

STATE OF TEXAS
COUNTY OF WALLER

AGREEMENT BETWEEN WALLER COUNTY, TEXAS AND LEMONS AUCTIONEERS, LLC FOR AUCTION SERVICES

This Agreement (“Agreement”) is made and entered into on the date of the last signature affixed hereto (“Effective Date”) by and between Waller County, Texas (“County”), a political subdivision of the State of Texas, and Lemons Auctioneers, LLC (“Contractor”), a Texas limited liability company, with its principal place of business at 18810 Juergen Rd., Tomball, Texas 77377 (each referred to individually as “Party” and collectively as “Parties”).

WHEREAS, pursuant to Texas Local Government Code Chapter 271, Subchapter F, the County may participate in a cooperative purchasing program with another local government of Texas or another State, or with a local cooperative organization of Texas or another State;

WHEREAS, The Local Government Purchasing Cooperative (“BuyBoard”) is a purchasing cooperative created under the laws of the State of Texas that offers competitively procured contracts to its members;

WHEREAS, Contractor was awarded a contract for auctioneering services with BuyBoard, under contract number 708-23, and County is a member of BuyBoard;

WHEREAS, the County desires to enter this Agreement with Contractor for auctioneering services under the contract awarded to Contractor by BuyBoard;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

SECTION 1. AGREEMENT

- 1.1 **Scope of Services:** Contractor shall provide auction services to facilitate the sale of County-owned salvage and surplus property subject to the terms of this Agreement. In addition to the rights and responsibilities contained in this Agreement, the auction services shall comply with Exhibit A and Exhibit B.
- 1.2 **Contract Documents:** The following documents constitute the “Contract Documents”:
 - a. this Agreement;
 - b. Exhibit A – General Operating and Auction Procedures; and
 - c. Exhibit B – Online Auction Timeline

All of the Documents referred to in this Section 1.2 are incorporated by reference and made a part of this Agreement for all purposes as though each were written word for word in this Agreement.

In interpreting this Agreement and resolving any ambiguities, the Contract Documents shall be given precedence in the following order: 1) this Agreement, 2) General Operating and Auction Procedures, 3) Online Auction Timeline.

SECTION 2. DESIGNATED REPRESENTATIVES

- 2.1 County's Designated Representatives: The County designates the Facilities Director as the Designated Representative with regard to the services performed under this Agreement.
- 2.2 Contractor's Designated Representatives: Contractor designates Lori Campbell as its Designated Representative with regard to the services performed under this Agreement.
- 2.3 Changes to Designated Representatives: Either Party may change its Designated Representative(s) by providing written notice to the other Party.

SECTION 3. CONTRACTOR'S OBLIGATIONS

- 3.1 Auction: Contractor shall sell County's property at one (1) public absolute auction online on an appointed date, date, and time, and the property shall be available for preview on the appointed day, date, time, and place. All items shall be sold "AS IS" and "WHERE IS" to the highest bidder, and without warranty of any kind, express or implied, except for the warrant of title to the merchandise. All items shall be auctioned WITHOUT MINIMUMS, RESERVES, OR CONFIRMATIONS, unless otherwise agreed to in writing by County and Contractor.
- 3.2 Auction Management: Contractor shall approve all online bidders; manage the online auction for ten (10) consecutive days; process, receive, manage, and disburse all payments; and coordinate with successful bidders regarding all pick-ups and checkouts.
- 3.3 Bidders: Contractors shall make every effort to ensure that each bidder is at least eighteen (18) years old, and that bidders have been informed of the terms and conditions of the auctions and release the County from claims on warranties. Sales shall be made to the highest responsible bidder.
- 3.4 Bidder Communications: Contractor shall be responsible for all communications with potential bidders regarding items included in the auction via phone or other means of communication.
- 3.5 Photographing and Lotting Items: Contractor shall take photographs of all items to be auctioned, and lot the items as appropriate for online auctioning purposes. Contractor shall provide experienced staff to conduct asset tracking.
- 3.6 Sale Promotion: Contractor agrees to promote the sale of the auction items by mass e-mail, web analytics, and multiple promotional internet websites or use of personal contacts. The type of promotion to be used shall be determined by the Contractor. Any newspaper advertisement shall be agreed to between County and Contractor prior to the placement of any ad. County shall pay for any agreed upon newspaper advertisement. Contractor shall place County's listing on its website(s) at www.lemonsauctioneers.com or www.onlinepros.com, both of which are secured sites that are available seven (7) days per week, twenty-four (24) hours per day.

