

BILL NO. 2018-008

ORDINANCE NO. 8216

A SPECIAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI APPROVING A RENEWAL AGREEMENT WITH PURPLE WAVE, INC. TO PROVIDE INTERNET-BASED AUCTION SERVICES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI THAT:

Section 1. This agreement attached hereto as "Exhibit A" is with Purple Wave, Inc. To provide internet-based auction services for the sale of surplus property for a period of two years.

Section 2. The City Manager is hereby authorized and directed to execute said agreement on behalf of the City of Nevada, Missouri.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada, Missouri, this 20th day of February, 2018.


Brian L. Leonard, Mayor

(seal)
ATTEST:


Johnna Williams, Deputy City Clerk

AGENDA ITEM
February 6, 2018

Subject: Purple Wave Inc. Renewal of Auction Services

Department: Finance

The attached ordinance will authorize the renewal of an agreement with Purple Wave Inc. for online auction services. Winning bidders are charged a 10% buyer's premium and no fees are charged to the City.

The agreement is for a period of two years and is non-exclusive.



UMBRELLA INTERNET AUCTION AGREEMENT

This Umbrella Internet Auction Agreement is by and between the Seller identified below and Purple Wave, Inc. (the "Auctioneer"), together, the Parties. Seller hires Auctioneer to sell, as Seller's agent, the Property listed on any valid Exhibit 1 (each Exhibit referred to herein individually and collectively as "Exhibit 1") at public auction (each auction referred to herein individually and collectively as "Auction") in accordance with the following, including the Terms and Conditions on page 2 ("Agreement").

SELLER:

Customer Number & Segment: 149618 – Government Segment
Organization Name: City of Nevada, Missouri
Representative Name and Title: Kristie Modlin, City Treasurer
Address: City Hall, 110 Ash Street, Nevada, Missouri 64772
Phone / Email: Phone: (417) 448-5503, Fax: (417) 381-1938, kmodlin@nevadamo.gov

SETTLEMENT: Auctioneer will distribute Auction Proceeds to Seller within 15 business days of the auction date by check the address above, payable to the Organization Name identified above. Seller will sign and provide a Supplemental Settlement Instructions form for any changes to its settlement instructions including changes to payees(s), electronic payments, and/or similar instructions.

ENCUMBRANCES: Seller owns and has the authority to sell the Property without consent of any third party and without condition. The Property is not subject to any liens or secured lines of credit. Seller will notify the Auctioneer any future encumbrance or lien on the Property prior to the start of any Auction, will ensure Property is or will be free and clear of encumbrances or liens before conclusion of the Auction, and authorizes the Auctioneer to work directly with the encumbering party to clear the encumbrance. Auctioneer, at its discretion, may perform title, lien, or UCC searches to confirm encumbrance status on the Property or Seller. The Seller has no recent, current, or pending bankruptcy, lawsuit, tax lien or any other circumstance that could result in another party making a claim against the Property or the Auction Proceeds and will notify Auctioneer prior to the start of any Auction should such circumstance arise.

CITY OF NEVADA REQUEST FOR PROPOSAL: This Agreement is concluded by the parties in response by the Auctioneer to the Seller's Request for Proposal dated _____ (RFP). The terms of the RFP are acceptable to the Auctioneer. the RFP is made a part of this Agreement, and both parties will be bound thereby.

JURISDICTION: This Agreement shall be governed by Missouri law, without regard to its law pertaining to conflict of laws, and any dispute shall be decided in the Circuit Court of Vernon County, Missouri. The Parties consent to that venue and to that court's personal jurisdiction.

SIGNATURES: This Agreement, including the accompanying Exhibit 1 and Listing Sheets, and Special Settlement Instructions or other addendums, if any, is the whole agreement between the parties and all prior discussions, agreements or understandings are completely merged into and superseded by this Agreement. This Agreement may be executed in duplicate and in counterparts, but all counterpart signatures shall constitute one original. Facsimile signatures scanned/emailed signatures on this Agreement shall be as sufficient as original ink signatures.

The representatives below has authority to commit the Parties contractually and agree to the Agreement including the Terms & Conditions on Page 2. Either partu may terminate this Agreement and withdraw from future Auctions of Property (not previously submitted by the Seller on an Exhibit 1) at any time for a good reason, for a bad reason, or for no reason at all.

