

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.

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SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. SALE OF REAL AND PERSONAL PROPERTY

19:31C-2.1 Applicability and scope

The Fort Monmouth Economic Revitalization Authority is promulgating these rules to govern the sale 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.). The Authority intends to execute the aforementioned task through the two processes set forth in these rules—the sealed bid process and the offer to purchase process when real and personal property have been advertised for sale.

19:31C-2.2 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.

“Offer to purchase process” means an invitation to submit an offer to purchase a particular parcel that has been advertised as being available for sale through the offer to purchase process with the offer period remaining open until the date specified in the advertisement.

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

“Sealed bid process” means a solicitation for competitive sealed bids to purchase a particular parcel that has been advertised as being available for sale through the sealed bid process with a requirement that sealed bids be received by the advertised bid due date.

19:31C-2.3 Sealed bid process

(a) For any real property and accompanying personal property to be sold through the sealed bid process, FMERA shall advertise a notice of each solicitation for sealed bids on the Authority’s website and on the New Jersey State business portal and shall 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 other publications. Advertisements on the Authority’s website and the New Jersey State business portal shall be maintained until the close of the bidding period.

(b) In addition, FMERA may contact potential purchaser(s) directly to seek to increase the number of sealed bids received in response to an advertised solicitation to purchase.

#### 19:31C-2.4 Sealed bid requests

(a) The notice of solicitation for sealed bids shall request sealed bids for the purchase of a particular parcel of real property and accompanying personal property and shall include the time, date and format in which the sealed bids are to be submitted. The notice shall also include a name and phone number or other contact information potential purchaser(s) can use to obtain additional information about the solicitation.

(b) Each solicitation to purchase through the sealed bid process shall specify material terms of the sale that are to be proposed by bidders and material terms of sale that are required for the particular sale and not subject to bid which shall be specified either through the solicitation to purchase, a specimen form of purchase agreement, or on the Authority's website.

(c) Sealed bids will be opened on the date specified in the solicitation. After sealed bids have been publicly opened, FMERA may seek best and final sealed bids from one or more bidders that timely submitted a responsive bid for the particular real property and accompanying personal property.

#### 19:31C-2.5 Offer to purchase process

(a) Before advertising a particular parcel of real property and accompanying personal property as being available for sale through the offer to purchase process, the Board shall review and approve a recommendation of the Director and FMERA to offer the property for sale through the offer to purchase process. In its determination to use the offer to purchase process, the Board also may consider various factors including, but not limited to, purchase price, jobs to be created and timing, to determine whether the offer to purchase process will enhance the economic value to FMERA or Fort Monmouth. If a party has approached the FMERA with an offer, in its determination to use the offer to purchase process, the Board also may consider the proposed purchase price as compared to a valuation of the real and/or personal property established by an appraisal report prepared by a professional licensed appraiser.

(b) For any real property and accompanying personal property to be sold through the offer to purchase process, FMERA shall advertise a notice of the availability of the property for sale through the offer to purchase process on the Authority's website, on the New Jersey State business portal and shall 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 possibly other regional newspaper(s) or publications.

(c) Each notice of availability for sale through the offer to purchase process shall specify the period of time for sub-

mitting an offer to purchase the particular property which period for submitting offers to purchase shall not be less than 30 days.

(d) In addition, FMERA may contact potential purchaser(s) directly to seek to increase the number of offers to purchase received in response to an advertised solicitation.

#### 19:31C-2.6 Submission of sealed bids

(a) All sealed bids 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 sealed bid shall not be submitted by telephone, facsimile, or other electronic means.

(b) All sealed bids shall include a certified, cashiers or bank check made payable to the Authority in the amount of 10 percent of the bid price, which shall be held by the Authority as a deposit and applied to the purchase price at closing for the accepted bid, and returned to all others.

(c) Deposit checks shall be deposited by FMERA into an interest bearing account with interest accruing to the benefit of the bidder. Deposits paid by unsuccessful bidders, with accrued interest, shall be returned when FMERA issues its notice of intent to award a purchase contract in accordance with N.J.A.C. 19:31C-2.17(e).

(d) Sealed bids received by FMERA shall be held unopened until the close of the bidding period, at which time all bids received shall be publicly opened and the identities of the bidders, but not the substance of the bids, will be read.

#### 19:31C-2.7 Submission of offers to purchase

(a) The time for submitting an offer to purchase shall remain open until the date specified in the advertisement. Unless otherwise specified in the notice, an offer to purchase shall not be submitted by telephone, facsimile, or other electronic means.

(b) All offers to purchase shall include a certified, cashiers or bank check made payable to the Authority in the amount of five percent of the offer price, which shall be held as an initial deposit. An additional deposit of 10 percent of the offer price shall be payable to the Authority on the earlier of:

1. FMERA and the potential purchaser entering into an exclusive negotiating period in accordance with N.J.A.C. 19:31C-2.16; or

2. A purchase agreement being fully negotiated and signed by the purchaser. The initial deposit and the additional deposit shall be applied to the purchase price at closing.

(c) Deposit checks shall be deposited by FMERA into an interest bearing account with interest accruing to the benefit of the party who submitted the offer to purchase. In the event an offer to purchase cannot be negotiated into an acceptable