- 3.7 Third-Party Websites: Contractor may, at its discretion, display photos or descriptions of the auction items on a third-party website to market and sell the items. Contractor shall watermark all photos placed on the internet for marketing purposes to deter fraudulent misuse of the photos.
- 3.8 Sales Tax: Contractor shall charge and collect from the successful bidder of each auction item the purchase price and all applicable taxes. Contractor shall remit those sales taxes that are due and payable to the State of Texas to the Texas Comptroller of Public Accounts. Contractor shall account for non-collection of sales taxes on auction items that are purchased by persons or entities holding valid tax exemption or resale certificates. Contractor shall provide its sales tax number upon request.
- 3.9 Payment: Contractor shall collect payment in full before from each successful bidder before the bidder may schedule to pick up the item. Contractor shall accept payments from successful bidders for auctioned items by cash, credit, debit, cashier's check, money order, or wire transfer. Bidders who pay by credit card shall pay an additional administration fee of three and seventy-five hundredths' percent (3.75%) of the purchase price of the item to offset credit card administrative cost. Successful bidders may make payment at Contractor's offices located at 18810 Juergen Road, Tomball, Texas 77377. County shall not be responsible for paying any fee for sales that are paid through Contractor's Credit Card Gateway.
- 3.10 Successful Bidder's Failure to Pay: Contractor shall not be responsible for bidders who default on payment, but will make diligent attempts to collect all monies due to the County from the proceeds of the auction. If Contractor is unable to collect payment from a successful bidder for an item sold at auction, Contractor will notify County, the item will be deemed a "No Sale," no fee or commission will be charged to the County for that item, and the County shall retain ownership of that item. Bidders that do not pay for their purchases during the stated deadline may be permanently banned from future online auctions.
- 3.11 Invoices: Contractor shall provide successful bidders who have completed payment with an invoice that includes the buyer's name, a description of the purchased item, the bid amount, and any applicable taxes.
- 3.12 Escrow Account: Contractor shall be fully responsible for the collection and security of the money during the auction, and until funds are delivered to the County. Contractor shall deposit all auction proceeds into an Escrow Account located at Woodforest National Bank in Tomball, Texas. Within fifteen (15) days following the conclusion of the auction, Contractor shall pay to County the net proceeds from the items sold, less Contractor's fee and any approved newspaper advertisement fees. Payment to the County shall be made by wire transfer.

- 3.13 Item Pick Up: Contractor shall coordinate the pickup of auctioned property by successful bidders, and provide a list to the County that identifies the buyer's name and a description of the item purchased. Auctioned items shall be picked up in accordance with Exhibit B. Contractor shall ensure purchasers are aware that each is solely responsible for loading and/or removing the purchased item from County property. If an item is not picked up by the specified date and time, the County shall retain ownership of the item. If a bidder fails to pick up an auctioned item, his or her account will be suspended and no refund will be made. Contractor shall not be responsible for auctioned items that are not picked up before the stated deadline. No auctioned items of any kind for any auction shall be transported, shipped, or arranged to be transported or shipped by the County.
- 3.14 Vehicles: If vehicles are included in the auction, Contractor shall be responsible for all vehicle and bus title transfers and documentation. The Contractor shall charge each vehicle purchaser a thirty-five-dollar (\$35.00) title preparation fee for each vehicle purchased. The Contractor shall submit to the Texas Department of Motor Vehicles current buyer information for all titled vehicles.
- 3.15 Bills of Sale: Contractor shall issue a bill of sale upon request.
- 3.16 List of Items Sold: Contractor shall provide to County an itemized statement of all auction items and proceeds. The statement shall include the lot number, if any, a description of the auctioned item, the amount collected, and a final accounting of all transactions. The list shall separately identify auction items with an asset tracking tag (and include the asset tag number in addition to the other required information), and unsold items.
- 3.17 Buyers List: Contractor shall submit to the County a buyers list indicated the name, address, and telephone number of each buyer a report to the County showing the gross sales from the auction, the fees to be collected by Contractor, and the auction proceeds to be paid to County.
- 3.18 Licensure: Contractor's auctioneers are licensed and regulated by the Texas Department of Licensing and Regulation. A license issued by said Department does not imply approval or endorsement of auctioneer by the State of Texas. If there are unresolved complaints, they can be made to the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or by calling (800) 803-9202.
- 3.19 Risk of Loss: Contractor shall not be responsible for any risk of loss for auction items, including theft or item damage, before, during, or after the auction.
- 3.20 Legal Compliance: Contractor shall conduct the auction and all services to performed hereunder in accordance with any applicable laws and regulatory requirements.
- 3.21 Conference and Cooperation: Contractor shall confer with the County or the Designated Representative on an as needed basis to ensure the services are performed satisfactorily, and to make any necessary or requested adjustments. Contractor shall cooperate at all times with the County, and other contractors providing services to the county to maintain maximum efficiency.

