

**RESOLUTION AUTHORIZING THE SOLICITATION OF OFFERS
FOR THE SALE OF REAL PROPERTY AND THE INITIATION
OF AN UPSET BID PROCESS**

WHEREAS, the Fayetteville Public Works Commission (PWC), as a public authority under North Carolina law, is, with the approval of City Council of the City of Fayetteville pursuant to Charter Section 6A.9, authorized to sell, transfer, and convey real property that is titled in the name of the City of Fayetteville and managed and controlled by PWC;

WHEREAS, the Commissioners wish to explore a sale of the RC Williams Building located at 201 Hay Street, Fayetteville, North Carolina 28301 and a related assignment of all of PWC's associated parking rights in the adjacent parking lot (collectively, the "Property"); and

WHEREAS, the Commissioners believe that soliciting, receiving, and negotiating an offer to purchase the Property and then advertising it for upset bid pursuant to G.S. 160A-269 is the optimal means of obtaining the highest purchase price for the Property.

**THEREFORE, LET IT BE RESOLVED BY THE COMMISSIONERS OF THE
FAYETTEVILLE PUBLIC WORKS COMMISSION THAT:**

1. The CEO/General Manager of the Fayetteville Public Works Commission, acting on its behalf, is hereby authorized and directed to retain a commercial broker to market the Property and to assist PWC in negotiating an offer to purchase the Property on standard commercial terms, which offer shall remain subject to an upset bid in accordance with G.S. 160A-269 and to final approval from each of PWC and the City Council, either of whom may withhold approval acting in its sole discretion.

2. The commercial broker should market the Property for at least ninety (90) days unless a lesser period is approved by the CEO/General Manager.

3. Once an offer to purchase the Property is negotiated, PWC shall proceed in accordance with G.S. 160A-269 to advertise the proposed sale of the Property subject to upset bid. The offeror shall deposit with the PWC Clerk five percent (5%) of the offeror's bid in the form of cash, cashier's check or certified check, and the PWC Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the Property and the amount and terms of the offer and shall state that within ten (10) days any person (or entity) may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder of the offer.

4. Persons and entities wishing to upset the offer that has been advertised shall submit a sealed bid with their upset offer to the PWC Clerk within ten (10) days after the notice of sale is published. At the conclusion of the ten (10) day upset period, the PWC Clerk shall open the upset bids, if any, and the highest such bid shall become the new offer. If there is more than one upset bid in the highest amount, the first such upset bid received shall become the new offer. PWC will return the deposit on the initial offer if a qualified upset bid is received.

5. When an upset bid is raised, the bidder shall deposit with the PWC Clerk five percent (5%) of the increased bid in the form of cash, cashier's check or certified check, and the PWC Clerk shall readvertise the offer at the increased bid. This procedure shall be repeated until no further qualifying upset bids are received, at which time the amount of the final high upset bid shall be reported to the Commissioners. PWC will return the deposit on any upset bid that is not accepted and will return the deposit on an offer subject to upset if a qualified higher upset bid is received. PWC will return or credit, at its election, the deposit of the final high bidder at closing.

6. In order for the final high bid to be accepted, PWC must by majority vote confirm that PWC wishes to accept the final offer and sell the Property to the highest bidder and then refer the matter to the City Council, which shall then approve or deny the sale in accordance with Charter Section 6A.9. Upon receipt of such approval, PWC's CEO/General Manager is authorized to execute and deliver the final, accepted offer.

7. The buyer must pay with cash at the time of closing. At closing, PWC's CEO/General Manager is authorized to execute all instruments and other necessary closing documents to complete the sale and conveyance of the Property, including the assignment of the associated parking lot rights.

8. PWC reserves the right to withdraw the Property from sale at any time before the final high bid is accepted by both PWC and the City Council, and PWC further reserves the right to reject at any time all bids.


ADOPTED this ___ day of March, 2021.

FAYETTEVILLE PUBLIC WORKS COMMISSION



Wade R. Fowler, Jr., Chairman

ATTEST:



Darsweil Rogers, Secretary