

IN THE UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF ILLINOIS - EASTERN DIVISION

In re:) Chapter 11
) Case No. 20-11616
 HESPERUS PEAK, INC., et al.)
) (Jointly Administered)
 Debtors.) Honorable Janet S. Baer

BID PROCEDURES

The following sets forth the procedures for bidding and auction (the “Bid Procedures”) pursuant to which Hesperus Peak, Inc., an Illinois corporation (“Hesperus”) and Bleu’Spa, Inc. (“Blue’Spa”), an Illinois corporation (each a “Debtor” and collectively, the “Debtors”) will solicit bids and sell substantially all of their assets (the “Property”) pursuant to sections 1123(a)(5)(D) and 1141(c) of the Bankruptcy Code.

1. The Debtors shall hold an auction (the “Auction”) pursuant to the procedures described herein commencing at 10:00 a.m. on **August 19, 2021** at the offices of Bauch & Michaels, LLC, 53 West Jackson Blvd., Suite 1115, Chicago, IL 60604 (or such other place selected by the Debtors upon reasonable advance notice to all Qualified Bidders). At such Auction, the Debtors will consider offers for the purchase of the Property. The Property may be offered for sale as a going concern or in individual lots, to be determined by the Debtors, in consultation with Crystal Lake Bank & Trust Company, N.A. (“Crystal Lake Bank”).
2. Until the close of business the day prior to the Bid Deadline defined in paragraph 3 herein, the Debtors shall deliver a copy of a descriptive memorandum describing the Property to any party that requests such information. Prospective bidders shall be responsible for the payment of all costs and expenses incurred in connection with their due diligence investigation.
3. Qualified Bidders are those parties who submit a Qualified Bid (defined below in Paragraph 4) for the Property received in writing not later than 5:00 p.m. CST on **August 5, 2021** at the address listed below:

Bauch & Michaels, LLC
 Attn: Carolina Y. Sales
 53 W. Jackson Blvd, Suite 1115
 Chicago, IL 60604
 Tel. (312) 588-5000

4. Each Qualified Bid shall remain open and irrevocable until the Auction, with the Winning Bid and Back-up Bid remaining open and irrevocable until the closing of the sale of the Property pursuant to a Final Accepted Offer (as defined in paragraph 13 below). Each Qualified Bid shall include the following:

- a. An asset purchase agreement (“APA”) executed by and enforceable against the Qualified Bidder, constituting a binding and enforceable offer to purchase either substantially all of the Debtors’ assets, groups of assets, or individual assets. Each bid shall also be accompanied by an APA proposed by the Qualified Bidder and shall specifically identify (i) the Bidder and (ii) the amount of the bid offered for substantially all of Seller’s assets, groups of assets, or individual assets.
 - b. Signed statement that the bidder has no financial or due diligence contingencies and that the bidder understands that the sale of the Property is on an AS-IS, WHERE-IS basis.
 - c. Transferred to the Debtors’ Bankruptcy attorney a cash deposit, to be held in escrow in the amount of ten percent (10%) of the bid amount (the “Qualified Bidder Deposit”).
5. **SBWD, Inc. Stalking Horse Bid.** SBWD is designated as the stalking horse pursuant to its offer to purchase the Property. SBWD will be deemed to be a Qualified Bidder for all purposes under the Bid Procedures. SBWD has submitted an offer of \$50,000 in new funds for the purchase of the Property owned by Hesperus; \$50,000 in new funds for the purchase of the Property owned by Bleu’Spa; the assumption of Loan #0624 to Crystal Lake Bank with a balance as of the Petition Date of \$296,817.08; the assumption of all unredeemed prepetition and postpetition gift certificates; the execution of a new lease with ABT Owner 1, L.P. (Hesperus’s landlord); the execution of a new lease with Earl S. Hickrod (Bleu’Spa’s landlord); the execution of a salon retail agreement with Aveda Services; and the continued employment of the Debtor’s employees. SBWD intends to employ Coakley as its chief executive officer with a salary of \$85,200.00. The total value this offer is approximately \$396,817.08.
6. Notwithstanding anything herein to the contrary, to the extent that the holder of any Allowed Secured Claim secured by the Property seeks to bid at the sale of the Property, such creditor’s right to **credit bid its combined secured claims up to the amount of its outstanding claim for principal and non-default contract rate interest, to the extent such right exists, is preserved.** The holder of any Allowed Secured Claim will be deemed to be a Qualified Bidder for all purposes under the Bid Procedures without submission of an Asset Purchase Agreement and without requiring compliance with provisions 4(b) and 4(c) herein.
7. The Debtors or their representative shall notify all Qualified Bidders of the bid that the Debtors deem to be the highest and best offer for the Property on or before the Auction. The Debtors, in consultation with Crystal Lake Bank, may also provide to Qualified Bidders, at their discretion, but not as a requirement, copies of any other bids submitted to the Debtors if the Debtors believe that such dissemination of bid information will facilitate the Auction. Each Qualified Bidder, by submitting a bid, authorizes the Debtors to disseminate copies of its bid to other Qualified Bidders.
8. Parties wishing to participate in the Auction may do so either by Zoom or telephone.

