

**PROFESSIONAL SERVICES AGREEMENT
FOR
AUCTION MARKETING SERVICES**

AGREEMENT, dated this ^{6th} day of ~~September~~ ^{OCTOBER} 2017, by and between The City of Atlantic City with a mailing address of 1301 Bacharach Blvd, Atlantic City, NJ 08401 (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:12-1 et seq. (the Local Lands and Buildings Law) 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 the second regular meeting of the governing body 30 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 escrow. 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., except Max Spann R.E. & Auction Co.'s portion shall not exceed the regular commission due.
 - (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. Max Spann R.E. & Auction Co. charges a BUYERS PREMIUM of ten percent (10%) for all properties. The Buyer's Premium will 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. In order to properly advertise and promote this auction, Broker intends to spend a marketing budget of \$12,000 for a standard multi-parcel sale. This budget will include items such as advertising, brochure printing and mailing, venue rental and other "out of pocket" expenses necessary to conduct an auction. In the event the closing of title does not occur within a 90 days of the auction due to seller's rejection of high bid amount or imperfection of title, Broker shall be reimbursed for the amount of buyers premium that would have been due and payable to Max Spann R.E. and

Auction within 90 days of written notice for reimbursement. If a closing does eventually occur said sum shall be credited towards the Buyer's Premium. The Buyer's Premium shall be earned and payable when the deed is delivered and the purchase price is paid. Reimbursement sums paid to Max Span R.E. & Auction Co., shall not exceed \$12,000.00 in the aggregate. In the event buyer or highest bidder refuses or fails to close on the property and seller has fully performed the seller will not be liable for a reimbursement amount to Max Span R. E Auction. In the event seller exercises its right to reject highest bid and the buyer has fully performed seller shall only be responsible for a buyer's premium if the bid was equal to or greater than the assessed value. The compensation set forth in section 4 only applies to the properties listed on Schedule "A" attached herto.

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. TITLE TO PROPERTY:

(a) Seller has title to the Property and the legal right to enter into this Agreement.

(b) Seller will provide Max Spann R.E. & Auction Co. with a list of individual parcels and lots to be included in the sale. Said list shall designate properties as conforming or non-conforming and be provided by the appropriate municipal official/employee.

(c) 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.

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 Properties listed on Schedule "A", 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.

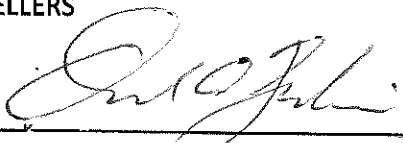
9. **APPLICABLE LAW:** This Agreement shall be governed by and construed in accordance with the Law of the State of New Jersey. In the event any part of this Agreement shall be negated as a matter of law, it is the intent of the parties that the balance of the Agreement shall remain in full force and effect. This Agreement shall be binding upon the heirs and assigns of both parties.

10. Events of Force Majeure: For the purpose of this Agreement, an "Event of Force Majeure" means any circumstance not within the reasonable control of the Party affected, but only if and to extent that (i) such circumstance, despite the exercise of reasonable diligence and the observance of Good Utility Practice, cannot be, or caused to be, prevented, avoided or removed by such Party, and (ii) such circumstances materially and adversely affects the ability of the Party to perform its obligation under this Agreement, and such party has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on the Party's ability to perform its obligations under this Agreement and to mitigate the consequences thereof. Either Party shall be excused from performance and shall not be in default in respect of any obligation hereunder to the extent that the failure to perform such obligation is due to a Natural Majeure Event .


11. 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



DONALD A. GUARDIAN
Mayor,



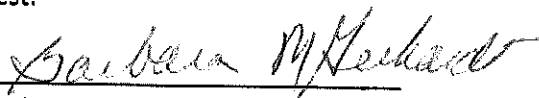
Clerk, PAULA GELETEI

MAX SPANN REAL ESTATE & AUCTION CO.

By: 

Maximillian M. Spann, President

Attest:



Secretary,

The within Agreement approved as to form and execution

Date: 10-2-17

Michael J. Perugini, Esq.

By: 

NOTICE FOR PUBLIC SALE

By virtue of Resolution No. 474 of 2017 adopted by the Council of the City of Atlantic City on August 9, 2017 the Mayor or his designee, will offer for PUBLIC AUCTION, and sell to the highest bidder, on **Thursday, October 12, 2017 at 12:00 p.m. at the Atlantic City Convention Center, 1 Convention Blvd., Atlantic City, NJ 08401**, the land and premises described as follows:

