

FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY

CHAPTER 31C

FORT MONMOUTH ECONOMIC REVITALIZATION
AUTHORITY

Authority

N.J.S.A. 52:27I-18 et seq., specifically N.J.S.A. 52:27I-26kk.

Source and Effective Date

R.2012 d.040, effective February 21, 2012.
See: 43 N.J.R. 2575(a), 44 N.J.R. 515(a).

Chapter Expiration Date

Chapter 31C, Fort Monmouth Economic Revitalization Authority, expires on February 21, 2019.

Chapter Historical Note

Chapter 31C, Fort Monmouth Economic Revitalization Authority, was adopted as new rules by R.2012 d.040, effective February 21, 2012. See: Source and Effective Date.

Subchapter 1, Real and Personal Property Leasing, was adopted as new rules by R.2012 d.078, effective April 16, 2012. See: 44 N.J.R. 145(a), 44 N.J.R. 1281(a).

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SUBCHAPTER 1. REAL AND PERSONAL PROPERTY
LEASING

19:31C-1.1 Applicability and scope

The Fort Monmouth Economic Revitalization Authority is promulgating this subchapter to govern the lease of real property and accompanying personal property as part of its mission in planning and implementing the redevelopment and reuse of Fort Monmouth and pursuant to authorization under P.L. 2010, c. 51 (N.J.S.A. 52:27I-18 et seq.).

19:31C-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Authority” means the Fort Monmouth Economic Revitalization Authority.

“Board” means the Board of the Fort Monmouth Economic Revitalization Authority.

“Director” means the Director of the Fort Monmouth Economic Revitalization Authority.

“FMERA” means the staff responsible for carrying out the policies, mission, and purpose of the Fort Monmouth Economic Revitalization Authority.

“Market rent” means the rental rate, commonly expressed as a rate per square foot, as determined by a professional licensed appraiser or a valuation consultant retained by the Authority.

“Plan” means the Fort Monmouth Reuse and Redevelopment Plan prepared and adopted by the Authority’s predecessor authority, the Fort Monmouth Economic Revitalization Planning Authority.

“Public agency” means a branch or office of the Federal government, State departments, agencies or authorities, public institutions of higher education, the county, and the host municipalities.

19:31C-1.3 Advertising process

(a) FMERA shall publicly advertise a notice of each opportunity for the lease of real and accompanying personal property on the Authority’s website, on the New Jersey State

business portal and place an advertisement for same in the "Public/Legal Notice" section of the Star Ledger, the Asbury Park Press and, if FMERA deems it appropriate, in other regional newspaper(s) or publications.

(b) In addition to (a) above, FMERA may contact potential lessees directly to seek to increase the number of proposals received in response to an advertised opportunity to lease.

19:31C-1.4 Proposal request

(a) The public notice of opportunity to lease shall request proposals for a lease of a particular parcel or building, which shall include the time, date, and format in which the proposal is to be submitted. The notice shall also include a name and phone number or other contact information potential lessees can use to obtain additional information about the leasing opportunity.

(b) Each public notice of opportunity to lease shall specify material terms of the lessor-lessee relationship that are to be proposed by potential lessees and material terms that are required for the particular lease and not subject to bidding shall be specified either through the advertisement for notice of opportunity to lease, a specimen form of lease agreement, or on the Authority's website.

(c) Proposals will be opened on the date specified in the public notice. After proposals have been publicly opened, FMERA may seek best and final proposals from one or more potential lessees that timely submitted a responsive proposal for the particular real property and accompanying personal property.

19:31C-1.5 Proposal submission

(a) All proposals shall be submitted on or before the specified time and date required by the public notice and contain all information requested by FMERA. Unless otherwise specified in the notice, a proposal shall not be submitted by telephone, facsimile, or other electronic means.

(b) All proposals shall include a certified, cashier's, or bank check made payable to the Authority in the amount of 10 percent of the first year's rent, which shall be held by the Authority as a deposit and applied to the rental payments for the accepted proposal, and returned to all others.

(c) Deposit checks shall be deposited by FMERA into an FDIC-insured interest bearing account with interest accruing to the benefit of the potential lessee. Deposits paid by unsuccessful potential lessees, with accrued interest, shall be returned when FMERA issues its notice of intent to award a lease in accordance with N.J.A.C. 19:31C-1.14(c).

