

R2023-65

RESOLUTION AUTHORIZING AWARD OF A CONTRACT FOR AUCTION SERVICES WITH MAX SPANN R.E. & AUCTION CO., AUCTION SPECIALIST

WHEREAS, the Town of Phillipsburg has a need to acquire professional services relative to the conducting of the sale of property not needed for municipal purposes; and

WHEREAS, Max Spann R.E. & Auction Co. submitted a proposal dated March 1, 2023, to provide auction services relative to the sale of municipal property, which is made a part hereof and attached hereto; and

WHEREAS, the Town of Phillipsburg is not responsible for payment of any brokerage commissions as Max Spann R.E. & Auction Co. will charge a BUYERS PREMIUM payable solely by the purchaser and has determined it will charge a BUYERS PREMIUM of ten percent (10%) to be added to the sales price which sum shall be due and payable at closing from the sale proceeds, and said sale will be contingent upon said Buyer's Premium being paid by the purchaser; and

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey, that the Mayor and Acting Municipal Clerk are authorized to enter into a Contract with Max Spann R.E. & Auction Co. pursuant to the agreement made a part hereof and attached hereto;

AGREEMENT, dated this ----- day of -----
----- 2023, by and between Town of Phillipsburg with a mailing address of
120 Filmore Street, Phillipsburg, NJ 08865 (hereinafter referred to as the "SELLER"), and Max
Spann R.E. & Auction Co., a licensed New Jersey Real Estate Broker and Certified Auctioneer,
with a business mailing address of P.O. Box 4992, Clinton, New Jersey 08809 (hereinafter
referred to as "Max Spann R.E. & Auction")

WITNESS

WHEREAS, the parties seek to list property for sale through Max Spann R.E. & Auction
Co. and to attempt to effectuate the sale of real property listed on schedule A (the "Property")
at an Auction to be conducted by Max Spann R.E. & Auction Co., Auction specialist, and

WHEREAS, the parties wish to enumerate the services to be provided by and
compensation paid to Max Spann R.E. & Auction Co. in connection with the listing and
auctioning of Property.

NOW, THEREFORE, the parties agree as follows:

1. **AUCTION:** Seller authorizes Max Spann R.E. & Auction Co. to take such action as
may be reasonably necessary in conformance with N.J.S.A. 40A:12-13 to advertise
and conduct an auction to procure a purchaser for the Property.
2. **SERVICES:** Max Spann R.E. & Auction Co. shall provide the following services to the
Seller in connection with the listing and auctioning of the Property and/or future real
estate properties the municipality sells during the term of this Agreement:
 - (a) Advertise the Auction in media deemed most effectual and appropriate
by Max Spann R.E. & Auction Co.
 - (b) Furnish a qualified Auctioneer.
 - (c) Post and circulate promotional material on the Property promoting the
Auction.
 - (d) Take any and all other action reasonably calculated in conformance with
N.J.S.A. 40A:12-13 to effect an advantageous sale of the Property in accordance
with the terms of this Agreement.
3. **TERMS AND CONDITIONS OF SALE:** The terms and conditions of sale are as follows:
 - (a) The terms and conditions of sale are more particularly set forth in a Contract
of Sale, Resolution Authorizing Sale and Notice of Sale prepared by the Seller's
attorney, which documents shall be distributed by Max Spann R.E. & Auction Co.
to prospective purchasers prior to the Auction.

(b) The Contract of Sale shall notify purchaser that the three (3) day attorney review period does **not** apply to this transaction.

(c) The Seller reserves the right to accept or reject any/or all bids. Seller will give notice of acceptance or rejection of bid no later than 15 days following the auction. Any reserve price established by the Seller will be non-published and be held confidential between the Seller and Max Spann R.E. & Auction Co. until the conclusion of the Auction.

(d) Max Spann R.E. & Auction Co., a New Jersey licensed real estate broker, shall hold all deposit money. In case of forfeiture by a prospective purchaser of any earnest money payment upon the above described properties, said deposit money shall be divided equally between the parties hereto, one-half to the Seller and one half to the Max Spann R.E. & Auction Co.

(e) The closing of title shall take place within forty-five (45) days of Seller's acceptance of the bid.

(f) Seller authorizes Max Spann R.E. & Auction Co. to advertise the Property.

