

RESOLUTION AUTHORIZING UPSET BID PROCESS

WHEREAS, the City of Charlotte (“City”) owns three (3) parcels of real property (collectively the “Property”) located on or near Witham Passage, in the City of Charlotte, County of Mecklenburg, and being identified as Tax ID Numbers: 105-311-10, containing approximately 0.970 acres; 105-311-11, containing approximately 0.180 acres; 105-271-98, containing approximately 0.150 acres; all of which adjoin the Brantley Oaks Homeowners Association Common Open Area to the west and I-485 to the east;

WHEREAS, North Carolina General Statute §160A-269 permits the City to sell property by negotiated offer, advertisement, and upset bid, after receipt of an offer for the property is made; and

WHEREAS, MartinRay Holdings, LLC, has made an offer to purchase the Property; and

WHEREAS, MartinRay Holdings, LLC, has paid the required five percent (5%) deposit on the offer.

NOW, THEREFORE, THE CHARLOTTE CITY COUNCIL RESOLVES THAT:

1. The Charlotte City Council (“City Council”) authorizes the sale of the Property described above through the upset bid procedure of the North Carolina General Statute §160A-269.
2. The City 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 qualifying increased bid to the office of the City Clerk within ten (10) days after the notice of sale is published.
4. If a qualifying increased bid is received, the City Clerk shall cause a new notice of upset bid to be published and shall continue to do so until the 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 City Council.
5. A qualifying increased 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 increased 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, certified check, or other immediately available funds. The

City 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 City will return the deposit of the final high bidder at closing.

7. The terms of the final sale are that;
 - a. The offer that the City intends to accept, subject to the upset bid procedures provided by statute, is \$28,500.00. Any upset bids shall be based upon the total amount proposed to be accepted by City Council.
 - b. City Council must approve the final high offer before the sale is closed, which it will consider, unless the Property is withdrawn from sale, within 30 days after the final upset bid period has passed.
 - c. Upon acceptance of the final high bid by City Council, the high bidder shall have one hundred and twenty (120) days from said approval to conduct title examinations and such environmental studies and examinations as final high bidder deems necessary (“Due Diligence Period”).
 - d. The final high bidder must pay with cash, or other good funds, at the time of closing, which closing shall be held at a location and on a date mutually agreeable to the parties, but not later than thirty (30) days from the end of the Due Diligence Period, or such earlier date as selected by final high bidder provided that City is provided at least ten (10) days prior written notice.
 - e. City Council shall sell and convey the Property to the high bidder by Quitclaim Deed “as is, where is”, with all faults, and without oral agreements, warranties or representations collateral to or affecting the Property.
8. City Council 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 there are no qualifying upset bids received after the initial public notice, the offer set forth above is hereby accepted. The City Manager, or his designee, is authorized to execute the instruments necessary to convey the Property to the final highest bidder.

Adopted this 28th day of August 2023.