

RESOLUTION NO. 2012 - 103

**A RESOLUTION AUTHORIZING A CONTRACT WITH THE BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY FOR THE PROVISION OF INTERNET AUCTION SERVICES TO SYCAMORE TOWNSHIP, DISPENSING WITH THE SECOND READING, AND DECLARING AN EMERGENCY**

**WHEREAS**, the Board of Township Trustees occasionally provides for the sale of Township property and equipment that is no longer needed for Township purposes; and

**WHEREAS**, the Board may wish to provide for the sale of unneeded property and equipment by internet auction; and

**WHEREAS**, the Board of County Commissioners of Hamilton County operates a website whereby property may be sold by internet auction; and

**WHEREAS**, Ohio Revised Code Section 307.15 provides that a county and a township may enter into a contract whereby the county provides the services that a township is authorized to perform; and

**WHEREAS**, Ohio Revised Code Section 505.10 authorizes a township to sell unneeded property and equipment by internet auction; and

**WHEREAS**, pursuant to Ohio Revised Code Sections 307.15 and 505.101, the Township wishes to enter into a contract with the Board of County Commissioners of Hamilton County whereby the Township will be authorized to use the Hamilton County website for internet auctions of unneeded Township property and equipment;

**NOW THEREFORE, BE IT RESOLVED**, by the Board of Township Trustees of Sycamore Township, State of Ohio:

**SECTION 1.** The attached Contract between the Board of County Commissioners of Hamilton County and Sycamore Township providing for the use of the Hamilton County internet auction website to sell unneeded Township property and equipment by internet auction is hereby approved and the Township Administrator or Township Assistant Administrator is authorized and directed to execute the contract on behalf of the Township.

**SECTION 2.** The Trustees of Sycamore Township upon at least a majority vote do hereby dispense with any requirement that this resolution be read on two separate days, and hereby authorize the adoption of this resolution upon its first reading.

**SECTION 3.** This resolution shall take effect on the earliest date allowed by law.

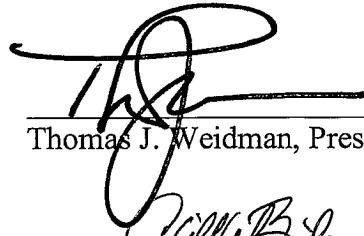
**SECTION 4.**

Upon the unanimous vote of the Sycamore Township Trustees, this Resolution is hereby declared to be an emergency measure necessary for immediate preservation of the public peace, health, safety and welfare of Sycamore Township. The reason for the emergency is for the timely execution of the contract with Hamilton County in accordance with its terms.

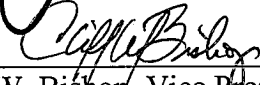
**VOTE RECORD:**

Mr. Bishop AYE Mr. Connor AYE Mr. Weidman AYE

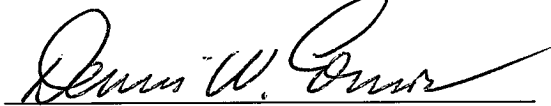
Passed at a meeting of the Board of Township Trustees of Sycamore Township this 4<sup>th</sup> day of December, 2012.



Thomas J. Weidman, President



Cliff W. Bishop, Vice President



Dennis W. Connor, Trustee

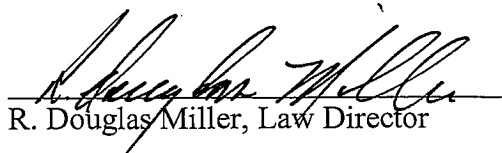
**AUTHENTICATION**

This is to certify that this resolution was duly passed and filed with the Township Fiscal Officer of Sycamore Township this 4<sup>th</sup> day of December, 2012.



Robert C. Porter III, Fiscal Officer  
Sycamore Township, Ohio

**APPROVED AS TO FORM:**



R. Douglas Miller, Law Director

# CONTRACT

This contract is entered into on December 1, 2012 between the Board of County Commissioners of Hamilton County, Ohio on behalf of the Administrative Services Division (hereinafter referred to as "Hamilton County") and the Sycamore Township with an office at **8540 Kenwood Rd., Cincinnati Ohio 45236**.

## I. TERM

This contract will be effective from December 01, 2012 through December 31, 2014 inclusive, unless otherwise terminated or extended by formal amendment.

