

REAL ESTATE

PRELIMINARY TERMS AND CONDITIONS OF SALE

Online Auction: 34 Lots in Eagle Pass and Eagle Pass Addition #1 and 3 Acreage Tracts

Eagle Pass Way and Grayhawk Lane, Calhoun County, Alabama

Bidding ends Thursday, May 16th, 2019 at 2:00 p.m. CT

TARGET AUCTION & LAND CO., INC. (“Auction Company”/“Auctioneer”) has a contract with **Dixie Mill Properties, LLC**, (Hereinafter referred to as the “Seller”), to offer at auction **34 Lots in Eagle Pass and Eagle Pass Addition #1 and 3 Acreage Tracts** (“Property”), located on **Eagle Pass Way and Grayhawk Lane, Calhoun County, Alabama**. The property will be sold with a reserve, subject to Seller approval.

OFFERING:

The properties that will be offered individually are as follows: Lots 2, 3, 4, 5 in Eagle Pass and Lots 18, 19, 20, 21, 22, 23, 32, 33, 39, 41, 43, 44, and 45 in Eagle Pass Addition 1, PIN# 67636 (6.72 acres), PIN# 67680 (4.2 acres), and PIN# 67903 (6.11 acres)

Group 1 will consist of the following lots/parcels: PIN# 67679, Lots 1, 2, 3 and 4 in Eagle Pass Addition 1

Group 2 will consist of the following lots: Lots 5, 6, 7, 8 and 9 in Eagle Pass Addition 1

Group 3 will consist of the following lots: Lots 10, 11, 12, 13, 14, 15, 16 and 17 in Eagle Pass Addition 1

The Entirety will consist of the following: The individual lots/parcels and Group 1, Group 2 and Group 3

THE PROPERTY IS BEING SOLD AS-IS AND WITH NO CONTINGENCIES

A 10% BUYER’S PREMIUM WILL BE ADDED TO THE WINNING BID TO DETERMINE THE TOTAL CONTRACT PRICE

BIDDING IS AVAILABLE BEGINNING THURSDAY, APRIL 25TH, 2019 AT 2:00 P.M. CT

1) TERMS OF SALE

- A) This is a CASH SALE with a TEN PERCENT (10%) down payment (based on the Total Contract Price) for the Property due no later than May 17th, 2019 at 5:00 pm CT. The balance of the purchase price is due at closing within 30 days. The Contract for Sale & Purchase (“Sales Contract”) must be executed and returned to Auction Company on auction day. This sale is not contingent upon Purchaser’s ability to obtain financing. No credit cards will be accepted.
- B) A 10% (TEN PERCENT) Buyer’s Premium will be added to the final bid to determine the Total Contract Price paid by the Purchaser.
- C) Any person bidding on behalf of another person or entity must have a valid, legally enforceable, unexpired, Power of Attorney approved by Auction Company before being approved to place bids.
- D) By submitting a bid in the name of a business entity or corporation, the individual submitting the bid has the authority to bid and enters into a guaranty agreement whereby s/he personally guarantees payment of the bid amount.
- E) If for any reason the high bidder fails or refuses to execute the Contract for Sale & Purchase (“Sales Contract”) and/or deposit the required funds as outlined above in Item A, the Seller reserves the right to declare the bidder’s rights forfeited and may resell the property.
- F) No personal property, furnishing, or equipment will be conveyed with the real estate.
- G) Possession of property will be at closing.
- H) SURVEY: The property has not been surveyed for the Auction; however, Eagle Pass Subdivision is a platted and recorded subdivision and the acreage tracts are shown on this plat, also. The property will be conveyed by existing legal description. Should Purchaser desire any survey work, it will be at Purchaser’s option and expense, and will not affect the closing. If a survey shows a greater or lesser amount of acreage, the contract price will not be adjusted.

Purchaser(s) Initials _____ Seller(s) Initials _____

2) PROPERTY DISCLOSURES

- A) The property is selling subject to all matters contained in the Title Commitment (which is available for review) including all restrictions, rights-of-way, easements of record, and any other items of record.
- B) Seller will convey all mineral, gas or oil rights applicable to the Property owned by Seller, if any.
- C) The property is selling "AS IS, WHERE IS".
- D) Restrictions: The Eagle Pass and Eagle Pass Addition #1 lots are selling subject to the existing covenants and restrictions (which are available for review).
- E) Lot 42 of Eagle Pass Addition #1 will have access across the 4.2± acre tract (PIN #67680) for ingress/egress to driveway.

