

9402 E Bell Road



City of Scottsdale, Arizona

REQUEST FOR BIDS FOR THE SALE AT PUBLIC AUCTION OF
37.44 ACRES OF LAND LOCATED AT
9402 E BELL ROAD IN SCOTTSDALE, ARIZONA

**Issued by: Capital Projects Management Department
City of Scottsdale, Arizona
Date: November 24, 2021**

TABLE OF CONTENTS

Article	Title	Page
I	Introduction.	3
II	Description of Property and Environs.	4
III	City Goals.	9
IV	Process.	9
V	Bid Evaluation Factors.	12
VI	Non-competitive Factors.	12
VII	Competitive Factors.	14
VIII	Bid Submittal.	15
IX	Contract Award.	15

The attachments to the Request are listed in a table of exhibits at the end of the Request.

**DISPOSAL OF CITY- OWNED REAL PROPERTY
REQUEST FOR BIDS FOR THE SALE AT PUBLIC AUCTION OF
37.44 ACRES OF LAND LOCATED AT
9402 E BELL ROAD IN SCOTTSDALE, ARIZONA**

(9402 E Bell Road)

I. INTRODUCTION

1. Introduction. The City of Scottsdale ("City") issues this request for bids (the "Request") for the disposal of City-owned property as further described in this Request.

1.1 Contract. The highest and best Bidder will contract to purchase City's entire interest in a certain property (the "Property") upon City Council approval, subject to any reservations set forth herein. The submission of a bid (the "Bid") is the Bidder's irrevocable offer to purchase the Property on the terms described in this Request.

1.2 Nature and Location of Property. The Property consists of approximately 37.44 acres of undeveloped land located at the NEC of 94th Street and Bell Road.

1.3 Deadline for Bids. Live Bids will be received on the date and time of the auction as described in the Request. **Due to COVID protocols, only Bidders will be allowed to attend the Live Auction. To ensure that the Auction venue has sufficient room to allow for spacing of all Bidders, Bidders are requested to notify Real Estate staff (via email) of your intention to attend the Auction on or before March 10, 2022 at the end of the business day. Bidders are asked to register for the Live Auction 30 minutes before the Live Auction begins.**

1.4 Minimum Bid. The Minimum Bid amount is **\$42,700,000** as described in Section 8.1

1.5 Contacts. Bidders will address and deliver their Bids to City at the following address (the "Submittal Address"):

Real Estate Asset Manager
Capital Project Management
City of Scottsdale
One Civic Center, CPM
7447 E. Indian School Road, Suite 205
Scottsdale, Arizona 85251

1.6 Other Contacts. All other contacts and inquiries concerning this Request should be addressed in writing to the following address (the "Information Address"):

Wendy Hardy, Real Estate Management Specialist
(480) 312-7066
wenh@scottsdaleaz.gov

Or

Laurel Edgar, Real Estate Management Specialist
(480) 312-7692
ledgar@scottsdaleaz.gov

Both at:
Capital Project Management, Real Estate
City of Scottsdale
7447 E. Indian School Road, Suite 205
Scottsdale, Arizona 85251
realestate@scottsdaleaz.gov

All of Bidder's questions, comments or request for changes in documents must be provided in writing and responses to such questions or request for changes will be posted to the Request for Bid online site shown below so that the information is available to all potential Bidders at the same time (Sec 4.1).

1.7 Access to the Property for Pre-Bid Inspections: The property is viewable from the public right of way along 94th Street and Bell Road:

1.8 Request Internet Address. **The Internet address for city's online distribution of this Request, exhibits to this Request and information about this Request (the "Request Internet Site") is:**

www.scottsdaleaz.gov/purchasing/leases-concessions

II. DESCRIPTION OF PROPERTY AND ENVIRONS

2. Description of Property and Environs. City provides the following information, without warranty, about the Property and its environs:

2.1 Property Location. The Property is located at the NEC of 94th Street and Bell Road. It is surrounded on the north by the DC Ranch Master planned community, to the east by the Reata Wash and the Windgate Ranch Community, to the west by the City of Scottsdale Bell Road Multi-Use Sports field complex currently under development, and to the south by multi-family residential units and WestWorld. The City of Scottsdale Bell Road Multi-Use Sports field complex currently under construction, will include six (6) new multi-use sports fields with lighting and 4,550 square feet of associated building area on 38.8 acres. Construction is expected to be completed in summer 2022. Home values in the area range from \$500,000 to \$18 million dollars. Other destinations in the region include the McDowell Sonoran Preserve with over 11,000 acres of protected desert lands and trails, the Mayo Clinic, WestWorld of Scottsdale (home to the Scottsdale Arabian Horse show and Barrett Jackson Classic Car Auction), and the Tournament Players Club home of the PGA Tours' Waste Management Open.