## II. SCOPE OF SERVICE

Subject to terms and conditions set forth in this contract and the attached Exhibit "A", (the exhibit is deemed to be a part of this contract as fully as if set forth herein), Hamilton County shall allow the Sycamore Township access to its Internet Surplus Auction process to sell the township's personal property which is not needed for public use, is obsolete, or is unfit for the use for which it was acquired (the "Property").

### **Hamilton County agrees to provide the following:**

1. Upon receipt of the Sycamore Township's Resolution authorizing the sale of the Property, Hamilton County will provide the Sycamore Township with a username and password to allow the Sycamore Township the ability to post Property on the Hamilton County Internet Surplus Auction web address [www.HamiltonCountyOhioAuction.com](http://www.HamiltonCountyOhioAuction.com) for a minimum of fifteen (15) days.
2. Accept payment, in full, from the winning bidder within 7 business days of the sale of the Property and Hamilton County will issue a sales receipt to the winning bidder.
3. Visit the Sycamore Township to take digital pictures of the Property if the Sycamore Township does not have access to digital equipment.
4. Provide data entry services to accommodate the processing of the Property using the Hamilton County Internet Surplus Auction web address [www.HamiltonCountyOhioAuction.com](http://www.HamiltonCountyOhioAuction.com).
5. The auction will take place in accordance with the rules established by the Hamilton County Board of Commissioners as listed in the attached Exhibit A.

### **Sycamore Township agrees:**

To provide Hamilton County with a resolution adopted pursuant to Ohio Revised Code (ORC) 307.15 by the Sycamore Township authorizing the sale of Property.

Provide Hamilton County with an accurate description of the Property.

To post accurate information for Property on the County's Internet auction site through use of username and password provided by Hamilton County. Sycamore Township shall be responsible for the accuracy of all information posted on the website.

To entertain ALL requests to view the Property during the Internet auction process.

Upon request, to provide potential bidders with maintenance records for the property.

To have personnel available to answer potential bidders questions.

To make all arrangements with the purchaser of the Property for pick up of the Property sold.

That the auction will take place in accordance with the rules established by Hamilton County, as listed in Exhibit A (attached).

### **III. BILLING AND PAYMENT**

In consideration of granting the Sycamore Township access to Hamilton County's internet auction website to sell the Sycamore Township Property, the Sycamore Township agrees to pay Hamilton County 7.5% of the final sale price for any and all Property sold. Within 30 days of the end of each month, a schedule of all sales of Sycamore Township Property during the previous month will be forwarded to the Sycamore Township and accompanied by a check that is the net of sales less the 7.5% service cost.

### **IV. CONFLICT OF INTEREST**

The parties agree that there is no financial interest involved on the part of any Hamilton County officers or employees, Sycamore Township or employees of the Sycamore Township involved in the delivery of the services or the negotiation of this contract. The Sycamore Township has no knowledge of any situation which would be a conflict of interest. It is understood that a conflict of interest occurs when an employee will gain financially or receive personal favors as a result of the signing or implementation of this contract.

The Sycamore Township will report the discovery of any potential conflict of interest to Hamilton County. Should a conflict of interest be discovered during the term of this contract, Hamilton County may exercise any right under the contract, including termination of the contract.

### **V. GOVERNING LAW**

This contract and any modification, amendments, or alterations, shall be governed, construed, and enforced under the laws of Ohio.

## **VI. INTEGRATION AND MODIFICATION**

This instrument, including Exhibit A, embodies the entire contract of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or contracts, either written or oral, between the parties to this contract. Also, this contract shall not be modified in any manner except by an instrument, in writing, executed by the parties to this contract.

## **VII. SEVERABILITY**

If any term or provision of this contract or the application thereof to any person or circumstance shall, to any extent be held invalid or unenforceable, the remainder of this contract or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this contract shall be valid and enforced to the fullest extent permitted by law.

## **VIII. TERMINATION**

This contract may be terminated at any time for any reason by either party upon 30 days prior written notice delivered to the other party.

## **IX. NON-DISCRIMINATION**

Hamilton County and the Sycamore Township certify that they are an equal opportunity employer and shall remain in compliance with state and federal civil rights and nondiscrimination laws and regulations including but not limited to Title VI, and Title VII of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act, as amended, and the Ohio Civil Rights Law.

