

CITY OF STRUTHERS
Ordinance

NO. 19-058

**AN ORDINANCE AUTHORIZING THE SAFETY SERVICE DIRECTOR
TO ENTER INTO A LIVE AUCTION SALE AGREEMENT WITH
GEORGE ROMAN AUCTIONEERS, LTD. TO SELL MUNICIPALLY-
OWNED PERSONAL PROPERTY THAT IS NO LONGER NEEDED FOR
MUNICIPAL PURPOSES, AND DECLARING AN EMERGENCY.**

WHEREAS, Council has determined that certain personal property owned by the City of Struthers, Ohio (the “City”) is unneeded, obsolete, or unfit for municipal purposes;

WHEREAS, the City desires to dispose of the personal property that is no longer needed for municipal purposes in a manner consistent with the Ohio Revised Code;

WHEREAS, § 721.15 of the Ohio Revised Code allows the legislative authority of a municipal corporation to sell personal property belonging to the municipal corporation that is no longer needed for municipal purposes to the highest and best bidder when authorized by ordinance and approved by the board, officer, or director having supervision or management of the property; and

WHEREAS, Council finds and determines that it is in the City’s best interest to engage to George Roman Auctioneers, Ltd. to sell the personal property because of its ability to draw more prospective buyers than simply advertising in a newspaper of general circulation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Struthers, ¾’s of all members elected thereto concurring, that:

SECTION 1: The personal property identified in Exhibit A is owned by the City and is unneeded, obsolete, or unfit for municipal purposes (the “Property”).

SECTION 2: The City shall contract with George Roman Auctioneers, Ltd. to conduct a live auction to sell the Property.

SECTION 3: Council hereby designates the Safety Service Director as the City’s representative, and the Safety Service Director shall be the official point of contact with George Roman Auctioneers, Ltd.

SECTION 4: The Safety Service Director shall, and is hereby authorized to, enter into the Live Auction Sale Agreement, a copy of which is attached hereto as Exhibit B, and the terms of which are incorporated herein by reference as if fully rewritten, with George Roman Auctioneers, Ltd.

SECTION 5: George Roman Auctioneers, Ltd. may establish the minimum price that will be accepted for the Property and may establish any other terms and conditions for the sale; provided, however, the Property shall be sold to the highest and best bidder “**AS IS, WHERE IS, AND WITHOUT WARRANTY**” and otherwise in accordance with this Ordinance. The City makes no warranty, guaranty or representation of any kind, either express or implied, as the merchantability or fitness of the Property. No buyer of any of the Property shall be entitled to any payment for loss of profit or any other money damages - special, direct, indirect or consequential - against the City that in any way relates to the purchase and/or use of the Property. The Property shall not be transferred to a successful bidder until such time as guaranteed payment has been received in full. Council reserves the right to reject any bids and to withdraw any of the Property from sale.

SECTION 6: The Clerk of Council shall publish, in a newspaper of general circulation or as provided in § 7.16 of the Ohio Revised Code, notice of the intent of this Council to sell Property by live auction. The notice shall be published for not less than two (2) nor more than four (4) consecutive weeks.

SECTION 7: All ordinances, or parts of ordinances, that are inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

SECTION 8: The provisions of this Ordinance are severable. If any section, paragraph, sentence, or clause hereof shall be declared illegal, unconstitutional or invalid by any court of competent jurisdiction, such illegality, unconstitutionality or invalidity shall not affect the remaining portions of this Ordinance and it hereby is declared the intention and purpose of this Council that this Ordinance would have been enacted without such illegal, unconstitutional or invalid provision.

CITY OF STRUTHERS
Ordinance

NO. 19-058

SECTION 9: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance 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 action were in meetings open to the public, in compliance with all legal requirements including § 121.22 of the Ohio Revised Code.

SECTION 10: A delay in the effective date of this Ordinance will result in detriment to the economic health, safety and welfare of the Struthers community at large. Accordingly, this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon its passage and approval by the Mayor and the board, officer, or director having supervision or management of the Property.

PASSED IN COUNCIL THIS 13th DAY OF November, 2019.

