



## ONLINE SALES – TERMS AND CONDITIONS

**ALL ITEMS ARE SOLD “AS IS, WHERE IS”. THERE ARE NO EXPRESSED OR IMPLIED WARRANTIES ON ANY ITEMS LISTED. ALL SALES ARE FINAL**

**General.** Items are offered for sale by the City of Gallup, New Mexico, herein referred to as “Seller”. In making the offer, a third party website provider, Public Surplus, LLC is utilized. Individuals submitting bids are herein as “Buyers”.

**Bid Deposits.** *City of Gallup* may require bid deposits in order to ensure fairness to all bidders. The deposit will be reversed if no default occurs or the bidder does not win the auction. The deposit will be retained if the winning bidder defaults.

**Guarantee Waiver.** All property is offered for sale “**as-is, where-is.**” *City of Gallup* makes no warranty, guaranty or representation of any kind, expressed or implied, as to the merchantability or fitness for any purpose of the property offered for sale. The Buyer is not entitled to any payment for loss of profit or any other money damages – special, direct, indirect, or consequential.

**Description Warranty.** All descriptions of items in this sale are believed to be correct, and we have tried to describe each item to the best of our ability, but we do not always have first hand knowledge of the items sold. All items are sold with the possibility of missing parts or components unless specified in each item's auction. Any costs to make an item functional are the responsibility of the awarded bidder. **NO REFUNDS SHALL BE MADE.**

**Inspection.** Most items offered for sale are used and may contain defects not immediately detectable. Bidders may inspect the property prior to bidding. Bidders must adhere to the inspection dates and times indicated in the item description or contact the person listed to schedule an inspection.

**Consideration of Bid.** *City of Gallup* reserves the right to reject any and all bids and to withdraw from sale any of the items listed.

**Hold Harmless:** Buyer agrees to indemnify and hold harmless Seller for any and all damages, claims or liability for injuries to persons or property caused during the sale or by the removal of the item. Purchaser must understand that he/she is buying the



property entirely upon his/her own examination, evaluation, or opinion based on the information given in each items posting. The Seller assumes no responsibility for any accidents on Seller's or other property.

**Legal:** Technology equipment, such as computers, is not sold with the intention to transfer ownership of any software or operating system. Hard drives are formatted or removed, and operating systems (Windows) have been removed. The Seller is not licensed to sell software and cannot provide software to a Buyer. If residual software exists, it is by oversight.

**Notice of Award.** Successful bidders will receive a Notice of Award by email from PublicSurplus.com

**Payment.** Public Processing, LLC, a third-party payment processing company, receives all payments for **City of Gallup**. Payment for an awarded item must be received **within five (5) business days** after the Notice of Award of the successful bid.

Payment may only be made online by credit card, or by wire transfer. **NO CASH, CHECKS, OR MONEY ORDERS WILL BE ACCEPTED.** If you choose to pay with a credit card, please follow the instructions below. The credit card limit per transaction is \$4,000.00. For payments larger than this amount, follow the instructions listed under Wire Transfers.

#### Payment by Credit Card

Login to the Public Surplus site. Click on "**My Stuff**" and then click on "**Past Bids**". Click on the description of the auction and then click on "**Pay Online**" link located on the right hand side of the screen. Follow the steps to complete the transaction. A receipt will be emailed to you once the payment has cleared.

#### Partial Payment

There will be **NO** partial payments allowed for an auction. All auctions must be paid in full according to the specified payment process. For example, you **WILL NOT** be able to pay partially for an auction by Credit Card and pay the remainder by another payment method, such as a wire transfer.

#### Wire Transfers:

For payments over \$4,000.00, a Wire Transfer is required. If you need to do a wire transfer, please email support at [buyersupport@publicsurplus.com](mailto:buyersupport@publicsurplus.com) asking for wire instructions or request the instructions via live chat. These instructions will be emailed to you. Please follow them exactly to allow for prompt payment.



### Pick-Up Procedures

1. You will be notified upon receipt of payment. You may then contact the responsible party listed for the auction item and arrange for a mutually convenient pick-up time. You must bring to the pick-up location (1) the “Notice of Award,” (2) the “Paid Receipt” and (3) personal identification (such as a Driver’s License). **You must present all three identification items at the scheduled pick-up, or the auction item(s) will not be released to you.**

2. If you are picking up an item for someone else, you will need to bring the Notice of Award and the Paid Receipt (photo copies are acceptable), plus a note from the designated “winning bidder” specifically naming you as authorized representative, along with your own personal identification. In addition, you must arrange for the winning bidder to send an e-mail from the winning bidder’s e-mail address used for the auction stating that you are authorized to pick-up the item.

**Buyers Premium:** A Buyers Premium of 10% will be added to the final sale price with a \$1 minimum charge per auction to collect payment. If added, the premium will be visible during the bidding process and will be included in the payment required.

**State/Local Sales and/or Use Tax.** *City of Gallup* will charge New Mexico Governmental Gross Receipts Tax of 5% that will be added to all purchases excluding vehicles, unless the Buyer has provided a valid tax-exempt certificate to *City of Gallup* prior to payment. If applicable, the sales tax will be visible during the bidding process and will be included in the payment specified.