- 3.22 Necessary and Qualified Staff: Contractor shall provide necessary staff, labor, and equipment to efficiently and orderly perform the services, and shall be responsible for any cost associated with implementing this Agreement. Contractor agrees to employ, maintain, and assign a sufficient number of competent and qualified personnel to provide the services in a professional and skillful manner.

SECTION 4. COUNTY'S OBLIGATIONS

- 4.1 Right to Conduct Auction: County grants to Contractor the right to market and sell the auction items identified for auction by the County. The County may add additional items to the auction at any time. The County may not withdraw property from the auction once the auction has started. The County may not attempt to sell, transfer, destroy, or alter any auction item once the auction has started.
- 4.2 Representations and Warranties: County represent and warrants to Contractor that 1) County has good title to the items to be auctioned, and that all such items are free of any liens, claims, and encumbrances, 2) County has the right, power, and authority to appoint the auction items for sale and to enter into this Agreement, 3) good title will pass to purchasers upon sale, 4) there are no restrictions on Contractor to reproduce photographs of the items, and 5) the information provided to Contractor in this Agreement is true and correct.
- 4.3 Staging: County shall identify all items to be auctioned, and place them in a staging area.
- 4.4 Sale Promotion: County agrees to allow Contractor to publicize County's name on Contractor's website, any marketing material, or third-party websites to promote the sale of the auction items.
- 4.5 Buyer's Premium: County shall allow Contractor to charge each buyer a Buyer's Premium equal to fourteen percent (14%) of the gross purchase price of each item purchased. The Buyer's Premium shall be paid by the purchaser directly to Contractor, and is retained by Contractor as additional compensation for conducting the auction.
- 4.6 Cancellation of Scheduled Auction: In the event that County cancels a scheduled auction, County shall pay Contractor for advertising fees paid by Contractor, provided that Contractor provides County with a valid paid invoice for the advertising fees.
- 4.7 Item Pick-up: The County shall ensure that a county employee is on site for item pick-ups during scheduled pick-up times. A purchaser must have their invoice in order to pick up an item. The County is not required to assist the purchaser with loading or moving any purchased item.

SECTION 5. COMPENSATION

- 5.1 Compensation: Contractor's compensation shall be eighteen percent (18%) of the gross proceeds received for general auction items, and ten percent (10%) of the gross proceeds received for all vehicles, trailer tractors, real estate, and heavy equipment. Contractor shall deduct its fees from the gross proceeds of the auction sale. Contractor shall not perform additional services or bill for expenses incurred pursuant to this Agreement unless the County requests and approves in writing the additional costs for such services. County is not required to make any payment to Contractor unless specified otherwise in this Agreement.

SECTION 6. TERM AND TERMINATION

- 6.1 Term: This term of this Agreement shall begin on the Effective Date, and terminate upon complete performance of its terms (the “Term”), unless either Party terminates this Agreement in accordance with its terms.
- 6.2 Termination for Failure to Perform: Either Party may terminate this Agreement if the other Party fails to perform in accordance with the terms of this Agreement, provided that the failure to perform is at no fault of the terminating Party. Contractor shall be responsible for any expenses it incurs after the date of termination.
- 6.3 Termination for Insolvency and Bankruptcy: The County, in its sole discretion, may immediately terminate this Agreement without notice and without the opportunity to cure if Contractor, or any of its parent or subsidiary business entities responsible for providing services under the Agreement become insolvent or files any petition for bankruptcy.
- 6.4 Termination for Convenience: Either party may terminate this Agreement by providing ten (10) days written notice to the other party, given not less than thirty (30) days prior to the auction date.
- 6.5 Notice of Termination: Unless provided otherwise herein, the terminating Party shall provide thirty (30) days written notice of termination to the other Party as provided in Section 16.12.
- 6.6 Opportunity to Cure: A Party receiving notice of termination for failure to perform in accordance with the terms of this Agreement shall have the opportunity to cure its failure to perform beginning on the day of its receipt of the written notice, and continuing for thirty (30) calendar days thereafter. The cure, if made, shall be to the terminating Party’s satisfaction. If no cure is made, the Agreement will terminate on the date specified in the written termination notice, or if no date is specified, on the thirtieth (30th) calendar day after the date of receipt of the notice, unless otherwise agreed by the Parties.
- 6.7 Termination Without Penalty: Contractor shall not be entitled to any damages, whether direct or indirect, should the County choose to exercise its option to terminate.

