



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

Date: June 13, 2023

TO: Terrence D. McCracken – Secretary to the Authority

FROM: Lavonya C. Lester – Director of Administration *LCL*

SUBJECT: Auctions International, Inc Piggybacking Agreement

On June 10th, 2021, the Authority signed a piggybacking agreement with Auctions International. The agreement with AI was based on a piggy-back of a contract issued by the County of Saratoga. The Saratoga contract was rebid in February 2022 and awarded to Auctions International. The new Saratoga Contract extends to April 2024 and has an additional (1) one-year contract extension.

Auctions International is a local company specializing in helping governmental and municipal agencies sell their surplus assets on-line. AI has been a reliable company providing ECWA with vast exposure to buyers seeking surplus government property. They service over 1500 agencies across the northeast and beyond. ECWA sales through AI have come from all regions of NY State and neighboring northeast states. Since 2015, AI has sold more than \$2.5 million in used Authority vehicles and other small surplus items.

There is no cost to ECWA for listing items on the AI site. Buyers are required to pay a “Buyer’s Premium’ based on the amount, type, and age of the item. The average AI buyer’s premium rates are lower than competitor’s rates. AI is 10% on vehicles aged 4 years or more and 5% on three-year old vehicles.

The authority is requesting that the one-page piggyback agreement be executed for two years.

As there are no payments to AI there are no budget considerations.

Attached please find the following documents:

1. ECWA Authorization Form.
2. Copy of the ECWA - Auctions International, Inc. Agreement dated June 10, 2021.
3. Copy of the Agreement between Saratoga County and Auctions International, Inc. dated March 24, 2022.
4. Auctions International, Inc. Online Auction Contract - Agreement for Sale of Government Assets by Online Auction Coupled with Saratoga county (Piggy-Back).

<https://www.auctionsinternational.com/>

LCL

Attachment

cc: ECWA-672-2101

ERIE COUNTY WATER AUTHORITY
 AUTHORIZATION FORM
 For Approval/Execution of Documents
 (check which apply)

Contract: _____ **Project No.:** 202100134
Project Description: On-Line Auction Services, Agreement for Sale of Government Assets by Online Auction, Coupled with Saratoga County ("Piggy-Back")

Item Description:

Agreement Professional Service Contract Amendment Change Order
 BCD NYSDOT Agreement Contract Documents Addendum
 Recommendation for Award of Contract Recommendation to Reject Bids
 Request for Proposals
 Other _____

Action Requested:

Board Authorization to Execute Legal Approval
 Board Authorization to Award Execution by the Chairman
 Board Authorization to Advertise for Bids Execution by the Secretary to the Authority
 Board Authorization to Solicit Request for Proposals
 Other _____

Approvals Needed:

APPROVED AS TO CONTENT:

Other (if Applicable) _____ Date: _____
 Chief Operating Officer *Russell Fiedel* _____ Date: 6/26/2023
 Executive Engineer _____ Date: _____
 Director of Administration *Lawrence J. Jester* _____ Date: 07/07/2023
 Risk Manager *Molly Jo Musarra* _____ Date: 7/10/2023
 Chief Financial Officer *Jeffrey...* _____ Date: 07/10/2023
 Legal *[Signature]* _____ Date: 6/26/2023

APPROVED FOR BOARD RESOLUTION:

Secretary to the Authority *[Signature]* _____ Date: 7/11/23

Remarks: _____

Resolution Date: _____ **Item No:** _____



JOHN T. WARMT
Director

SARATOGA COUNTY PURCHASING DEPARTMENT

Central Stores ~ Central Printing ~ Central Mail
50 WEST HIGH STREET * BALLSTON SPA, NY 12020
Telephone: (518) 885-2210
Fax: (518) 885-2220

February 25, 2022

RJ Klisiewicz III, Operations Manager
Auctions International, Inc.
11167 Big Tree Road
East Aurora, NY 14052

Dear Mr. Klisiewicz:

This is to inform you that your company, Auctions International, Inc., has been chosen to provide on-line auction services to the County of Saratoga based on your submission to our Request for Proposals – 22-RFPOAS-1. This award is pending the execution of a contract which will include this award letter, your signed proposal, and the insurance and indemnity agreement.

The term of this contract is for two (2) years from the execution of the contract, with an available one (1) year extension.

If you have any questions, please contact my office.

