



Flood Control District Of Maricopa County

INVITATION FOR PUBLIC AUCTION, BID PACKAGE AND SALE AGREEMENT

SALE OF EXCESS FILL DIRT

190,000 CUBIC YARDS TO BE REMOVED

SITE: Chandler Heights Basin

LOCATION: Between Queen Creek Rd and Ocotillo Rd., west of
Higley Rd., Town of Gilbert, Arizona

MINIMUM BID - \$0.00

Tuesday, December 4, 2012
9:00 AM at the

Flood Control District of Maricopa County
Office Building
2801 W. Durango Street
Phoenix, Arizona 85009

INVITATION FOR PUBLIC AUCTION, BID PACKAGE AND SALE AGREEMENT

1. GENERAL INFORMATION:

The Flood Control District of Maricopa County (DISTRICT) will sell 190,000 cubic yards of fill dirt material (dirt) from its Chandler Heights Basin on Tuesday, **December 4, 2012 at 9:00 AM** by oral auction to the highest qualified bidder.

The dirt is located between Queen Creek Rd. and Ocotillo Rd., W. of Higley Rd, Town of Gilbert, AZ See Exhibit "A" for general location map.

No Parcel of land is involved in the sale.

Site excavation will be necessary to obtain the full quantity. The DISTRICT will provide grading plans, which must be adhered to by the SUCCESSFUL BIDDER.

The dirt must be removed by the SUCCESSFUL BIDDER no later than **April 30, 2013**.

The minimum acceptable bid will begin at **\$0.00 per cubic yard**.

The bid increments will be at **\$0.05 per cubic yard**.

A **\$5,000.00 money bid deposit** will be required by any one who desires to be bidders per paragraph 7, herein.

2. DIRT INFORMATION:

The SUCCESSFUL BIDDER is responsible for the removal of 190,000 cubic yards of dirt. Subcontracting to other parties is acceptable, but the SUCCESSFUL BIDDER retains full responsibility for the removal of the entire amount, and for compliance with all provisions of the *Invitation for Public Auction, Bid Package and Sale Agreement*, including but not limited to insurance and bonding requirements.

3. DIRT INSPECTION:

Prospective bidders may inspect the dirt during daylight hours at the Chandler Heights Basin, located between Queen Creek Rd and Ocotillo Rd., west of Higley Rd, Town of Gilbert, AZ with prior notice to Lisa Amos at 602-506-4747 Mon-Fri, 7:00 AM to 4:00 PM or via email: lla@mail.maricopa.gov. Geo-technical information about the dirt is available at the Public Works' Real Estate Division's web site at: <http://www.mcdot.maricopa.gov/real-estate/Dirt/ChandlerHeights-dirt-report.pdf>.

4. BIDDING:

All bidding is open to the public without regard to race, age, sex, religion, national origin, handicap, or marital status. The dirt is sold "**AS IS, WHERE IS**", and removal must be completed within the time period set forth in this *Invitation for Public Auction, Bid Package and Sale Agreement*.

To bid for someone else, you must have a legal, notarized specific power of attorney.

In order to qualify to bid, all potential bidders must present a money bid deposit in certified funds in the amount of **\$5,000.00** prior to start of auction. See 6. and 7. below.

Acceptable bids in excess of the minimum bid shall be in increments of **\$0.05 per cubic yard**.

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5. MINIMUM BID:

Begins at \$0.00 per cubic yard.

6. AUCTION DATE/TIME:

The auction will be held on **Tuesday, December 4, 2012, at 9:00 AM**, at the offices of the DISTRICT at 2801 West Durango Street, Phoenix, Arizona 85009. All bidders please check in with money bid deposit certified funds at least one-half hour (30 minutes) prior to start of auction for processing of paperwork.

7. MONEY BID DEPOSIT:

All bidders shall provide a money bid deposit in the form of a cashier's check, certified check, or money order in an amount equal to **\$5,000.00**, made payable to the Flood Control District of Maricopa County.

