

**INSTRUCTIONS FOR ACCESSING BID MATERIAL FOR NOVEMBER 1st, 2018
SEALED BID OF 1120 CURRAN STREET NW, ATLANTA, GA 30318**

- 1) Download this document.
- 2) Print the document to hard copy or save the pdf
- 3) NEATLY write your email address if it is different from the email address you use to send the form back (or if you fax it)
- 4) CAREFULLY READ pages 2 through 6 below. These contain the complete Terms and Conditions of the Sealed Bid, and outline the Agreement which you must sign in order to participate.
- 5) Sign and date the Agreement to Be Bound by the Terms of the Auction (Page 7 below).
- 6) Email the completed form INCLUDING THIS PAGE to info@amcbid.com or fax to 770-980-9383
- 7) We will then send you the Bid Material.

EMAIL ADDRESS: _____

**AGREEMENT TO BE BOUND BY THE TERMS OF THE SEALED BID AUCTION
FOR 1120 CURRAN STREET NW, ATLANTA, GA 30318**

TERMS AND CONDITIONS

BIDDER'S INFORMATION PACKET: A Bidder's Information Packet (Packet) has been assembled and contains the Sealed Bid Purchase and Sale Agreement (Sealed Bid PSA), and information related to submitting a Lease Agreement for a leaseback of property to Seller. The Packet is available on our website, and can be obtained by filling out and signing this Agreement to be Bound by Terms of the Auction and returning it to info@AMCbid.com or faxing to 770-980-9383.

ATTORNEY REVIEW: We recommend that all bidders have the PSA and the Packet reviewed by the bidder's attorney prior to bidding. The terms of this sale are governed by the terms of the Agreement.

INSPECTION: Property will be open for inspection on Wednesday, October 17 and Wednesday, October 24 from 10:00 AM to 2:00 PM and by appointment. The property is being offered for sale in its existing condition subject to the terms of the Agreement. The Purchaser may not rely upon disclosures, representations or warranties other than those provided in the Agreement. We strongly recommend you thoroughly inspect the property prior to the auction. Those inspecting the property assume all risks associated with any inspection.

SALE/ LEASEBACK: Seller is willing to execute a Lease Agreement with Purchaser for a 10 year initial term with a 3% per year escalation, and a Year One annual payment of \$300,000 (\$25,000 per month). Seller/Lessee to pay CAM, Taxes and Insurance, with five annual renewal terms provided such right is exercised by Purchaser 365 days prior to term expiration. Purchaser/Landlord may terminate such right provided such termination is exercised by Purchaser/Landlord 730 days prior to term expiration. Seller/Tenant shall have right to repair, maintain or replace any and all building equipment and systems, or to remove and dispose of same, at his sole cost and expense. Purchaser/Landlord shall maintain building structure, shell, foundation, roof and parking at his sole cost and expense. These terms are included as an Agreement to Lease Letter of Intent Exhibit attached to the Sealed Bid PSA and Bidders are to provide a Lease Agreement as a part of the sealed bid submission which should conform as closely as possible with these terms. No lease commission shall be payable by Seller to Purchaser's broker, if any.

SELLS TO MOST ACCEPTABLE CONFORMING BIDDER: This property will be sold for the highest acceptable bid in Seller's sole discretion conforming to the requirements of the PSA and the most acceptable Lease Agreement submitted by Bidder. Any changes or modifications to the Sealed Bid PSA (other than filling in the designated fields such as bid amount, buyer's premium, price, bidder name, etc.) or failure to submit the bid deposit in the required amount may result in the disqualification of the offer. Bidders wishing to lease the property back to Seller must also prepare and submit a Lease Agreement on substantially the same terms specified in the Agreement to Lease Letter of Intent, attached as Exhibit B to the Sealed Bid PSA. Consideration will be given to the Lease Agreement which conforms most closely to the terms of the Agreement to Lease Letter of Intent.

BIDDING: This is a sealed bid auction. To bid in the auction, your fully executed Purchase and Sale Agreement and Bid Deposit in the form of a cashier's check, certified funds or wire transfer must be delivered to Auction Management Corporation and received by 10:00 AM Eastern Time, on Thursday, November 1st, 2018. Bids are to be sent to Auctioneer, Julian E Howell, Auction Management Corporation, 1827 Powers Ferry Road, Building 5, Atlanta GA 30339. Bids may also be transmitted electronically via email to jeb@AMCbid.com with subject header entitled SEALED BID, provided that

required funds are received by the 10:00 AM ET deadline via wire transfer or physical delivery to AMC office. Bids or funds that are received after the deadline will not be eligible for consideration and will be returned to the sender unopened. To be safe, we strongly recommend that funds be delivered or wired no later than 24 hours prior to the deadline, as we cannot be responsible for wires delayed by the banks.