Access to a major freeway (Pima 101) is less than 1 mile away. Sky Harbor International Airport and the Scottsdale Airport are accessible within approximately 30 minutes and 10 minutes respectively. A graphic depiction, aerial images (flown in the fall of 2020) and drawings showing the general location and layout of the Property along with the approved

plan for the City of Scottsdale multi-use sports field approved and under construction on the west side of 94th Street are attached hereto as **Exhibit "A"**. ("Property Graphics")

2.2 Property History. The Property was purchased by the City of Scottsdale in 2005 as part of a larger land acquisition from the Arizona State Land Department.

2.3 Property Characteristics. The Property possesses the following characteristics:

2.3.1 The Property is one parcel approximately 37.44 acres of unimproved land. An ALTA survey of the Property has been ordered, but not yet received. The ALTA survey will be included in an Addendum to this Request for Bids that will be provided as soon as the ALTA survey has been received and reviewed by the Title Company.

2.3.1.1 The Property is square in shape with approximately 1,200' of frontage along Bell Road and approximately 1,200' of frontage along 94th Street. The current ROW on Bell Road for the north half street is 65' while the eastern half street ROW on 94th Street is 32.5'.

2.3.1.2 The Property is accessible from both Bell Road and 94th Street.

2.3.1.3 Assessor Parcel Number: 215-07-023C.

2.3.1.4 The Property is affected by the Federal Emergency Management Agency's ("FEMA") AO and A flood.

2.3.1.5 The Legal Description to the Property is attached hereto as **Exhibit "B"**. A copy of the ALTA Survey, dated 10/13/04, provided by CMX to the Arizona State Land Department for its auction of this property by which the City of Scottsdale purchased this property in 2005 along with the western portion of Tract 23. This legal description shall be confirmed or adjusted by the pending ALTA Survey discussed in 2.3.1.

2.3.2 Existing utilities in the area include water and sewer (provided by City of Scottsdale), electric (APS), phone, cable, and gas (SWG). Bidders are responsible to determine location, capacity and extension requirements and associated fees to accommodate their specific needs.

2.3.3 The northeast corner of the parcel includes a section of the Reata Wash and has been reserved for a Drainage and Flood Control Easement under Maricopa County Recorder's document number 2000-0589275 which is included in **Exhibit "C"**.

2.4 Property Legal Status. The Property is affected by the following legal status issues as set out in the Commitment for Title Insurance issued on September 23, 2021 by Commonwealth Title Insurance Company NCS /American Land Title Association and is attached hereto as **Exhibit "D"**.

2.4.2 The Property is subject to existing easements as shown on the Survey and any and all additional agreements, easements and any other matters as listed in the

Commitment for Title Insurance. The following items are listed as **Schedule B Exceptions in the title commitment and are linked within the Title Commitment document**:

2.4.2.1 Item #5.-Easements, covenants, conditions and restrictions as set forth on the recorded plat of STATE PLAT NO.16 CORE SOUTH, recorded August 31, 1998, in Book 324 of Maps, page 50.

2.4.2.2 Item #6. An easement for the construction of drainage diversion structures and drainage in Maricopa County records 2000-058925.

2.4.2.3 Item #7. An easement for drainage improvement and sidewalks, recorded in 2005-0728632.

2.4.2.4 Item #8 A slope and drainage easement, recorded in 2005-945794.

2.4.3 **Title to the Property is "as-is"**. Proposers must investigate and analyze title information and form their own opinions as to its effect on the project site and their proposed development and must not rely on any information from the City regarding those issues.

2.4.4 Additional information about the Property legal status may be available from the office of the Maricopa County Recorder and any other public records repositories.

2.5 Phase One Environment Site Assessment Report. A Phase One Environmental Site Assessment prepared by AZTEC Engineering Group, Inc., dated November 17, 2021, is provided as **Exhibit "E"**. The Executive Summary on pages 1 & 2 concludes that:

"No RECs, Controlled RECs (CRECs), Historical RECs (HRECs), or *De minimis* conditions were identified associated with the Site or adjacent properties. No additional assessment is recommended."