3) PROPERTY INFORMATION

- A) The Property will be conveyed by Statutory Warranty Deed free and clear of all liens and encumbrances subject to the terms and conditions relating to such liens and encumbrances contained in the Sales Contract and the Title Commitment.
- B) The Property is selling "AS IS" and any CONTRACT IS NOT CONTINGENT upon, any state of facts an updated survey or personal inspection of the Property may reveal, any existing or proposed rights-of-way, prior reservation or conveyances, restrictive or protective covenants, easements, encroachments, rights or claims of parties in possession, zoning, building codes, permits, governmental agencies regulations, environmental conditions (including but not limited to wetlands, riparian, or littoral rights), flood zones, zoning or subdivision regulations, hazardous materials, water rights or water access, mineral rights or reservations, leases or tenancies, and subject to all title exceptions as set forth in the Title Commitment.

4) PROPERTY INSPECTION

- A) It is the Purchaser's sole responsibility, before bidding, to: 1) inspect the real property and the immediate surroundings, and to be satisfied as to their condition prior to bidding; 2) review all Property information; 3) independently verify any information deemed important including, but not limited to, information available in public records; and 4) inquire of public officials as to the applicability of and compliance with land use laws, zoning, building codes, health, sanitary, safety and fire codes, any environmental laws and regulations, and any other local, state or federal laws and regulations.
- B) All information contained in any and all promotional materials, including, but not limited to, square footages, acreage, dimensions, zoning, maps, taxes, etc., was provided by the Seller and is believed to be correct; however, neither the Seller nor the Auctioneer make any guarantee or warranty as to the accuracy or completeness of such information. Neither the Seller nor the Auctioneer is required to update any information.
- C) Any work performed by a potential bidder or on behalf of a potential bidder is solely at the expense and responsibility of the potential bidder.

Purchaser and/or Purchaser's Agent/Broker shall bear the responsibility to confirm all information relevant to the Property prior to bidding and/or for verifying all acreage and square footage amounts through public records.

5) BIDDER REGISTRATION

- A) To register for online bidding, the bidder must (1) complete the required online registration found on the Property's page on www.targetauction.com and (2) be approved by Auction Company.
- B) Any bid/offer made by the bidder shall be binding on the bidder.
- C) The winning bidder (the "Purchaser") shall pay/wire the required TEN PERCENT (10%) down payment (based on Total Contract Price) to **Target Auction Escrow Account** by the end of next business day. Wire Instructions will be provided. The registration fee (if any) will be applied toward the ten percent (10%) down payment.
- D) The Purchaser shall execute and deliver to the Auction Company a completed Sales Contract on auction day, together with all related Exhibits for such Property. The fully executed Sales Contract (together with all related Exhibits thereto) shall control all Terms and Conditions of Sale and constitute the entire agreement between Purchaser and Seller. NO CHANGES TO THE TERMS OF THE CONTRACT WILL BE PERMITTED. PURCHASER WILL BE REQUIRED TO ENTER INTO THE CONTRACT "AS IS". **MaxBids** that are placed on the online bidding platform are private; however they can be seen by Auctioneer. Auctioneer reserves the right to bid on behalf of the Seller (on reserve auctions) up to the reserve amount. Seller has the right to modify the reserve at any time.

Purchaser(s) Initials _____ Seller(s) Initials _____

6) CLOSING

- A) **Closing shall be scheduled on or before Monday, June 17th, 2019. Target Auction & Land Co., Inc. shall deposit, in their Escrow Account, the down payment until closing of the property. Closing will be completed Wilson, Dillon, Pumroy & James, LLC. Contact Lisa Johnsey at 256-236-4222 or lohneyl@wdpi-atty.com. It is the Purchaser's responsibility to schedule your closing. Deadline to close is on or before Monday, June 17th, 2019.**
- B) The proceeds due from the Purchaser at closing shall be in U.S. cash, locally drawn bank, certified or cashier's check or confirmed wire transfer sent to Wilson, Dillon, Pumroy & James, LLC. Escrow Account. Wire instructions will be provided
- C) **SELLER** will pay for preparation of the deed, title exam/commitment, and prorated taxes. **PURCHASER** will be required to pay all other closing costs, including but not limited to, survey fees, recording fees, attorney's fees, wiring fees, title insurance and loan/financing fees, if any, etc. All taxes will be prorated to day of closing.
- D) If Purchaser is obtaining a loan to finance the Property purchase, Purchaser agrees not to use any lender that restricts the selling agent's fees, commission, or any expense money that is due Auctioneer. It is the Purchaser's responsibility to inquire in advance of loan application/commitment with lender about any fee restriction to the Seller's agent. This sale is not contingent upon Purchaser's ability to obtain financing.