**Removal. We do not ship items; items are available for local pickup only. If you require shipping you must arrange pickup, packaging, insurance and delivery charges with the carrier of your choice.**

The item purchased immediately becomes the responsibility of the purchaser at the time of award. The Seller will execute its usual care for protection up to the time for removal, but will not be responsible for any loss or damage whatsoever. No property may be removed by the purchaser prior to making full payment. The Buyer is required to provide personnel to load the items purchased onto the Buyer's vehicle. At the Seller's discretion, the Seller may provide forklift assistance for the loading of certain items.

Buyer must remove auction item(s) from the agency’s premises **within ten (10) business days** after the time and date of issuance of the Notice of Award. If the Buyer, after making payment for an item, fails to remove the item within the specified time, the



agency reserves the right (1) to retain all payments; and (2) to dispose of the item through another auction or otherwise. Successful bidders are responsible for packing, loading, removing and transporting of all property awarded to them from the place where the property is located as indicated on the website and in the Notice of Award. The Buyer must make all arrangements and perform all work necessary, including packing, loading and transportation of the property. Under no circumstances will **City of Gallup** assume responsibility for packing, loading or transporting. For additional information, please contact **Shirley Wyaco, Property Technician, City of Gallup, (505) 863-1361, [swyaco@GallupNM.gov](mailto:swyaco@GallupNM.gov)**.

**Sale of Vehicles.** **City of Gallup** will issue a title or certificate upon receipt of payment. Titles may be subject to any restrictions as indicated in the item description on the website. Open titles cannot be issued. **City of Gallup** will not issue replacement titles. Odometer/Hourmeter readings are represented to the best of our knowledge. Actual usage of parts, engines transmissions, etc. may be higher or lower as vehicles have undergone repairs and replacements of components.

**Default.** Default shall include (1) failure to observe these terms and conditions; (2) failure to make good and timely payment; or (3) failure to remove all items within the specified time. Default may result in termination of the bid contract and suspension from participation in all future sales until the default has been cured. If the Buyer fails in the performance of their obligations, **City of Gallup** may exercise such rights and may pursue such remedies as are provided by law.

**Withdrawal of Items:** Despite our efforts to avoid withdrawal of items from the sale after they have been advertised or offered, it may become necessary; therefore, the Seller reserves the right to remove any, all, or any portion of items from sale or auction. If the bid for an item **unexpectedly** exceeds \$2500.00, the item may be withdrawn pending City Council approval.

**Bidder Rejection:** The Seller reserves the right to refuse any or all bids.

**Dispute:** If any dispute arises over price, quantity or between bidders, the Seller reserves the right to settle any and all such disputes and their decision shall be final. If there is a possibility of a tie for a single item, the bid is awarded to the Buyer with the earlier placed bid.

**Bidding:** PERSONS WHO ARE UNDER THE AGE OF 18 YEARS ARE NOT ELIGIBLE FOR BIDDING. PLEASE REFER TO PUBLIC SURPLUS' TERMS AND CONDITIONS. A DETAILED EXPLANATION OF THE PUBLIC SURPLUS BIDDING PROCESS CAN BE



FOUND ON THE PUBLIC SURPLUS WEBSITE UNDER HELP/BUYER INFORMATION.

**DONATIONS:** Items not sold during the public auction may be eligible for donation to 501(c)(3) non-profit organizations, governmental units, or an Indian nation, tribe or pueblo in New Mexico. If interested, please contact ***Shirley Wyaco, Property Technician, City of Gallup, (505) 863-1361, [swyaco@GallupNM.gov](mailto:swyaco@GallupNM.gov)***.

**PRIVACY:** Information gathered is used for the purpose of conducting the auction sale and will not be used for any unrelated purpose. Personal information will not be released to any other party, except as required by law.

**Web Site Liability:** Items are offered for sale using the services and web site of Public Surplus, LLC. ([www.publicsurplus.com](http://www.publicsurplus.com)). Under no circumstances will the Seller be liable to any person or business entity for any direct, indirect, special, incidental, consequential, or other damages or losses based on or caused by any use of the auction web site or any other web site to which the site is linked, the content of such web sites, or any viruses or other harmful components derived from any such web sites, including, without limitation, any lost profits, revenue, or use, business interruption, or loss of computer programs or information.

**Employee Purchases:** To avoid any potential appearance or perception of impropriety, City of Gallup employees will not be eligible to bid on or purchase certain surplus items listed on the City's on-line auction. These certain items include those that originate in the same division, unit or area in which the employee works. In addition, employees authorizing the decision to surplus items for auction are not eligible to bid on those items which they authorize. Exceptions are as follows:

- 1) Fleet units are open to all employees except employees responsible for fleet management decisions.
- 2) Police confiscated items (Evidence) released for auction are open to all employees.

If an employee is in doubt or unsure about bidding or not bidding on an item, it is advised to favor towards the cautious side and not bid on the item. See the auction item code following the item's description for the item's originating area.

**Acceptance of Terms and Conditions.** By submitting a bid, the bidder agrees that the bidder has read, fully understood and accepted these Terms and Conditions of Online Sales, and agrees to pay for and remove the property, if the bid is accepted, within the dates and/or times specified.