Caltrans at the time of purchase, and shall not otherwise obligate Successful Bidder to compensate Caltrans for lessee charges not covered by lessee security deposits. Caltrans shall provide the Successful Bidder an accounting of charges deducted from lessee security deposits pursuant to this purchase.

14. The bidder shall be bound to the terms specified in both the Terms of Purchase and Sale Agreement and the sales brochure.

15. The information contained herein has been obtained from sources deemed reliable, but accuracy and completeness are not guaranteed.

LEAD WARNING STATEMENT

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

The Department of Transportation does not have any records indicating lead-based paint and/or lead-based paint hazards in the property that is being offered for sale. The purchaser is allowed a 10-day period to conduct a lead-based paint inspection or risk assessment at his/her own expense. However, the property is sold in an "AS IS" condition and no remediation will be done by the Department of Transportation. If a risk assessment is completed by a purchaser within the 10-day period on the residential property, and the purchaser decides not to exercise his/her option to purchase based on the results of the assessment, the Purchase Deposit will be refunded without interest.

In accordance with the Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD), effective September 6, 1996, all sellers must disclose known lead-based paint and lead-based paint hazards and provide available reports to buyers for any housing built before 1978. Each buyer will receive a pamphlet entitled "Protect Your Family from Lead In Your Home" and be required to sign a Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards Form.

BID FORM – OPTION TO PURCHASE AGREEMENT

For the purchase of the real property described as **DD 34788-01-01**, NW corner of SR-76 and Gird Road intersection, Fallbrook, CA 92028, the undersigned bidder submits the bid of: **$**_____ for the property described above. The registration fee of **$7,500** is paid herewith-made payable to the Department of Transportation.

Upon notification from the California Department of Transportation that the undersigned Bidder is the successful Bidder, this "Bid Form" becomes the "Option to Purchase Agreement" and the Bidder hereby agrees to the terms of this Option. **All unsuccessful bidders will be refunded the registration fee following the bid opening.**

The winning bidder will be required to pay to the Department of Transportation the difference between the registration fee of **$7,500** and an amount representing **10%** of the actual successful bid within **five (5)** business days of the sale. The Department, by **Friday October 23, 2023 at 3:00 PM**, must receive payment of said difference or the registration fee of **$7,500** will be forfeited and the Option will be awarded to the 2nd highest bidder.

The full balance of the purchase price shall be paid to the Department of Transportation for the bidder to exercise this Option on or before **Friday, January 12, 2024 at 3:00 PM.**

All provisions of the "Terms of Option to Purchase Agreement" and contents of this Sales Brochure are hereby specifically incorporated by reference into the terms of this Option, and Bidder agrees to perform each of the terms.

BIDDER'S CONSENT

I understand that if I fail to complete the transaction as agreed, I forfeit all deposits made prior to that failure (e.g., Registration/Bidder Deposit **or** Registration/Bidder Deposit **and** Purchase Deposit).

I hereby understand and agree that the parcel(s) upon which I bid will be sold "AS-IS". This means that the State of California does not guarantee, warrant or imply any potential for development or uses of said parcel(s). I have done due diligence regarding existing and/or potential use(s) of the parcel(s) and I have investigated, to my own satisfaction, any possible conflicts/problems with zoning and/or development regarding parcels upon which I bid. If I am the successful bidder, I shall hold the State of California harmless regarding the development potential of the parcel(s). Furthermore, I shall release the State from any liability regarding any/all conflicts with local zoning, building, or development requirements.

_____I have received and read these Terms of the Option to Purchase and the Sales Brochure for this auction. (Please initial)

VESTING INFORMATION

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

_____

(Please print how the title is to be vested)

Check one:

☐ Husband and wife as joint tenants ☐ Joint Tenant

☐ A married man/woman as his/her sole and separate property

☐ Single Man ☐ Single Woman

☐ Husband and wife as community property ☐ Tenants in common

☐ Other

It is also agreed that all notices and matters arising in connection with this transaction will be given to bidder in person or by certified mail addressed to:

_____

(Please print name and address)

It is understood that the Department of Transportation shall record said Director's Deed and the undersigned Bidder agrees to pay the cost of recording and any documentary transfer tax when the final balance is paid. Bidder may take possession of said real property as soon as said Director's Deed has been recorded.

Date:_____Signed:_____Phone #:_____

Date:_____Signed:_____Phone #:_____

E-mail:_____

AUCTION INSTRUCTIONS

1. Remove and complete the Bid Form – Option to Purchase Agreement.

2. Include the registration fee of **$7,500 by cashier's check** or certified check made payable to the California Department of Transportation. PERSONAL CHECKS WILL NOT BE ACCEPTED.

3. Enclose the Bid Form and the required registration fee of $7,500 in an envelope. Attach the cut-out address and identification below on the front of the envelope. **Bids must be received on or before October 16, 2023, 10:00 AM. BID opening will be at 10:00 AM.**

3. Your name and mailing address should be shown in the upper left-hand corner of the bid envelope.

4. Envelopes not properly marked or opened prior to the sale may be disqualified.

NOTE: IT IS VERY IMPORTANT THAT THE NOTICE BELOW BE AFFIXED TO THE OUTSIDE OF THE ENVELOPE ENCLOSING THE BID. THIS IS TO ELIMINATE POSSIBLE ACCIDENTAL OPENING OF THE BID ENVELOPE PRIOR TO THE ADVERTISED TIME OF BID OPENING AND DISQUALIFICATION FROM THE AUCTION.

******Cut out the address below and affix it the to the front of the envelope.***

CA Department of Transportation, District 11
Right of Way, ATTN: B. Burns
4050 Taylor St, MS 310
San Diego CA 92110

DO NOT OPEN

Sealed-Bid Auction DD 34788-01-01

Thursday October 16, 2023, 10:00 AM, Bid Opening