2.6 General Plan Designation. As per the General Plan 2035, the Property is designated Suburban Neighborhoods with Regional Use Overlay. The Suburban Neighborhoods category is defined as follows: This category includes medium- to small-lot single-family neighborhoods or subdivisions. Densities in Suburban Neighborhoods are usually more than one dwelling unit per acre, but less than eight dwelling units per acre. This category also includes some townhouses and small-lot single-family homes, such as patio homes. Suburban Neighborhoods may be used as transitions among less intense areas, Urban Neighborhoods, and non-residential uses. The Regional Use Overlay is defined as follows: The Regional Use Overlay Category provides flexibility for land uses when it can be shown, subject to City Council determination, that new land uses are viable in serving a regional market. Regional uses include, but are not limited to, corporate office, region-serving retail, major medical, educational campus, community service facilities, tourism, and destination attractions. In determining whether proposed land uses are regional in nature, the city will consider whether the use has a regional draw, fulfills current economic development policies, enhances the employment core and the city's attractiveness to regional markets, benefits from good freeway access, and complements the established character for the area.

Both the Cost of Development and Economic Vitality Elements of the Scottsdale General Plan 2035 provide goals and policies that support the intent of this RFP. Goal COD 3 of the Cost of Development Element states that city should “Coordinate infrastructure investment and land use decisions with long-term municipal economic sustainability”. Further, Goal EV 3 of the Economic Vitality Element states that the city should “Sensitively manage land uses to provide and enhance economic development, fiscal health and job growth, while simultaneously protecting the integrity and lifestyle of neighborhoods”.

2.7 Property Regulatory Status and Zoning. The Property is affected by the following regulatory issues that may be relevant to this Request:

2.7.1 Use of the Property is subject to City of Scottsdale codes, ordinances, policies and other rules. All bids will be subject to full regulatory review and approval processes.

2.7.2 The Property is zoned **R1-7** [Single Family Residential], **PCD** [Planned Community District], **ESL** [Environmentally Sensitive Lands Overlay] (**HD** [Hillside District, if applicable]), based on approved rezoning case 11-Z-86. **Exhibit “F”** contains the Case 11-Z-86 City Council Action report dated 2-18-1986, including stipulations of approval.

2.7.2.1 The R1-7 zoning is intended to promote and preserve urban single-family residential development and allows for one single family home per 7,000 sq ft lot. The principal land use is a single-family dwelling. Uses incidental or accessory to dwellings, recreations, religious and educational facilities are included.

2.7.2.2 The Environmentally Sensitive Lands Overlay (ESLO). The ESLO is a set of zoning regulations adopted by the City Council in 1991 (amended in 2001, 2003, 2004 and 2007), to guide development throughout the 134 square miles of desert and mountain areas of Scottsdale. These areas are located north and east of the Central Arizona Project canal. Prior to ESLO, some properties were established within the Hillside District. More information may be found at:

<https://www.scottsdaleaz.gov/Assets/ScottsdaleAZ/Codes+and+Ordinances/HillsideOrd.1495.pdf>

The ESLO affects the northern two-thirds of the community. North of the Central Arizona Canal there are requirements for providing open space on each parcel. Natural Area Open Space (NAOS) areas are either natural desert that has been undisturbed by development activity or where development has restored the desert terrain and vegetation to its natural condition. The amount of NAOS required to be set aside with each development is based upon two factors -- the landform area and land slopes. The intent and purpose of the ESLO is to identify and protect environmentally sensitive lands in the City and to promote public health and safety by controlling development on these lands. The ordinance requires that a percentage of each property be permanently preserved as natural area open space and that specific environmental features, including vegetation, washes, mountain ridges and peaks, be protected from inappropriate development. The application of the ESLO (and its predecessor the Hillside Ordinance), has resulted in the preservation of over 9,000 acres of Sonoran Desert open space while protecting our citizens from potential flooding, erosion and visual blight. Additional information may be found here:

<http://www.scottsdaleaz.gov/codes/eslo>

Any prospective Bidder is highly encouraged to solicit input from the Current Planning Department by submitting a Pre-Application Request online at www.scottsdaleaz.gov and search for 'Pre-Application'. There is a \$100 fee required and will initiate a formal meeting with city staff representing Planning, Engineering, Fire, Transportation and Water. It is not a requirement to be the property owner to submit a Pre-Application Request and it should result in gaining valuable information on how a request to develop the property or rezone the site will be processed and gain insight as to the potential issues or requirements from the various departments. Please note that the Pre-Application process takes a minimum of two weeks.