Very truly yours,

A handwritten signature in black ink, appearing to read "John T. Warmt", written over the typed name and title.

JOHN T. WARMT
Director of Purchasing

MINOR CONTRACT LESS THAN \$15,000

THIS AGREEMENT, made the 24th day of March, 2022,
BY AND BETWEEN,

COUNTY OF SARATOGA, a municipal corporation duly organized under the laws of the State of New York, with offices at 40 McMaster Street, Ballston Spa, New York 12020, (COUNTY),

-and-

Auctions International, Inc. with an office address at 11167 Big Tree Road, East Aurora, New York 14052, (CONTRACTOR);

RECITALS:

WHEREAS, a Request for Minor Contract, a copy of which is attached hereto, has been approved by the County Administrator; and

WHEREAS, the CONTRACTOR will perform the requested services for the approved amount;

NOW, THEREFORE, the parties agree that:

1. TERM OF AGREEMENT: The term of this Agreement shall commence on April 1, 2022 and shall continue through April 1, 2024.
2. SERVICES: CONTRACTOR will provide online auction services for the sale of surplus goods (photography services), as provided in the RFP dated February 4, 2022, prepared by CONTRACTOR, and attached hereto.
3. CONTRACT SUM AND PAYMENT: The COUNTY shall pay CONTRACTOR for its services an amount not to exceed \$500 upon submission of a properly documented voucher.
4. FUNDING: Intentionally Omitted.
5. COMPLIANCE WITH LAWS: The CONTRACTOR shall comply with all applicable laws, ordinances and regulations, including nondiscrimination and labor laws. The COUNTY and CONTRACTOR agree that for the duration of this Agreement and any renewal term(s) thereof, they will not discriminate against any employee, applicant for employment, or person requesting services in connection with this agreement, because of race, creed, color, national origin, disability, age, sex, marital status, sexual preference, or source of payment.

6. CONFLICTS OF INTEREST: The CONTRACTOR shall not employ any official or employee of the COUNTY in connection with this project and shall adhere to the Code of Ethics of the COUNTY.

7. INDEMNIFICATION: At all times, CONTRACTOR shall indemnify and save harmless the COUNTY from and against any and all claims and demands whatsoever, including costs, litigation expenses, counsel fees and liabilities in connection therewith arising out of injury to or death of any person whomsoever or damage to any property of any kind by whomsoever, caused in whole or in part, directly or indirectly, by the acts or omissions of the CONTRACTOR, any person, employed by the CONTRACTOR, its contractors, subcontractors, materialmen, or any person directly or indirectly employed by them or any of them, while engaged in the work hereunder. This clause shall not be construed to limit, or otherwise impair, other rights or obligations of indemnity which exist in law or equity for the COUNTY's benefit.

8. INSURANCE REQUIREMENTS: CONTRACTOR shall provide the COUNTY with proof of general liability insurance by a company authorized to do business in the State of New York. The policy's minimum coverage shall be \$1,000,000/single injury and \$1,000,000/property damage and shall be subject to the approval of the County Attorney. The CONTRACTOR may utilize umbrella/excess coverage to achieve the limits required hereunder. The certificate holder must be listed as the COUNTY OF SARATOGA, 40 McMaster Street, Ballston Spa, New York 12020. This insurance certificate must also name the COUNTY OF SARATOGA as additional insured and the CONTRACTOR shall provide the COUNTY with proof of such insurance in the form of an Additional Insured Endorsement Rider or other proof acceptable to the COUNTY. In the event that any policy furnished or carried pursuant to this Agreement is scheduled to expire on a date prior to the expiration of the term of this Agreement, CONTRACTOR shall deliver to the COUNTY a certificate or certificates of insurance evidencing renewal of such policy or policies not less than fifteen (15) days prior to such expiration date, and the CONTRACTOR shall promptly pay or cause to be paid all premiums due thereon. The above insurance is not, and shall not be construed as, a limitation upon CONTRACTOR's obligation to indemnify the COUNTY.

9. WORKERS' COMPENSATION INSURANCE REQUIREMENT: This Agreement shall be void and of no effect unless throughout the term of this Agreement CONTRACTOR, in compliance with the provisions of the Workers' Compensation Law, shall secure compensation for the benefit of, and keep insured during the life of this Agreement, such employees as are required to be insured according to law. Proof of such Workers' Compensation Insurance coverage shall be provided to the COUNTY.

