

ONLINE AUCTION CONTRACT – AGREEMENT FOR SALE OF GOVERNMENT ASSETS BY ONLINE AUCTION

This Agreement made on July 11, 2022, between Village of Scotia/Scotia Police Department, **Mailing Address: 4 North Ten Broeck Street**. Primary Contact: Mayor Thomas Gifford. Email: tgifford@villageofscotiany.gov, hereinafter called “Seller”, and Collar City Auctions, Inc, 9423 Western Turnpike, Delanson, NY 12053, hereafter called “Auctioneer”:

ALL PAYMENTS SHALL BE SENT ATTENTION:

- 1.) TERM: The terms and prices of this contract shall remain in effect for two years after the agreement is executed, based on the needs of the Seller and may be extended automatically by mutual agreement in two-year increments unless either party notifies the other of termination within ninety-days of the end of the calendar year. It is understood by the parties that this agreement is exclusive.
- 2.) SERVICES:
 - a) The Auctioneer hereby agrees to use professional skills, knowledge, and experience to the best advantage of both parties in preparing for and conducting the sale. All auction items will be sold “As-is, Where-is”, subject to terms that shall be mutually agreed upon. The Auction is to be held online at www.collarcityauctionsonline.com, beginning and closing on mutually agreed dates and times.
 - b.) It is agreed that all listed merchandise be sold to the highest bidder(s), “as-is”, “where-is”, without warranty or guarantee expressed, implied or otherwise.
 - c.) Purchasers will be required to pay a customary twenty-two percent buyer’s premium for vehicles and equipment sold which shall be added to the successful high bid prices, which will constitute the Auctioneer’s compensation for these services. Commission charged to the Seller; ten percent based on gross sales Auctioneer shall offer a buyer’s premium discount of four percent when cash payment is received from Purchaser(s).
 - d.) The Auctioneer will conduct auction(s) with **no expense charge to the Seller**, the Auctioneer takes photos and descriptions of the merchandise, and relieves the Seller from any obligation to provide this information to Auctioneer. The Auctioneer reserves the right to combine low-value merchandise into larger online auction lots as necessary, based on past experience with such items. Once committed, no item may be removed from the auction without compensation from seller based on fees herein.
 - e.) The Auctioneer will mail a check to the Seller for all proceeds collected within twenty business days after the auction along with a detailed accounting of all Lots sold and/or unsold. Report shall contain the Lot number and High bid received. In the event of a bidder(s) refusal or failure to pay for their invoiced item(s), the Auctioneer will offer the unsold merchandise to the backup bidder, and the renegeing bidder will be banned from all future auctions. If the backup bidder does not take the merchandise for the backup bid price, then the merchandise will revert back to possession of the seller, after a reasonable time has been allowed for the backup bidder to get their payment to the Auctioneer. At the request of the Seller, any unsold merchandise can be re-listed in a future online auction at no cost to the Seller and under the terms contained herein.

3. SELLER OBLIGATIONS:

- a. The Seller agrees to provide the following to Auctioneer: List of surplus assets to be sold, Signed Titles, Keys and all other Proof of Ownership, Authorization to Sell Forms. Purchasers shall provide proof of paid invoice from Collar City Auctions, Inc. Collar City staff shall release the purchased items once the Auctioneer has received full payment for the goods provided by the Seller to be sold at absolute auction to the highest bidder(s). SELLER ACKNOWLEDGES THAT AUCTION WILL NOT GO LIVE ONLINE UNTIL ALL ITEMS HEREIN ARE RECEIVED BY THE AUCTION COMPANY.
 - b. The Seller agrees to provide merchantable title (with no liens or encumbrances) for motor vehicles. If liens are present, the Seller shall obtain and provide the Auctioneer with a valid release of lien prior to the auction ending.
 - c. The Seller agrees not to sell listed merchandise before the term of the online auction is complete, under any circumstances.
4. ASSIGNMENT: The Auctioneer agrees that the Auctioneer shall not assign, transfer, convey, subcontract or otherwise dispose of this contract or the Auctioneer's responsibility to perform under this contract or the Auctioneer's right, title or interest in and/or to the same, nor any part thereof, nor to any monies which are or will become due and payable to the Auctioneer thereunder, nor the power to execute such contract to any other person, company or corporation without the prior express written consent of the Seller.
5. INDEPENDENT CONTRACTOR: The Parties agree that the Auctioneer is engaged as an independent contractor to the Seller. Nothing contained in this Agreement will be construed to create the relationship of employer and employee, principal and agent, partnership, joint venture, or any other fiduciary relationship. The Auctioneer is not, shall not, and has no authority to act as an agent or representative of the Seller. The Auctioneer shall make no claim for, nor shall be entitled to, Workers' Compensation coverage, medical and unemployment benefits, Social Security or retirement membership benefits from the Village. The Auctioneer further agrees that the Seller shall not be liable for any payroll deductions, including but not limited to, U.S. Social Security taxes, Federal and/or State withholding taxes. The Seller agrees to accept exclusive liability for complying with all applicable state and federal laws governing self-employed individuals including obligations such as payment of quarterly taxes, social security, disability and other contributions based on the fees paid to the Auctioneer under this Agreement. Auctioneer agrees to indemnify and hold the Seller harmless to the extent that they become obligated to pay any of the above taxes or incurs any similar liabilities.
6. STATUTORY COMPLIANCE: In acceptance of this Agreement, the Auctioneer covenants and agrees to comply in all respects with all Federal, State, and County laws, rules, regulations and ordinances which pertain hereto and to the performance hereof, including but not limited to those regarding services for municipalities including but not limited to Workers' Compensation and Employers' Liability Insurance, hours of employment, wages and human rights.
7. LICENSES AND PERMITS: The Auctioneer hereby agrees that the Auctioneer will obtain at his own expense those licenses or permits for the work performed under this contract that are applicable to the Auctioneer, if any are necessary, prior to the commencement of work.

8. APPROPRIATIONS: It is understood by and between the parties hereto that this Agreement shall be deemed executory only to the extent of the monies appropriated and available for the purpose of this Agreement and no liability on account thereof shall be incurred by the Seller beyond monies appropriated and available for the purpose thereof. In no instance will the Seller be obligated to make payments that are not appropriated and budgeted. Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by the Seller or are otherwise unavailable to the Seller for payment.

9. CONTRACT MODIFICATIONS: This agreement represents the entire and integrated agreement between the Seller and the Auctioneer and supersedes all prior negotiations, representations or agreements either written or oral. This Agreement may be amended only by written instrument signed by both the Seller and the Auctioneer.

10. SEVERABILITY: If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and every other term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

11. CONFLICT: In the event of any conflict between this Agreement and any other document the terms of this Agreement shall prevail.

12. WAIVER: A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

13. APPLICABLE LAW: This Agreement shall be governed by the laws of the State of New York.

14. NON-DISCRIMINATION: In accordance with Article 15 of the Executive Law (also known as the Human Rights Law), and all other State and Federal statutory and constitutional non-discrimination provisions, the Auctioneer agrees that neither it nor its County-approved sub-Auctioneers shall, by reason of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status or domestic violence victim status, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation in terms, conditions or privileges of employment or make any inquiry into prospective employment which expresses, indirectly or directly any limitation specification or discrimination based on the foregoing characteristics.

Village of Scotia, NY

Seller's Authorizing Signature

Printed Name and Agency Title

Collar City Auctions, Inc..

Auctioneer's Signature
Auctioneer's Email: randyp@collarcityauctions.com

Randy Passonno, President
Auctioneer's Printed Name
(Cell: 518-365-6379) (Office: 518-895-8150 X 3008)