2.7.2.3 Any request to develop the property will require the dedication of additional easements and right of way to the City of Scottsdale. The ultimate half street width along 94th Street is expected to be 40'. In addition, a 25' x 25' site triangle will be required to be dedicated at the intersection of 94th Street and Bell Road. Additional easements, including but not limited to, multi-use trail and NAOS will be required to be dedicated. More information about the regulatory status of the project site may be available from the City of Scottsdale planning department, city clerk and other departments at www.ScottsdaleAZ.gov

2.8 Scottsdale Market. Regionally and nationally, Scottsdale has been recognized for over half a century as a special destination for visitors and residents. With a 20-minute access to Phoenix Sky Harbor International Airport and easy freeway access to the entire metropolitan area, Scottsdale occupies a unique place in the Greater Phoenix area. For instance, it is home to the Southwest's most successful regional mall, Scottsdale Fashion Square, located near Old Town, a widely recognized Scottsdale shopping area designed to reflect the western heritage of the area. Scottsdale serves local and regional customers as well as thousands of tourists and visitors. Known as "The Most Livable City", Scottsdale offers the perfect combination of active, lifestyle, beautiful scenery, and abundant culture and arts. Due to a combination of good weather, including over 300 days of sunshine per year, along with countless unique experiences, the surrounding area represents a highly desired destination for people from around the world.

2.8.1 Destinations in the area include numerous golfing opportunities including Silverleaf, Grayhawk, Troon and Troon North, Pinnacle Peak and McDowell Mountain Golf Club. Shopping opportunities abound and include Scottsdale Promenade, Scottsdale Quarter, Kierland Commons, Market Street at DC Ranch, Desert Ridge, Hilton Village, Lincoln Village Center, and the Scottsdale Pavilions. Major regional entertainment venues such as Topgolf, Talking Stick Resort and Casino, the Ice Den of Scottsdale, the Scottsdale Airport, Scottsdale Airpark (the third largest employment center in the state), Perimeter Center and HonorHealth Thompson Peak and Shea campuses are all within short distances. The 101 Freeway (Pima Freeway), is located less than one mile west of the property, providing easy access to East Valley communities of Tempe, Mesa, Chandler and Gilbert, and the rest of the metropolitan area. Old Town Scottsdale is 12 miles away. The McDowell Sonoran Preserve with over 11,000 acres of protected desert lands, Mayo Clinic, the Musical Instrument Museum, WestWorld (home of the Barrett Jackson auto auction), and the Tournament Players Club (home of the Waste Management Open) are minutes away.

The most recent traffic counts, taken in March of 2021, show approximately 16,200 vehicles per day drive along Bell Road with approximately 6,800 vehicles per day drive along 94th Street.

2.8.2 The property is located adjacent to both the DC Ranch and McDowell Mountain Ranch master planned communities, as well as the City of Scottsdale Bell Road Multi-Use Sports field complex.

2.8.3 **Exhibit “G”** contains market data from Esri and CoStar. Additional information about the City of Scottsdale is available from the City’s Economic Development Department at: www.choosescottsdale.com, as well as www.ScottsdaleAZ.gov.

2.9 Reliance. The Property is offered "as-is", as described in more detail elsewhere in this Request. Bidders must investigate and analyze Property information of every character, must form their own opinions as to its effect on the Property and must not rely on any information from City.

III. CITY GOALS

3. City Goals. Bids should advance the following City goals:

3.1 Financial Goals. City has a goal to maximize the amount of money paid to City for the Property.

3.2 Bidder Qualification Goals. City has a goal to dispose of the Property to a Bidder who can and will pay for the Property and otherwise comply with this Request.

IV. PROCESS

4. Process. This Request will be conducted in the following manner:

4.1 Timeline. This Request will be conducted according to the following schedule:.

4.1.1 Issue Request November 24, 2021

4.1.2 Begin Inspection/Due Diligence Period November 24, 2021

4.1.3 **Deadline to submit written questions to the contact listed in 1.5 February 3, 2022 (by close of business)**

4.1.4 Online response to questions February 15, 2022 (by close of business)

4.1.5 End of Inspection/Due Diligence Period March 10, 2022

4.1.6 **Bidders submit email RSVP for Public live auction March 10, 2022**

4.1.7 **Public live auction at 10:00 a.m. (at 7447 E. Indian School Rd.) March 16, 2022 (at 10:01am, AZ Time)**

Registration is open at 9:30 a.m.

