



PARCEL #

CONTRACT OF AUCTION SALE

This document, upon signing by both the Seller and the Buyer, becomes a legally binding contract. If you do not understand this document it is recommended that an attorney be consulted before bidding.

SELLER: CITY OF BATAVIA

PROPERTY DESCRIPTION

Property known as No. _____ in the CITY of BATAVIA State of New York, also known as

These premises are offered at Public Auction on **January 28, 2012** upon the following terms and conditions.

1. The successful bidder will be required to pay the sum of **25%** of bid in cash or certified check or bank draft as a deposit at the time of the signing of the "Terms of Sale". The deposit shall be applied to the purchase price upon the closing of the transaction. The balance of the purchase price shall be paid by certified check at the time of closing.
2. CLOSING: This contract shall be closed at the Genesee County Clerk's Office, Batavia, New York on the **11th** day of **May, 2012** or at such other time and place set by the City Attorney's Office following City Council approval of the sale. TIME IS OF THE ESSENCE IN THIS TRANSACTION.
3. PRESENT CONDITION: Buyer will accept the property in its present condition in all respects and subject to restrictions of record, water line, sanitary sewer drainage, gas distribution line and main, electrical and telephone easements and rights of way of record provided they are or may be used to service the property and provided buildings and other improvements on the Property are not located on the easements. **Buyer will accept the property subject to existing tenancies or parties in possession, if any.**
4. CLOSING DOCUMENTS: Upon payment of the balance, as provided below, the City of Batavia will deliver a standard Quit Claim Deed with accompanying TP 584 and RP 5217 which shall describe the parcel in the same manner as in the In Rem Foreclosure Deed to the City and which shall convey all of the right, title and interest of the City of Batavia in and to the said parcel. The City of Batavia will execute no warranties concerning the parcel or the title thereto and will not deliver or be responsible for abstracts, title searches, surveys, maps or other documents concerning the parcel whatsoever. The Buyer shall be responsible for all filing and recording costs which shall be payable to the Genesee County Clerk at the time of closing.
5. TAXES: The Buyer shall be responsible for current 2011-2012 School, City and County taxes, which shall be prorated from the date of closing. Also, any outstanding or current water and sewer charges shall be the responsibility of the Buyer.
6. NO WARRANTY OF TITLE: The City of Batavia shall in no event be or become liable for any defect in the title so conveyed for any cause whatsoever, so that no claim or demand of any nature shall ever be made against said City of Batavia arising from such sale or conveyance or any proceedings leading thereto. The Property is being sold subject to any and all covenants, easements, restrictions, encroachments, liens, encumbrances and defects in the title. The City of Batavia assumes no responsibility for such items.
7. BUYER'S PURCHASE OF PROPERTY IS "AS-IS". The Buyer shall take the parcel "as is" upon delivery of the above stated deed, in such condition as the same exists as of that date and subject to all alleged possessory or other claims and all covenants, easements and restriction of record. Seller makes no covenant, representation or warranty as to the suitability of the property, the physical condition of the property for any purpose whatsoever, any restriction related to the development of the property, or the applicability of any governmental requirements to the property, including but not limited to Environmental Laws. The term "Environmental Law" shall mean, as may be amended, all federal, state and local laws, statues, ordinances, codes, rules and regulations (and all permits, licenses, approvals, directives, orders, consent orders, settlement agreements and any other binding agreements issued by or entered into by federal, state or local government authorities or courts), relating to protection of the environment and/or governing the use, handling, generation, treatment, recycling, storage, manufacture, transportation or disposal of Hazardous Substances, in effect as of, or which come into effect after, the Closing Date including, but not limited to, as amended, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., Clean Water Act, 33 U.S.C. §§ 1251 et seq., Clean Air Act, 42 U.S.C. §§ 7401 et seq., New York Navigation Law and New York Environmental Conservation Law.

