

## NOTICE OF SALE

This Notice sets forth the terms and conditions for the sale of the real property and improvements of the County of Sussex, located at and identified as part of Lot 4, Block 21, on the tax maps of Frankford Township, Sussex County, New Jersey (the "Property") by public auction as required by N.J.S.A. 40A:12-1 et seq. Such Property was authorized to be sold and deemed to be property not needed for public use by the County pursuant to a Resolution dated March 14, 2012, entitled "RESOLUTION RE: AUTHORIZING THE CLERK OF THE BOARD OF CHOSEN FREEHOLDERS TO PROVIDE NOTICE PURSUANT TO N.J.S.A. 40A:12-13 ET SEQ. OF THE PROPOSED AUCTION SALE OF REAL PROPERTIES COMMONLY KNOWN AS 129 MORRIS TURNPIKE IN THE TOWNSHIP OF FRANKFORD AND DESIGNATED AS PART OF LOT 4 IN BLOCK 21 ON THE FRANKFORD TOWNSHIP TAX MAPS, and Resolution dated June 13, 2012 entitled "RESOLUTION RE: AUTHORIZING THE ADVERTISEMENT FOR THE SALE OF CERTAIN LAND AND BUILDINGS AND PERSONAL PROPERTY OWNED BY THE COUNTY OF SUSSEX KNOWN AS 129 MORRIS TURNPIKE, FRANKFORD TOWNSHIP, NEW JERSEY, AND KNOWN AS PART OF LOT 4, BLOCK 21 ON THE FRANKFORD TOWNSHIP TAX MAPS AND SETTING A MINIMUM BID PRICE FOR SAID PROPERTY"

The Property, more commonly known as 129 Morris Turnpike, Newton, New Jersey comprised of approximately 55,000 SF in a four story Nursing Home, and approximately 30,000 SF in a four story structure commonly known as the "Old Homestead" building, located in the AR Zone District, together will all licenses, including those necessary to operate the Nursing Home Facility operating at the premises, and such personal property as set forth in the Agreement for Sale. This conveyance of the Property is subject to all easements and restrictions of record and such state of facts that an accurate survey may reveal.

1. (a) Bids for the sale of the Property subject to the restrictions set forth in Section (a) through (g) hereof will be by open public sale at auction to the highest bidder on July 18, 2012, at 11:30 a.m., at the Sussex County Administrative Center, Freeholder's Meeting, One Spring Street, Newton, New Jersey (Option A).
- (b) Bids for sale of the Property not subject to the restrictions in Section 8 (a) through (g) hereof, will be by open public sale at auction to the highest bidder on July 18, 2012 at 12:00 noon, at Sussex County Administration Center, Freeholder's Meeting, One Spring Street, Newton, New Jersey (Option B).
- (c) All other terms and conditions of the sale set forth in this Notice shall be the same for bidding under both 1(a) and 1(b) except bidders will only need to post a deposit once to be eligible to bid on auction 1(a) and/or auction 1(b) or as otherwise set forth herein.

2. The minimum bid for the Property shall be \$6,000,000.00. The County reserves the right to accept the highest responsive bid to either of the options, if equal to or greater than the minimum bid price, or to reject all bids at the public sale and not to award to the highest bidder, for either or both options. The County reserves the right to waive any and all defects and informalities in any proposal, and to accept or reject the highest responsive and responsive bid deemed to be in the best interest of the County.

Bidders under Option A are to provide a sealed bid in the form provided in the bid package found at <https://liaison3.marcusmillichap.com/BJDDIYV3>, no later than 11:30 am., July 18, 2012, delivered to Sussex County Purchasing Office, Sussex County Administrative Center, One Spring Street, Newton, New Jersey 07860. Upon receipt of all sealed bids, and the passage of 11:30 am, the auctioneer will read aloud all sealed bids received. The highest sealed bid received by the auctioneer shall, set the minimum starting bid amount for the live auction, provided however, in no event shall such starting bid amount be less than the minimum bid amount set forth above. The auctioneer will increase bids in an amount no less than \$10,000.00.