CASHIER'S CHECK OR WIRE TRANSFERRED FUNDS ARE REQUIRED: A cashier's check or wire transferred funds in the amount of \$50,000, as a required Bid Deposit, is required to bid. Checks are to be made payable to Auction Management Corporation Escrow Account. Wire instructions will be provided upon request. To ensure wire transfer is received by 10:00 AM ET on November 1st, wire should be initiated no later than 24 hours prior to bid deadline.

BIDDING REQUIREMENTS: All bids must be submitted on the Sealed Bid PSA form (including Exhibit B if applicable) supplied in the Bidder's Information Packet. Any bid submitted that does not conform may be rejected at Seller's option for the bid's non-conforming elements. Any proposed modifications shall be submitted through Auctioneer. The deadline for a bidder's submission of proposed non-conforming modifications to the Sealed Bid PSA and/ or the Agreement to Lease Letter of Intent, attached as Exhibit B to the Sealed Bid PSA, shall be four (4) business days prior to the auction bid deadline. The Auctioneer will respond with the Seller's acceptance or rejection of the proposed modification no later than two (2) business days prior to the auction bid deadline. The submission of the bid must also include a Bid Deposit in cashier's check or wire transfer in the amount specified in the Terms of Sale made payable to the Auction Management Corporation Escrow Account.

EXHIBIT B AGREEMENT TO LEASE LETTER OF INTENT: The Sealed Bid PSA form, accessed by signing and returning this Agreement to be Bound by the Terms of the Sealed Bid Auction, contains an Exhibit B outlining the proposed terms of the lease in greater detail than the terms of the Sale/ Leaseback language in this document. If Exhibit B is checked (ie you wish to lease the building back), the Agreement to Lease letter must be signed and returned along with the completed and signed Sealed Bid PSA. If you intend to conform with the points identified in the Agreement to Lease LOI, you must check that choice. If you intend to submit a Lease Agreement with points that diverge from the Agreement to Lease LOI, you should check that choice, and identify the points upon which your Lease Agreement would differ. If Exhibit B is not checked, and offer is acceptable, Seller reserves the right to accept that offer by Friday, November 2nd at 5:00 PM.

SUBMISSION OF LEASE AGREEMENT: The top 3 acceptable bidders will be contacted by 5:00 PM on Friday, November 2nd. They will then be invited to prepare and submit a proposed Lease Agreement containing substantially the same terms outlined in the Agreement to Lease Letter of Intent, attached as Exhibit B to the Sealed Bid PSA. The deadline for submission of Lease Agreement shall be Wednesday, November 7th at 5:00 PM.

CONSIDERATION PERIOD: The Consideration Period shall be the time necessary for the Seller to review all submitted Lease Agreements, and shall be for five days, ending no later than Monday, November 12th at 5:00 PM. The Bid Deposits shall be held by Auction Management Corporation in escrow during the Consideration Period. Upon full execution by Purchaser and Seller of the Sealed Bid PSA and Lease Agreement, the Bid Deposit for the winning conforming bid will be deposited by Auctioneer into the designated Escrow and Closing Agent's Escrow Account, as Initial Earnest Money in accordance with the terms of the Agreement. Within one business day of notice from Auctioneer of execution of Sealed Bid PSA and Lease Agreement, the winning bidder will be required to pay Additional Earnest Money to Escrow and Closing Agent so as to increase the earnest money down-payment to 5% of the purchase price, either by cashier's check or wire transfer. Auctioneer will return Bid Deposits for unsuccessful bids to the bidders within two business days of Seller acceptance and execution of the Sealed Bid PSA and Lease Agreement.

BID CONSIDERATION: Bids will be given priority based on the following criteria:

1. Highest Purchase Price (Bid Amount plus 8% Buyers Premium).
2. Bids that conform to the terms and conditions of the Agreement.
3. Lease Agreements that conform to the Agreement to Lease Letter of Intent

No negotiations shall take place with parties other than the participants of the sealed bid program during the Consideration Period. Seller will give favor to the highest bid, but reserves the right to accept a lower bid which most closely conforms with the terms and conditions of the Lease Letter of Intent. Seller reserves the right, in its sole and absolute discretion, to reject any and all bids which do not conform to the form PSA. If Purchaser chooses not to submit a Lease Agreement and Winning Bid as submitted on Sealed Bid PSA is otherwise acceptable to Seller, Seller reserves the right to accept the offer.

LEASE NEGOTIATION PERIOD: In the event the Lease Agreement submitted by Winning Bidder (pursuant to Exhibit B of the Sealed Bid PSA) requires additional negotiation between Buyer and Seller (ie it either contains terms not addressed in Agreement to Lease or it does not conform to the terms specified in Agreement to Lease), the PSA provides for up to 1 week after November 12th to negotiate lease terms acceptable to Buyer and Seller. The Bid Deposits shall continue to be held by Auction Management Corporation in escrow during the Lease Negotiation Period. If lease is not executed by November 20th, contract may be terminated unless the parties require additional time to negotiate.