Megan R. Shorthouse
CLERK OF COUNCIL

Henry D. Franceschelli, Sr.
PRESIDENT OF COUNCIL

FILED WITH THE MAYOR THIS 13th DAY OF November, 2019.

Megan R. Shorthouse
CLERK OF COUNCIL

APPROVED BY THE MAYOR THIS 13th DAY OF November, 2019.

Terry P. Stocker
MAYOR

APPROVED BY THE SAFETY SERVICE DIRECTOR ON THIS 13th DAY OF
NOVEMBER, 2019

Robert M. Norris
SAFETY SERVICE DIRECTOR

APPROVED BY THE FIRE CHIEF ON THIS 14th DAY OF NOVEMBER, 2019

William A. Simcox Jr.
FIRE CHIEF

APPROVED BY THE STREET DEPARTMENT FOREMAN ON THIS 14th DAY OF
NOVEMBER, 2019

Thomas Daley
STREET DEPARTMENT FOREMAN

APPROVED BY THE WASTE WATER SUPERINTENDENT ON THIS 14th DAY OF
NOVEMBER, 2019

Guy C. Maiorana Jr.
WASTE WATER SUPERINTENDENT

Save: Selling Municipal Property 2019
PUBLISHED IN THE HOMETOWN JOURNAL

DATE: 11/21/2019-11/28/2019

Megan R. Shorthouse
CLERK OF COUNCIL

CITY OF STRUTHERS
Ordinance

NO. 19-058

City of Struthers Auction Items

- 1 – 1978 Mack truck with FMC fire truck body. VIN R685T74926. Vehicle runs. Batteries dead.
- 2 – 1993 Ford F800 Model F8F single axle dump truck. VIN 1FDXK84E6PVA19643. Vehicle runs.
- 3 – 2001 Ford F350 single axle cab only. VIN 1FDWF37F61ED16006. Vehicle runs.
- 4 – 2002 Ford F150 pickup. VIN 1FTRF18232NB39756. Not running – transmission.
- 5 – 1995 Ford Super Duty Bucket Truck. VIN 1FDLF47F3SEA62488. Vehicle runs.
- 6 – 2001 International H 490 Bucket truck. VIN 1HTSDAAN41H344756. Vehicle runs.
- 7 – John Deere lawn tractor Model 325. Not running.
- 8 – John Deere tractor Model 950 2wd collarshift. Not running.
- 9 – John Deere Gator 4x2 Utility cart. VIN W004X2X096067. Runs.
- 10 – Cub Cadet lawn tractor Model 2166. Not running.

EXHIBIT “A”

CITY OF STRUTHERS
Ordinance

NO. 19-058

AUCTION SALE AGREEMENT

November 7, 2019

1. I (We) hereby grant unto **GEORGE ROMAN AUCTIONEERS, LTD.** of 22 W. Main St. Canfield, Ohio 44406 the exclusive right and authority to advertise, promote, and sell the following personal property described in the schedule attached hereto and made a part hereof at PUBLIC AUCTION on the _____ day of _____, 20____ at _____ AM / PM.
 2. Said PUBLIC AUCTION of personal property shall be conducted at **530 Lowellville Road**, City of **Struthers**, County of **Mahoning**, State of OHIO.

2A. PERSONAL PROPERTY AUCTIONS: Owner agrees that the payment terms of the auction shall include **15%** buyer's premium retained by auctioneer, which may be waived for cash or check with proper ID and bank letter of credit. Credit cards accepted include Visa and MasterCard.
 3. Owner hereby represents that Owner has legal rights and full power to convey said personal property to the purchaser(s) and that said personal property is free and clear of all liens, attachments and encumbrances except as listed below. Note: The failure to identify all secured creditors is fraud against Auctioneer and criminal conversion against said creditor. The following is a complete list of Owner's secured/unsecured open accounts payable:

Name of Creditor	Address	Amount	Description of Items
_____	_____	_____	_____
 4. This contract is made in compliance with the Ohio Auction Law and the Bulk Transfer requirements of the Uniform Commercial Code and is a true and complete statement of all creditors and amounts and all other business names and addresses used.
 5. I (We) agree to pay **GEORGE ROMAN AUCTIONEERS, LTD.** a commission of **5%** percent of the gross proceeds of such sale of Personal Property, with a minimum commission of \$1,000.00.