## **X. LIABILITY OF PARTIES**

The Sycamore Township is self-funded for the defense and payment of actionable legal claims for liability or loss which are the result of injury to or death of any person, damage to property (including property of Hamilton County) caused by the negligent acts or omissions, or negligent conduct of the Sycamore Township, to the extent permitted by law, in connection with the activities of this Agreement. Any claim the Sycamore Township is legally liable to pay, will be funded out of the Sycamore Township's funds in accordance with the Ohio Revised Code.

Furthermore, each party to this Agreement agrees to be liable for the negligent acts or negligent omissions by or through itself, its employees and agents. Each party further agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or omissions, and nothing in this Agreement shall impute or transfer any such liability from one to the other.

## **XI. RELATIONSHIP**

The relationship between the parties is fully defined in ORC Section 307.15 (505.101).

## **XII. DISCLOSURE**

The Sycamore Township hereby covenants that it has disclosed any information that it possesses about any business relationship or financial interest that it has with a county employee, employee's business, or any business relationship or financial interest that a county employee has with the Sycamore Township.

## **XIII. LEGAL ACTION**

Any legal action brought pursuant to the contract will be filed in the courts located in Hamilton County, Ohio and Ohio law will apply.

## **XIV. PUBLIC RECORDS**

This contract is a matter of public record under the laws of the State of Ohio. The Sycamore Township agrees to make copies of this contract promptly available to any requesting party.

## **XV. MEDIA RELATIONS, PUBLIC INFORMATION, AND OUTREACH**

Although information about and generated under this contract may fall within the public domain, the Sycamore Township will not release information about or related to this contract to the general public or media verbally, in writing, or by any electronic means without prior approval from Hamilton County, unless the Sycamore Township is required to release requested information by law. Hamilton County reserves the right to announce to the general public and media: contract terms and conditions, scope of work under the contract, deliverables and results obtained under the contract, and the impact of contract activities. Except where approval has been granted in advance, the Sycamore Township will not seek to publicize and will not respond to unsolicited media queries requesting: announcement of contract award, contract terms and conditions, or contract scope of work. If contacted by the media about this contract, the Sycamore Township agrees to notify Hamilton County in lieu of responding immediately to media queries.

## **XVI. NO REPRESENTATIONS OR WARRANTIES**

Hamilton County does not make any representations or warranties of any kind with respect to the subject matter of this contract, including, but not limited to, that the Property will meet the minimum bid or sell while posted on Hamilton County's internet website. Hamilton County reserves the right in its sole discretion to cancel any auction involving the Property.

**XVII. SIGNATURES**

The Sycamore Township hereby acknowledges that the original copy of this contract must be signed and returned by the Sycamore Township within ten (10) days of receipt of said contract for signature or this contract may be canceled and voided.

The terms of this contract are hereby agreed to by both parties, as shown by the signatures of representatives of each.

In witness whereof, the parties have hereunto set their hands on this 1<sup>st</sup> day of December, 2012.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Sycamore Township

Approved as to form:

\_\_\_\_\_  
Sycamore Township. Legal Counsel

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Board of County Commissioners  
Hamilton County, Ohio

\_\_\_\_\_  
Chief Purchasing Agent  
Hamilton County, Ohio

Approved as to form:

By: \_\_\_\_\_  
Prosecutor's Office  
Hamilton County, Ohio

## EXHIBIT A

### **General Terms and Conditions for the Sale of Unneeded, Obsolete or Unfit County Personal Property (the "Property") by Internet Auction**

1. All auctions shall be conducted on a continuous basis through the Hamilton County, Ohio website which can be located at <http://www.hamilton-co.org/> or <http://www.hamiltoncountyohioauction.com/PS/>
2. All Property auctions will be conducted in such a manner that the highest bid for the Property shall prevail. However, the Board of County Commissioners, Hamilton County, Ohio (the "Board") 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 Hamilton County, 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 *O.R.C. 307.12*, will be at least 15 days, including Saturdays, Sundays and legal holidays.
5. The Board 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 4 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 Board 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 BOARD 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 HAMILTON COUNTY, OHIO, ITS BOARD OF COUNTY COMMISSIONERS, ITS 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 THE SALE OF THE PROPERTY OR THE USE OF THE PROPERTY, HOWEVER CAUSED, WHETHER FOR BREACH OF CONTRACT, TORT, NEGLIGENCE OR UNDER ANY OTHER LEGAL THEORY, WHETHER FORESEEABLE OR NOT.