

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE PRIVATE SALE OF CERTAIN MUNICIPAL PROPERTY LOCATED AT HILLARD ROAD IN BLOCK 39 LOT 46 (F/K/A BLOCK 39A LOT 4) OWNED BY THE BOROUGH OF MOUNT ARLINGTON NOT REQUIRED FOR PUBLIC PURPOSES PURSUANT TO N.J.S.A. 40A:12-13(B)(5)

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-13, et seq., authorizes the sale by municipalities of any real property, capital improvements or personal property, or interests therein, not needed for public use by sale in the manner provided by law; and

WHEREAS, the Borough of Mount Arlington is the owner of certain real property not needed for public use, and the Mayor and Council have determined that it is in the best interest of the Township to sell the same; and

WHEREAS, the Local Lands and Buildings Law authorizes municipalities to sell property not needed for public use by private sale to a contiguous property owner where the property to be sold is less than the minimum size needed for development and it without any capital improvements; and

WHEREAS, the parcel to be sold is a vacant .184 acre lot located on Hillard Road in Block 39 Lot 46 (F/K/A Block 39A lot 4). See Appraisal Report prepared by the Borough Tax Expert, Scott J. Holzhauser, CTA, SCGRE, dated July 5, 2018, attached as “**EXHIBIT A**”, and incorporated herein as if set forth at length; and

WHEREAS, on June 12, 2018, the Mayor and Borough Council of the Borough of Mount Arlington determined that it is in the best interests of the Borough to sell this parcel to a contiguous property owner; and authorized the Borough Tax Expert to issue an appraisal report describing the property and the current market value.

BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, and the State of New Jersey that the property identified herein shall be sold by private sale to a contiguous property owner for not less than fair market value of the interest to be sold, said sale being made expressly subject to the following terms and conditions:

Section 1. The Property hereinafter identified shall be sold, pursuant to N.J.S.A. 40A:12-13(b)(5), to the highest bidder by private sale to a contiguous property owner, for not less than fair market value. It is the responsibility of the bidder to determine whether the property is subject to any encumbrances, liens, zoning regulations, easements, other restrictions, and the Borough makes no representations as to the parcel identified herein.

Section 2. The private sale shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney. The Borough Administrator and Mayor shall be authorized and empowered to sign all documents required to effectuate the sale of this parcel for not less than fair market value.

Section 3. The Buyer shall further abide by the following terms and conditions:

- A. The Buyer shall conduct all necessary title searches prior to the date of the sale. The cost for any title insurance shall be the responsibility of the Buyer.
- B. The description of the property above is intended as a general guide only and may not be accurate. This lot shall be conveyed subject to existing encumbrances, liens, zoning regulations, easements, other restrictions, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefiting said property.
- C. The Buyer, at its sole expense, shall have the right to conduct environmental and other inspections of the Property with results satisfactory to Buyer and its lender but must complete such inspections within thirty (30) days of adoption of this ordinance.
- D. If necessary for a legal description, the Borough Engineer shall perform a survey of the property being sold in form and substance satisfactory to the Borough, which said survey will be at Buyer's sole expense; and said survey, shall be certified to the Borough.
- E. The sale is made subject to all applicable laws, statutes, regulations and ordinances of the United States, State of New Jersey and the Borough of Mount Arlington, including, without limitation those concerning disposition of municipal real estate.
- F. No employee, agent or officer of the Borough of Mount Arlington has any authority to waive, modify or amend any of the conditions of the sale.
- G. The property shall be conveyed by 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.
- H. The Buyer shall deposit cash, check or money order in the amount of not less than 10% of the purchase price upon execution of a contract of sale. If the prospective Buyer defaults on the contract of sale, the deposit shall be forfeited and shall become the property of the Borough.
- I. The Buyer shall pay at the time of closing:
 - (1) The balance of the purchase price;
 - (2) Legal fees incurred by the Borough for transfer of title, including the cost of production of legal documents;
 - (3) Borough Tax Expert fees for the preparation of the Appraisal Report;

(4) Engineering fees incurred by the Borough in determining the exact dimensions of the property and any easement(s), if any, to be retained by the Borough;

(5) The cost of advertisement of the sale;

(6) The cost of recording the deed, with an agreement that said deed shall be recorded on behalf of the Buyer by the Borough Attorney; and

(7) Prorated real estate taxes for the balance of the current year as of the date of closing.

J. The Buyer shall covenant and agree to abide by appropriate zoning, subdivision, health and building regulations and codes and shall stipulate that this sale will not be used as grounds to support any variance from the regulations.

K. 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 properties.

L. The Borough Engineer shall perform a courtesy review and prepare an application to the Borough Planning Board for any minor subdivision, lot line adjustments or the like, if necessary.

Section 4. The Borough does not warrant or certify title to the property and in any event shall the Borough be liable for any damages to the Buyer/successful bidder if title is found unmarketable for any reason and the Buyer/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 bidder to examine title to the premises prior to the closing. Notice of any alleged defect in title or claim of unmarketability must be served on the Borough Clerk and the Borough Attorney, by the Buyer, in writing no later than thirty (30) days after the execution of the contract of sale. Failure upon the part of the Buyer to give written notice within said time shall be deemed conclusive proof that the Buyer accepts the title in its present condition, and the Borough shall not be responsible for any subsequent claims of defect in title and shall not be required to refund money or correct any defect in title or be held liable for damages.

Section 5. Pursuant to N.J.S.A. 40A:12-13, the description of the property to be sold and the fair market value shall be posted on the bulletin board or other conspicuous place in Borough Hall and published in the official newspaper of the Borough by two insertions at least once a week during two (2) consecutive weeks, the last publication to be not earlier than seven (7) days prior to such sale. Upon the sale of said property, the Borough shall file with the Director of Local Government Services in the Department of Community Affairs sworn affidavits verifying the publication of advertisements as required by law.

Section 7. Right of Refusal. The Borough shall maintain at all times the right to refuse any and all bids and the right to rescind any sale of the property until the deed of sale has been executed by the Borough and the Buyer.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 3. If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

SECTION 4. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington, adopted on July 10, 2018 and was further considered after a Public Hearing held on August 7, 2018 at the Municipal Building at 7:00 P.M. The Ordinance will be further considered after a Public Hearing held on September 4, 2018 at the Municipal Building at 7:00 P.M.

INTRODUCED:
PUBLISHED:
ATTEST:

BOROUGH OF MOUNT ARLINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY


Linda DeSantis, Borough Clerk
Michael Stanzilis, Mayor