SECTION 7. NO EXCLUSION OR PAYMENT

- 7.1 No Exclusion or Payment: Contractor understands and agrees that this Agreement does not create an exclusive right for Contractor to provide the services contemplated by this Agreement.

SECTION 8. RECORDS AND AUDITS

- 8.1 Records and Audits: The County and the Waller County Auditor shall have access to and the right to examine any directly pertinent books, documents, papers, and records of Contractor involving transactions relating to this Agreement. The County shall give Contractor reasonable advance notice of intended inspections or audits. Contractor shall maintain records necessary for the County or the County Auditor to complete an audit, and to comply in all respects with any request by the County or the County Auditor for records and documents for the purpose of performing an audit.

SECTION 9. INTERPRETATION

- 9.1 Interpretation: This Agreement controls over any other document, order form, purchase

order, terms, or conditions in regard to the services to be performed hereunder. Headings in this Agreement are inserted solely for convenience, and do not constitute a part of this Agreement, nor affect its meaning, construction, or intent. Whenever used in this Agreement, unless the context indicates otherwise, the singular will include the plural, the plural will include the singular, and the male gender will include the female gender. The words “include,” “includes,” and “including” are deemed to be followed by the words “without limitation,” unless otherwise specified. In the event of any disputes over the meaning or application of this Agreement, it shall be interpreted fairly and reasonably, and neither more strongly for nor against either Party.

SECTION 10. SITE INSPECTION AND COORDINATION

10.1 Site Inspection and Coordination: Contractor represents that Contractor is thoroughly acquainted with all matters relating to the performance of this Agreement. All services under this Agreement shall be coordinated under, and performed to the satisfaction of the County or the Designated Representative.

SECTION 11. PERMITS; COMPLIANCE WITH LAWS AND REGULATIONS.

11.1 Permits; Compliance with Laws and Regulations: Contractor shall possess or obtain any applicable permits required by municipal ordinance, county ordinance, or state or federal law for the performance of the services prior to executing this Agreement. Contractor shall perform its obligations pursuant to this Agreement in accordance with all federal, state, and local statutes, ordinances, laws, regulations, and executive, administrative, and judicial orders applicable to the services to be performed.

SECTION 12. INDEPENDENT CONTRACTOR.

12.1 Independent Contractor: In performing the services under this Agreement, Contractor and its employees are independent contractors. Contractor shall exercise independent judgment in performing its duties under this Agreement, in cooperation with the County, and is solely responsible for setting working hours, scheduling or prioritizing its work flow, and determining how the work is to be performed. No term or provision of this Agreement or act of the Contractor in the performance of this Agreement shall be construed as making Contractor or its employees an agent, servant, or employee of the County in any capacity or form.

SECTION 13. INDEMNITY.

13.1 **INDEMNITY: CONTRACTOR, ITS OFFICERS, DIRECTORS, PARTNERS, CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, VENDORS, GRANTEES, AND/OR TRUSTEES (COLLECTIVELY REFERRED TO AS “CONTRACTOR” FOR PURPOSES OF THIS SECTION), AGREE TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE COUNTY AND ITS OFFICERS, OFFICIALS, DEPARTMENT HEADS, REPRESENTATIVES, AGENTS, AND EMPLOYEES (COLLECTIVELY REFERRED TO AS “COUNTY” FOR PUPOSES OF THIS SECTION) FROM ANY AND ALL CLAIMS, DEMANDS, DAMAGES, INJURIES – INCLUDING DEATH – LIABILITIES, AND EXPENSES (INCLUDING ATTORNEY’S FEES AND COSTS OF DEFENSE) ARISING DIRECTLY OUT OF OR RESULTING FROM THE OPERATION OR PERFORMANCE OF CONTRACTOR UNDER THIS**

AGREEMENT. THE COUNTY WILL NOT ACCEPT LIABILITY FOR INJURIES THAT ARE THE RESULT OF THE NEGLIGENCE, MALFEASANCE, ACTION, OR OMMISION OF CONTRACTOR. CONTRACTOR AGREES TO ACCEPT LIABILITY FOR INJURIES TO ITSELF OR OTHERS CAUSED BY ITS OWN NEGLIGENCE, MALFEASANCE, ACTION, OR OMMISSION. THIS INDEMNIFICATION PROVISION IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT BE LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST COUNTY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS, AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, AGREEMENT, OR OTHERWISE.