	Block	Lot	I	Property Location
1	36	42		127 S TEXAS AVE RR #B
2	36	43		127 S TEXAS AVE RR #A
3	54	56		114 S OCEAN AVE
4	122	12		32 TAYLOR AVE
5	122	39		417 BADER AVE
6	122	41		445 ATLANTIC AVE
7	123	2		412 GRAMMERCY PL
8	123	10		24 N RHODE ISLAND AVE
9	124	15		22 N IRVING AVE
10	124	23		8 N IRVING AVE
11	124	55		315 ATLANTIC AVE
12	124	56		317 ATLANTIC AVE
13	124	57		319 ATLANTIC AVE
14	124	68		17 N RHODE ISLAND AVE
15	124	70		2 ESMOND PL
16	124	73		1 ESMOND PL
17	128	47		1 S METROPOLITAN AVE
18	139	12		11 S NORTH CAROLINA AVE
19	139	20		25 S NORTH CAROLINA AVE
20	139	24		27 S NORTH CAROLINA AVE
21	141	6		9 S SOUTH CAROLINA AVE
22	280	37		2305 ATLANTIC AVE RR
23	280	38		2301 ATLANTIC AVE RR
24	301	68		11 N VIRGINIA AVE
25	315	7		129 N PENNSYLVANIA AVE
26	337	23		2313 ARCTIC AVE
27	337	26		110 MISSISSIPPI AVE #A
28	337	49		2321 ARCTIC AVE RR
29	337	64		5 BLAKE ST RR #B (ALLEY)
30	337	67		10 SIRACUSA TERR (ALLEY)
31	452	1		1314 ADRIATIC AVE
32	499	6		506 N OHIO AVE
33	510	10		603 N INDIANA AVE RR

34	510	16	615 N INDIANA AVE RR
35	513	1	509 N INDIANA AVE
36	513	17	507 N INDIANA AVE #B
37	513	18	507 N INDIANA AVE #A
38	526	40	1418 SEWELL AVE #A
39	684	15	1401 N MICHIGAN AVE

The City Council reserves the right upon completion of the Public Sale to accept the highest bid or reject all bids made thereat, to adjourn, postpone or remove any property from sale at any time, even after submission of bids, without notice.

All bids for the purchase of the property must be accompanied by an Earnest Money Deposit in the amount of 10% of the highest bid. The balance shall be due and payable on the date of settlement, which shall be on or before December 1, 2017, by cash, certified check, or cashier's check, as aforesaid. The City Solicitor may for good cause extend the time of settlement for a reasonable period. Should the successful bidder fail to make settlement as required the City will retain the said deposit and the property may be offered to the second highest bidder from the October 12th Auction or put up for sale again at the discretion of the City.

The City reserves the right to add any conditions to the sale of any property at the time of auction. If the successful purchaser defaults on any condition imposed, title to the property shall immediately and without further action revert back to the City and all funds paid to the City for the property shall be retained by the City.

Paula Geletei, CITY CLERK

Resolution of the City of Atlantic City

No. 270

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Assistant City Solicitor /s/ Benjamin J. Kaufman

Director/s/ Elizabeth Terenik, Planning & Development

Prepared by City Solicitor's Office

Council Members SHABAZZ & RANDOLPH present the following Resolution:

RESOLUTION TO AWARD A PROFESSIONAL SERVICES CONTRACT TO MAX SPANN REAL ESTATE & AUCTION CO.

WHEREAS, the City of Atlantic City has a need to retain a Professional Auctioneer to provide marketing and auctioneer services; and

WHEREAS, such professional services fall within Section (6) of N.J.S.A. 40A:11-2, which services are a specific exemption to the requirements for public bidding under N.J.S.A. 40A:11-5(1)(a), and that Professional Auctioneer is qualified to provide such services.

WHEREAS, the vendor must comply with "Local Unit Pay-to Play Law" (P.L. 2004, c.19, as amended by P.L. 2005, c.51) and City of Atlantic City Ordinance No. 11 of 2011 establishing that business entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Atlantic City; and

WHEREAS, **MAX SPANN REAL ESTATE & AUCTION CO.** has submitted a proposal indicating they will provide services as a Professional Auctioneer as needed to market and auction City-owned real estate and/or tax liens, with compensation to be in the form of a buyer's premium to be added to the purchase price and payable solely by the purchaser; and

NOW, THEREFORE, BE IT RESOLVED that the Mayor is duly authorized to negotiate and execute and the City Clerk to attest a contract to be approved by the City Solicitor, which contract shall provide for the provision of professional auctioneer services from **MAX SPANN REAL ESTATE & AUCTION CO.**, with a business mailing address of P.O. Box 4992, Clinton, New Jersey 08809.

BE IT FURTHER RESOLVED that Public Notice of this Resolution shall be published in THE PRESS at least once pursuant to the requirements of N.J.S.A. 40A:11-1, et seq., as amended.

BE IT FURTHER RESOLVED that award of contract is contingent upon State approval.

Sh October 2, 2017 10:47 AM

DO NOT USE SPACE BELOW THIS LINE													
RECORD OF COUNCIL VOTE ON FINAL PASSAGE													
COUNCIL MEMBER	AYE	NAY	N.V	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
CHENG	X						MARSH	X					
DELGADO	X						RANDOLPH	X				X	
GILLIAM		X					SHABAZZ	X					X
KURTZ		X					TIBBITT		X				
SMALL, PRESIDENT								X					
X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second													

This is a Certified True copy of the Original Resolution on file in the City Clerk's Office.

DATE OF ADOPTION: APRIL 26, 2017

/s/ Paula Geletei, City Clerk