After the auction the DISTRICT will retain the money bid deposit of the SUCCESSFUL BIDDER and return unsuccessful bidders' money bid deposits.

The \$5,000.00 money bid deposit will be applied to the acquisition cost of dirt, if any, and any unused portion will be refunded to SUCCESSFUL BIDDER after completion of dirt removal.

The dirt will be transferred via Bill of Sale, and shall be signed by the SUCCESSFUL BIDDER no later than five (5) days following the auction. The bid price and closing costs (if applicable) are to be paid by the SUCCESSFUL BIDDER to the Flood Control District of Maricopa County within Ten (10) days following the auction date.

8. DEFAULT:

In the event the highest bidder is unable, for any reason, or refuses to pay the balance of the bid price, as explained in number 7. above, the \$5,000.00 money bid deposit shall be forfeited and any interest, legal or equitable in the dirt shall be forfeited and shall revert to the DISTRICT. The DISTRICT shall then award the dirt to the second highest bidder, if applicable.

All monies, insurance, bonding and permitting requirements must be satisfied for this transaction to be finalized.

9. INDEMNIFICATION AND INSURANCE:

Indemnification.

To the fullest extent permitted by law, SUCCESSFUL BIDDER shall defend, indemnify, and hold harmless the DISTRICT, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees and costs, relating to this sale, or resulting from the SUCCESSFUL BIDDER's excavation, removal or use of the dirt.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the negligence of the DISTRICT.

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Insurance Requirements.

The SUCCESSFUL BIDDER shall at times during the term of this *Invitation for Public Auction, Bid Package and Sale Agreement* keep in full force and effect:

Commercial General Liability:

Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 Products/Completed Operations Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this *Invitation for Public Auction, Bid Package and Sale Agreement*, which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00 01 10 93 or any replacements thereof.

The policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision which would serve to limit third party action over claims. The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form CG 20 10 11 85.

If the SUCCESSFUL BIDDER subcontracts any part of the work, services or operations, SUCCESSFUL BIDDER shall purchase and maintain, at all times during prosecution of the work, services or operations under this sale and auction, an Owner's Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the performance of the work, service or operations under this *Invitation for Public Auction, Bid Package and Sale Agreement*. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the SUCCESSFUL BIDDER's Commercial General Liability insurance.

Automobile Liability:

SUCCESSFUL BIDDER shall maintain Automobile Liability insurance with an individual single limit for bodily injury and property damage of no less than \$1,000,000, each occurrence, with respect to SUCCESSFUL BIDDER's vehicles (whether owned, hired, non-owned), assigned to or used in the performance of this *Invitation for Public Auction, Bid Package and Sale Agreement*.

Workers' Compensation:

The SUCCESSFUL BIDDER shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of SUCCESSFUL BIDDER's employees engaged in the performance of the work or services, as well as Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit. If any work is subcontracted, the SUCCESSFUL BIDDER will require subcontractor to provide Workers' Compensation and Employer's Liability insurance to at least the same extent as required of the SUCCESSFUL BIDDER.

General Insurance Requirements.

The insurance policies required by this *Invitation for Public Auction, Bid Package and Sale Agreement* shall name the DISTRICT, its agents, representatives, officers, directors, officials and employees as Additional Insured's.

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The insurance policies required hereunder shall contain a waiver of transfer of rights of recovery (subrogation) against the DISTRICT, its agents, representatives, officers, directors, officials and employees for any claims arising out of SUCCESSFUL BIDDER's work or service.

Certificates of Insurance.

Prior to commencing dirt removal under this *Invitation for Public Auction, Bid Package and Sale Agreement*, the SUCCESSFUL BIDDER shall furnish the DISTRICT with current certificates of insurance, or formal endorsements issued by SUCCESSFUL BIDDER's or CONTRACTOR'S insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this *Invitation for Public Auction, Bid Package and Sale Agreement* are in full force and effect. Certificates shall at all time be kept current and provided to the DISTRICT without prior notice during this *Invitation for Public Auction, Bid Package and Sale Agreement*.