Bidders under Option B are to provide a sealed bid in the form provided in the bid package found at <https://liaison3.marcusmillichap.com/BJDDIYV3>, no later than 12:00 noon, July 18, 2012, delivered to Sussex County Purchasing Office, Sussex County Administrative Center, One Spring Street, Newton, New Jersey 07860. Upon receipt of all sealed bids, and the passage of 12:00 noon, the auctioneer will read aloud all sealed bids received. The highest sealed bid received by the auctioneer shall, set the minimum starting bid amount for the live auction, provided however, in no event shall such starting bid amount be less than the minimum bid amount set forth above. The auctioneer will increase bids in amounts no less than \$10,000.00.

3. The County's acceptance or rejection of bids shall be made no later than at the second regular County Board of Chosen Freeholders meeting following the auction; said acceptance shall be subject to the conditions contained herein. No bid shall be considered finally accepted until passage by the County of a Resolution accepting such bid.
4. The selected bidder will be required to execute the Agreement for Conveyance of the County Nursing Home (the "Agreement for Sale") within five (5) days of the bid award by the County, and the terms of said Agreement for Sale are incorporated into this Notice. The Agreement is on file with the Clerk of the Board of Chosen Freeholders and available on line at <https://liaison3.marcusmillichap.com/BJDDIYV3>. Transfer and sale of the Property will be completed the earlier of (i) ten (10) days after receipt from the New Jersey Department of Health and Senior Services of the consent to the transfer of ownership of the license issued to the County to operate the nursing home facility located at the Property or (ii) November 1, 2012. Closing shall be

held at the Sussex County Administrative Center, Freeholder's Meeting Room, One Spring Street, Newton, New Jersey 07860, or at such other location as the winning bidder and the County shall agree, time being of the essence.

5. Prior to commencement of the auction, every person who wishes to bid on the Property will be required to provide to the person conducting the auction or to his or her assistant, a certified check or bank check in the amount of \$100,000.00, payable to the "County of Sussex" as a security deposit, and will be required to provide evidence of sufficient assets to purchase the Property. Sufficient evidence may include but is not limited to, copies of bank statements, firm lender's commitments from reputable lending institutions, brokerage accounts in the names of the principals of the bidder, or a combination of the aforementioned documents, evidencing sufficient assets to close the transaction. Persons who have not presented a certified check or bank check and who have not provided evidence of sufficient assets will not be permitted to bid. The \$100,000.00 bid security will be returned to all bidders, except for the successful bidder, if any, upon the acceptance of a winning bid by the County. The \$100,000.00 deposit of the successful bidder will be applied in accordance with Paragraph 6 below.

Any person bidding on behalf of a corporation or limited liability company must either submit a copy of a resolution or letter on its business stationary signed by the President or Managing Member of the entity authorizing the bidder to bid on the property on behalf of the entity. A person bidding on behalf of a Partnership or using a Trade Name must submit a letter of authorization from the other majority partners and certifying their ownership interest, and in the event of the use of a Trade Name, a copy of the filed Certificate of Trade Name. Failure to comply with this requirement will result in such entity or person being ineligible to bid.

6. The County will only accept bids calling for an all cash purchase of the Property. Full payment of the purchase price must be received within the time frames set forth in paragraph 4 above and as set forth herein and in the Agreement for Sale. The successful bidder will be required to pay, by either certified check, bank check, or wire transfer, a deposit equal to ten (10%) percent of the purchase price, less the deposits referenced in paragraph 5 above, within five business days of acceptance of the successful bid and upon the execution of the Agreement of Sale, with the balance of the purchase price to be paid by either certified check, bank check or wire transfer at closing. Payments made will be non-refundable, with the total deposit to be credited to the purchase price at closing.

