

SEALED BID AUCTION INSTRUCTIONS

All of the forms necessary to submit a sealed bid on the property located at 5465 Turner Road SE, Salem, OR 97317 are listed below. You must return a full completed and executed Bid Agreement, Sealed Bid Form, Financial Information Form, letter from financial institution on their letterhead and if you are being represented by a 3rd party Oregon-licensed real estate broker, the Broker Registration Form (available on the website at www.AuctionMillCreek.com), in order for your bid to be recognized. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY RESULT IN THE DISQUALIFICATION OF YOUR BID. Please provide the necessary bidder information for each document (including all exhibits and attachments), execute, notarize or have witnessed where required, and return the completed documents to Info@AuctionMillCreek.com no later than Tuesday, August 2, 2022, at 10AM PDT.

Prior to your receipt of these Auction Instructions, you should have downloaded from www.higgenbotham.com the Property Information Package which should answer most, if not all, of your questions about the property. In those materials will be property information, aerial map, title commitment, phase 1 environmental assessment, archeological and historical survey, and other documents. Please review those documents prior to filling out your bid and if you have any questions, please contact Higgenbotham Auctioneers International Limited, Inc. ("HAI") at (800) 257-4161.

Thank you for participating in this auction.

Higgenbotham Auctioneers International Limited Inc., Auctioneer

Stuart Realty Group, Inc., Broker

AmeriTitle, Title and Closing Agent

EXHIBIT A - TERMS & CONDITIONS OF AUCTION

Your execution and delivery of the Exhibit A – Bid Agreement confirms your agreement to the terms and conditions of auction as stated herein, and your acceptance of the terms and conditions of the Purchase and Sale Agreement and its Exhibits (collectively, the “PSA”).

The Property shall be sold “AS-IS, WHERE-IS” WITH no financing, appraisal, inspection, or other contingencies to sale. Higgenbotham Auctioneers International Limited, Inc. (“HAI”) as Auctioneer and Stuart Realty Group, Inc. (“SRG”) as the Oregon-Licensed Broker representing the State of Oregon, acting by and through its Department of Corrections (“Seller”) only and does not inspect properties on Bidder’s behalf.

Buyer will receive a Statutory Bargain and Sale Deed (ORS 93.860) and Buyer may purchase a Title Insurance Policy as provided by AmeriTitle, Inc., 3240 Commercial Street SE, Suite 140, Salem, OR 97302 (“AmeriTitle”), as indicated in the PSA. Current year’s taxes if any will be pro-rated through the day of Closing.

Bidder must submit as part of their bid:

1. Exhibit A - Terms and Conditions
2. Exhibit B – Bid Agreement
3. Exhibit C – First Round Sealed Bid Form
4. Exhibit D – Financial Information Form
5. Financial Institution Proof of Available Funds Letter
6. If the Bidder is being represented by a 3rd Party Oregon-Licensed Real Estate Broker, then the Broker Registration Form, available at www.AuctionMillCreek.com, must be included in the documents submitted.

The First Round Sealed Bid (FRSB) must be submitted to Info@AuctionMillCreek.com no later than Tuesday, August 2, 2022, at 10:00AM PDT. Once all FRSB’s have been received by this deadline, the Auctioneer and Broker will review these bids with the Seller. By 2:00PM PDT the same day, up to the top five (5) bidders will be notified if there will be an optional second round of bidding by live auction (“Second Round Live Auction – SRLA”) over the telephone on Friday, August 5, 2022 at 10AM PDT.

Upon the closing of the SRLA, the Winning Bidder will be required to execute and return the Purchase and Sale Agreement (with no changes) by August 5, 2022, at 2:00PM PDT. The Earnest Money Deposit funds equal to ten percent (10%) of the Total Purchase Price must be sent via bank wire transfer to AmeriTitle no later than 5:00PM PDT on Monday, August 8, 2022.

The Winning Bid and sale of the Property is subject to the Oregon Department of Corrections’ confirmation and approval.