9. At the commencement of the Auction, the Debtors shall (i) announce any material changes made to the terms of any Qualified Bid since the date such Qualified Bid was submitted to the Debtors and (ii) confirm the Qualified Bid that the Debtors deem to comprise the highest and best offer for substantially all of the Debtors' assets, groups of assets, or individual assets. Bidding for substantially all of the Debtors' assets, groups of assets, or individual assets at the Auction shall start at the highest and best offer, as determined in the Debtors' reasonable discretion. Qualified Bidders shall thereafter have a reasonable amount of time to increase the compensation offered in their Bids as such are currently outstanding, proceeding auction-style with Qualified Bidders announcing their increased bids. All bids shall increase in increments to be determined. No matching bids will be permitted.
10. After the presentation of one or more increased bids, at the request of a Qualified Bidder or on its own initiative, the Debtors shall announce which Qualified Bid it deems to comprise the highest and best offer for substantially all of the Debtors' assets, groups of assets, or individual assets, until no increased bids are forthcoming, at which time the last bid announced by the Debtors to be the highest and best offer shall be accepted by the Debtors as the winning bid. Only Qualified Bidders who have submitted a Qualified Bid within the deadline set forth in paragraph 3 herein shall have the right to submit additional bids at the Auction.
11. The Debtors may recess the Auction from time to time in its discretion in order to allow Qualified Bidders to assess whether they will increase their outstanding Bids and to allow the Debtors to analyze the outstanding bids. The Debtors shall close the Auction on the later of the sale order becoming final and non-appealable or within 14 days after the close of business of the date of the Auction.
12. The Debtors shall have the discretion to determine the relative value of any Qualified Bid, to determine whether to accept or reject any Qualified Bid, and to determine which Qualified Bid it deems to comprise the highest and best offer for substantially all of The Debtors' assets, groups of assets, or individual assets.
13. At the Auction, after the conclusion of bidding, the Debtors shall, in consultation with Crystal Lake Bank, select the offer that the Debtors determine, subject to the requirements of the Bankruptcy Code, to reflect the highest or best value for substantially all of the Debtors' assets, groups of assets, or individual assets (the "Final Accepted Offer"), taking into account any and all relevant factors: including, but not limited to, the terms and conditions of the proposed APA; the scope of the proposed transaction; the form and market value of any non-cash consideration offered; the aggregate value offered for the Debtors' Assets; and the likelihood and timing of closing on such proposed transaction.
14. At the Auction, after conclusion of bidding, the Debtors shall notify any person submitting a Final Accepted Offer that such person's offer has been determined by Seller to be a Final Accepted Offer ("Winning Bidder"). After notification that a Qualified Bidder is a Winning Bidder, the Qualified Bidder Deposit of such Winning Bidder shall be non-refundable. The deposit of the Winning Bidder shall be applied to the purchase

price at closing or, if such Qualified Bidder is unable or unwilling to close the transaction, be forfeited to the Debtors.

15. If a Qualified Bidder participates in the Auction but is not determined to be a Winning Bidder, then its Qualified Bidder Deposit shall be returned within five (5) business days of the completion of the Auction.
16. The sale of the Property shall be free and clear of liens with any liens to attach to the proceeds of the sale, with the exception that the closing of a sale pursuant to a credit bid shall be subject to liens senior in priority, if any.
17. Any interpretations of these Bid Procedures and disputes regarding the Bid Procedures shall be resolved by the Bankruptcy Court.

DEBTORS' RESERVATION OF RIGHT TO ALTER BID PROCEDURES

The Debtors reserve the right, in consultation with Crystal Lake Bank, to alter the Bid Procedures set forth above, as follows:

18. The Debtors reserve the right to cancel the Auction upon either of the following events:
a) the Debtors receive a commitment for a loan to refinance a substantial portion of the obligations of Crystal Lake Bank or b) the Debtors receive the consent of Crystal Lake Bank to do so.

GENERAL PROVISIONS

19. The Debtors, in consultation with Crystal Lake Bank, may extend the deadlines set forth in these Bid Procedures, may recess or adjourn the Auction at any time or from time to time, or may seek adjournment of the Sale Hearing, and/or may adopt or implement such other or additional procedures or requirements, that in the reasonable discretion of the Debtors and Crystal Lake Bank serve to further an orderly Auction and Bid process, all without further notice except to Crystal Lake Bank. The Debtors shall file with the Bankruptcy Court appropriate notices of adjournment with respect to any such extension or adjournment.
20. The Debtors shall keep Crystal Lake Bank informed with respect to the Auction and Auction Process. The Debtors shall provide Crystal Lake Bank with copies of all Qualified Bids as soon as possible after receipt of such bids.
21. The Bankruptcy Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of these Bid Procedures.