4. **COMPENSATION:** The Seller is not responsible for payment of any brokerage commissions. In accordance with prevailing custom and practice, Max Spann R.E. & Auction Co. will charge a BUYERS PREMIUM payable solely by the purchaser and has determined it will charge a BUYERS PREMIUM of ten percent (10%) to be added to the sales price which sum shall be due and payable at closing from the sale proceeds. Seller agrees sale will be contingent upon said Buyer's Premium being paid by the purchaser.
5. **TERM:** This Agreement shall extend from the date hereof for a one-year period (the Term"). Seller shall be obligated to pay Max Spann R.E. & Auction Co. the compensation set forth in section 4 above on any completed purchase of the Property resulting from an accepted bid on the Auction date or during the Term.
6. **SELLER'S REPRESENTATIONS:** Seller makes the following representations:
- (a) Seller understands its responsibilities under New Jersey's Law against Discrimination and agrees to abide by the same.
 - (b) Seller has title to the Property and the legal right to enter into this Agreement.
 - (c) Seller will provide Max Spann R.E. & Auction Co. with a certified list of individual parcels and lots to be included in the sale. Said list shall designate properties as conforming or non-conforming and be certified as to accuracy by the appropriate municipal official/employee.

(d) Seller shall convey title free from all liens and encumbrances, except those liens and encumbrances which would be revealed by a title search of the property. Seller further agrees to defend, indemnify and hold harmless Max Spann R.E. & Auction Co., its officers, directors and employers from any and all claims of any nature whatsoever, including but not limited to claims arising from Seller/Purchaser Contract disputes, zoning, title or environmental issues as they pertain to the Property or to off-site conditions relating to the Property of the Municipality.

(e) Seller hereby agrees to indemnify, defend and hold Broker harmless from any and all damages, claims, losses or demands, resulting from the Broker's performance (unless due to Broker's negligence, willful misconduct or fraud) of its duties hereunder on any transaction which is the result thereof.

7. **PROSPECTIVE PURCHASERS:** Seller shall refer to Max Spann R.E. & Auction Co. any and all inquiries from prospective purchasers or real estate brokers concerning the Property, from the date hereof until the end of the Term.
8. **BIDDER:** Max Spann R.E. & Auction Co. does not guarantee production of the highest bidder, nor does it guarantee execution of a Contract of Sale by the highest bidder at the Auction.
9. **APPLICABLE LAW:** This Agreement shall be governed by and construed in accordance with the Law of the State of New Jersey. In the event any part of this Agreement shall be negated as a matter of law, it is the intent of the parties that the balance of the Agreement shall remain in full force and effect. This Agreement shall be binding upon the heirs and assigns of both parties.
10. **ENTIRE AGREEMENT:** This Agreement constitutes the entire Agreement between the parties and may not be amended or cancelled except by an Agreement in writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have affixed their hands, as of the date first above written.

SELLERS

MAX SPANN REAL ESTATE & AUCTION CO.

By: _____

Maximillian M. Spann, President

Mayor,

Attest:

Clerk,

Secretary,

3.18.19

Schedule A- Properties to be Auctioned



TOWN OF PHILLIPSBURG

OFFICE OF THE TAX COLLECTOR

120 FILMORE STREET
 PHILLIPSBURG NJ 08865
 PHONE: 908-454-5500 Ext 307
 Fax: 908-213-1613
 February 24, 2023

TOWN OWNED PROPERTY

NEW BLOCK/LOT	PROPERTY ADDRESS	BALANCE AS OF 12-31-22		SOLD/ DESCRIPTION
		ASSESSED VALUE	SALE PRICE	
908/9	51 FRONT ST	1,500.00		LAND
2007/7	191 HOWARD	63,500.00		OLD FASCO FINISHING
1508/14	27 FOX ST	12,800.00		LAND
1508/13	144 MERCER ST	13,100.00		LAND
2430/52.02	936 HILL ST	29,100.00		LAND
2002/16	140 Sitgreaves	19,200.00		LAND
1401/7	76 Filmore	22,600.00		LAND
2002/20	150 Sitgreaves	35,900.00		HOUSE
302/2	78 BROAD ST	100,800.00		LAND
513/10.02	688 BELVIDERE RD	40,300.00		LAND
2806/1	1116 SO MAIN ST	25,000.00		
2006/24	CHERRY LANE			
1410/15	253 WASHINGTON ST	40,400.00		HOUSE
2430/30	BANK ST	108,000.00		LAND
2004/69	139 CEDAR	19,200.00		HOUSE ROW
1311/2	MARY ST	19,800.00		LAND
		551,200.00		