- 4.1.8 Deadline for Bidder to submit statement required by 6.4. (*if applicable*) March 29, 2022
- 4.1.9 Action by City Council to approve Purchase and Sale Agreement April 26, 2022 (Tentatively)
- 4.1.10 Close of Escrow and Balance of Bid amount due No later than June 8, 2022 (Tentatively)

4.2 Pre-bid Meetings. No pre-bid meetings are anticipated.

4.3 Disqualification. City reserves the right to disqualify a Bidder as follows:

4.3.1 The following are grounds for disqualification whether disclosed by the Bid submitted or any other information available to City, or otherwise:

4.3.1.1 Any real or apparent conflict of interest.

4.3.1.2 Failure to comply with this Request.

4.3.1.3 The Bidder's record of non-performance of its obligations to City or any third party.

4.3.1.4 The Bidder's apparent likely inability to perform as proposed.

4.3.1.5 Any other impropriety or weakness in the Bidder or the Bid.

4.4 City's Sole Discretion. Bidders may be disqualified at the City's sole discretion.

4.5 Contract Effectiveness. City has made no promises to enter into any contract with any Bidder. City is free to withdraw or modify this Request at any time for any reason or for no reason. Bidders proceed at their own risk as to any expenditures, commitments, forbearances, or other actions in anticipation of a possible contract with City. City will not be bound by any contract or other duty relating to this Request unless and until a final written contract is executed and delivered to the Bidder by City's agent pursuant to a specific resolution formally approved by the City Council.

4.6 Addenda and Other Changes to this Request. City expressly reserves the right to:

4.6.1 Amend, modify or cancel this Request without incurring any contractual or other obligations. A formal written addendum is the only official method of modifying this Request. Each addendum shall be a part of this Request as if the addendum were set out here in its entirety. Addenda will be published at the Request Internet Site. Bidders are responsible to inform themselves about addenda. City shall not be responsible for oral or other informal interpretation, clarification or additional information given by any

electd or appointed official, by any employee or by any other person or group purporting to speak for City.

4.6.2 Waive any defect or informality in any Bid or bid procedures.

4.6.3 Reject any or all Bids.

4.6.4 Issue a new Request.

4.6.5 Obtain or dispose of any property or services or pursue other aspect of the project by any other means.

4.7 Governing law. Any and all disputes arising under this Request or out of the Bids shall be governed according to the laws of the State of Arizona. The exclusive venue for any lawsuit related to the Proposal shall be in Maricopa County, Arizona.

4.8 Information from City and Others. While City has attempted to supply correct information in this Request, all information herein and all information the City may have heretofore provided or may yet provide, is provided entirely without warranty. All Bidders should perform their own investigation of the project, and all other relevant information, and independently confirm for themselves any information provided by City. City is not responsible for any information that Bidders may obtain from third parties, including without limitation, information from any source mentioned in this Request. City does not warrant that any information City or others may provide is accurate or complete. City also strongly recommends that bidders retain and seek advice from competent professional planners, engineers, attorneys and other advisors regarding this Request and the contract.

4.9 Indemnity. Each Bidder shall hold harmless and indemnify City, its officers, employees, agents, and representatives against all losses, claims, actions, judgments, and all liability for injury to persons, including without limitation wrongful death and damage to property, occurring, related to, during, or in consequence of this Request or any Bid. Bidder shall have no rights, claims or remedies against City's officers, employees, agents or other representatives in connection with this Request or the contract.

4.10 Waiver of Objections. Persons interested in this Request waive objections as follows:

4.10.1 By submitting a Bid, each bidder agrees to be bound by this Request and unconditionally and irrevocably waives the following:

4.10.1.1 Any objection to the bid/Bid and contracting process as set out in or contemplated by this Request.

4.10.1.2 Any objection to the requirements or other provisions of this Request, including without limitation the submission requirements, the bid/Bid evaluation criteria, the selection process, and the contract.

4.10.1.3 Any objection to the manner in which the bid/Bid and contracting process has been carried out through the time the live and/or written bid/Bids are received and opened.

4.10.2 All other objections by bidders and all others (including without limitation those related to the proposed evaluation and recommendation process) are unconditionally and irrevocably waived if not raised at the earliest possible time.

4.10.3 Any objection not previously waived must be made at least 48 hours prior to City Council action (or, in the case of objections to matters occurring after that deadline, prior to City Council action).