10. INSURANCE CANCELLATION NOTICE: In the event that CONTRACTOR receives notice of cancellation any insurance policy carried pursuant to this Agreement, CONTRACTOR shall immediately provide the COUNTY with written notice of such cancellation by no later than the next business day of the COUNTY. In the event of such insurance policy cancellation, CONTRACTOR shall provide the COUNTY with proof of

equivalent policy and limit replacement insurance satisfying the insurance requirements herein within two (2) COUNTY business days of the CONTRACTOR's receipt of notice of cancellation of insurance. Any failure by CONTRACTOR to comply with the insurance requirements of this Agreement in a timely manner shall constitute a breach of this Agreement, and the COUNTY may, at its option, terminate this Agreement upon written notice to the CONTRACTOR.

11. DEFENSE AND INDEMNIFICATION: The CONTRACTOR waives any right to bring action against the COUNTY for any damage to the property of the CONTRACTOR arising out of the alleged negligence of the COUNTY, its agents, servants and employees. The CONTRACTOR agrees that any policy of insurance insuring its property, shall contain a waiver of subrogation rights for any property loss suffered by reason of the alleged negligence or other unlawful act by COUNTY, its agents, servants and employees.

12. REPORTS: Intentionally Omitted.

13. MODIFICATION: This Agreement constitutes the complete understanding of the parties. No modification of any provision thereof shall be valid unless in writing signed by both parties.

14. ASSIGNMENT AND TRANSFER: The CONTRACTOR shall not assign or transfer any interest herein without the COUNTY's prior written consent. All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of successors and assigns of the respective parties hereto.

15. DEFAULT: The occurrence of any of the following shall be considered an Event of Default:

- a. Non-Payment: The failure by the COUNTY to make any of the payments required pursuant to this Agreement when due.
- b. Failure to Perform: The failure of the CONTRACTOR to perform the Services outlined in Section 2 of this Agreement.
- c. Other Failure to Perform: The failure by either COUNTY or CONTRACTOR to perform and/or comply with any term, covenant, or condition required under this Agreement.

16. REMEDIES: In the Event of Default under this Agreement, the non-defaulting party may take such legal action as may be appropriate under the circumstances, including injunctive relief, declaratory judgment, or monetary damages for such default. No such action or proceeding shall be commenced until the defaulting party has been given written notice thereof by the non-defaulting party and thirty (30) days have elapsed since receipt of such notice, and the defaulting party has not proceeded to cure the default. Any default by a party in providing the insurance required pursuant to this Agreement shall be subject to the remedies and requirements set forth in Section 7 herein.

17. TERMINATION: Termination for cause brought about by failure of the CONTRACTOR to perform shall be effected only if the CONTRACTOR fails to remedy or eliminate the violation within twenty (20) days of written notification thereof from the COUNTY. Termination without cause may be effectuated by either party upon sixty (60) days written notice to the other party.

18. NOTICES: Any notice, demand, request, consent, approval, or other communication given under or with respect to this Agreement shall be in writing and shall be personally served or sent by First Class United States mail, postage pre-paid, addressed to the other party or entity as follows:

To the COUNTY: Saratoga County Administrator
40 McMaster Street
Ballston Spa, NY 12020

With copy to: Saratoga County Attorney
40 McMaster Street
Ballston Spa, NY 12020

To the CONTRACTOR: Auctions International, Inc.
11167 Big Tree Road
East Aurora, NY 14052

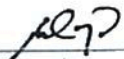
19. SEVERABILITY: In the event that any provision of this Agreement shall be determined by a Court of Law to be illegal and/or unenforceable, the Agreement, to the extent the Courts have determined practical, shall continue in full force and effect between the parties as if the said illegal or unenforceable provision were not continued a part thereof.

20. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement among the parties regarding the subject matter hereof, and supersedes all prior agreements (written or oral) which may have related to the subject matter hereof.

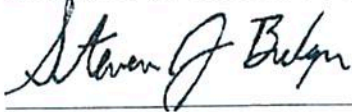
-SIGNATURE PAGE TO FOLLOW-

IN WITNESS WHEREOF, the parties have hereunto signed this agreement on the day and year appearing opposite their respective signatures.

