

CITY OF HOUSTON



**BID SPECIFICATIONS
FOR
SALE OF SURPLUS LAND**



**0 Braewick Dr., Houston, TX
77035**

**±11,412 Square Feet of Land
(PARCEL SY22-102)**

T A B L E O F C O N T E N T S

<u>Section</u>	<u>Page</u>
1. CONTENTS AND PURPOSE	3
2. DESCRIPTION OF PROPERTY	3
3. INSTRUCTIONS TO BIDDERS	3
3.01 Pre-Bid Site Visit	3
3.02 Preparation of Bid Forms	3
3.03 Bid Deposit	3
3.04 Receipt and Opening of Bids	4
3.05 Bids Irrevocable	4
3.06 Notification of Bidders Eligible for Second Round Bidding	4
3.07 Notification of Selected Bidder	4
3.08 Due Diligence Period	4
3.09 Final Award or Rejection of Bids by Mayor or City Council	5
3.10 Closing Arrangement	5
3.11 Affidavit of Non-Interest	5
4. TERMS AND CONDITIONS OF SALE OF SURPLUS CITY LAND	5
4.01 Rejection of Bids	5
4.02 Non-Payment of Brokerage Fees	6
4.03 No Bidder's Withdrawal Rights	6
4.04 City's Rights Upon Failure of Buyer to Close the Transaction	6
4.05 Conveyance by the City	6
4.06 Bidder's Duty to Inquire As to Quality of Title and Survey	6
4.07 Rights of Persons in Possession	7
4.08 Ad Valorem Taxes	7
4.09 Conveyance Instruments	7
4.10 Environmental	7
4.11 Inspection	8
4.12 Restrictions	8
5. EXHIBITS	9

CITY OF HOUSTON

BID SPECIFICATIONS

FOR

SALE OF SURPLUS LAND

SECTION 1 - CONTENTS AND PURPOSE

These bid specifications set forth certain instructions, terms, and conditions that apply to the sale of surplus City land conducted pursuant to Section 2-236 of the Code of Ordinances. A copy of Section 2-236 is reproduced in full and is attached hereto as **Exhibit “A”**. Such sales are also governed generally by Federal and State statutes, the City of Houston Charter, and other sections of the Code of Ordinances where specific circumstances so require. Although the instructions, terms, and conditions contained herein do not constitute an ordinance, resolution, or motion binding upon the City, a bidder submitting a bid on a sale conducted pursuant to Section 2-236 will certify by signing the bid form that the bidder has read the provisions contained herein and that the bidder agrees that the provisions will be strictly enforced in all respects.

SECTION 2 - DESCRIPTION OF PROPERTY

The Property. The “Property” consists of the following parcel of real property and the improvements thereon:

±0.26-acre (11,412 sq. ft.) tract of land being Reserve Q of Westbury Sec 4, HT&B RR Co Survey, A-418, being more particularly described in **Exhibit “B”** attached hereto.

SECTION 3 - INSTRUCTIONS TO BIDDERS

3.01 Pre-Bid Site Visit. All persons wishing to visit the property may do so, but must notify City of Houston Real Estate Services, in advance, by calling 832-395-3155. Please address any questions concerning this sale to City of Houston Real Estate Services.

3.02 Preparation of Bid Forms:

A. General. **Bids are due June 13th, 2024, at 10:30 a.m. Central Standard Time.** A bid must be submitted on the form provided by Real Estate Services. Such bid forms will not be accepted as a legitimate bid unless it conforms to the requirements in Section 4.01. The bid form must be signed and submitted using the Civcast online bid portal or in a sealed envelope and clearly marked with the **bidder’s name or company** and the **Parcel Number** listed on the Bid Form.

