

CITY OF KIRTLAND

RESOLUTION NUMBER 21-R-1

A RESOLUTION DECLARING INTENT TO CONDUCT AN INTERNET AUCTION FOR THE SALE OF UNNEEDED, OBSOLETE OR UNFIT PERSONAL PROPERTY OF THE CITY OF KIRTLAND, AND DECLARING AN EMERGENCY.

WHEREAS, ORC §721.15 of the Ohio Revised Code authorizes a municipal corporation to dispose of unneeded, obsolete or unfit personal property through the use of an internet auction; and

WHEREAS, ORC §721.15(D), requires this Council, as the legislative authority of said municipality, to adopt, during each calendar year, a resolution expressing its intent to sell personal property by internet auction.

WHEREAS, Kirtland Codified Ordinance 220.25 requires the posting of copies of enacted legislation for fifteen consecutive days in three places within the City, those being City Hall, the Kirtland Public Library, and the Kirtland Community Center; and

WHEREAS, due to the current state of emergency in Ohio stemming from the COVID-19 pandemic, at some point City Hall, the Kirtland Public Library, and the Kirtland Community Center have been closed in order to protect both the community and the staff from potential infection; and

WHEREAS, Kirtland Codified Ordinance 220.25 grants City Council the authority to modify the posting requirement.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Kirtland, County of Lake and State, Ohio, that:

SECTION I: The Council for the City of Kirtland, does hereby express its intent to dispose of unneeded, obsolete or unfit personal property by internet auction during the calendar year 2021.

SECTION II: The personal property disposed of through internet auction may include, as specified in ORC Section 721.15(D), motor vehicles acquired for the use of municipal officers and departments, road machinery, equipment, tools or supplies, any of which is either unneeded, obsolete, or unfit for the use for which it was acquired.

SECTION III: The internet auction will be conducted through a representative to wit: GovDeals.com in such manner and under such general terms and conditions as are set forth in Exhibit A, a copy of which is attached hereto and incorporated into this resolution.

SECTION IV: The Mayor is hereby appointed the City's representative for purposes of administering the internet auction program and is hereby given the authority needed to effectuate the same. The Mayor is hereby further authorized and directed to enter into an agreement with GovDeals.com to participate in the surplus auction program offered by said company and to take such further actions as required by such program.

SECTION V: The Clerk of Council be, and hereby is, instructed to publish a notice including a summary of this resolution, in accordance with ORC §721.15 (D), in the Lake County News Herald, a newspaper of general circulation and to post this notice continually throughout calendar year 2021 in a conspicuous place in the City offices and on the City internet website in accordance with the publication requirements set forth in ORC Section 721.15(D).

SECTION VI: The City Council, pursuant to its authority in Kirtland Codified Ordinance, Section 220.25 and due to the COVID-19 pandemic, hereby modifies the requirement to post this enacted legislation in three places and instead requires the following:

1. If City Hall, the Kirtland Public Library, and/or the Kirtland Community Center are open on the effective date of this enacted legislation, then the Clerk of Council is hereby directed to post the enacted legislation for fifteen (15) consecutive days after its effective date in each facility; and
2. Should any of the facilities listed above be closed on the effective date of the enacted legislation, then the Clerk of Council is not required to post the enacted legislation in that facility; and
3. The Clerk of Council is hereby directed to post the enacted legislation on the City of Kirtland's website for fifteen (15) consecutive days after the effective date of this legislation.

SECTION VII:

(a) It is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were passed in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

(b) This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Resolution is required to be immediately effective in order to participate in the internet auction process for the disposition and sale of personal property that is unneeded, obsolete or unfit and presently requiring valuable storage space and maintenance expense, wherefor, this Resolution shall be in full force and effect immediately upon its passage by the affirmative vote of five (5) members of Council and approval by the Mayor, otherwise this Resolution shall be in effect from and after its adoption at the earliest period allowed by law.

First Reading: _____
Second Reading: _____
Third Reading: _____

DATE PASSED: _____

President of Council

Submitted to the Mayor for his
Approval on this _____ day of
_____, 2021.

ATTEST:

Approved by the Mayor, this _____
day of _____, 2021.

Clerk of Council
Internet Auction for 2021

Mayor Kevin F. Potter

EXHIBIT A

**General Terms and Conditions for the Sale of Unneeded, Obsolete or
Unfit Personal Property (the "Property") owned by the City of Kirtland,
Ohio by Internet Auction**

1. Auctions may be conducted via an online auction system through GovDeals.com, 100 Capitol Commerce Blvd., Suite 100, Montgomery, AL 36117, 334-274-3840 or 800-613-0156, FAX 334-387-0519 or by other representatives or means determined by the City.
2. All Property auctions will be conducted in such a manner that the highest bid for the Property shall prevail. However, the Council for the City of Kirtland (the "Council") reserves the right for its representative to cancel bids in an auction of an individual item or group of items if one or more of the following circumstances apply:
 - a. It is determined that an auction shall be canceled or terminated early,
 - b. A bidder requests permission to back out of a bid,
 - c. The identity of a bidder cannot be verified or
 - d. It is determined that a bidder is purchasing the Property for a use contrary to the health, welfare or safety of Kirtland, Ohio or the general public.
3. All Property auctions will accept bidding by proxy. If a bidder elects to utilize proxy bidding, the bidder must establish a maximum bid amount and permit the internet auction system to incrementally increase the bidder's initial bid until the maximum bid amount is reached, if necessary.
4. The number of days of bidding on the Property involved, as specified in ORC §721.15 (D), will be at least 10 days, including Saturdays, Sundays and legal holidays.
5. The Council reserves the right, at a later date, through its representative, to establish the minimum prices that may be accepted for any Property that is the subject of the internet auction, the terms and conditions of any particular sale that may occur, including but not limited to requirements for pick up and/or delivery of the Property, method of payment, and payment of sales tax in accordance with applicable laws.

6. The information described in Paragraph 5 above will be provided on the internet at the time of the auction itself, or will be provided before that time, upon request, if the Council or its representative has determined the terms and conditions.

7. ANY PROPERTY LISTED AND SOLD BY INTERNET AUCTION SHALL BE ON AN "AS IS" AND "WHERE IS" BASIS. REGARDING ANY PROPERTY WHICH IS LISTED OR PURCHASED BY INTERNET AUCTION, THE COUNCIL EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THE BIDDER PURCHASES THE PROPERTY AT THEIR SOLE RISK.

8. LIMITATION OF LIABILITY. IN NO EVENT SHALL THE CITY OF KIRTLAND, OHIO, ITS COUNCIL, ITS MAYOR, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE TO A BIDDER OR ANY OTHER PERSON OR ENTITY FOR ANY CLAIM, DAMAGE OR LOSS WHATSOEVER, INCLUDING WITHOUT LIMITATION, DIRECT, SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED OR RELATED TO THE SALE OF THE PROPERTY OR THE USE OF THE PROPERTY, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, CONTRACT, TORT, NEGLIGENCE OR UNDER ANY OTHER LEGAL THEORY, WHETHER FORESEEABLE OR NOT.