BID AWARD: All bids are subject to Seller acceptance on or before conclusion of the Consideration Period. Bids must remain irrevocable by the bidders during this time. All bidders will be notified of the Seller's decision in writing, with notice delivered by email, facsimile, overnight carrier, personal delivery or certified mail. Failure to notify the bidder does not constitute acceptance by the Seller, but converts the bid to a revocable offer.

BID DEPOSITS RETURNED: Upon Seller acceptance of the Winning Bid submitted on the Sealed Bid PSA and Lease Agreement, unsuccessful bidders' bid deposits will be returned to them. You can either provide wiring instructions or we will overnight you a check.

DEPOSIT REQUIREMENT: Upon Seller acceptance of the Winning Bid submitted on the Sealed Bid PSA and Lease Agreement (if applicable), the successful bidder must deliver within one business day additional earnest money via wire transfer to Escrow and Closing Agent which together with Initial Bid Deposit shall increase the earnest money deposit to five (5%) of the Purchase Price (Bid Amount Plus 8% Buyer's Premium). Auctioneer shall also deliver to Escrow Agent the Initial Bid Deposit. Balance will be paid in full at closing. Escrow and Closing Agent is James M. Ottley, Esq, Stout Kaiser Matteson Peake & Hendrick, LLC, Phone: (770) 349-8214.

Winning bidder will be notified immediately following Seller acceptance no later than Monday, November 12th or upon successful negotiation of the lease contract (in no case later than November 20th) and the executed Sealed Bid PSA and executed Lease Agreement will be electronically delivered. Escrow Agent wiring instructions will also be provided for transmittal of the Additional Earnest money.

BUYER'S PREMIUM: An eight percent (8%) Buyer's Premium will be added to the final high bid price to determine the Purchase Price. The PSA must be filled in with the bid and the 8% Buyer's premium. For example, a bid of \$3,000,000, plus an eight percent buyer's premium, or \$240,000, results in a Purchase Price of \$3,240,000. If an offer is submitted with incorrect math, the offer may be rejected at

Auctioneer's discretion. Please contact the Auctioneer if you require clarification prior to submitting your bid.

SELLER'S AGENT: Auction Management Corporation and all licensees employed by or associated with Auction Management Corporation who are involved with this auction, represent the Seller in this real estate transaction.

PURCHASER'S BROKER COMPENSATION: Unless noted otherwise in property listing or herein, a broker commission of one (1%) of the winning bid amount will be paid on real estate. A commission will only be paid to the properly licensed buyer's broker ("Agent") whose prospect purchases and closes on the real estate. To qualify for a commission, the Agent must register by mail, email, fax or hand delivery using the Broker Registration form posted to the website for the property listing prior to bidder registration. The registration form must be signed by the prospect and the Agent, and must be received at an office of Auction Management Corporation no later than 5:00 PM two (2) days prior to bid deadline via fax or mail. In no case will a broker registration be accepted after a bidder has inspected the property. Agent must also sign the Sealed Bid PSA. Commissions to be paid only upon closing. An Agent cannot act as a principal and a broker on the same transaction. No lease commission shall be payable by Seller to Purchaser's broker, if any.

The Purchaser's broker ("Agent") must accompany his or her client during the viewing date. All registrations will be acknowledged in writing and the Agent must bring the registration acknowledgment letter to the inspection for registration purposes. No oral registrations will be accepted. No agency relationship will be recognized for a client who has previously contacted or been contacted by the Auctioneer or its agents. Referral fees are based on the High Bid Price at Closing. If an Agent has not met all of these requirements, no compensation will be paid, even if the Agent's client purchases the property.

FOR ADDITIONAL TERMS OF SALE: See Purchase and Sale Agreement.

The Seller and Auctioneer and their agents assume no liability for inaccuracies, errors or omissions in the auction marketing materials, including the Bidder's Information Packet. ALL ACREAGE, SQUARE FOOTAGE, DIMENSIONS, AND TAXES IN THIS AND OTHER MARKETING MATERIALS ARE APPROXIMATE. This offering may be withdrawn, modified or canceled without notice at any time. This is not a solicitation or offering to residents of any state where this offering is prohibited by law.