7. The failure to submit the required deposit payments and sign the Agreement for Sale, as required herein will render the bid unacceptable and revoked, and all deposits made (including but not limited to the security deposit) shall be forfeited. The Bidder may not withdraw its bid after submission of the bid at the open public auction. The Bidder's withdrawal of a bid shall result in the forfeiture of the security deposit. The successful Bidder, prior to the time of closing of title, shall not be permitted to assign his, her, or its bid nor any right, title or interest in the Property. The County reserves the right to seek damages as provided by law in addition to the forfeiture of the bidder's deposit. Nothing contained herein shall be construed to waive the County's right to reject any bid in the manner described herein or in the Agreement for Sale.
  
8. The sale of the Property is being made subject to the terms, conditions, restrictions and limitations of an Agreement for Sale which is on file with the Clerk of the Board of Chosen Freeholders and available on <https://liaison3.marcusmillichap.com/BJDDIYV3> and subject to final subdivision approval from the Township of Frankford, including but not limited to the following terms and conditions:
  - a) The successful bidder its successors or assigns must operate property as a nursing home for a period of fifteen years.
  - b) The successful bidder shall provide an opportunity to all Employees of the County Nursing Home to interview with the successful bidder for employment at the facility.
  - c) The County obtaining a leasehold interest in a portion of the property it currently occupies as follows: 1,270 square feet of the ground level for use by the Sussex County Department of Environmental and Public Health Services for medication and material storage, and 3,689 square feet of the third floor presently occupied by Rutgers Cooperative Extension Service as office space as more fully described in the lease attached to the Agreement for Sale.
  - d) The successful bidder shall not transfer or release any current resident of the Property without their consent.
  - e) The successful bidder shall agree to provide a minimum of 65% of the beds as available for Sussex residents and/or their family members for a minimum of 10 years.
  - f) The successful bidder shall agree to assign a minimum of 65% of the beds to government subsidized payees/residents for a minimum of 10 years.
  - g) The County shall reserve certain easements and covenants of use as set forth in Exhibit "C" to the Agreement for Sale.

- h) The Property is being sold "AS IS," and "WHERE IS" CONDITION.
- i) The successful bidder shall conduct all Due Diligence prior to bidding. The County has provided financial and other information, including Environmental Assessments on the Property at <https://liaison3.marcusmillichap.com/BJDDIYV3>.
- j) The successful bidder shall bear the burden of paying any and all required fees associated with the use and operation of the Property.
- k) The successful bidder shall pay prorated real estate taxes for the balance of the current year as of the date of closing of title.
- l) The successful bidder shall bear the burden of obtaining any and all approvals for the operation of the facility from the appropriate municipal, county, state or federal governmental agencies. The successful bidder shall also bear the burden of obtaining and paying for any and all necessary permits, connections and/or arrangements to provide for electric, solid waste disposal and any agreements or arrangements necessary to operate the Nursing Home Facility.
- m) The sale of the Property is not conditioned upon the successful bidder securing financing or obtaining approvals or permits from any body of the Township, County or State or connections or arrangements from any provider of services. The successful bidder shall be required to obtain all required approvals and permits, and pay any and all fees, required by applicable law. The sale is made subject to all applicable federal, state and local laws, regulations, ordinances, resolutions, orders and directives.
- n) The Agreement for Sale may be amended from time to time by the County of Sussex up and through June 27, 2012.

Covenants a, d, e, and f set forth above shall all survive closing and the failure of the successful Bidder to comply with the requirements set forth above, or the requirements of the Agreement for Sale, will be an event of default under the Agreement for Sale and as such the County shall have, including any and all remedies available at law or in equity, including the right to seek reimbursement of such costs and expenses incurred by the County or indemnification from any losses incurred by the County, from the successful bidder. Although, it is not anticipated that the successful bidder as of the closing date would intend to sell or transfer ownership of the Property, if the successful bidder should after the closing date determine to transfer ownership of the Property, such transfer shall not violate the requirements of Covenants a, d, e or f, and the successful bidder will be required to provide evidence, satisfactory to the County that the party to whom the successful bidder proposes to transfer the Nursing Home, has agreed to comply with the terms of said Covenants.