4.10.4 All objections must be described in particular and delivered in writing with supporting evidence to the City at the address for submitting bid/Bids. Objections must be conspicuously and boldly marked "URGENT OBJECTION TO REQUEST FOR BIDS FOR **9402 E Bell Road**". An additional copy marked in the same manner must be simultaneously delivered to:

City Attorney's Office
City of Scottsdale
3939 N. Drinkwater Boulevard
Scottsdale, AZ 85253

4.10.5 Objections are also subject to all applicable claims processes. City does not waive any claims process.

V. BID EVALUATION FACTORS

5. Bid Evaluation Factors. Bids will be evaluated and scored on the basis of non-competitive factors and competitive factors, as follows:

5.1 Non-competitive factors.

5.1.1 Bids will be individually scored as "Pass" or "Fail." A Bid that receives a "Fail" score for any one or more non-competitive factors will be eliminated from further consideration. For each non-competitive factor, bidders must show that the factor is met.

5.2 Competitive factors.

5.2.1 Factors that allow the Bids to be ranked to determine how well each Bid advances the City's goals.

VI. NON-COMPETITIVE FACTORS

6. Non-competitive Factors. All Bids must comply with the following:

6.1 Request Compliance. The Bidder must otherwise comply with this Request.

6.2 Form of Contract. The Bidder will enter into a contract with City as follows:

6.2.1 A Purchase and Sale Agreement substantially in the form attached hereto as **Exhibit "H"** (Purchase and Sale Agreement) will be executed by both the Bidder and the City (City will execute upon approval by City Council and deliver it to Escrow).

6.2.2 The Property will be conveyed by a special warranty deed in the form attached hereto as **Exhibit "I"** ("Special Warranty Deed").

6.2.3 The final Purchase and Sale Agreement and Deed will be prepared by the City Attorney's Office modified as necessary to incorporate the terms of the successful Bid.

6.2.4 Bidders should be prepared to accept the Purchase and Sale Agreement and Special Warranty Deed in their current form. Bidder shall comply with the Escrow Process as described in Section 9.4, Escrow Process.

6.2.5 The Purchase and Sale Agreement and the Special Warranty Deed text shall control the relationship between City and the Bidder selected. **All Bidders must read the Purchase and Sale Agreement and the Special Warranty Deed in their entirety before submitting a bid. An executed draft Purchase and Sale Agreement will be submitted with a Bid Submittal.** If the Purchase and Sale Agreement or Special Warranty Deed is inconsistent with anything in the remainder of this Request, then the Purchase and Sale Agreement and Special Warranty Deed shall control. Do not rely on this Request to explain these documents.

6.3 Affidavit. Bidders must submit a fully completed bid affidavit applicable to the type of bid submitted. **Exhibit "J"** shall be submitted to Bid at the Live Auction. ("Affidavit").

6.4 Affidavit Instructions. Affidavits shall be completed in accordance with the following instructions.

6.4.1 Regarding the Bid Affidavit:

6.4.1.1 The agent mentioned in the signature lines and in the notary on page 3 is the corporate officer or other insider who has authority to represent the entity that will make the Bid. This person will sign legal documents on behalf of the entity that makes the Bid.

6.4.1.2 The agent mentioned in paragraph 9 is the hired outside real estate agent who is assisting the entity that submits the Bid but will not sign the affidavit or other legal documents on behalf of the entity that submits the Bid.

6.4.1.3 At the auction, the city will treat either named agent as having authority to act for the entity that submits the Bid. So far as the city is concerned, either agent acting alone has authority to act for the entity that submits the Bid.

6.4.2 Regarding a Bid that lists the buyer as "ABC, Inc. or nominee":

6.4.2.1 Bids made in the name of "ABC, Inc. or nominee" shall not be accepted. However, the City will grant a limited right for each Bidder (including backup bidders) to designate another person or entity to perform under the Bid and receive title to the property. The person designated must own, be owned by, or be under common

ownership or control with the Bidder. **Bidder desiring to use that right shall submit a statement as shown in 6.4.2.1.1 to the city no later than March 29, 2022.**

6.4.2.1.1 "I represent ABC, Inc. with respect to its Bid submitted in response to the City of Scottsdale's Request for 9402 E Bell Road Parcel. ABC, Inc., designates XYZ LLC to perform under the Bid and receive title to the property. [Date of designation.] [Signature by agent for the Bidder.] [Signature by agent for the entity designated.]"

