

## **Upset Bid Process as permitted by NCGS 160A-269**

1. The process starts when a formal offer is received to purchase a tract of City owned real property. Five (5) percent of the offer is provided to the City at the beginning of the process.
2. If City Council agrees to sell the property it will pass a resolution which authorizes the City Manager to begin the process.
3. The City will advertise the original offer and provide for a 10-day window for persons (or entities) to submit a sealed “upset bid” that raises the value of the original offer. The statute requires that the upset bid must be “one that raises the existing offer by not less than ten percent (10%) of the first \$1,000 of the (current) offer and five percent (5%) of the remainder of the (current) offer.” The upset bid(s) are opened by the City Clerk at 5:00 pm on the final day of the 10-day window.
4. If such a valid upset bid is received, the process starts over with another advertisement and sealed bid submittal, and so forth until there is only one bid that stands. In each case, the standing deposit is returned, and a new deposit is received by the City for the new bid. If there are multiple upset bids, the higher one becomes the new bid amount.
5. After all bidding has stopped and the final bid is received, the City Council will pass a resolution recognizing the final bid and authorizing the City Manager and City Attorney to execute the closing documents. A due diligence period to perform soil studies, environmental reviews, etc. may be requested and that will be addressed in the final resolution. Other negotiations regarding deed restrictions or other protections for the City will be addressed at this time as well. Closing on the property will occur within a predetermined amount of time from the notification by the City to the person (or entity) submitting the final bid.