

RESOLUTION 18-99

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING THE AGREEMENT WITH FLORIDA AUCTION NETWORK LLC TO CONDUCT AN AUCTION OF CITY SURPLUS PROPERTY ON JUNE 23, 2018 FOR A FEE OF FIVE PERCENT OF THE TOTAL PROCEEDS RECEIVED; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED by the City Council of the City of Panama City Beach that the appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Agreement between the City and Florida Auction Network LLC, to conduct an auction of the City's Surplus Property, Vehicles and Equipment, on June 23, 2018, for a fee of Five Percent (5%) of the total proceeds received, in substantially the terms and conditions set forth in the quote attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 14th day OF JUNE, 2018.

CITY OF PANAMA CITY BEACH

By: 
MIKE THOMAS, MAYOR

ATTEST:


JO SMITH, CITY CLERK

FLORIDA AUCTION NETWORK LLC
3847 EAST BUSINESS HIGHWAY 98
PANAMA CITY, FL 32401
850-896-2343
auctionchoice@yahoo.com
www.flauctionnetwork.com
AB# 3488 AU# 4677

Consignor: City of Panama City Beach
Seller ID: Panama City Beach
Date of Consignment: 5/29/18
Contact Info: Captain Wayne Maddox (850) 233-5000
Event/Auction: Calendar Year 2018

CONSIGNMENT AGREEMENT

1. **CONSIGNMENT:** Consignor grants Florida Auction Network LLC (FANLLC) the exclusive right to auction his/her/its property at public auction. FANLLC will decide the best method to advertise the property. FANLLC may divide or combine the property into one or more separate lots. FANLLC will incur no liability for the postponement of any auction for any reason. FANLLC is not responsible for any items left with FANLLC that do not appear on the property receipt made out by a FANLLC employee and countersigned by Consignor.
2. **COMMISSIONS:** FANLLC will receive 5% of the hammer price for all lots sold. Hammer price shall mean the total proceeds received from the winning bid for each lot sold excluding the buyer's premium.
3. **RESERVES:** Reasonable reserves are accepted on most items. It is understood that if FANLLC sells the property below a reserve amount, the consignor will receive an amount equivalent to that which they are entitled to had the item sold at the reserve amount. Reserves are to be agreed upon before items are transferred to possession of FANLLC and cannot be raised after FANLLC has taken possession. Unsold items may incur a service charge. (See paragraph 13 about alerting FANLLC to retrieve unsold items and/or relisting items through another auction)
4. **ADDITIONAL CHARGES:** Consignor will pay all packing, handling, and transportation costs to FANLLC premises, as well as restoration, repair, and cleaning costs and costs of third party services, appraisals or expert advice to properly describe property or verify authenticity. Cleaning, restoration, and appraisal costs in excess of \$30 will be approved in advance by Consignor. All third party costs are increased 10% as a service charge for FANLLC account.
5. **INSURANCE:** Consignor will maintain any insurance deemed necessary and holds FANLLC harmless for any damage or liability claims resulting from involvement of property at the premises/site until the Consignor is paid by FANLLC. Consignor will maintain insurance until Consignor is paid by FANLLC and Consignor is liable for any theft, damage, fire damage, natural disaster, or vandalism that may occur while on premises/site or while being handled by FANLLC.
6. **ADVERTISING, PHOTOGRAPHY, & VIDEO:** FANLLC will market as it deems necessary to obtain the maximum results. FANLLC will display, video, and photograph the items, and events/transactions as it deems appropriate. FANLLC reserves the right to photograph, audio and video record any property and event/transaction and to use pictures and recordings in any and all advertisements, information packets, legal proceedings, or for any legal use. In instances where the value of tangible personal property owned by a local government exceeds \$5000.00 per item, FANLLC will publish notice not less than 1 week nor more than 2 weeks prior to sale/auction in a newspaper having a general circulation in the county or district in which is located the official office of the governmental unit at no charge and will provide verification of the publication.
7. **PAYMENTS:** FANLLC will provide (by mail or in person) sales proceeds to the consignor, less all commissions and costs, within 30 days after the auction close, together with a full accounting thereof.
8. **CLAIMS BY BUYERS:** If, within 30 days from the auction close, the buyer of any property demonstrates to FANLLC's satisfaction that the property purchased is not authentic or is materially different from its catalogue description