COUNTY SHALL HAVE THE RIGHT TO APPROVE DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION TO DEFEND AND INDEMNIFY COUNTY HEREUNDER, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY COUNTY IN WRITING. COUNTY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, COUNTY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY COUNTY IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND COUNTY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY COUNTY PURSUANT TO THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNTY APPROVED DEFENSE COUNSEL WITHIN TEN (10) BUSINESS DAYS OF COUNTY'S WRITTEN NOTICE THAT COUNTY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT, COUNTY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL REASONABLE ATTORNEY FEES AND COSTS INCURRED BY COUNTY. CONTRACTOR AND COUNTY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

SECTION 14. INSURANCE REQUIREMENTS

- 14.1 Insurance Limits and Required Certificates: Contractor shall provide the County with certificates of insurance evidencing compliance with the requirements of this section. The certificates shall indicate the name of Lemons Auctioneers, LLC, the name of the insurance company, the policy number, and the term and limits of coverage. The insurance coverage must be with a company authorized to do business in the State of Texas, and shall be of the following types and limits:
- a. Workers Compensation in accordance with the laws of the State of Texas.
 - b. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
 - c. Comprehensive general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policy holder.
 - d. Business Automobile Liability coverage for owned, non-owned, and hired vehicles, with minimum limits of not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
- 14.2 Additional Insured: Contractor's insurance policies that cover performance under this Agreement shall name the County as an additional insured.
- 14.3 Certificates of Insurance: Contractor shall provide the County with certificates of such insurance within thirty (30) days of the Effective Date, and the certificates shall indicate insurance coverage as of the Effective Date.
- 14.4 No Decrease in Liability: The County's acceptance of the certificates of insurance shall not relieve or decrease Contractor's liability.
- 14.5 No Cancellation or Modification: Contractor shall not cancel or modify the insurance coverages required by this Agreement without providing thirty (30) days written notice to the County. Contractor shall not allow a lapse in the insurance coverage specified in this Agreement during the Term.

SECTION 15. ASSIGNMENT

- 15.1 Assignment: Contractor shall not sell, assign, transfer, or convey this Agreement, in whole or in part, without the prior written consent of the County. The following conditions must be met before any permitted assignment becomes effective: a) Contractor must give written notice of a proposed assignment to the County at least thirty (30) days prior to the effective date of the assignment; b) the assignee must explicitly accept all of Contractor's obligations under this Agreement; c) Contractor must retain its obligations to the County under this Agreement until the assignment is effective; d) the Assignment must be executed by both Contractor and the assignee; e) Contractor must provide the County a fully executed

assignment agreement not later than five (5) business days after the assignment is signed, and f) the County provides a signed, written consent to the assignment.

SECTION 16. MISCELLANEOUS PROVISIONS

- 16.1 Recitals: The Recitals are incorporated into this Agreement.
- 16.2 Jurisdiction and Venue: This Agreement is made in and shall be construed according to the laws of the State of Texas, without regard to its conflict of laws provisions. Venue of any court action(s) brought directly or indirectly by reason of this Agreement shall be in a court of competent jurisdiction in Waller County, Texas. This Agreement is made and is to be performed in Waller County, Texas.
- 16.3 Right of Review: The County or the Designated Representative may review and inspect any and all of the services performed by Contractor under this Agreement. The is granted the right to audit, at the County's election, all of Contractor's records and billings related to the performance of this Agreement as may be reasonably necessary. Contractor agrees to retain such records for a minimum of three (3) years following completion of this Agreement. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Agreement shall be subject to County's rights as may be disclosed by a review under this section.
- 16.4 No Subcontractors: Contractor shall not subcontract any portion of its duties under this Agreement, unless the County has provided prior written consent. In the event that the County provides written consent for a portion of the services to be performed by a subcontractor, the subcontractor must agree to be bound by the terms of this Agreement.
- 16.5 No Waiver: No claim or right arising out of a breach of this Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. The County's failure to require strict performance of any provision of this Agreement does not waive or diminish the County's right thereafter to demand strict compliance with that or any other provision. The County's waiver or failure to exercise in any respect any right provided for in this agreement shall not be deemed a waiver of any further right under this agreement. The County and its employees, officers, and officials do not waive, modify, or alter to any extent any of their defenses, immunities, or remedies.
- 16.6 Force Majeure: Neither Party shall be deemed to have breached any provision of this Agreement as a result of any delay, failure in performance, or interruption of services resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications, or Internet equipment or service, or other catastrophes, or any other occurrences which are reasonably beyond a Party's control. The Parties are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the Part seeking relief under this provision. The Party seeking relief due to force majeure is required to promptly notify the other Party in writing, citing the details of the force majeure event and the relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Agreement has not been terminated. Delay or failure of performance, by either

Party to this Agreement, causes solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event.