Failure to do so may result in temporary shut-down of the dirt removal activities until a current certificate is provided to the DISTRICT. Such certificates shall identify the Chandler Heights Basin, between Queen Creek Rd and Ocotillo Rd., in Town of Gilbert, AZ. If a policy expires during the life of this *Invitation for Public Auction, Bid Package and Sale Agreement*, and any extension(s) thereof, a renewal certificate must be sent to the DISTRICT fifteen (15) days prior to the expiration date.

Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the DISTRICT.

10. PERFORMANCE BOND:

The SUCCESSFUL BIDDER shall furnish a Performance Bond equal to **Twenty-Five Thousand Dollars (\$25,000.00)** conditioned upon the faithful performance of this *Invitation for Public Auction, Bid Package and Sale Agreement* in accordance with plans, specifications and conditions thereof. Such bond shall be provided to the DISTRICT no later than Ten (10) days after the auction date, and shall be binding upon the transfer of Bill of Sale to the SUCCESSFUL BIDDER. Such bond shall be solely for the protection of the Flood Control District of Maricopa County.

Each such bond shall include a provision allowing the prevailing party in a suit on such bond to recover as a part of his judgment such reasonable attorney's fees as may be fixed by a judge of the court.

The bond shall be executed by a surety company or companies holding a certificate of authority to transact surety business in the State of Arizona issued by the Director of the Department of Insurance. The bond shall not be executed by an individual surety or sureties. The bond shall be made payable and acceptable to the DISTRICT. The bond shall be written or countersigned by an authorized representative of the surety who is either a resident of the State of Arizona or whose principal office is maintained in this state, as by law required, and the bond shall have attached thereto a certified copy of the Power of Attorney of the signing official. In addition, said company or companies shall be rated "Best-A" or better, as currently listed in the most recent Best Key Rating Guide, published by the A.M. Best Company.

11. CLOSING COST: none

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12. CONVEYANCE:

Upon satisfactory completion of all items and conditions of this sale, the DISTRICT agrees to transfer the dirt by **Bill of Sale**.

13. BUYERS NOTES:

The highest SUCCESSFUL BIDDER for the dirt expressly warrants that neither the SUCCESSFUL BIDDER nor their associates have directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this sale. The dirt is offered for sale "**AS IS WHERE IS,**" in the condition existing at the time of the auction, and without any expressed or implied warranties. The DISTRICT makes no representations whatsoever regarding conditions or features of the sale of the dirt.

The DISTRICT reserves the right to reject any and all bids for any reason prior to or following the auction. The DISTRICT reserves the right to cancel this auction at its sole discretion.

Pursuant to ARS 38-511, the DISTRICT, a municipal corporation and political subdivision of the State of Arizona, reserves the right to cancel within three years after execution.

A corporation may be required to show proof of authorization to do business in the State of Arizona.

14. REQUIREMENTS:

- ACCESS
 - CONTRACTOR may **not** use the East Maricopa Floodway (EMF) maintenance road for hauling or materials stockpiling. The only activity that may be considered, under the District's Right of Way Permit process, is waterline crossing.
 - While preferred there be no crossing of Queen Creek Wash to access Ocotillo Road/Higley Road intersection for hauling, if CONTRACTOR cannot obtain access across Town of Gilbert property to the north, the DISTRICT may consider allowing this access point, through its Right of Way Permit process.
 - Crossing EMF is acceptable, but maintenance road ramps' access, and flow in the EMF cannot be impeded. If this access is proposed, details must be submitted as part of the District's Right of Way Permit process, and if approved, channel, maintenance roads and ramps must be reestablished after excavation to the DISTRICT'S satisfaction.
 - CONTRACTOR will obtain required approvals for traffic control measures from the Town of Gilbert.

Use of other than approved routes and/or access points will cause all CONTRACTOR activities to be immediately shut down by the DISTRICT until DISTRICT approved routing and access is maintained.