or other FANLLC representations, FANLLC may, in its sole discretion, delay payment to the consignor (if not yet paid under Paragraph Number 7), rescind the sale, and refund the full purchase price to the buyer. If the Consignor is paid under Paragraph Number 7, Consignor will remit to FANLLC the proceeds previously received for the rescinded sale.

9. **RESERVED BIDS & WITHDRAWAL:** Consignor appoints the Auctioneer and/or FANLLC and its representatives to bid on the consignor's behalf up to the amount of the reserve. Consignor agrees that neither he nor his representative will bid on items under this agreement. Any items the Consignor does bid on will be treated as a purchase and charged the full buyer's premium and commission. Consignor agrees not to withdraw any property subject to this agreement unless agreed to by FANLLC, and the payment of all charges, costs, and the commission (both buyer's premium and consignor's fees) due as if the item had been sold.
10. **WARRANTIES & INDEMNIFICATION BY CONSIGNOR:** (a) Consignor represents and warrants that he has the legal right to consign the property for sale; that there is not, nor will there be, any claim, lien or encumbrance against the property for any reason. (b) Consignor agrees to indemnify FANLLC against all claims and expenses, including reasonable attorney's fees arising from the actual or claimed breach of any of the Consignor's warranties or representations herein, which shall survive the completion of a sale of property.
11. **NONPAYMENT BY PURCHASER:** FANLLC is not obligated to legally enforce payment by any buyer of the property. If FANLLC is not paid by the purchaser within 15 days of sale, FANLLC may, in its sole discretion, cancel the sale and resell the property.
12. **NO GUARANTEE:** FANLLC does not guarantee the selling price of property. All estimates of selling value are opinion only and shall not be construed as any promise of selling price. FANLLC is not liable for errors or omissions in catalogues or other descriptive material.
13. **UNSOLD PROPERTY:** (a) Property not sold shall be reclaimed by the Consignor no more than 10 days after the last day of the sale period or auction. (b) The Consignor is responsible for contacting FANLLC to indicate when unsold consigned items are to be retrieved from the premises, or if the unsold consigned item(s) are to be relisted in a second auction, it is incumbent upon the Consignor to alert FANLLC to that decision before 10 days elapse after an auction or consignment period ends. All items not relisted in a future auction or a new consignment agreement is not completed are given a 10 day grace period for the Consignor to retrieve from the premises, as per point (a) above. Property remaining after the 10 days will be subject to storage charges of \$10 per day, per lot. All charges must be paid before the property is released. **ANY ITEMS LEFT OVER 30 DAYS WILL BE CONSIDERED ABANDONED AND BECOME PROPERTY OF FANLLC. FANLLC MAY DISPOSE OF THE ITEMS AT ITS DISCRETION.**
14. **MISCELLANEOUS:** This agreement is binding upon the Consignor's heirs, beneficiaries, executors, et. al.; is assignable only with FANLLC's consent; may be modified only in writing signed by FANLLC and the Consignor; and shall be governed by the laws of the state of Florida.
15. **CONTRACT TERM:** The contract will continue in force until notice to cancel is given by either party or 365 days has passed. A new Consignment Agreement is required each 365 days.
16. **ITEM REMOVAL:** It is understood by the parties that in the event any consigned item is removed by the Consignor, FANLLC will receive their due commission as if the item had sold. The value will be determined by the reserve, or where there is no reserve, the appraised value by a mutually agreed to appraiser.
17. **CONSIGNOR RESPONSIBILITIES:** Consignor is responsible to furnish FANLLC with a complete descriptive list of the property to be sold; including but not limited to brand name, model number, manufacturers serial number, size, shape, color, condition. (see Paragraph Number 18 for information related to titled items) Consignor will deliver all listed property to the premises/site in the cleanest, most functional condition practical and free of any excess liquids or contaminants before being transported to FANLLC premises/site. Consignor guarantees that he/she or