I (We) agree not to sell or remove any of such property from premises after date of this contract. I (We) agree to pay **GEORGE ROMAN AUCTIONEERS, LTD.** 50% commission of auctioneer determined value for any items removed from the auction after the date of this agreement.
 6. Said Public Auction shall be conducted as a: **(INITIAL ONE)**
 RESERVE AUCTION. A RESERVE AUCTION means an auction in which the seller or an agent of the seller reserves the right to establish a stated minimum bid, the right to reject or accept any or all bids, or the right to withdraw the personal property at any time prior to the completion of the auction by the auctioneer. Each lot has a minimum bid of \$1.00 unless noted in additional terms (#19). Further, if disclosed to the other bidders, the owner may bid on his own items.
 ABSOLUTE AUCTION. An ABSOLUTE AUCTION means an auction of personal property to which all of the following apply:
 - a) The property is sold to the highest bidder without reserve.
 - b) The auction does not require a minimum bid.
 - c) The auction does not require competing bids of any type by the seller or an agent of the seller.
 - d) The seller of the property cannot withdraw the property from auction after the auction is opened and there is public solicitation or calling for bids.
 - e) Except for current tax obligations, easements, or restrictions of record of the seller, there are no liens or encumbrances on the property in favor of any other person. OR Every holder of a lien or encumbrance, by execution of the auction contract or other written agreement provided to the auctioneers, agrees to the absolute auction without regard to the amount of the highest bid or to the identity of the highest bidder. OR A financially sound person, firm, trust, or estate, by execution of the auction contract or other written agreement provided to the auctioneers, guarantees the complete discharge and satisfaction of all liens and encumbrances, as applicable, immediately after the absolute auction or at the closing without regard to the amount of the highest bid or to the identity of the highest bidder.
 - f) The seller of the real or personal property at the time of advertising and at the time of the absolute auction has a bona fide intention to transfer ownership of the property to the highest bidder regardless of the amount of the highest bid and without reliance on any agreement that a particular bid or bid level be attained in order to transfer the property. ESTATE AUCTION. An ESTATE AUCTION means the auction of personal property of a deceased person. This Estate Auction shall be conducted as a (select one) Reserve Auction or an Absolute Auction in accordance to the definitions listed above. I hereby affirm that I am the fiduciary appointed by the _____ County Probate Court of the Estate of _____, Probate Case Number _____.
7. Owner agrees to pay the following expenses: Advertising

8. I (We) agree to allow **GEORGE ROMAN AUCTIONEERS, LTD.**, their employees, and assigns the right to bid at this auction. I (We) also acknowledge that it is the policy of **GEORGE ROMAN AUCTIONEERS, LTD.**, to treat an associates bid as if the bidder was not an associate but simply another potential bidder. I (We) acknowledge that the auctioneer is at all times to act as an agent of the seller.
9. I (We) agree to allow **GEORGE ROMAN AUCTIONEERS, LTD.**, the right to negotiate private sales of unsold items which were previously offered for sale at the auction for a period of 24 hours after the close of the auction. The proceeds of any such sale will be combined with the proceeds from the auction.
10. Owner authorizes Auctioneer to collect the proceeds from the sale of the items of personal property sold and to deposit these proceeds within 72 hours of receipt in Auctioneer's escrow account. Auctioneer is further authorized to disburse from the escrow accounts necessary to satisfy the above mentioned liens, attachments, encumbrances, and accounts and any other amounts necessary to discharge any valid lien, attachment, encumbrance, or account of which they have notice. In the event the validity of any such lien, attachment, encumbrance, or accounts is disputed by Owner or other interested parties, the amount involved shall be held in escrow or paid into court by Auctioneer until validity is judicially or otherwise finally determined. Any interest earned on escrowed funds will accrue to the benefit of Auctioneer.