9. The closing of title to the Property is "TIME OF THE ESSENCE", the failure of the successful Bidder to close title as agreed shall result in the successful bidder's forfeiture of any and all money deposited with the County.
10. Absent a metes and bounds description supplied by the successful bidder, the County shall convey the Property using the same description which is attached to the Agreement for Sale as Exhibit A. All bids must satisfy any requirements and meet any terms and conditions of the Agreement of Sale. The successful bidder will execute the Agreement for Sale within five (5) days of the award from the County and make its payment of the required deposit. To execute the Agreement, the bidder shall properly execute the Agreement in the signature spaces at the end. Failure to execute the Agreement properly shall not affect the obligation of the successful bidder or the validity of the sale. The deed given by the County for the Property will be a Bargain and Sale Deed with Covenants Against Grantor's Acts. No title contingencies or conditions are permitted. The personal property shall be conveyed by Bill of Sale.
11. In the event that the successful bidder fails to close title to the Property, the bidder shall forfeit all deposit monies paid to the County. No refunds whatsoever will be made by the County in the event that the successful bidder fails to complete the purchase of the Property as set forth herein and in the Agreement for Sale.
12. The successful bidder(s) shall pay the cost of recording fees and transfer taxes.
13. The sale shall be subject to adjournment or cancellation by the County.
14. Bids may be rejected by the County for any reason prior to award.
15. Bidders may bid on the Property until the Auctioneer strikes a final bid on the Property. The highest bid when struck will be the purchase price for the Property.
16. The Property will be subject to taxes from and after the date of the Bargain and Sale Deed with Covenants Against Grantor's Acts conveying the Property to the successful bidder.
17. The successful bidder shall pay any and all realty transfer taxes assessed, including the commercial mansion tax, in connection with the sale of the Property. No representation is made by the County as to the utility, usability or environmental condition of the Property.
18. The County makes no representations as to the presence or absence of wetlands or any other environmental conditions on the Property, and the successful bidder(s) assumes the risk of any and all such conditions, it being clearly represented and understood that a condition of the auction sale that the Property and any improvements thereon are being sold in their "AS IS," and

"WHERE IS" Condition, without warranty or guarantee of any nature, expressed or implied. The highest bidder accepts and shall purchase the Property in its "AS IS," and "WHERE IS" Condition, having had an ample and sufficient opportunity to inspect the Property prior to making a bid. The highest bidder for this Property, after closing of Title, shall be responsible for all present and future defects of any kind or nature in or on any part of the Property. These limitations as to condition of the Property shall survive the closing of Title.

19. Any material prepared and distributed in connection with this auction sale is for convenience purposes only and is intended to give prospective bidders a general understanding of the condition, location and size of the Property. The County is not responsible for errors that may appear in such materials. Each prospective bidder is urged to thoroughly research and examine the Property prior to placing a bid. The Property will be available for inspection by appointment only. Prospective bidders desiring to inspect the Property should contact Joshua Jandris, Senior Investment Associate, Marcus & Millichap, 8750 West Bryn Mawr Avenue, Suite 650, Chicago, Il 60631, phone 773-867-1482, fax 773-867-1510, mobile 312-399-9797 or [Joshua.jandris@marcusmillichap.com](mailto:Joshua.jandris@marcusmillichap.com).
20. Bidder(s) shall agree to indemnify and save harmless the County and any of its officials, officers, employees, assigns, designees, agents or contractors and the auctioneer, real estate broker and any of its officials, officers, employees, assigns, designees, agents or contractors for any discrepancies of any type and for any errors or omissions of any type in print, advertising or announcements and for any representations or stipulations, oral or written. The County makes no warranty or representation, expressed or implied, with respect to the property, the buildings and structures on the property, or any other conditions affecting the property in any way, manner or form. No representations of any kind are made by the County as to the condition of the property. The property is sold "as is", "where is" and with all faults.

**BY ORDER OF THE BOARD OF CHOSEN FREEHOLDERS**

  
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**Elaine A. Morgan, Clerk**

**Dated: June 13, 2012**