7) DEFAULT

It is agreed by all parties that in the event the Purchaser fails to close and pay his/her balance when due, Seller and Auction Company reserve all rights allowed by law and the Sales Contract, including a suit for damages, specific performance or cancellation of the transaction, with the Seller to retain the Earnest Money/Deposit. In the event of any breach of the terms of this Agreement by Purchaser, Escrow Agent is expressly authorized and instructed to disburse the Earnest Money/Deposit without the requirement of any further writing or agreement of the Seller and/or Purchaser. Any action taken after Purchaser's default shall be solely at the Seller's option with all costs incurred by Seller being paid by the Purchaser. If any legal action is required to enforce this agreement, or to collect any fees or costs earned or advanced pursuant thereto, the Seller or Auction Company shall be entitled to recover any and all costs of such action, including, but not limited to, the expenses and court costs of the action and a reasonable attorney's fee.

8) AUCTIONEER'S AGENCY DISCLOSURE

The Auctioneer is acting exclusively as the agent for the Seller in this transaction and is to be paid a fee by the Seller pursuant to a separate written agreement between Seller and the Auction Company. The Auctioneer is not acting as an agent in this transaction for the Purchaser. Any third party buyer broker is not a subagent of Auction Company.

9) DISCLAIMER

- A) Personal on-site inspection of the Property is recommended and bidders are advised to independently verify all information they deem important. This Property is being sold "as is, where is" and "with all faults". The Seller, Auctioneer, and/or Auction Company have not made, do not make and will not make, and hereby disclaim any representation or warranty, whether expressed or implied or statutory, whether oral or written, with respect to the Property, including, without limitation, any warranty as to their value, condition, suitability, merchantability, marketability, operability, tenant ability, habitability, zoning or subdivision regulations, income, mineral rights, environmental condition, soil condition, sink holes or percolation, compliance with any building code, safety and health codes, or other governmental agency rules or regulations, or fitness for a particular use or purpose. No guarantees are given as to the availability of utilities or accesses or the permitted or allowable uses on the Property.
- B) Neither the Seller, its attorneys, any broker, nor the Auction Company shall be liable for any relief including damages, rescission, reformation, allowance or adjustments based on the failure of the Property, including, but not limited to, amount of square feet, acreage, zoning, and environmental or hazardous conditions to conform to any specific standard or expectation, or any third party documents or information.

10) EQUAL OPPORTUNITY CLAUSE

All bidding is open to the public. The Property is available to qualified Purchaser(s) without regard to race, color, religion, sex, familial status, national origin, or physical handicap.

11) AUCTIONEER'S NOTE

- A) All decisions of the Auctioneer are final as to the methods of bidding, disputes among bidders, increments of bidding and any other matters that may arise before, during, or after the auction. Auctioneer reserves the right to deny any person to participate in the auction or expel anyone from the auction whom attempts to disrupt the auction.

Purchaser(s) Initials _____ Seller(s) Initials _____

B) All announcements made auction day supersede any prior oral or written statements. The Seller reserves the right to add to or delete all or a portion of the Property prior to commencement of the bidding, by gavel of Auctioneer, for that lot or portion of the Property, before or at the auction. Auction Company may, at its discretion, change or modify any part of the Sales Contract or terms of sale at any time prior to execution of the Sales Contract without further notice to any bidder or Purchaser.

12) LIABILITY

ALL PERSONS WHO ATTEND THE SALE OR VIEW PROPERTIES DO SO AT THEIR OWN RISK. NEITHER THE SELLERS AND/OR TARGET AUCTION COMPANY NOR ANY OTHER PERSON CONNECTED WITH THE SALE ASSUME ANY LIABILITY LEGAL OR OTHERWISE, FOR ANY ACCIDENTS, WHICH MAY OCCUR. TARGET AUCTION COMPANY IS ACTING AS THE SELLING AGENT ONLY.

13) SIGNATURES

Electronic Signatures and Facsimiles shall serve as valid authority for this document and all documents pertaining thereto.

14) COUNTERPARTS

This contract may be executed in counterparts, each of which is deemed an original and together constitute one document.

By signing below, Purchaser(s) and Seller(s) acknowledge this 'Exhibit A' consists of four pages, has read and understood same and is made a part of the CONTRACT FOR SALE AND PURCHASE.

Executed by Purchaser on May 16th, 2019

PURCHASER

Executed by Sellers on May 16th, 2019

SELLER:
DIXIE MILL PROPERTIES, INC.

BY: _____
PHILLIP E. STRIBLING
ITS: MEMEBER

BY: _____
TYRON SCOTT STRIBLING
ITS: MEMEBER

Purchaser(s) Initials _____ Seller(s) Initials _____