- 16.7 Tax Exempt: The County is tax-exempt, and will not pay a tax from which it is exempt. Tax exempt paperwork may be provided upon written request.
- 16.8 No Arbitration: A dispute arising under this Agreement shall not be subject to arbitration.
- 16.9 Waiver of Subrogation: Contractor and Contractor's insurance carrier waive any and all rights whatsoever with regard to subrogation against the County as indirect parties to any suit arising out of personal or property damages resulting from Contractor's, its employees', or permitted subcontractors' performance under this Agreement.
- 16.10 Authority to Sign: Signatories to this Agreement represent and warrant that they have the authority to bind the respective parties.
- 16.11 Confidentiality: The County is bound by Texas Government Code Chapter 552, the Public Information Act, and other laws concerning government records. Contractor shall clearly and noticeably mark all confidential information and documents it provides to the County pursuant to this Agreement. The County will make good faith efforts to promptly notify Contractor if any such information is requested in a public information request, subpoena, or other method so Contractor may argue against the release of such information. Contractor recognizes and understands that the final decision as to what information must be disclosed pursuant to the PIA lies with the Texas Attorney General. Contractor further agrees that the County may furnish information acquired through or pursuant to this Agreement and that is requested through the PIA to the Texas Attorney General for a determination of whether the information must be disclosed. Neither the County, nor any of its officers, or employees shall have any liability or obligation to any party for the disclosure to the public, or to any person or persons, of any items or data furnished to the County by Contractor in reliance on any statute, court opinion, court order, or the advice, decision, or opinion of the Texas Attorney General.
- 16.12 Notices: Notices delivered hereunder shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested. Mailed notices shall be deemed received three (3) business days after the notice is placed in the mail with proper postage paid. Any notice or certification to be provided pursuant to this Agreement shall be delivered to the following persons, unless a substitute representative is designated in writing:

To the County:

Waller County Judge
836 Austin St., Suite 4300
Hempstead, TX 77445

To Contractor:

Attn: Lori Campbell
18810 Juergen Rd.
Tomball, TX 77377

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Agreement has been entered into as of the last date of signature affixed hereto.

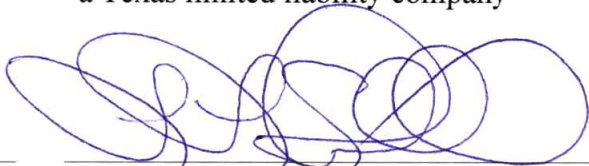
COUNTY

CONTRACTOR

WALLER COUNTY, TEXAS
a political subdivision of the State of Texas

LEMONS AUCTIONEERS
a Texas limited liability company

Carbett "Trey" Duhon, III
County Judge



Lori Campbell
President

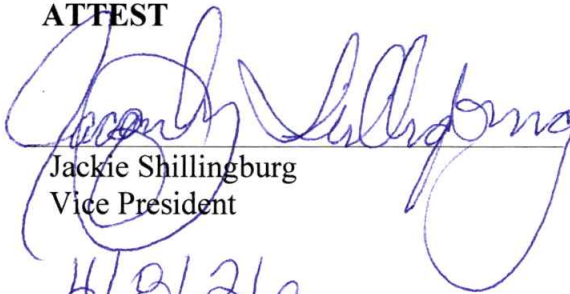
Date

4/8/26
Date

ATTEST

ATTEST

Debbie Hollan
County Clerk



Jackie Shillingburg
Vice President

4/8/26

EXHIBIT A

General Operating and Auction Procedures

General Operating Procedures

Government Code

TITLE 10. GENERAL GOVERNMENT
SUBTITLE D. STATE PURCHASING AND GENERAL SERVICES
CHAPTER 2175. SURPLUS AND SALVAGE PROPERTY
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2175.186. DISPOSITION BY COMPETITIVE BIDDING, AUCTION, OR DIRECT SALE.

- (a) If a disposition of a state agency's surplus property is not made under Section 2175.184, the commission shall sell the property by competitive bid, auction, or direct sale to the public, including a sale using an Internet auction site. The commission may contract with a private vendor to assist with the sale of the property.
- (b) The commission shall determine which method of sale shall be used based on the method that is most advantageous to the state under the circumstances. The commission shall adopt rules establishing guidelines for making that determination.
- (c) In using an Internet auction site to sell surplus property under this section, the commission shall post the property on the site for at least 10 days.

Direct Link:

<https://statutes.capitol.texas.gov/docs/GV/htm/GV.2175.htm>



Pre-Auction Procedures

Auction Agreement

The auctioneer and seller will establish contractual rates, including any applicable co-op agreements, along with the auction terms. Service dates may be set per auction, annually, or biannually.