Owner Initials _____ Owner Initials _____

Page 1 of 2

EXHIBIT "B"

CITY OF STRUTHERS
Ordinance

NO. 19-058

Page 2 of 2

11. I (We) agree that auctioneers commission and all expenses incurred for advertisement, promotion and of conducting said Auction as above agreed, shall be first paid from the proceeds realized from said auction before the payment and satisfaction of any of the above described items or encumbrances. Auctioneer will disburse to Owner an itemized account of all property sold and the net proceeds from the Auction within 15 business days from the date of the Auction. Auctioneer is not financially responsible for checks received by them for payment of items sold. Auctioneer is not financially responsible for the collection of monies for items of personal property sold.
12. I (We) agree to indemnify and save harmless **GEORGE ROMAN AUCTIONEERS, LTD.**, and its employees against any and all claims, demands, action or causes of action whatsoever in any manner arising by the execution of this contract.
13. I (We) agree to allow **GEORGE ROMAN AUCTIONEERS, LTD.**, their employees, and assignees the right to accept ABSENTEE BIDS at this auction. ABSENTEE BIDDING means a method by which a potential purchase authorized a proxy to place on behalf of the potential purchaser a written or oral bid to and auctioneers or auction firm or an agent of an auctioneer or auction firm. I (We) also acknowledge that it is the policy of **GEORGE ROMAN AUCTIONEERS, LTD.**, to treat an absentee bid as if the potential purchaser was actually at the auction and therefore **GEORGE ROMAN AUCTIONEERS, LTD.**, will not artificially inflate the gavel price to reach the potential purchaser's maximum bid.
14. Auctioneer will not be responsible for unsold items. Auctioneer will hold unsold items for the consignor for 3 days after auction end. Owner must remove any unsold items in this 3 day period or the items will be disposed of at the auctioneer's discretion.
15. **The Auctioneer does not guarantee any final selling prices on items sold for the Owner.** Pre-auction estimates and appraisals are not guarantees of selling prices. Owners agree that the Auctioneer is held harmless against any claims arising from the final selling price for items sold at auction. The Owners agree that the auctioneer has final say as to lots, quantities and groupings for items to be sold. Lots/groupings are sold and created at the auctioneer's discretion. Items sold may not have detailed descriptions on the auction listing sheets. Descriptions on any/all items sold may not match to expected descriptions of the Owners. The Auctioneer is not responsible for any description errors or omissions.
16. **Binding Arbitration:** The parties agree that they will use their best efforts to amicably resolve any dispute arising out of or relating to this agreement. Any controversy, claim, or dispute that cannot be so resolved shall be settled by final binding arbitration. Any such arbitration shall be conducted in MAHONING County, Ohio, unless otherwise mutually agreed upon by the parties. Within fifteen (15) days after the commencement of the arbitration, each party shall select one person to act as arbitrator, and two arbitrators so selected shall select a third arbitrator within ten (10) days of their appointment. Each party shall bear its own costs and expenses and an equal share of the third arbitrator's expenses and the administrative fees of arbitration.
17. It is agreed by and between the parties to this contract that this contract represents a complete integration of the intentions of the parties hereto. Negotiations or agreements held prior to or contemporaneous with the execution of this contract, which are not specifically included or mentioned herein, shall be null and void and have no effect hereupon.
18. I (We) have read the foregoing contract and agree to the conditions hereof: no modification of this agreement shall be effective unless made in writing and signed by the parties hereto. I (We) hereby acknowledge receipt of a copy of this agreement and attached schedule.
19. Additional terms: _____

20. It is agreed that the contract shall be binding upon the undersigned, and the separate heirs, administrators, executors, assigns and successors in interest of the undersigned.
21. **GEORGE ROMAN AUCTIONEERS, LTD.** is licensed by the Ohio Department of Agriculture and the Commonwealth of Pennsylvania and bonded to the state of Pennsylvania. Any person aggrieved as a result of the licensee's actions may initiate a claim against the auction Recovery Fund created in Section 4707.25 of the Ohio Revised Code.
22. In witness whereof the parties have hereto executed this contract in duplicate on this _____ day of _____, 20_____.

Owner: _____ Phone: _____

George Roman Auctioneers, LTD.
www.georgeromanauctioneers.com

Check payable to: _____

Address: _____

Email: _____

Auctioneer: _____ Phone 330.533.4071

22 W. Main Street • Canfield, Ohio 44406 • 330.533.4071 • 877.ROMAN.60 (877.766.2660)

EXHIBIT "B"