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SITE SECURITY

CONTRACTOR is solely responsible at its expense for keeping dirt stockpile area, staging areas, ingress/egress routes and access points at all times secured from public access by any and all effective means, including fencing, gates and personnel. In no event will the CONTRACTOR leave any DISTRICT property open to the general public during or at completion of dirt removal activities. In off hours of operation, all gates will be double-locked with DISTRICT and CONTRACTOR padlocks.

• EXCAVATION

- The DISTRICT will not hold the SUCCESSFUL BIDDER responsible for any uncovering or discovery of unknown environmental materials that may be unearthed during the course of the excavation. Should this occur, excavation of the area should cease immediately, and DISTRICT Property Management Staff shall be notified as soon as possible.
- CONTRACTOR shall provide survey and staking for excavation, shall coordinate with DISTRICT survey personnel for approval prior to starting excavation, and shall provide a copy of all survey notes to the DISTRICT designated project manager.
- There will be no milestone removal requirements.
- CONTRACTOR shall excavate based on the grades shown on the marked- up basin plans (accuracy of 0 to plus 12 inches (1 foot)).
- As shown on the plans, available on the District's web site at <http://www.mcdot.maricopa.gov/real-estate/property-management.htm#dirt>, basin excavation shall start 100 feet north of the proposed Ocotillo Rd alignment, to no more than 1,100 feet north of the Ocotillo Rd alignment. See Exhibit "B", General Excavation Area. Excavation must proceed from south to north, for the (east-west) width of the basin. Design grades must be met prior to moving more than 200 feet north. The DISTRICT will retain the right to have dirt removed by others north of this location.
- The excavation must be connected (via channel) to the existing basin south of Ocotillo Road, as shown on the plans.
- Excavation shall not exceed final grade depth. Side slopes shall be no steeper than 4H: 1V TO 6H: 1V (Horizontal: Vertical). For safety reasons, vertical or near vertical side slopes are not permitted to remain after hours of operation. In the event of steep slopes, temporary fencing is required.
- CONTRACTOR is responsible for providing written reports of total excavation quantities in writing at least monthly to the DISTRICT designated project manager.
- Disturbed areas of the site must be hydroseeded with native grasses after construction. The DISTRICT will provide seed mixture specifications.

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- PERMITS
 - CONTRACTOR shall obtain and at all times keep current all applicable required Federal, State, County and Town permits, licenses and entitlements regulating, but not limited to, air quality and dust control, noise, over-road hauling, traffic control and earthmoving. Failure to comply with this provision and the conditions of applicable permits will result in immediate shut down by the DISTRICT of all CONTRACTOR dirt removal activities.
 - CONTRACTOR is responsible for controlling dust from excavation and hauling, and is responsible to obtain all required dust control permit(s), for obtaining water for dust control purposes. Nor work shall commence until dust control measures are in place.
 - A DISTRICT Right of Way use permit will be required prior to CONTRACTOR accessing the DISTRICT's property.

- GENERAL
 - Hours of Operation: Work hours must be in accordance with those allowed by the Town of Gilbert.
 - CONTRACTOR is responsible for removal and legal disposal of surface material and vegetation within the excavation area.
 - CONTRACTOR shall obtain Blue Staking in advance of any excavation activities.
 - CONTRACTOR shall give notice at least three working days in advance to the DISTRICT'S Property Management Branch: Lisa Amos at 602-506-4747 or lla@mail.maricopa.gov, when planned to be on site. The purpose of this notification is so that the DISTRICT can have on-site inspectors present as needed.
 - CONTRACTOR shall give weekly notice to the DISTRICT Property Management Branch as to the amount of dirt being excavated by truck count and an estimated volume of dirt excavated. (Truck bed holds X amount of cubic yards of material).
 - CONTRACTOR shall protect in place all existing overhead and underground utilities located on the basin site.
 - CONTRACTOR shall provide own water source.
 - CONTRACTOR understands and acknowledges that project is within an area prone to flooding and will take appropriate care to ensure safety of workers and equipment when the site has been exposed to rainfall, etc. The DISTRICT is not responsible for damage due to flooding.
 - If CONTRACTOR requires on site equipment storage, a yard area must be called out and approved as part of the DISTRICT'S Right of Way permit.