APPROVED AS TO
FORM AND CONTENT:

By: 
County Attorney

COUNTY OF SARATOGA

By: 
Steven J. Bulger,
County Administrator
Pursuant to Resolution: 204-2015

Date: 3/24/2022

Auctions International, Inc.

By: 
RJ Klisiewicz III (name)
Operations Manager (title)

32-0038079
Federal EIN

Date: March 14, 2022

ADVANCE: APPROVED
WAIVED

County Attorney

**ONLINE AUCTION CONTRACT - AGREEMENT FOR SALE OF GOVERNMENT ASSETS BY ONLINE AUCTION
COUPLED WITH SARATOGA COUNTY ("Piggy-Back")**

This Agreement made on ___ / ___ / 20___, between _____, hereafter called "Seller", and Auctions International, Inc., 11167 Big Tree Road, East Aurora, NY 14052, hereafter called "Auctioneer":

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 the Seller's terms.

The Seller agrees to provide Titles, Keys and all other Proof of Ownership to customers who present a paid invoice from Auctions International, and release the purchased items once the Auctioneer has received full payment for the goods listed and described in detail on provided condition reports, and/or provided by electronic means to Auctioneer.

GOVERNMENT VEHICLES, MACHINERY, EQUIPMENT AND ALL OTHER SURPLUS ASSETS

The Seller agrees to provide merchantable title (with no liens or encumbrances) for motor vehicles, and agrees to write-in the purchase information on the back of any titles issued to purchasers (as required by law) . The Seller furthermore agrees not to sell listed merchandise before the term of the online auction is complete, under any circumstances.

The Auction is to be held online at www.AuctionsInternational.com, beginning and closing on mutually agreed dates and times. The terms and prices of this contract shall remain in effect for two (2) years after the agreement is executed, based on the needs of the Seller. Notwithstanding the foregoing, the Seller may terminate this contract at any time for convenience.

It is agreed that all listed merchandise be sold to the highest bidder, "as-is", "where-is", with no warranty expressed, implied or otherwise, and with the Government Seller retaining the right to reject any bids that are insufficient. Seller agrees to specify a minimum acceptable price on each rejected bid, which will be posted on the 'Past Prices' page of the Auctioneer's website.

Purchaser's will be required to pay a 4% buyer's premium for vehicles and equipment sold within two (2) years of the manufacture date, a 5% buyer's premium for vehicles and equipment within three (3) years of the manufacture date, or a 10% buyer's premium for all older equipment to be added to the successful high bid prices, which will constitute the Auctioneer's compensation for these services. There is NO commission charged to the seller.

The Auctioneer will conduct auction(s) at no-cost to the Seller, provided the Seller takes photos and descriptions of the merchandise, and provides this information to the Auctioneer's staff. The Auctioneer reserves the right to combine low-value merchandise into larger online auction lots as necessary, based on past experience with such items.

If requested by the Seller, the Auctioneer's staff will travel to the Seller's facilities to obtain photos and condition reports of the Seller's items, for the following listing fees: Thirty dollar (\$30) fee for each motorized vehicle/equipment, and Five dollar (\$5) fee for each auction lot that is not a motor vehicle. These listing fees will be deducted from the sale proceeds, before final payment is made to Seller.

The Auctioneer will mail a check to the Seller for all proceeds collected within fifteen (15) business days after the Seller approves the bids for the sale items and all monies are collected, along with an accounting summary. In the event of a bidder's refusal or failure to pay for their invoiced items, the Auctioneer will offer the unsold merchandise to the backup bidder, and the reneging bidder will be banned from 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, only 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.

INDEPENDENT STATUS. That during the existence of this agreement, the Auctioneer shall remain an individual, independent contractor, retaining its separate identity and shall in no way be considered a division, department or agent of the Seller's agency or organization.

WAIVER. No waiver of any breach of any condition of the agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

ENTIRE AGREEMENT. This Agreement constitutes the entire agreement among the parties with respect to the subject matter of this Agreement, and supersedes any and all prior understandings and agreements, whether written or oral, and all prior dealings of the parties with respect to the subject matter of this Agreement.

(X) _____
 Seller's Authorizing Signature Printed Name and Agency Title Telephone Number

(X) _____
 Seller's Agency Payment Address (Check will be made out and mailed to Seller, from Auctioneer, for payments received)

(X) _____
 Seller's E-Mail Address

(X) _____
 Auctioneer's Signature Auctioneer's Printed Name Seller's County Mar- '22