B. Amount of Bid. The bid must be expressed in dollars and cents in the spaces provided on the bid form for entering the bid amount. **This sale is a cash sale. There will be no financing offered by the City, and the City will not accept property in exchange.**

3.03 Bid Deposit. **Bidder agrees to submit a deposit in the amount of 10% of the total dollar amount of the bid within 2 business days of notification of a winning bid.** The bid deposit must be in the form of a cashier’s check, certified check, wire transfer, or a bond with a corporate surety authorized to do business in the State of Texas. A sample of

a bidder's bond is attached hereto as **Exhibit "C."** Any other bond form will be subject to rejection if, in the opinion of the City Attorney, it fails to secure the City in the performance of the specified terms and conditions of the sale. The opinion of the City Attorney shall be final.

All bid deposits (except for any bids withdrawn by a Selected Bidder during the Due Diligence Period) will be held in escrow by the City pending award of a bid, or rejection of all bids, by the Mayor or the City Council. Bid Deposits shall be refundable if the Selected Bidder withdraws its bid, for any reason, prior to the both parties signing the Purchase and Sale Agreement. During the Due Diligence Period, the Selected Bidder may still elect to withdraw their bid at their discretion. In the event of such a withdrawal after signing the Purchase and Sale Agreement, the City shall have the right, at its option, to retain the bidder's deposit or, if a bidder's bond was furnished as the deposit, to be paid the amount of the bond by the bonding company, the amount of the deposit or bond being agreed upon as liquidated damages because of the inconvenience of ascertaining the actual damages and the uncertainty thereof.

3.04 Receipt and Opening of Bids. Sealed bids are to be delivered to the office of Real Estate Services, 611 Walker Street, 19th Floor, Houston, Texas 77002, on or before June 13th, 2024, 10:30 a.m. local time, in accordance with the instructions contained in the City's SEALED BID SALE NOTICE. These bids will be opened at the time stated in the SEALED BID SALE NOTICE or as soon thereafter as may be practical, at the discretion of the Mayor and/or City Council.

State and local laws provide that the City, in its sole discretion, may elect not to accept any bid, and may reject all bids.

3.05 Bids Irrevocable. All bids shall be considered irrevocable. All persons submitting a bid will be notified in writing of the acceptance or rejection of their bid. Failure of the bidder to receive the notice shall not constitute an acceptance of bid.

3.06 Notification of Bidders Eligible for Second Round Bidding. On or before June 14th, 2024, 4:00 p.m. local time, the City may select two or more bidders for a second round of Bidding ("Second Round"). Any selection of these Second Round bidders will be based solely on the amounts of money bid i.e., the group of bidders submitting the highest bids, and not on any other criteria. The second round will be conducted as follows:

- A. Notification. The Second Round bidders will be notified in writing by the City that they have been selected for the Second Round.
- B. Submission of Bids. The Second Round bidders should submit their **"BEST AND FINAL OFFER"** to the City. **The bid should not be made with the expectation that any bid can be reduced through later negotiation. The Second Round bid is a final bid, and the City will not consider any adjustments to the bid amount after a bid has been submitted.**
- C. Receipt and Opening of Second Round Bids. Second Round sealed bids are to be submitted through the online portal or delivered to the office of the Real Estate Services, 611 Walker Street, 19th Floor, Houston, Texas 77002, on or before June 27th, 2024, 4:00 p.m. local time.

State and local laws provide that the City, in its sole discretion, may elect at this point not to accept any of the Second Round bids.