PURCHASING AND CLOSING: Purchaser shall execute a Sealed Bid PSA for the property immediately after being declared the successful bidder by Auctioneer. The Sealed Bid PSA can be accessed by downloading, signing and returning this Agreement to Be Bound By Terms Document. The Sealed Bid PSA which Purchaser must sign contains an acknowledgment that Purchaser has inspected the property prior to the auction, is relying solely on his/her inspection, and is purchasing the property As Is with all faults and without reliance on any warranty of any kind whatsoever. UNLESS BIDDER COMPLIES WITH THE PROCEDURES ESTABLISHED IN THE "**BIDDING REQUIREMENTS**" CLAUSE OF THIS DOCUMENT, NO CHANGES WILL BE MADE TO SAID SEALED BID PSA OR ANY EXHIBITS ATTACHED THERETO, AND PURCHASER WILL BE OBLIGATED TO EXECUTE AND DELIVER SAID SEALED BID PSA AT SEALED BID DEADLINE. Provided, however, Seller reserves the right to modify or amend said Sealed Bid PSA, to complete blank sections, to attach appropriate exhibits, and to comply with state and local laws as may be enacted or amended from time to time. **Additional Earnest Money for a Winning Bidder (Purchaser) must be in the form of wire transfer only.**

Closing must occur no later than the earlier of 30 days following full execution of the PSA and Lease Agreement, or **Thursday, December 20th, 2018** unless extended in writing by mutual consent of the parties. Seller reserves the right to extend the closing for an additional 15 days in the event the property

is sold to a Purchaser with an intended use other than leasing the property back to Seller, as clients with servers in the building require a 30 day notice in order to move out. Balance of purchase price will be paid in full at closing. Purchaser not closing within the contractual time period to close may forfeit his/her earnest money deposit.

FINANCING: Please note that financing is NOT a contingency of the sealed bid offering. Because financing is NOT a contingency, all potential bidders must make certain in advance that they are capable of obtaining the necessary financing to close the transaction.

PLATS/SKETCHES/DRAWINGS AND PHOTOS: Are not to be relied on. Existing legal descriptions are not guaranteed for complete accuracy. All acreage and dimensions are approximate and could be subject to change upon an actual field survey. All stakes, signs or flags indicating boundaries or location are for general location purposes only and are not to be construed as precise property corners.

EASEMENTS: The property sold is subject to recorded easements which include existing roads and planned roads, power line and other utility easements, ingress and egress easements, and other easements of record.

PURCHASER'S NOTE: Auctioneer reserves the right to add or delete property from this sealed bid auction or to alter the order of sale from that published herein. Personal on-site inspection of the property is strongly recommended. Failure to inspect property prior to auction does not relieve Purchaser of contractual obligations of purchase. Property sells As Is - Where Is with no warranties expressed or implied. Real property to be conveyed by Special Warranty Deed. Only the following sale closing costs will be paid by Seller: (1) Commissions or brokerage fees to Auctioneer and/or cooperating Brokers as set forth in separate agreement with Auctioneer, and as established in these Terms and Conditions; (2) Tax Stamps (unless Seller is exempt); (3) reasonable title corrective expenses, in Seller's sole determination; and (4) Prorated property taxes and back taxes due, if any. All other closing costs, including but not limited to surveys, title examination, title policy and any fees charged by title company, loan closing costs, and Escrow and Closing Agent fees are at the expense of the Buyer. Closing must occur at the offices of the Escrow and Closing Agent. Unless noted otherwise, Buyer pays all closing fees charged by Escrow and Closing Agent.

Information was gathered from reliable sources and is believed to be correct as of the date this material is published; however, this information has not been independently verified by Seller or Auctioneer. Its accuracy is not warranted in any way. There is no obligation on the part of Seller or Auctioneer to update this information. The Seller does not have any liabilities whatsoever for any oral or written representations, warranties or agreements relating to the property except as expressly set forth in the PSA. There is no obligation on the part of the Seller or Auctioneer to accept any backup bids in the event the high bid falls through.

FOR DETAILED INFORMATION VISIT OUR WEBSITE AT www.AMC.bid or contact Jeb Howell, 770-841-9924 or jeb@AMCbid.com

(SIGNATURE PAGE FOLLOWS)

In return for receiving a Sealed Bid Packet for the **SEALED BID AUCTION OF 1120 CURRAN STREET NW, ATLANTA, GA 30318,**

I agree to be bound by all of the terms in the Document titled

“AGREEMENT TO BE BOUND BY THE TERMS OF THE SEALED BID AUCTION OF 1120 CURRAN STREET NW, ATLANTA, GA 30318”

This Document is posted on the Auction Management Corporation website, and by signing below I acknowledge that I have read and understand the entire Document.

The Sealed Bid Packet contains the Real Estate Sealed Bid Sales Agreement, the Escrow Account Wiring Instructions, the outline of acceptable lease terms in the form of a Lease LOI, and additional Confidential Information if available to Auctioneer.

AGREED THIS _____ DAY OF OCTOBER, 2018

ENTITY: _____

BY: _____

ITS: _____

SIGNATURE: _____