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CHANDLER HEIGHTS BASIN DIRT

Location: **CHANDLER HEIGHTS BASIN DIRT**

Location: Between Queen Creek Rd and Ocotillo Rd., west of Higley Rd, within Town of Gilbert, Arizona

AMOUNT OF BID: _____

Sale Price: \$ _____

The SUCCESSFUL BIDDER hereby acknowledges receipt of and agrees to the information and conditions set forth in this *Invitation for Public Auction, Bid Package and Sale*, and that this bid is based on the following Addenda:

The Undersigned certifies that the *Invitation for Public Auction, Bid Package and Sale Agreement* have been carefully examined, and also that the dirt has been personally inspected. The Undersigned further declares that the amount bid and the bidding process are understood and that at no time will misunderstanding of the *Invitation for Public Auction, Bid Package and Sale Agreement* be plead.

Date: _____

IF BY AN INDIVIDUAL:

Name

Street

City and State

Telephone

INVITATION FOR PUBLIC AUCTION, BID PACKAGE AND SALE AGREEMENT

CHANDLER HEIGHTS BASIN DIRT

Location: Between Queen Creek Rd and Ocotillo Rd., west of Higley Rd, Town of Gilbert, Arizona

AMOUNT OF BID: _____

Sale Price: \$ _____

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Date: _____

IF BY A FIRM OR PARTNERSHIP:

Firm Name

Firm Address

By: _____

Telephone

Name and Address of Each Member:

Name

Address

Name

Address

Name

Address

The name and address of each member of the firm or partnership must be shown.

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CHANDLER HEIGHTS BASIN DIRT

Location: Between Queen Creek Rd and Ocotillo Rd., west of Higley Rd, Town of Gilbert, Arizona

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Date: _____

IF BY A CORPORATION:

Corporation Name

Corporation Address

By: _____

Telephone

**Incorporated under the Laws of the State of _____

Names and Addresses of Officers:

President

Address

Secretary

Address

Treasurer

Address

**The name of the State under which the Corporation was chartered and names, titles, and business address of the President, Secretary, and Treasurer must be shown.

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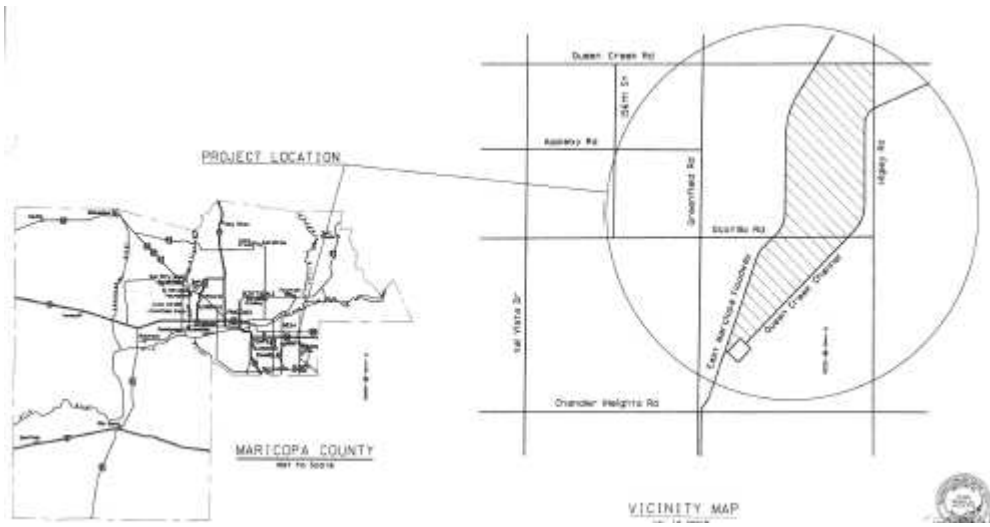