Auction Dates and Hours

The auctioneer and seller will agree upon an auction timeline that will consist of the auctioneer conducts asset tracking & digital photography or asset tracking & digital photography due from seller, auction activation, auction preview, auction completion, and removal dates.

General Preparation

- *Conduct a complete walk through prior to the auction company's arrival.
- *Remove all items not intended for auction.
- *Establish auction locations and ensure all items are staged for easy accessibility.
- *Stage items "like with like", preferably on pallets, and allow spacing for photography.

Staging Order & Priorities

- *First location should begin with titled units, equipment, or child nutrition items.
- *If selling buses or vehicles: Pull titles immediately and verify VINs.
- *Send copies of titles to the auction company a few days prior to arrival.
- *Upon arrival, unlock vehicles and have keys available (VERY IMPORTANT).

Vehicle & Equipment Preparation

- *Remove entity names from all vehicles (use spray paint, roller paint, heat gun, etc.).
- *Remove exemption plates and dispose of them.
- *Remove all cameras, radios, toll tags, and GPS systems.
- *Ensure staging areas are mowed for photography purposes.
- *Have staff available to start vehicles (with jump boxes, batteries, etc.) for operational videos.
- *After the auction company inventories and photographs assets, do not remove parts (tires, mirrors, covers, batteries, headache racks, etc.)



Pre-Auction Procedures (Cont.)

Auction Day Support

- *Auction Staff has one day allotted for tagging & photography — no lunch or breaks will be taken.
- *Waller County will provide an alternate staff member to assist the auction team if needed.

Documentation & Special Requirements

- *Prepare a list of vehicle & equipment issues for the auction team.
- *Provide additional condition details for all vehicles and equipment, including: Running or not running, Blown engine, Water in the oil, Requires towing, Any other known mechanical or operational issues.
- *Provide preview and removal contact information for each location, including: Full name, Phone number, Email, Hours of operation, Access details, Special Rules (Example: "Winning bidder must sign in at the main office and show ID for access")
- *An auction team member will take possession of the titles for buses, vehicles, and trailers at the time we tag and photograph the auction surplus. Please confirm who will be authorized to sign the titles and 130U forms on that specified date.



Selling Police Vehicles by Auction

Sec. 272.006. SALE OR TRANSFER OF LAW ENFORCEMENT VEHICLE.

(a) In this section, "political subdivision" means a county, municipality, school district, junior college district, other special district, or other subdivision of state government.

(b) A political subdivision may not sell or transfer a marked patrol car or other law enforcement motor vehicle to the public unless the political subdivision first removes any equipment or insignia that could mislead a reasonable person to believe that the vehicle is a law enforcement motor vehicle, including any police light, siren, amber warning light, spotlight, grill light, antenna, emblem, outline of an emblem, or emergency vehicle equipment.

(c) A political subdivision may not sell or transfer a marked patrol car or other political subdivision law enforcement motor vehicle to a security services contractor who is regulated by the Department of Public Safety and licensed under Chapter 1702, Occupations Code, unless each emblem or insignia that identifies the vehicle as a law enforcement motor vehicle is removed before the sale or transfer.



► H.B. No. 473

<https://www.legis.state.tx.us/tlodocs/84R/billtext/html/HB00473F.htm>

Auction Location Logistics

Auction Locations

The seller may offer one or more online auction locations. The auctioneer will require the name, physical address, and lot numbers for each location. Example: Loc. 1: 1-99, Loc. 2: 100-199, Loc. 3: 200-299.

Online Auction Activation

The online auction activation will be determined through discussion and agreement between the seller and the auctioneer. The activation date marks the first day of the ten-day online auction period as per Government Code. The auction will commence at approximately 10:00 A.M. (CDT)

Online Auction Preview

Preview Date & Time: Ideally scheduled two days before the online auction concludes.

Seller's Responsibility: The seller must provide a designated preview schedule, either by appointment or within a set timeframe.

Preview and Removal Representative

Seller Requirement: The seller must provide online contact information for direct inquiries, auction preview, and item removal coordination.

Online Auction Completion

Auction Timing: Items will close in increments of 30 seconds, 2 minutes, and 5 minutes. The auction will generally start at 10:00 A.M. and conclude around 2:00 P.M.
Example: Lot #1 (10:00 A.M.), Lot #2 (10:01 A.M.)

Proceeds Collection: The auctioneer will collect online auction proceeds within three business days directly after the auction's completion.