6.5 **Bidder's Due Diligence.** All title or interests conveyed by City to the Bidder shall be conveyed in an "as is" condition, with no warranty, express or implied. Without limitation, City makes no warranties as to past, existing or potential costs, needs, opportunities or challenges, obvious or latent, regarding any of the following (all of which together are the "Due Diligence Matters"): liens, encroachments, easements and all other title matters; zoning and building permits, clearances, status and other regulatory matters; physical, environmental, safety, contamination and other conditions; economic, physical or other developability or feasibility; construction, maintenance, repair, operation or other work; soil, geology, flooding, earthquake, fire or other hazards; prior, present or future uses or history of the Property or nearby property; taxes, assessments, common area charges or other burdens; insurance, warranties, contracts, plans or other contracts or documents; the requirements, conduct, documents or other aspects of this Request; and all other faults or defects of any description about the Property or its environs, information about the Property or its environs, this Request and the transactions contemplated herein. Before bidding, each Bidder shall inspect and investigate the Property and its environs and obtain such information and professional advice as the Bidder determined to be necessary related to the Due Diligence Matters. Bidders at their own expense shall investigate and determine the suitability of the Property and the Due Diligence Matters for the Bidder's use for the Property. If the Due Diligence Matters are not in all respects entirely suitable for the use or uses to which any bidder now or hereafter plans or desires to put the Property, then it is the Bidder's sole responsibility and obligation to take such action as may be necessary to place the Property in a condition entirely suitable for its development and use.

VII. COMPETITIVE FACTORS

7. **Competitive Factors.** Bids will be ranked according to the following criteria:

7.1 **Bid Amount.** The highest responsive Bid amount shall prevail over all other Bid amounts.

7.2 **Conduct of Auction.** The auction shall be conducted as follows:

7.2.1 The auction process, minimum bid intervals, form of bids, and other auction details will be explained at the beginning of the auction. City may also elect to make auction information available at the Request Internet Site. The auction details are subject to change at the auction.

7.2.2 If more than one Bidder makes an opening bid, then the Bidders who made opening Bids shall make additional Bids and continue making Bids until a highest Bid is determined. Bidders electing to submit a written/sealed Bid may do so, however, to

increase the Bid, the Bidder or the Agent, as described in section 9.3 below, must be present to do so.

7.2.3 Unless otherwise announced at the auction, Bids may be raised by minimum increments of \$25,000.

VIII. BID SUBMITTAL

8. Bids. Each timely Bid must meet the following minimum requirements in order to be considered responsive. A Bid will be considered responsive if the following requirements are met in accordance with this Request:

8.1 A Minimum Bid. In an amount no less than \$42,700,000. (the "Minimum Bid").

8.2 A Bid Deposit. Each Bid must include a Bid deposit as follows:

8.2.1 The amount of the Bid deposit is \$25,000.

8.2.2 The deposit must be submitted in the form of a certified cashier's check payable to the City of Scottsdale issued by an FDIC insured institution with offices in Maricopa County AZ. Personal checks are not acceptable.

8.3 A fully completed Bid Affidavit – Exhibit “J”. **All Affidavits must be notarized as to the Bidder’s signature prior to submittal.**

8.4 An executed draft Purchase and Sale Agreement with information filled in by hand for:

8.4.1 Name of Buyer, on Page 1 Recitals

8.4.2 Notices as to Buyer, in Section 6

8.4.3 Buyer, legal entity, title of signer on signature page

Bidder’s execution of the draft Purchase and Sale Agreement signifies Bidder’s acceptance of the Purchase and Sale Agreement and Special Warranty Deed in their current form, and that Bidder will comply with the Escrow Process.

8.5 Each Bidder who submits a fully completed Affidavit and a Bid Deposit shall be deemed to have placed an opening Bid at the Minimum Amount unless a higher amount is stated. If more than one Bidder makes an opening Bid and all opening bids are for the same amount and no further Bids are made, then one of the opening Bids selected by chance at the Auction event, shall be deemed to be increased by \$10,000.

IX. CONTRACT AWARD

9. Contract. If a contract is awarded, then it shall be awarded as follows:

9.1 Offers. Each Bid continues to be an irrevocable offer as follows:

9.1.1 Each Bid shall be effective until the earlier of:

9.1.1.1 City conveys the Property pursuant to this Request.

9.1.1.2 One Hundred and Five (105) days after the auction.

9.1.2 The Bid deposit secures the Bidder's timely, faithful and complete performance of all of the Bidder's obligations related to this Request. Without limitation, City shall retain the Bid deposit of the successful Bidder as liquidated damages if the Bidder fails or refuses to purchase the Property or otherwise fails to comply with this Request.