DISCLOSURES

1. **ALL DISCLOSURES ARE MADE WITHIN THESE BIDDING DOCUMENTS AND THE PROPERTY INFORMATION PACKAGE AVAILALABLE ON THE WEBSITE AT www.AuctionMillCreek.com.**

EXHIBIT B - BID AGREEMENT

THIS BID AGREEMENT (“Agreement”) is entered into on _____, 2022, (“Effective Date”) and is by and between Higgenbotham Auctioneers International Limited, Inc., a Florida corporation, having a place of business at 1629 Shepherd Road, Lakeland, FL 33811 (“Auctioneer”), Stuart Realty Group, Inc., an Oregon corporation having a place of business at 358 NW 1st Avenue, Suite 7, Canby, OR 97013 (“Broker”) and _____, located at _____ (“Bidder”). Auctioneer, Broker and Bidder are each referred to herein as a “Party,” or collectively as the “Parties.”

WHEREAS, Auctioneer and Broker will conduct an auction (the “Auction”) for certain property owned by the State of Oregon, acting by and through its Oregon Department of Corrections (“ODOC”) or (“Seller”);

WHEREAS, the property is commonly referred to as the former Mill Creek Correctional Facility located at 5465 Turner Road SE, Salem, OR 97317 and legally described in the Purchase and Sale Agreement for this transaction and has been provided to Bidder prior to the Auction (“Property”);

WHEREAS, the Property is a unique, one of a kind asset;

WHEREAS, all entities desiring to participate in the Auction must meet certain criteria and Auctioneer and Broker will not accept bids from entities that have not executed a Bid Agreement;

WHEREAS, Auctioneer must protect the integrity of the bidding process by way of ensuring uniformity for requirements for all bidders and the *bona fide* nature of all bids;

WHEREAS, Bidder desires to participate in the Auction for the Property; and,

NOW THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. Terms and Conditions of Auction.** Bidder acknowledges that it has read the Terms and Conditions of Auction (the “Terms and Conditions”) attached hereto as Exhibit A and incorporated herein by reference. Bidder acknowledges that this Agreement and the Terms and Conditions shall govern the form of, and Bidder’s participation in, the Auction.
- 2. Proof of Available Funds Letter.** Bidder shall include with their bid, a letter from their financial institution, specifically guaranteeing that the Bidder has available cash funds or approved financing totaling the bid price being placed by the bidder in this Auction. This letter must be on

financial institution letterhead and be signed by an officer of the institution with authority to sign such document.