- 3.07 Notification of Selected Bidder. On or before June 28th, 2024, 4:00 p.m. local time, the City may notify the highest bidder in writing that it is the bidder selected to proceed in the transaction (the “Selected Bidder”).
- 3.08 Due Diligence Period. The Selected Bidder will have thirty (30) calendar days following the execution of the Purchase and Sale Agreement to perform any due diligence (the “Due Diligence Period”) relating to the Property. The Selected Bidder must notify the City if it intends to enter the Property for any reason including, but not limited to inspecting, surveying or conducting such environmental or other testing as it may desire, at its sole cost and expense. The Selected Bidder may withdraw its bid, for any reason, before the expiration of the Due Diligence Period by notifying the City in writing of its withdrawal. In the event of such withdrawal, the City may, but is not obligated to, select the next-highest bidder as a Selected Bidder. If the City does so, that Selected Bidder will have a similar Due Diligence Period and will have a similar right to withdraw if it so desires.
- 3.09 Final Award or Rejection of Bids by Mayor or City Council. All bid deposits (except for any bids withdrawn by a Selected Bidder during the Due Diligence Period) will be held in escrow by the City pending award of a bid, or rejection of all bids, by the Mayor or the City Council. In order for a bid to be awarded, City Council will adopt an ordinance officially awarding the bid and authorizing the Mayor to execute, and the City Secretary to attest, the Sale Documents (as defined in Section 4.08). City Council has the right to decline to adopt an ordinance awarding the bid, for any reason, at its discretion. After award of a bid, the transaction shall be binding, subject only to the preparation and execution of the documents necessary to consummate the transaction. After award of a bid, the bidder submitting the awarded bid will be referred to hereafter as the “Buyer” and the Buyer’s bid deposit shall be nonrefundable.
- 3.10 Closing Arrangement:
- A. Execution of Documents. On or before the time specified in Section 4.04, after the City has executed the Sale Documents and the documents are available for delivery to the Buyer, the City and Buyer will agree on the location and the time that the closing of the transaction will occur (the “Closing Date”). Closings will be held at the Real Estate Services office unless the Buyer elects to employ a Title Company for closing, at the Buyer’s expense. The transaction will settle on such date, at which time the Buyer will pay the full balance due under the terms and conditions set forth herein. The Buyer’s duty to proceed with the transaction shall not be subject to Buyer’s acceptance, actual, constructive or otherwise, of the Sale Documents.
- B. Payment of Consideration by the Buyer: The Buyer will be required at the time of closing to pay the difference between the full amount of the bid and the amount of the bid deposit. If a bidder’s bond was furnished as the bid deposit, the full amount of the bid will be due and payable at the time of closing. Payment of any cash consideration must be made in the form of a cashier’s check or certified check payable to the City of Houston.

C. Settlement and Other Expenses. The City will be responsible for any expenses associated with the preparation of the Sale Documents. The City shall not be responsible for any other fees associated with this transaction.

3.11 Affidavit of Non-Interest. City of Houston Charter, Article VII, §4, and Code of Ordinances, Section 15-1, make void any contract in which a member of City Council, officer of the City of Houston, or employee of the City of Houston has a direct or indirect pecuniary interest. An Affidavit of Non-Interest, attached hereto as **Exhibit “D”**, must be submitted at the same time as the Deposit.

SECTION 4 - TERMS AND CONDITIONS OF SALE OF SURPLUS CITY LAND

4.01 Rejection of Bids. City Council reserves the right to reject any or all bids at any time prior to the passage of the ordinance authorizing the Mayor to execute and the City Secretary to attest a deed conveying to the Selected Bidder the land offered by the City for sale. A bid will be automatically rejected when:

- A. The bid form is not signed as specified in Section 3.02 (A);
- B. It is not submitted on the City’s bid form;
- C. It is submitted after the time and date specified in the City’s SEALED BID SALE NOTICE for receipt of bids;
- D. It is not accompanied by a signed Affidavit of Non-Interest.

4.02 Non-Payment of Brokerage Fees. The City will not pay a brokerage or real estate agent’s fee on the sale of City land.

4.03 City’s Rights Upon Failure of Buyer to Close the Transaction. When the deed conveying the parcel offered for sale by the City has been executed by the Mayor and is ready for delivery, the Buyer will be notified where to call to accept delivery of the deed. If for any reason the Buyer should fail to render full payment of the consideration upon which the bid was based within thirty (30) days after the aforesaid notice, such failure shall be construed as a refusal to pay the consideration due the City under the terms of the bid and as a refusal to accept the City’s deed. Should the Buyer for any reason fail or refuse to close the transaction within the thirty (30) day period, the City shall have the right, at its option, to retain the bidder’s deposit or, if a bidder’s bond was furnished as the deposit, to be paid the amount of the bond by the bonding company, the amount of the deposit or bond being agreed upon as liquidated damages because of the inconvenience of ascertaining the actual damages and the uncertainty thereof. In addition to the foregoing, it is understood and agreed that the City shall have the right, at its option, to pursue any and all other remedies available to it at law or in equity, including, but not limited to, the right to demand specific performance on the part of the Buyer. If the City is successful in enforcing the right to specific performance, it is understood and agreed that, upon the City’s demand, the Buyer shall pay to the City reasonable attorney’s fees incident thereto.

