

RESOLUTION AUTHORIZING UPSET BID PROCESS TO LEASE PARKING SPACES IN LOT 20 AND THE CHAPEL HILL STREET GARAGE TO GREENFIRE REAL ESTATE HOLDINGS, LLC

WHEREAS, the City has received an offer from GREENFIRE REAL ESTATE HOLDINGS, LLC (the “Initial Offeror”) to lease 68 parking spaces in Lot 20 located at 108 South Corcoran Street and 25 parking spaces in the Chapel Hill Street Garage, located at the intersection of East Chapel Hill Street and Mangum Street, for twenty years. The Initial Offeror has paid the required 5% deposit on its offer.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DURHAM RESOLVES THAT:

1. The City Council authorizes the lease of the above-stated number of parking spaces through the upset bid procedure of N. C. G. S. § 160A-269. The City Council determines that the property proposed to be leased will not be needed by the City for the term of the proposed lease.
2. The City Clerk shall maintain a copy of the proposed lease for public inspection. The lease as proposed by the Initial Offeror includes a provision that the tenant will pay a fixed rental rate for the first 10 years of the term and another fixed rate for the last 10 years; however, during the last 10 years of the term, if the rate is less than the monthly rental rate of other similar city parking spaces, the rate may be increased to the same rate of such similar parking spaces.
3.
 - a. The lease shall be as proposed by the Initial Offeror except as otherwise allowed by this resolution.
 - b. In conjunction with its offer, a proposed tenant must specify improved land within 1,500 feet of the Chapel Hill Street Deck and Lot 20.
 - c. The land specified by the tenant must be owned by the tenant or the tenant must be the lessee in that land with a lease term of at least twenty years from today’s date.
4. The Department of General Services shall cause a notice of the proposed lease to be published.
5. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the Department of General Services, Real Estate Division within 10 days after the notice of the proposed lease is published. At the end of the 10-day period, bids received will be opened, and the highest bid will become the new offer. If there is more than one bid in the same highest amount, the first such bid received will become the new offer. If more than one bid in the amount of the highest offer is received at the same time, lots shall be drawn to determine the new offer.
6. If a qualifying higher bid is received, the Department of General Services shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed during which the Department of General Services does not receive a qualifying upset bid. At that time, the amount of the final high bid shall be reported to the City Council.

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7. A qualifying higher bid is one that raises the existing offer by at least 10% of the first \$1,000 of that offer and 5% of the remainder of that offer. The lease will provide that the rent per space is FORTY-FIVE Dollars (\$45.00) for the first 10 years of the term and FIFTY-FIVE Dollars (\$55.00) for the last 10 years of the term, with the rate for last 10 years of the term being adjusted upward (only) if the monthly rental rate of other city facilities of comparable type is increased by the City Council, so that the rate will not be less than the rate of other such comparable city parking spaces, but for purposes of the upset bid procedure, offers shall be in the form of a percentage of the rent to be charged the Initial Offeror for use of the spaces in Lot 20 and in the Chapel Hill Street Garage. Thus, the minimum offer that can upset that offer would be "\$100 plus 105% of the rent less \$1,000.00 to be charged the Initial Offeror by the City for use of the parking spaces in Lot 20 and in the Chapel Hill Street Garage for the 20 year term." The offer that has been received from the Initial Offeror is to be treated as an offer of 93 spaces times 120 months times \$45 (i.e. \$502,200.00), plus 93 spaces times 120 months times \$55 (i.e., \$613,800.00) = \$1,116,000.00.

8. A qualifying higher bid must also be accompanied by a deposit in the amount of 5% of the bid. The deposit shall be made by bank check, cashier's check, or certified check. The check must be on a bank or trust company insured by the FDIC. The City will return the deposits at closing.

9. The City Council must approve the final high offer before the lease is executed. The lease must be executed by the successful bidder and returned, with the first month's rent, to the General Services Department within 30 days after the final upset bid period has passed.

10. The City reserves the right to withdraw the property from the proposed lease at any time before the final high bid is accepted. The City reserves the right to reject all bids at any time.

11. If no qualifying upset bid is received after the initial public notice, the offer to lease set forth above from the Initial Offeror is hereby accepted. The City Manager is hereby authorized to execute the proposed lease with the Initial Offeror.

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