it has good title and right to sell items/property; that they are without mortgages, liens or encumbrances of any kind except those which are specifically detailed within this contract. Consignor assumes full responsibility for providing marketable title and delivery of title to purchaser, payment of proceeds to creditors, and Consignor will assume all attorney fees and court costs if such a case should arise. Any misrepresentation by the Consignor as to the description or condition will allow FANLLC to make a downward adjustment on the selling price at FANLLC's sole discretion or refuse to sell the property and collect the payment of all charges, costs, and the commission (both buyer's premium and consignor's fees) due as if the item had been sold.

18. **STORAGE:** As an additional service to government consignors, FANLLC offers short-term storage of items that are involved in the surplus/disposal process. FANLLC provides a licensed, bonded, and insured premises at 3847 E. Business Hwy 98, Panama City, FL 32401. This premises is fenced and covered by 24-hour surveillance. Items may be stored for up to 90 days prior to auction.
19. **TITLED:** Titled items require a separate Used Vehicle Consignment Agreement form for each vehicle consigned by an individual or business, Power of Attorney HSMV 82995, and title delivered to FANLLC prior to FANLLC taking possession of titled item. Automobile Dealers are required to re-assign title to FANLLC for a vehicle to be sold or auctioned and complete a FANLLC Vehicle Information Data Form. Titles and lien releases must accompany vehicle upon pick up or delivery to FANLLC possession.
20. **NO SALE FEE:** FANLLC reserves the right to charge a No Sale Fee for items that require special handling, unusual time requirements, and advertising that do not sale. Consignor must agree to this possible fee in this contract when required by FANLLC.
21. **PUBLIC RECORDS:** Consignor is a public agency subject to the Florida Public Records Law expressed in Chapter 119, Florida Statutes. Accordingly, to the extent that it is determined that FANLLC is acting on behalf of Consignor as provided under Section 119.011(2) (2017) and implemented through the judicially established "totality of factors" analysis, FANLLC agrees to also comply with that law, specifically including to:
 - a. Keep and maintain public records that ordinarily and necessarily would be required by the Consignor in order to perform the service.
 - b. Upon request of the Consignor, provide the public with access to public records on the same terms and conditions that the Consignor would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
 - c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if FANLLC does not transfer the records to the Consignor.
 - d. Meet all requirements for retaining public records and transfer, at no cost, to the Consignor, all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Consignor in a format that is compatible with the information technology systems of the Consignor.
 - e. **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, IT IS THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, AND TO CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 850-233-5100, JSMITH@PCBGOV.COM, 110 S. ARNOLD ROAD, PANAMA CITY BEACH, FL 32413.**

I commission FANLLC to auction the items listed on the attached sheet(s) to the highest bidder by public auction. I certify that I am the owner/custodian of the listed goods, merchandise, and/or property (property, vehicle, item, lot, etc.) and have good title and the right to sell and that they are free from all encumbrances. I agree to accept all responsibility for providing merchandise title and for delivery of title to purchaser. I agree to hold harmless the auctioneers against any claims of the nature referred to in this agreement.

THIS AGREEMENT IS VALID FOR 365 DAYS AND MUST BE RENEWED TO BE VALID BEYOND 365 DAYS.

**I have read and understand the terms above of
the Event/Auction and will abide by them.**

X

Consignor/Seller

Captain Wayne Maddox
City of Panama City Beach
17115 Panama City Beach Parkway
Panama City Beach, FL 32413
Office: (850) 233-5000
Email: _____

X

Jonathan Sewell
Manager/Auctioneer