4.04 Conveyance by the City. Subject to its right to reject bids under Section 3.02, the City shall tender an executed deed conveying the land offered by it for sale within one-hundred-

twenty (120) days after the date of passage of the ordinance determining a buyer. Failure on the part of the City to tender such deed within the one-hundred-twenty (120) day period shall entitle the Buyer to refuse to close the transaction by giving written notice to the Director of Houston Public Works. Upon receipt of written notice of refusal, the City will refund the Buyer's deposit. Neither the City nor the Buyer shall be liable to any party in any respect as a result of such refusal to close the transaction under this circumstance.

- 4.05 Bidder's Duty to Inquire As to Quality of Title and Survey. Each bidder shall be solely responsible to inquire as to the quality of the title of the Property. The City will provide a survey of the Property if one is available; however, the City does not guarantee the accuracy or completeness of such survey.
- 4.06 Rights of Persons in Possession. If the Property is, or appears to be, in the possession of any person whomsoever, each bidder, before submitting a bid on the parcel, shall satisfy himself as to the rights, if any, of the person in possession. The Buyer shall not be entitled to refuse to close the transaction because of the rights of any person in possession on the date the bid was submitted.
- 4.07 Ad Valorem Taxes. Should there be any tax payments due, it is specifically understood and agreed that the Buyer will be purchasing the Property subject to such tax liabilities and will be responsible for payment thereof. By acceptance of a deed from the City of Houston, the Buyer is put on notice that the land conveyed to him will thereafter be subject to assessment for all taxes.
- 4.08 Conveyance Instruments. The deed conveying the Property will be based on the description of the land prepared by Houston Public Works, or on such other legal description as may be approved by the City Attorney. The deed shall be executed and acknowledged on behalf of the City by the Mayor (or in the Mayor's absence, the Mayor Pro Tem) and attested by the City Secretary under the City Seal. The name of the grantee in the deed shall be the same as the name on the bid form of the person, corporation, or entity submitting the bid. The deed shall be in the form commonly referred to as a "Special Warranty Deed" under which the City will warrant title ". . . by, through, or under itself, but not otherwise . . .," and the conveyance shall be subject to all easements, public utilities, restrictions, covenants and conditions of record, and any other special restrictions specified in these bid proposal.
- 4.09 Environmental.
- A. Environmental Testing
- (i) By Bidder. Upon notice that Property is offered by the City for sale (the "Notice Date"), any bidder shall have the right, after notifying the City in writing and in full compliance with this Section 4.09(A)(i), to enter the Property to inspect, survey or conduct such environmental testing as such bidder may desire, whether for potential contamination in the surface or subsurface of the Property or otherwise (hereinafter referred to as "Testing"), at bidder's sole cost and expense. Any such bidder may enter the Property to conduct Testing upon consent by City and subject to the following conditions: a) any contractor, consultant or agent used by such bidder for the Testing shall be, in the sole discretion of City, acceptable to

the City; however, the Testing shall be at such bidder's sole cost; b) the City shall have the right to observe the Testing and to take split samples; c) such bidder shall indemnify, defend and hold the City harmless from any and all damages (including damage to the Property), losses, claims, liabilities, penalties, costs and expenses (including attorney's fees) resulting from acts or omissions associated with the Testing, and this covenant shall survive the Closing or earlier termination of the bidding process; d) such bidder agrees to obtain the insurance specified in Section 4.09(B) ; and e) the Testing and subsequent generation of a site assessment report, survey, quality-assured laboratory data, and other written report(s), if any, (hereinafter referred to as "Testing Results") shall be completed within thirty (30) days of the Notice Date, or the close of the bid period, whichever is earlier. Upon completion of the Testing of the Property and the subsequent generation of Testing results, such bidder shall immediately provide the Testing Results to the City.