3. **Sealed Bid Auction.** Auctioneer and Broker shall conduct the Auction as a First Round Sealed Bid (“FRSB”) and an optional Second Round Live Auction (“SRLA”).
 - A. **Sealed Bid.** Bidder shall submit a sealed bid by completing the FRSB Form set forth in **Exhibit C** hereto. **Exhibit C** must be completed in its entirety and shall include the amount of the Bidder’s bid (FRSB), and contain a notarized signature from a representative of the Bidder having the full power and authority to legally bind Bidder to the terms hereof. The signatory of the Bidder must be a signatory officer of the corporation or limited liability company if a corporation or limited liability company, the general partner of a general or limited partnership, or the legal owner of a sole proprietorship. Bidder must enclose the FRSB Form, complete, along with their Financial Information Form and Proof of Funds Letter, an executed copy of this Agreement with Terms and Conditions, 3rd Party Broker Registration Form (if being represented by a 3rd party Oregon-licensed broker) and return the documents to Info@AuctionMillcreek.com.
 - B. **Irrevocable Sealed Bid.** Bidder understands and agrees that the integrity of the Auction requires the Bidder’s FRSB and SRSB to be an irrevocable offer to purchase the Property for a period of seven (7) days following either the FRSB Deadline or the close of the SRLA, as applicable.
 - C. **FRSB Deadline.** The FRSB must be received by Broker by **Tuesday, August 2, 2022 at 10:00AM PDT (the “FRSB Deadline”)**. Broker and Auctioneer may not recognize a sealed bid that is not submitted prior to the FRSB Deadline.
 - D. **Conclusion of FRSB Auction.** Following the expiration of the FRSB Deadline, Auctioneer, Broker and Seller shall review each FRSB and the documentation submitted hereunder. Auctioneer shall rank the FRSB’s from highest to lowest and then by **2:00PM PDT on Tuesday, August 2, 2022**, and at the Seller’s option, Auctioneer & Broker will contact up to the top five (5) bidders. **These top five (5) FRSB Auction Bidders may be invited to participate in a Second Round Live Auction (“SRLA”) by telephone on Thursday, August 4, 2022 at 2:00PM PDT.**
 - E. **Conclusion of SRLA.** At the SRLA, the last and highest bid and Winning Bidder will be determined by the Auctioneer. Following the closing of the SRLA, Broker shall forward by electronic mail the final Purchase and Sale Agreement (“PSA”) for the Winning Bidder’s execution and return to the Broker an executed final PSA with no changes to the verbiage **by no later than 5:00PM PDT on Thursday, August 4, 2022**. In addition, the 10% Earnest Money Deposit (“EMD”) of the Purchase Price (“PP”) shall be bank wire transferred to AmeriTitle **by no later than 5:00PM PDT on Friday, August 5, 2022**. Winning Bidder will be provided wiring instructions at point of execution of the PSA.

- F. **If the Purchase and Sale Agreement is not executed by 5PM PDT on Thursday, August 4, 2022 and/or the 10% EMD is not deposited with AmeriTitle by 5PM PDT on Friday August 5, 2022, Winning Bidder will be determined to be in default and Auctioneer may select the next highest bid as the Winning Bid and proceed with that bidder. If there is a default, then the Bidder Breach Remedy will be as follows in Section 5.**
- G. **Conclusion of Property Transaction.** Upon receipt of the fully executed PSA and the EMD, AmeriTitle will open escrow and proceed to prepare all required documents for closing. **NOTICE: THE ACCEPTANCE OF THE WINNING BIDDER'S BID BY THE SELLER IS SUBJECT TO THE APPROVAL OF THE STATE OF OREGON DEPARTMENT OF CORRECTIONS. IF THE SELLER DOES NOT APPROVE THE WINNING BIDDER'S BID, THE TRANSACTION WILL TERMINATE.** If the Seller approves the Winning Bid and executes the PSA, Closing will be no later than 60 days from the date of execution of the PSA by the Winning Bidder and the Seller.
4. **Bidder Financial Information.** Bidder shall complete the Financial Information Form attached hereto as **Exhibit D**. Bidder shall include information detailing how Bidder intends to fund the Winning Bid they are submitting for the Property, and any documentation establishing Bidder's ability to do so. In addition, Bidder shall attach a letter from their financial institution, on financial institution letterhead, signed by an officer of the financial institution at a vice president-level or higher, guaranteeing the Bidder has readily-available funds or pre-approved financing to purchase the Property at the price being bid in the FRSB and/or SRLA, as applicable.
5. **Bidder Receipt of Property Information Package -Volumes 1 and 2.** Bidder acknowledges they have downloaded the Property Information Package from the AuctionMillCreek.com website and read the contents of the documents within the Property Information Package.
6. **Bidder Breach; Remedy.** THE PARTIES AGREE THAT IT IS EXTREMELY DIFFICULT OR IMPOSSIBLE TO ACCURATELY ESTIMATE THE AMOUNT OR EXTENT OF AUCTIONEER'S, BROKER'S OR SELLER'S INJURIES RESULTING FROM A BREACH OF THIS AGREEMENT BY BIDDER, AND BASED ON THE UNCERTAINTY OF SUCH ESTIMATION, BIDDER AGREES THAT LIQUIDATED DAMAGES ARE A PROPER REMEDY FOR BIDDER'S BREACH OF THIS AGREEMENT. THEREFORE, BIDDER AGREES THAT LIQUIDATED DAMAGES SHALL BE SET AT THE SUM OF FIFTY-FIVE THOUSAND AND 00/100 DOLLARS (\$55,000.00), AND THAT THIS AMOUNT IS A REASONABLE AND SATISFACTORY REMEDY FOR INJURIES SUFFERED BY AUCTIONEER OR SELLER AS A RESULT OF BIDDER'S BREACH OF THIS AGREEMENT. BIDDER FURTHER AGREES THAT THE LIQUIDATED DAMAGES AMOUNT SET FORTH HEREIN CONSTITUTES A REASONABLE AND SATISFACTORY PRE-BREACH ESTIMATION OF AUCTIONEER'S AND BROKER'S DAMAGES, AND SHALL NOT IN ANY WAY BE CONSIDERED A PENALTY. THIS BIDDER BREACH REMEDY ONLY APPLIES TO THE BID AGREEMENT AND IS SEPARATE AND APART FROM THE PURCHASE AND SALE AGREEMENT WHICH THE EARNEST MONEY DEPOSIT IS NON-REFUNDABLE UPON SELLER'S ACCEPTANCE OF THE PURCHASE AND SALE AGREEMENT.

