



RESOLUTION 2017-05
RESOLUTION AUTHORIZING UPSET BID PROCESS

WHEREAS, the Town of Davidson owns certain property, as shown on Exhibit A, attached hereto (“the property”) that, because it was provided by the developer of the Bailey Springs neighborhood as a condition to approval of the master plan for that neighborhood and as a payment in lieu of affordable housing, has been set aside for construction of affordable housing; and

WHEREAS, the Town sent out a Request for Proposal (RFP) to solicit bids for the purchase of the property and for the construction of affordable housing, priced for households earning between 50% and 120% of the area median income, on the property; and

WHEREAS, the Town received two proposals in response to the RFP and the Board of Commissioners, upon recommendation of staff, neighborhood representatives, and the affordable housing steering committee, approved the selection of the offer (the “offer”) submitted by JCB Urban Company; and

WHEREAS, North Carolina General Statute 160A-269 permits the Town to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, the Town has received the offer described above, with a purchase price in the amount of \$1,000 and the terms and conditions contained therein; and

WHEREAS, JCB Urban Company has paid the required five percent (5%) deposit on its offer;

THEREFORE, THE BOARD OF COMMISSIONERS OF THE TOWN OF DAVIDSON RESOLVES THAT:

1. The Board of Commissioners proposes to accept the offer.
2. The Town Clerk shall cause a notice of the offer to be published. The notice shall describe the property and the amount and terms of the offer, and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the Town Clerk within 10 days after the notice of sale is published. At the conclusion of the 10-day period, the Town Clerk shall open the

bids, if any, and the highest qualifying bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

4. If a qualifying higher bid is received, the Town Clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Board of Commissioners.
5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer. A qualifying higher bid must also include all the terms and conditions in the offer by JCB Urban.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The Town will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The Town will return the deposit of the final high bidder at closing.
7. The terms of the final sale are that
 - the Board of Commissioners must approve the final high offer before the sale is closed, which it will do within 30 days after the final upset bid period has passed, and
 - the buyer must pay with cash at the time of closing.
8. The Town of Davidson reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.
9. If no qualifying upset bid is received after the initial public notice, the offer set forth above may be accepted. The Town Manager or Assistant Town Manager is authorized to execute the instruments necessary to accept the offer and convey the property to JCB Urban Company pursuant to the terms of the offer.

Adopted February 14, 2017.

John M. Woods
Mayor

Attest

Carmen Clemsic
Town Clerk