

**Town of Smithfield
Resolution No. 779 (18-2025)
Authorizing Upset Bid Process
Negotiated Offer and Upset Bid
NC G.S. 160A-269**

Whereas, the Town of Smithfield co-owns certain property, located at 204 Britt Street, Smithfield NC;
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 an offer to purchase the property described above, in the amount
of \$165,000; and

Whereas, the bidder will pay the required five percent (5%) deposit on his offer prior to publication;

Now Therefore, the Town council of the Town of Smithfield resolves that:

1. The Town Council authorizes sale of the property described above through the upset bid procedure of North Carolina General Statute § 160A-269.
2. The Town Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount 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 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 review the bids, if any, and the highest such 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 Town Council.
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.
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 Town Council 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 city 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 is hereby accepted. The appropriate town officials are authorized to execute the instruments necessary to convey the property.

Adopted this the 15th day of July 2025.


M. Andy Moore, Mayor

ATTEST:


Elaine Andrews, Town Clerk

