

ORDINANCE NO. 2019-8

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER,
SALEM COUNTY, STATE OF NEW JERSEY, AUTHORIZING THE SALE OF
BLOCK 18, LOT 12 COMMONLY KNOWN AS 28 STATE STREET**

WHEREAS, the Local Lands and Building Law, N.J.S.A. 40A:12-1, et seq., authorizes the sale of any real property, capital improvement, and/or personal property which is surplus and is no longer needed for public use; and

WHEREAS, the Borough Council has determined that municipally owned real property identified as Block 18, Lot 12 (28 State Street), is surplus and no longer necessary for municipal or public purposes; and

WHEREAS, Block 18, Lot 12 (28 State Street) is vacant land which intersects with State Street; and

WHEREAS, pursuant to N.J.S.A. 40A:12-13(b)(5), a municipality may, by private sale, sell to the owner of the real property contiguous to the Borough property being sold; provided that the real property being sold is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon; and

WHEREAS, Block 18, Lot 12 (28 State Street) consists of 0.459 acres, and is located in the C-LI Zone District; and

WHEREAS, Block 18, Lot 12 (28 State Street) is without any capital improvements thereon; and

WHEREAS, there exists only two (2) owners with real property contiguous to Block 18, Lot 12 (28 State Street); and

WHEREAS, the Borough of Elmer Tax Assessor has determined that the fair market value assessment for the parcel is \$7,000.00; and

WHEREAS, the Borough Council has determined that it is in the best interest of the residents of the Borough to sell Block 18, Lot 12 (28 State Street).

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Elmer, County of Salem and State of New Jersey that the Borough owned real property identified as Block 18, Lot 12 (28 State Street) is surplus and no longer necessary for municipal or public purposes, and therefore, shall be sold pursuant to the provisions of N.J.S.A. 40A:12-13 et seq. for the minimum bid amount of \$7,000.00; and

BE IT FURTHER ORDAINED, that the sale is subject to the successful Buyer complying with the "Terms and Conditions of Sale" attached hereto; and

BE IT FURTHER ORDAINED, that title to the property shall be conveyed by Quitclaim Deed such that the Borough's conveyance is limited to any interest it has in said property;

BE IT FURTHER ORDAINED, that executed copies of this Ordinance shall be on file and shall be available for public inspection in the Office of the Borough Clerk.

Severability.

Should any section, clause sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

Repealer.

All prior Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

When effective.

This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

BOROUGH OF ELMER

BY: _____
Joseph Stemberger, Mayor

ATTEST:

Sarah D. Walker, Registered Municipal Clerk

	<u>MOTION</u>	<u>SECOND</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Schneider	_____	_____	_____	_____	_____	_____
Davis	_____	_____	_____	_____	_____	_____
Nolan	_____	_____	_____	_____	_____	_____
Foster	_____	_____	_____	_____	_____	_____
Schalick	_____	_____	_____	_____	_____	_____
Zee	_____	_____	_____	_____	_____	_____

The Ordinance published herein was introduced and passed upon first reading at a meeting of the Mayor and Council of the Borough of Elmer, in the County of Salem and State of New Jersey, held on November 13, 2019. It will be further considered for final passage, after public hearing hereon, at a meeting of said Mayor and Council to be held in the Borough Hall, 120 South Main Street, Elmer, New Jersey 08318, on December 11, 2019 at 7:30 P.M. During the week prior and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's office at Borough Hall, 120 South Main Street, in the Borough, to the members of the general public who shall request the same.

Sarah D. Walker, Registered Municipal Clerk

**BOROUGH OF ELMER
TERMS AND CONDITIONS OF PUBLIC AUCTION
FOR THE SALE OF BLOCK 18, LOT 12
(28 STATE STREET)**

1. The description of the property is intended as a general guide only and may not be accurate. No representations of any kind are made by the Borough of Elmer as to the condition of the property; the premises are being sold strictly in its present condition "AS-IS".
2. The sale is made subject to all applicable laws, statutes, regulations and ordinances of the United States, State of New Jersey, County of Salem and the Borough of Elmer.
3. No employee, agent or officer of the Borough of Elmer has any authority to waive, modify or amend any conditions of the sale.
4. Bids for any and all of the property must be made for a sum equal or greater to the minimum bid price of \$_____.
5. The property will be conveyed by a Quitclaim Deed and such conveyance shall be subject to all covenants, restrictions, reservations and easements established of record or by prescription and without representation as to character of title of the property to be conveyed.
6. All sales are subject to the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq. and all rights reserved by the Borough by such law.
7. Bidder shall deposit cash, check or money order in the amount of not less than 10% of the high bid price at the time of sale. In the event the successful bidder fails to deposit 10% of the bid price at the time of the sale, the Borough will re-auction the property at the same public sale. If the successful bidder fails to pay the deposit, the bidder shall be responsible for any difference between their bid and the final sale bid in the event such bid is lower than the bid of the original bidder.
8. The winning bidder shall abide by all zoning, subdivision, health and building regulations and codes and acknowledges that this sale will not be used as grounds to support any variance from or relaxation of the Borough's Zoning Code.
9. The winning bidder acknowledges that failure to close title as agreed shall be cause to forfeit all funds deposited with the Borough.
10. The winning bidder acknowledges that the purchase price shall not be used before any County Board of Taxation, Tax Court of New Jersey, or in any court of this State as grounds to support a challenge of the existing assessments with regard to other property.
11. The Borough reserves the right to withdraw the offer of sale of each property.
12. All sales are subject to final approval by the Borough Council.
13. The Borough does not warrant or certify title to the property and in no event shall the Borough of Elmer be liable for any damages to the purchaser-successful bidder if title is found unmarketable for any reason and the purchaser-successful bidder waives any and all right in damages or by way of liens against the Borough. The sole remedy being the right to receive a refund prior to closing of the deposit paid in the event title is found unmarketable.

It shall be the obligation of the successful purchaser to examine title to the premises prior to the closing. In the event of closing and a later determination is made that title is defective, the Borough shall not be responsible for the same and shall not be required to refund money or correct any defect in title or be held liable for damages.

14. Acceptance of the offer of the highest bid shall constitute a binding agreement of sale, and the purchaser shall be deemed to agree to comply with the terms and conditions of the sale herein contained.
15. The successful bidder shall bear the burden of obtaining any and all approvals from the appropriate municipal, county or government agency, if applicable. 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 cable, water, electric, sewer or solid waste disposal.
16. The Borough reserves the right to accept the highest responsive bid 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. The Borough 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 Borough.
17. This sale is made subject to such state of facts as an accurate survey may disclose, existing tenancies, rights of persons in possession, easements, conditions, covenants and restrictions and any other encumbrances of title which the Borough Council may impose on any parcel at the time of the sale, including but not limited to restrictions on the use to be made of such real property, capital improvements or personal property and any conditions of sale as buildings or structures, or as to the type, size or other specializations of buildings or structures, and the time within such conditions shall be operative, or any other conditions of sale in like manner to the same extent as by any other purchaser.
18. In addition to the terms and conditions set forth herein, successful bidders agree that the Borough shall impose the following conditions:
 - a. To deposit cash, cashier's check or money order in an amount not less than 10% of the high bid price at the time that the bid is submitted.
 - b. To pay on or before the date of closing:
 - i. The balance of the purchase price.
 - ii. The cost of preparation of all legal documents and advertising costs relating to the property.
 - iii. The prorated real estate taxes, for the balance of the current quarter as of the date of closing.
 - iv. The realty transfer fees.
 - v. All recording fees.