

**RESOLUTION AUTHORIZING NEGOTIATED  
OFFER AND UPSET BID**

**Resolution No. FY25-7**

**WHEREAS,** the Town of Hertford owns the property at  
101 West Railroad Avenue, Hertford, NC, Map No. 3-0040-OO108-H  
103 West Railroad Avenue, Hertford, NC, Map No. 3-0040-OO106-H  
105 West Railroad Avenue, Hertford, NC, Map No. 3-0040-OO104-H

**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 \$15,000, submitted by Brim Woods LLC; and

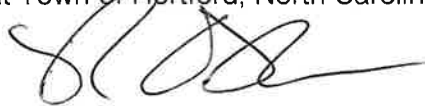
**WHEREAS,** Brim Woods LLC has paid the required five percent (5%) deposit on its offer.

**THEREFORE, THE TOWN COUNCIL OF THE TOWN OF HERTFORD 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 sealed bid with their offer in person to the office of the Town Clerk, 114 West Grubb Street, Hertford NC 27944, or by mail to the Town of Hertford Town Clerk, P.O. Box 32, Hertford, NC 27944, within 10 days after notice of sale is published. At the conclusion of the 10-day period, the Town Manager shall open 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 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 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 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 as follows:

- a. The Town Council may set a date for closing of the sale of the Property at the time of the approval of the final highest bid, and if not, the closing of the sale is set for thirty (30) days from the date of approval or the date of the end of the initial upset bid period if no bids are received. Time is of the essence for the closing of the sale of the Property; and
  - b. The Buyer must pay with cash, certified funds, or via wire transfer at or before the time of closing.
  - c. The Property is sold in its current condition, as is, as of the date of closing and the Town gives no warranty with respect to usability of or title to the Property; and
  - d. The Buyer must bring each Property into compliance with the Town's Code of Ordinances, the Town's Zoning Ordinance and any applicable North Carolina building codes within two years of closing or date deed is delivered to the Buyer whichever is earlier. Said requirement shall survive the closing and be made a restriction upon the deed transferring the property. This is an affirmative covenant and time is of the essence.
8. The Town Council must approve the final high offer before the sale is closed, which it will do within a reasonable time after the final upset bid period has passed. The Town 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, R. Ashley Hodges, mayor and Doris Walton, then Interim Town Manager are authorized to execute the instruments necessary to convey the property to Brim Woods LLC.

Adopted this the 28<sup>th</sup> day of October 2024 at Town of Hertford, North Carolina.



R. Ashley Hodges, Mayor

ATTEST:



Gina Durante, Town Clerk