The parties execute this Agreement this 20th day of February 2018

Seller : [Signature] JD Kehman City Manager
Signature Printed Title

Auctioneer: [Signature] District Director 1/9/18

Internet Auction Agreement – Terms and Conditions

Signature

Printed

Title

Internet Auction Agreement – Terms and Conditions

EXCLUSIVE LISTING – Seller will withdraw the Property from any other selling service. The Seller will list the Property for sale exclusively with the Auctioneer. Seller will not withdraw any portion of the Property from the Auction except with (a) prior written consent of the Auctioneer and only after (b) reimbursing Auctioneer for Compensation described below based on a 3rd party appraisal and all expenses for advertising retractions and similar expenditures to cancel the Auction.

USE OF WEBSITE -- The Property will sell in an Internet-only auction on Auctioneer's website www.purplewave.com. If Seller notices missing or incorrect information in the Property description on the website or auction advertising, the Seller will notify Auctioneer promptly. Seller agrees Auctioneer will post the Auction results on Auctioneer's website.

TITLES -- Seller will deliver to Auctioneer any certificate of title Seller has prior to the start of the Auction and Auctioneer may defer the start of the Auction until a certificate of title is delivered.

RIGHT TO POSTPONE -- In event of a technical failure, bidding error, or other unforeseen emergency, Auctioneer may, at its discretion, cancel or postpone any item(s) in the Auction and may take actions, such as re-listing items in a future Auction, to allow a natural conclusion to the sale.

PROPERTY CONDITION -- The Property will be represented and sold in its "as is, where is" condition, without warranties of any kind by Seller or Auctioneer. Seller will complete all Property information and condition disclosure forms requested by Auctioneer. Seller will accurately disclose all Property information and condition and represents that equipment is in safe and working order unless specifically disclosed otherwise in the description. If there is a dispute with a winning bidder over the condition of the Property, Auctioneer will attempt to resolve the issue on behalf of Seller but may, if necessary, seek Seller's assistance in the resolution. Seller agrees that Auctioneer shall not be liable for any losses or claims related to the condition of the Property except in situations where Auctioneer is at fault and the Seller shall otherwise assume full responsibility for such losses or claims. Seller should maintain casualty insurance (including self-insurance) for the Property until possession is transferred to the winning bidder.

UNRESERVED AUCTION -- The Property will be sold "absolute" and "without reserve." Once Auctioneer has placed the Property on www.purplewave.com and received a bid on it, the Auction has begun and the Property must and will be sold for the highest bid received at the end of the Auction. Auctioneer will use words indicating the absolute nature of the auction in event advertising. Although Auctioneer will use its best efforts, no guarantees or representations regarding the level of bidder interest the Property may attract, number of bids or ultimate price that may be received are made by Auctioneer. Seller will accept for the Property the highest winning bid accepted by the Auctioneer (also called the hammer price), less the Compensation due Auctioneer.

SHILL BIDDING PROHIBITED -- It is illegal and against Auctioneer's policies for the Seller, Auctioneer (acting as Seller's agent), or anyone else acting on Seller's behalf to bid on the Property. If an innocent third party is the declared the winner bidder, the Auctioneer may complete the sale to that innocent third party and adjust the purchase price to reflect the last good faith bid. In the event the Auctioneer determines the Seller or someone bidding on Seller's behalf, bids on the Property, the Seller will pay Auctioneer an additional administrative fee of two-times the combined Seller Commission and Buyer's Premium the Auctioneer would have otherwise collected from the final winning bid for the Property as compensation for the expense and effort of any related corrective action taken by the Auctioneer, regardless of whether Seller, Seller's agent or an innocent third party is the declared winner of the Property.

COLLECTIONS -- Auctioneer will use its best efforts to qualify bidders and collect payments from winning bidders however, Auctioneer does not guarantee collection of payment. Auctioneer will collect and remit sales taxes in accordance with state and local regulations. Auctioneer will pay all banking fees and retain any interest or credits earned related to collection of the Auction Proceeds.

COMPENSATION -- Seller agrees Auctioneer may collect and retain from winning bidders a standard buyer's premium of 10% of the winning bid(s) for the Property. Also, Seller agrees that Auctioneer may charge and collect late payment or similar reasonable administrative fees from winning bidders when warranted and retain those fees as compensation for additional efforts to address such issues.

RELEASE TO BUYERS -- Auctioneer will send a copy of the "paid invoice" to the Seller upon collection of payment and Seller will release Property to the winning bidder once invoice has been paid in full. When requested by Seller, Auctioneer will provide best efforts to resolve Property removal issues between winning bidder(s) and Seller.