Auction Results: A detailed auction report will be sent to the seller via email approximately two hours after the auction concludes.

Receipts: The seller will receive paid receipts for all buyers once their purchases are fully paid.

Proceeds Delivery: The seller will receive auction proceeds within a reasonable timeframe based on the completion of auction item removal.

Online Auction Removal

Removal Schedule: Ideally scheduled 3 to 5 days after the online auction concludes for general surplus depending on item volume. Vehicles or equipment generally 10 days and portable classrooms up to 45 days.

Seller Responsibility: The seller must provide designated time slots for item removal.



Auction Software Services

Secure & Verified Bidder Registration

All bidder registrations are reviewed and verified within 24 hours.

New online bidders must register and provide a credit or debit card to activate their account.

A preauthorization charge will be applied as follows:

\$1.00 USD to update the card on file.

\$100.00 USD for a Surplus Auction.

\$500.00 USD for a Vehicle Auction.

The registered card will be securely stored for future online payments. Bidders may update their payment method at any time.

Bidding Features & Notifications

*Instant Push Notifications – Stay updated on bids and auction activity.

*Bid Confirmation – Receive real-time bid validation.

*Max Bid Option – Set a maximum bid for automatic bidding.

*Outbid & High Bid Alerts – Get notified if you're outbid or leading.

*Bidder Login Agreement – Review and accept updated terms for each auction.

Additional Features

*Past Auction Results – Access historical auction data.

*Item Performance Videos – View product demonstration videos.

*Automated Payment Processing – Secure and hassle-free transactions.

*Dynamic Live Bidding – Real-time updates on bids and status with countdown timers





Auctioneers Responsibilities

1. Online Auction Consultation
2. Draft and Finalize Waller County Auction Contract/Agreement
3. Approve Online Auction Timeline Agreement
4. Provide Seller Training and Forms for Asset Tracking & Photography (Cataloging App/ShareFile)
5. Obtain Operational Videos for Marketing
6. Send Mobile Push & Text Notifications
7. Email Alerts for Upcoming & Closing Auctions
8. Buyer IT Support
9. Comprehensive Marketing Strategies
10. 24/7 Support for Sellers & Buyers
11. Expert Customer Service - Se Habla Español
12. Bidder Approval Process
13. Manage, Receive, & Distribute Payments
14. Provide Seller with Paid Invoice via Email (Upon Request)
15. Issue Itemized Statement Post-Auction
16. Communicate with the seller regarding payment updates and confirmation of item removal
17. Title Preparation and New Buyer Notification to the DMV
18. Submit Sales Tax to Texas Comptroller Title Processing
19. Prepare Final Settlement Documents
20. Process Seller Payments via Check, Wire Transfer, or ACH





Sellers Responsibilities

1. Waller County must receive approval from the Waller County Commissioners Court prior to conducting an auction.
2. Notify all departments about the upcoming auction so they can contribute surplus items, as necessary.
3. Organize the staging of auction items, including vehicles, equipment, and general surplus. (Refer to General Operating and Pre-Auction Procedures, pages 8–10.)
4. On the scheduled tag and photo date, Waller County will provide a seller representative and several worker inmates to assist the auctioneer with lifting and moving heavy items for staging.
5. A Waller County representative will send the signed titles and 130U forms to the auctioneer upon request if applicable.
6. Waller County and the auctioneer will establish an auction timeline.
7. A seller representative will oversee the item preview and removal process, including coordinating buyer removal appointments in accordance with the approved timeline and the Auction Location Logistics Form.
8. A Waller County representative will coordinate with Online Pros regarding buyer removal status.



EXHIBIT B



Online Auction Timeline

We provide an auction experience of unparalleled quality that consistently surpasses your expectations.

Trust Lemons Auctioneers, LLC & Online Pros to dispose of your surplus assets with professionalism and expert management.

Mission Statement:

To offer our buyers and sellers the most innovative, creative, dynamic, and successful auction experience.

Online Auction Timeline	Time frame
Lemons Auction Team Conducts Asset Tracking & Digital Photography	-Tuesday, May 19, 2026 (Approx. Arrival Time: 9AM)
Auction Goes Live on OnlinePros.com	-Friday, May 22, 2026
Auction Preview Conducted by Waller County	-Thursday, May 28, 2026
Auction Concludes on OnlinePros.com	-Tuesday, June 02, 2026
Auction Removal Conducted by Waller County	Wednesday, June 03, 2026/Thursday, June 04, 2026/Friday, June 05, 2026

Please sign and date if you agree to the dates and times listed in the proposed time frame.

Signature: _____

Print Full Name: _____

Date: _____