9.1.3 City shall return Bid deposits provided by unsuccessful Bidders no later than two (2) business days after the auction. Return of a Bid deposit does not terminate a Bid. If it appears that a Bid has become successful after a Bid deposit is returned (e.g., due to default by the successful bidder), then the next highest bidder shall pay his Bid deposit to City again upon City's request.

9.2 Purchase and Sale Agreement and Special Warranty Deed Delivery. The following shall apply at the time of deed delivery:

9.2.1 City intends to terminate any contracts/accounts for existing utility, trash removal, and similar contracts for the property at the time of sale.

9.2.2 As described in 2.3.3, if applicable the Bidder will be required to sign/execute easement(s) for the existing City of Scottsdale utilities on the Property which will be recorded immediately after the deed is recorded.

9.3 Broker Participation. City welcomes licensed real estate brokers and agents (collectively "Agents") to participate as follows:

9.3.1 Bidders who choose to engage an Agent may choose to participate in the following process (the "Commission Payment Process"):

9.3.2 In the Affidavit the bidder shall:

9.3.2.1 Identify the Agent and provide contact information for the Agent.

9.3.2.2 Indicate an amount (**the "Buyer Commission"**) that the Bidder will pay to the City in addition to, the Bid amount (the "Purchase Price") that the Bidder bids. The amount of the Buyer's Commission shall be a flat fee or a percentage of the Bid amount.

9.3.3 The Bidder shall pay the Buyer's Commission to Escrow Officer at the time the Bidder pays to Escrow the balance of the complete Purchase Price.

9.3.4 Within seven (7) days after City conveys the Property to the Bidder, the Escrow Agent shall deliver the Buyer's Commission to the Agent.

9.3.5 City is offering the Commission Payment Process only as an accommodation to the bidder and Agent. City has no liability or responsibility for the Buyer's

Commission. City is not a party to or bound by any contract or other affairs between the bidder and Agent. City may elect to absolve itself from any and all liability or responsibility of every description related to the Buyer's Commission by forwarding the Buyer's Commission to a court or other neutral third party to be held until any questions about disposition of the Buyer's Commission are resolved. The bidder and Agent shall jointly indemnify, defend and hold harmless City against all damages, expenses, claims, litigation costs, attorney's fees and other costs or amounts arising from the Buyer's Commission or related to the Buyer's Commission or the Commission Payment Process.

9.3.6 Bidders are not required to engage an Agent. Bidders who choose to engage an Agent may choose not to participate in the Commission Payment Process.

9.4 Escrow Process. Bidder is required to utilize an escrow process (**the "Escrow Process"**) to facilitate the bidder's purchase of the Property; the following shall apply:

9.4.1 The Commonwealth Land Title Insurance Company NCS (**the "Escrow Agent"**) located at 2390 E. Camelback Road, Suite 230, Phoenix AZ 85016, shall be the only Escrow Agent permitted for the Escrow Process for this Request.

9.4.2. Bidders shall share all costs (**the "Escrow Fees"**) of the **Escrow Process** as set out in the Purchase and Sale Agreement and shall acknowledge such in the Affidavit.

9.4.3 In the Affidavit the bidder shall:

9.4.3.1 Acknowledge the Bidder's understanding of the Escrow Process as outlined in Section 9.4.

9.4.3.3 Acknowledge that the Bidder shall pay of its share of the Escrow Fees at the time the Bidder pays to the Escrow Agent the rest of the complete Purchase Price.

9.4.4 City intends to provide standard title insurance in connection with this property disposal.

THIS REQUEST IS ISSUED BY:
City of Scottsdale, a municipal corporation

By: _____
Wendy Hardy, Real Estate Management Specialist
Laurel Edgar, Real Estate Management Specialist

Table of Exhibits

<u>Exhibit</u>	<u>Paragraph</u>	<u>Description</u>
A	2.1	Property Graphics
B	2.3.1.5	Legal Description
C	2.3.3	Drainage and Flood Control Easement
D	2.4	Title Commitment & Schedule B Documents
E	2.5	Phase One ESA
F	2.7.2	Zoning Case
G	2.8.3	Marketing Data
H	6.2.1	Purchase and Sale Format
I	6.22	Special Warranty Deed Format
J	6.3 & 8.3	Affidavit for Live Auction