7. **Bidder Registration.** Bidder's execution of this Agreement confirms its registration for the Auction as set forth in the Terms and Conditions.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives as of the Effective Date.

BIDDER:

By: _____

Name: _____

Position: _____

AUCTIONEER:

Higgenbotham Auctioneers International
Limited, Inc.

By: _____

Name: Martin E. Higgenbotham

Position: President

BROKER:

Stuart Realty Group., Inc.

By: _____

Name: Tim D. Stuart

Position: President

EXHIBIT C – FIRST ROUND SEALED BID FORM

Sealed Bid Deadline: 10:00AM PDT, August 2, 2022

Property: 5465 Turner Road SE, Salem, OR 97317

SEALED BID AMOUNT: \$ _____

PLEASE CHECK ONE:

- If my/our bid is among the top 5 First Round Sealed Bids, I/we want to participate in the Second Round Live Auction to defend my/our bid and/or have the opportunity to increase my/our bid.
- I/we voluntarily elect to opt out of the Second Round Live Auction. This is my/our best and final bid.

“I have read and signed the Exhibit A Terms and Conditions of Auction and the Exhibit B Bid Agreement submitted herewith and agree to bound by the rules of the Auction as set out by the Auctioneer as well as the Terms and Conditions of the Purchase and Sale Agreement and agree to purchase the Property for the First Round Sealed Bid Amount if not participating in the Second Round.”

Bidder Representative: _____
(Signature)

Bidder Representative: _____
(Printed with Title)

Bidder Address: _____
(Incl. City/State/Zip)

Bidder Representative: _____
E-Mail Address

Bidder Representative: _____/
Phone/FAX

Date: _____

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022 by

_____.

Notary Public

My commission expires _____

EXHIBIT D – FINANCIAL INFORMATION FORM

Please provide a brief statement of how the Bidder intends to fund the amounts of the Sealed Bid and Live Auction Bid, as applicable, and the contact information of the Bidder’s financial institution in the event Bidder intends to secure financing (please note, acquiring financing for the purchase is not a contingency to Closing on the property). Please include any additional information the Auctioneer or Seller may deem relevant in determining the Bidder’s ability to fund the Sealed Bid and Live Auction Bid amounts.

1. **Bidder’s Funding Statement** (Please explain Bidder’s intended source of funds)

2. **Financial Institution Information.** If Bidder intends to secure funding from a financial institution, please provide the following:

Name of Financial Institution: _____

Address of Financial Institution: _____

Name of Loan Officer or FI Representative: _____

Title of Loan Officer or FI Representative: _____

Phone Number of Representative: _____

E-Mail Address of Representative: _____

3. **Additional Information:** _____