EXHIBIT "A", GENERAL LOCATION MAP

INVITATION FOR PUBLIC AUCTION, BID PACKAGE AND SALE AGREEMENT

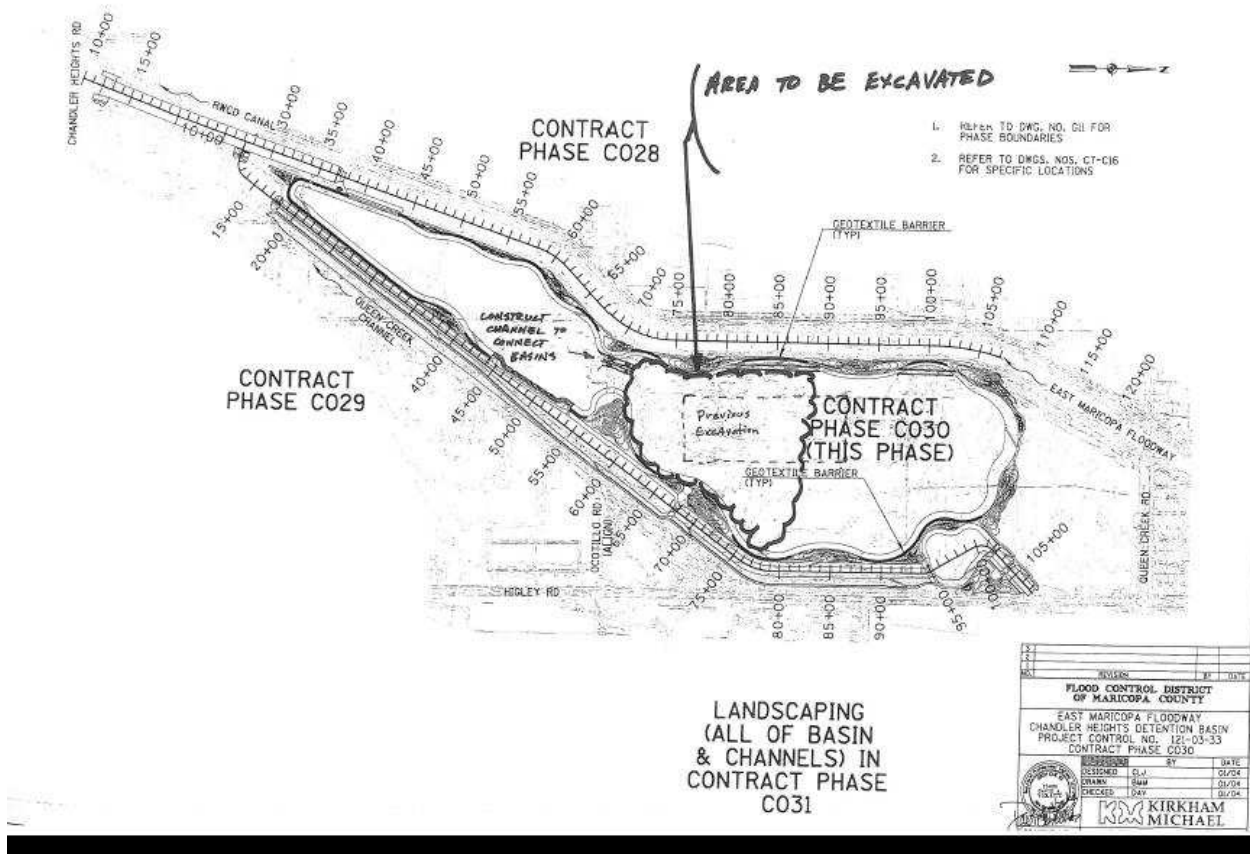


EXHIBIT "B", GENERAL EXCAVATION AREA

INVITATION FOR PUBLIC AUCTION, BID PACKAGE AND SALE AGREEMENT



Flood Control District of Maricopa County

★ 2801 West Durango Street, Phoenix, Arizona, 85009
(602) 506-1501