The Buyer acknowledges that it has inspected the property, observed its physical characteristics and existing conditions, and Buyer hereby waives any and all objections to or claims with respect to any and all physical Hazardous Substances in, at, on, under or related to the property. Buyer unconditionally releases Seller from and against any and all liability to Buyer under CERCLA or any other Environmental Law or cause of action for environmental damages arising out of any violation of Environmental Laws due to the presence of any Hazardous Substances on, under, or about the property, whether or not caused by the negligence of Seller. The term "Hazardous Substances" shall mean any gasoline, petroleum products, explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, soil vapor contamination, polychlorinated biphenyls or related or similar materials, asbestos or any material containing asbestos, lead or lead based paint or any other substance or material as may be defined as a hazardous or toxic substance or material by any environmental law, ordinance, rule or regulation of any governmental authority, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), and the Clean Air Act (42 U.S.C. §§ 7401 et seq.) and N.Y.C.R.R. Part 371, as amended, promulgated pursuant to the New York State Environmental Conservation Law, and Articles 15 and 27 of the New York State Environmental Conservation Law, as amended. Buyer further acknowledges and agrees that the property is to be sold and conveyed to, and purchased and accepted by, Buyer in its present condition, "as is" and with all faults, and hereby assumes the risk that adverse past, present or future physical characteristics and environmental conditions may not have been revealed by its inspection or investigation.

- 8. RISK OF LOSS. Risk of loss or damage to the Property until transfer of title shall be assumed by the Seller. If any substantial damage to the Property occurs prior to transfer, either Seller or Buyer shall have the option of canceling this Contract without further liability and Buyer shall have his deposit(s) returned.
- 9. BUYER TO SIGN. The Buyer shall sign three complete originals of this instrument upon completion of the auction sale.
- 10. CANCELLATION AND DEFAULT. The Seller, through its Agent, The Auctioneer, at its option, may cancel this contract if the successful bidder shall fail to comply with the terms of this contract and the Buyer shall, in addition to forfeiting any deposits made as provided herein, be held liable for any deficiency, costs and attorney fees which may result from a resale of the premises.
- 11. TERMS OF AUCTION. This property is sold subject to confirmation and approval by the City Council of the City of Batavia within forty-five (45) days hereof. City Council shall have sole and complete discretion to reject any bid. Upon rejection of the bid, the deposit shall be returned and neither party shall have a claim against the other. If the City Council disapproves the sale or a successful bidder fails to close on the parcel, the City may offer the second bidder the opportunity to purchase the property at the bid price offered by that individual. In the event the second bidder agrees to purchase the parcel, all applicable terms and conditions of the sale apply.

All sales must be closed within 60 days after notification of approval by the City Council. If a bidder should not close within the 60 day period, the deposit will be forfeited and the property re-sold, the bidder remaining liable to the City for breach of contract damages, costs and attorney's fees.

- 12. AUCTIONEER AS AGENT. The parties agree that the Auctioneer is acting as an Agent/Broker for the Seller.
- 13. SURVIVAL. The provisions in Section 3, 5, 6, 7 and 8 shall survive closing of title.
- 14. ENTIRE AGREEMENT. This Contract of Auction Sale and Supplement contains the entire agreement between Seller and Buyer and nothing is binding on either of them which is not contained herein. This Contract is intended to bind the Seller and Buyer and those who succeed to their interests. Any statements made in listings, sales brochures or advertising relating to this Property are not to be considered as a part of the contract unless specifically stated herein. The Buyer shall have the responsibility to verify the facts relating to the property before the Auction sale.

As used herein, the terms Seller and Buyer shall include Sellers and Buyers.

- 15. ASSIGNMENTS: No bid assignments or name changes will be processed by the Seller after the Public Auction unless accompanied by a \$250.00 fee. Any such assignment will be subject to City Council approval and the sale to such new Buyer may be rejected by City Council for any reason.

I, _____ Bidder #: _____ Phone: _____
of _____, _____, _____
(street address) (town) (state) (zip code)

the undersigned Buyer hereby acknowledges purchase of the property described in this contract and agrees to the terms and conditions of the contract for the price of \$ _____ plus a ten percent (10%) Buyer's Premium and have paid to the CITY OF BATAVIA TREASURER, the sum of \$ _____ as a deposit and part payment of the purchase price. The undersigned agrees to complete the purchase in accordance with this contract.

Bid Price	\$ _____
Plus 10% Buyer's Premium added to final bid price	\$ _____
Total Purchase Price	\$ _____
Deposit Paid	\$ _____
Balance Due on Closing	\$ _____