- B. Testing Insurance. If a bidder conducts Testing as outlined in Section 4.09 above, such bidder shall maintain, at its sole cost, or shall require any contractor, consultant or agent such bidder may engage to maintain at all times as required herein, the insurance coverage set forth below with providers satisfactory to the City with full policy limits applying, but not less than as set forth below. A certificate naming the City as an additional insured and referencing the indemnification provisions set forth in these Bid Specifications shall be delivered to the City prior to commencement of the Testing. Such certificate shall provide that any change restricting or reducing coverage or the cancellation of any policies under which certificates are issued shall not be valid as respects the City's interest herein until the City has received timely prior written notice of such change or cancellation.

Worker's Compensation Insurance as required by laws and regulations applicable to and covering employees of the bidder, its contractors, consultants or agents engaged in the performance of the Testing.

Employer's Liability Insurance protecting the bidder against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a limit of not less than Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) each occurrence.

Comprehensive General Liability Insurance including products / completed operations with limits of liability of not less than One Million and No/100 Dollars (\$1,000,000.00) combined single limit. This policy shall cover, among other risks, the contractual liability assumed under the indemnity provision set forth herein.

Business Automobile Liability Insurance covering all vehicles used in the operations of the bidder with limits of liability of not less than Seven Hundred Fifty Thousand and No/100 Dollars (\$750,000.000) combined single limit.

- C. Environmental Reports. Executive summaries of the bidder's Testing Results (if any) shall be listed as an exhibit to the ordinance authorizing the Mayor to execute the deed conveying the land.

4.10 Inspection. Each bidder represents that it (or its agents or consultants) will have inspected, by the close of the bid period, the Property, together with any buildings included in the sale, will be familiar with its condition, inclusive of substances in the soil or groundwater that may or may not be present, and, if named as Buyer, will accept same AS IS, AND WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS ON THE PART OF the City as to what that condition may be.

4.11 Restrictions:

A. General. It will be the sole responsibility of each bidder to become familiar with whatever restrictions are enforceable on the land being offered by the City for sale whether of record or not. The City makes no representations, guarantees, or warranties as to what may be built on the Property or as to what use may be made of it, with the exception of the billboard restrictions that follow.

B. Billboard Restrictions. Any conveyance of land offered by the City for sale will be subject to a restriction against the erection of billboards. The restriction shall be embodied in the conveyance deed by the City in clauses substantially similar to the following:

“This conveyance is also made and accepted subject to Grantee's agreement, which agreement is a restriction upon and covenant running with the land, that neither Grantee nor its successors or assigns shall ever erect, place, use, or maintain any billboard or similar structure on the above-described premises for the display thereupon of any advertising; provided that this covenant shall not prevent the placing upon any building that may be erected thereupon, or upon the premises, of appropriate signs advertising the business therein conducted, the products therein sold, or otherwise reasonably incident to the occupancy and use of such building and the premises.

It is further understood and agreed, and such agreement shall also be a restriction upon and a covenant running with the land, that any violation of the foregoing covenant shall give the Grantor herein, its successors, or assigns the right to enter upon the Property and summarily remove any such billboard, sign board, or similar advertising device or structure at the expense of the owner, and such entry and removal shall not be deemed a trespass or conversion, and the Grantor, its successors, or assigns shall further have the right to enforce the performance of the covenant by the appropriate legal action, and no act or omission upon the part of any of them shall be a waiver of the operation or enforcement of such covenant or condition.”

SECTION 5 - EXHIBITS AND APPENDICES

5.1 Exhibits.

Exhibit A: Section 2-236 of the Code of Ordinances

Exhibit B: Description of the Property

Exhibit C: Example of Bidder's Bond

Exhibit D: Affidavit of Non-Interest

EXHIBIT "A"

SECTION 2-236, CODE OF ORDINANCES

Sec. 2-236 Sale of city land generally.