(d) Proposals received by FMERA shall be held unopened until the close of the proposal submission period, at which time all proposals received shall be publicly opened and the identities of the potential lessees, but not the substance of the proposals, will be read.

19:31C-1.6 Extension of time to submit proposal

The Director may extend the time for opening proposals at the request of a potential lessee who notifies FMERA that he or she intends to submit a proposal and gives valid reasons why he or she will not meet the proposal opening date. The potential lessee making this request shall do so in writing and specify the length of additional time requested. The written request must be received by FMERA no later than one week prior to the proposal submission deadline. If granted, extensions of time for opening of proposals shall be applicable to all potential lessees and shall be posted on the Authority's website. All proposals shall be held and remain sealed until the expiration of the time extension granted by the Director.

19:31C-1.7 Prices

(a) A proposal shall include all material price information required by the public notice. Prices shall be typewritten, photocopied, or written in ink or some other indelible substance.

(b) Unless the public notice states otherwise, the prices submitted shall remain effective for 90 days after the opening date, subject to any negotiations conducted in accordance with N.J.A.C. 19:31C-1.13.

19:31C-1.8 Withdrawal of proposal

(a) Prior to the time for opening proposals, a potential lessee may, for any reason, request the withdrawal of his or her proposal. The request shall be made in writing to FMERA and shall be signed by a person authorized to submit the proposal (such as the owner or owner's designated representative, or an attorney or real estate broker with written permission to negotiate and act as attorney-in-fact for owner). Proof of authorization shall accompany the request.

(b) After the opening of the proposals, if either the potential lessee or FMERA discover a material error in a proposal, the potential lessee may request the withdrawal of the proposal. If the error is discovered by FMERA, the potential lessee will be notified in writing, and the potential lessee will have five business days from receipt of the notice to request withdrawal of the proposal. Any request to withdraw from the potential lessee shall be addressed to FMERA, which will return the proposal if the potential lessee can demonstrate that he or she exercised reasonable care in preparing and submitting the proposal, and that it would be unconscionable for FMERA to enforce the proposed lease agreement. The decision to grant or deny any such request shall be at the sole discretion of the Director.

19:31C-1.9 Correction of pricing error

(a) FMERA shall correct a pricing error in a leased space proposal under the following circumstances:

19:31C-2.18 Challenges

(a) After the date of the notice of intent to award a particular purchase agreement, unsuccessful bidders or parties who submitted an offer to purchase for the particular property, as applicable, will have 10 business days from the date of the notice to review:

1. The sealed bids or offers to purchase submitted by other potential purchasers;
2. FMERA's comparative summary of sealed bids or offers to purchase received;
3. The records of the negotiations, if any; and
4. Any supporting documents to (a)1, 2 and 3 above.

(b) Challenges to the notice of intent to award a particular purchase agreement shall be submitted in writing to the Director within 10 business days from the date of the letter giving notice of intent to award and shall state with specificity all arguments, materials and/or other documents that may support the challenger's position that the proposed award should be overturned. The Director may extend the time for reviewing documents or submitting a challenge on good grounds shown to the satisfaction of the Director in his or her sole discretion.

(c) If a challenge is timely received, the Director shall assign a hearing officer to review the challenge and make a

final recommendation to the Board. The Director, in consultation with the hearing officer, has sole discretion to determine if an oral presentation by the challenger is necessary to reach an informed decision on the merits of the challenge. Challenges of the type described in this subchapter, for the purpose of this chapter, are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

19:31C-2.19 Documents considered public information

(a) For sales conducted through the sealed bid process, after FMERA's issuance of notice of intent to award a purchase agreement, sealed bids and other documents submitted by potential purchasers (excluding those items exempt from public access pursuant to N.J.S.A. 47:1A-1 et seq.) shall be considered public information, notwithstanding any disclaimers submitted by the potential purchaser(s) to the contrary.

(b) For sales conducted through the offer to purchase process, after a purchase agreement has been signed by the Authority and a purchaser, documents submitted by potential purchasers (excluding those items exempt from public access pursuant to N.J.S.A. 47:1A-1 et seq.) shall be considered public information, notwithstanding any disclaimers submitted by the potential purchaser(s) to the contrary.