(a) Any land owned by the city, other than land provided for in Sections 2-237, 2-238, and 2-239, determined not be needed for city purposes, shall be advertised and may be sold to the highest bidder upon authorization of the city council, based on the appraised fair market value of such land. The selling price for such land shall never be for less than the market value fixed by city council, which determination as to such market value will be final.

(b) When such land is advertised for sale upon authorization of the city council, any bidder may bid on the basis of all or part of the consideration for such land being the conveyance to the city of good, clear and merchantable title to land which the city council, prior to the advertisement for bids, has determined is needed by the city for public purposes.

EXHIBIT B

THE PROPERTY

That certain tract of land located at the Southwest corner of WESTBURY, SECTION 4, fronting 95.37 feet on Braewick Drive, referred to and identified as RESERVE "Q" UNRESTRICTED, 0.262 acre tract, on plat of Westbury, Section 4, said plat recorded in the Office of the County Clerk of Harris County, Texas under File No. 1540475.

EXHIBIT C
BIDDER'S BOND

THE STATE OF TEXAS '

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS '

That we, _____, as Principal, and the other subscriber hereto as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of Houston, a municipal corporation of Harris, Fort Bend, and Montgomery Counties, Texas, in the sum of _____ Dollars (\$_____).

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the said Principal is submitting to the City of Houston a bid for the purchase of a parcel of City-owned property identified in the bid proposal as Parcel No. _____, in accordance with the terms and the conditions of the Bid Specifications and Bid Proposal, to which instrument reference is here made for all purposes;

NOW, THEREFORE, if the bid of the said Principal for the purchase of the above-identified parcel of land is accepted by the City of Houston and said Principal concludes the purchase of said parcel of land in strict accordance with the terms and provisions of said Bid Specifications and Bid Proposal, then this bond shall become null and void; but in the event said Principal is unable or fails to conclude the purchase of the said parcel of land in accordance with the terms and provisions of said Bid Specifications and Bid Proposal, the undersigned Principal and Surety shall be liable to the City of Houston for the full amount of this obligation, which is here and now agreed upon and admitted to be the amount of liquidated damages that will be suffered by the City of Houston on account of the failure of such Principal to comply with the bid terms. By stipulating the amount of this bond to be liquidated damages, the City of Houston does not thereby waive any other remedy available to it at law or in equity inasmuch as the terms and conditions of the City of Houston's instructions to bidders permit its securing from said Principal remedies other than monetary damages and thus unrelated to the bond herein created.

It is expressly agreed that if the bid of the Principal for the above-identified parcel of land is not accepted by the City of Houston, then the undersigned bidder or surety will be entitled, receiving therefore, to have this bond surrendered up and delivered back to said Principal and Surety.

This bond and all obligations created hereunder shall be performable in Harris County, Texas.

EXECUTED THIS _____ day of _____, A.D. 20____.

ATTEST: _____
(Principal)

(Secretary) By: _____

ATTEST:

(This is a suggested form of Bidder's Bond. Any other bond form will be subject to rejection if it fails to secure the City of Houston in the performance of the terms and conditions provided in the Bid Specifications and Bid Proposal)

EXHIBIT D

AFFIDAVIT OF NON-INTEREST

THE STATE OF TEXAS §

§

COUNTY OF HARRIS §

BEFORE me, the undersigned authority, a Notary Public in and for the State and County aforesaid,
on

this day personally appeared _____,
(Name)

who being by me duly sworn on oath stated to be: _____ of
(Position in business, if applicable)

(Name of business, if applicable)

the Bidder named and referred to in the Bid Proposal; and that said Bidder knows of no officer, agent, or employee of the City of Houston being in any way or manner interested either directly or indirectly in such Bid Proposal.

(Signature)

SWORN TO AND SUBSCRIBED before me this _____ day of
_____, A.D. 20 _____.

[SEAL]

Notary Public in and for Harris County, Texas