



# **Purchasing Real Estate**

**Owned by**

**The City of Charlotte**

**Using**

**The Upset Bid**

**Process**

**A Practical Guide through the Process**

**City of Charlotte  
Engineering & Property Management Department  
Real Estate Division, Asset Management  
600 East Fourth Street, CMGC-14<sup>th</sup> Floor  
Charlotte, NC 28202**

## **INTRODUCTION**

State law and city ordinances control the sale of real estate by municipalities. This guide is intended to set out the step-by-step process to the layperson, attempting to minimize confusion. This is a *guide*, not a law book.

There are several ways by which the City of Charlotte disposes of surplus real estate. Most sales take place through the upset bid process (N.C.G.S. §§160A-269 et al) and that is the process described in this manual.

**Surplus Property:** In order for City-owned real property to be declared surplus, local governmental and quasi-governmental units will be polled to determine whether any of them has a current or future need for it. The Planning Department will be asked to review the property and make a recommendation as to its disposition. Upon the conclusion of this process, the property may then be marketed through the City's website at [cityproperties.charlottenc.gov](http://cityproperties.charlottenc.gov) and sold as surplus.

**Fair Price:** State law and City policy require that the City receive a fair price (market value) for the property. The market value of the property will be determined by appraisal or other appropriate method of valuation.

## **OVERVIEW OF THE UPSET BID PROCESS**

NOTE: The upset bid process applies to the sale of City property that is valued at more than \$10,000. For more information on how to purchase City property valued at less than \$10,000, please contact Real Estate Division staff at (704) 353-0406.

The upset bid process begins when the City receives an offer to purchase City property which it proposes to accept. The offer could be unsolicited or solicited by either City staff or an outside broker working on the City's behalf.

Once the City Council proposes to accept an offer to purchase, a notice generally describing the details of that offer will be published one (1) time in either *The Mecklenburg Times* or the *Charlotte Observer* (the "Notice of Offer"). The notice will explain that, for a period of ten (10) days following publication of the notice, anyone who wishes to do so may submit an offer to upset the original offer. If a qualifying upset bid offer is received by the City during the ten (10) day period, it then becomes the current offer and the process of publishing that offer and inviting upset bids begins again. This process would continue until a ten (10) day period passes with no qualifying upset bid offers received by the City. At that time, the last highest qualifying offer would be taken before City Council for a decision on the sale of the property based on the offer.

## **OFFERS**

**Initial Offer:** The initial offer must be submitted to the City on the Offer Form provided by the City below (see page 5 below). Offers may be rejected for any reason. The initial offer to purchase must be accompanied by a deposit in the amount of five percent (5%) of the proposed purchase price. A deposit must be in the form of a certified check drawn on a bank or trust company authorized to do business in the State of North Carolina or a bank insured by the Federal Deposit Insurance Corporation. The certified check shall be made payable to the City of Charlotte. In order for an initial offer to be considered a qualifying offer by the City, a completed, signed Contract of Purchase and Sale Form must accompany the Offer Form and the certified check (see [cityproperties.charlottenc.gov](http://cityproperties.charlottenc.gov) for a template Contract of Purchase and Sale Form). The offer must be addressed to: City of Charlotte, Engineering & Property Management Department, Attention: Real Estate Division Manager, 600 East Fourth Street, CMGC-14th Floor, Charlotte, NC 28202. Offers may be submitted by post mail, package delivery service, or in person to the 14<sup>th</sup> floor customer service desk at the Charlotte-Mecklenburg Government Center.

**Upset Bids:** Any upset bid offer must be submitted to the City on the Offer Form provided by the City below (see page 5 below) and received by the City before the ten (10) day deadline specified in the Notice of Offer. Upset bid offers may be rejected if they show signs of omission, alteration of form, additions not called for, conditions, or any irregularities of any kind. Each upset bid offer must be submitted in a **SEALED ENVELOPE**. The **outside** of the envelope must have the words “Sealed Bid” and the address or Tax Parcel ID Number of the subject property printed on it. Each upset bid offer must be accompanied by a deposit, the amount of which is stated in the published notice, and is calculated by the formula in the example on the following page (the “Bid Deposit”). A Bid Deposit must be in the form of a certified check drawn on a bank or trust company authorized to do business in the State of North Carolina or a bank insured by the Federal Deposit Insurance Corporation. The certified check shall be made payable to the City of Charlotte. In order for an upset bid to be considered a qualifying offer by the City, a completed, signed Contract of Purchase and Sale Form must accompany the Offer Form and the certified check (see [cityproperties.charlottenc.gov](http://cityproperties.charlottenc.gov) for a template Contract of Purchase and Sale Form). The offer must be addressed to: City of Charlotte, Engineering & Property Management Department, Attention: Real Estate Division Manager, 600 East Fourth Street, CMGC-14th Floor, Charlotte, NC 28202. Offers may be submitted by post mail, package delivery service, or in person to the 14<sup>th</sup> floor customer service desk at the Charlotte-Mecklenburg Government Center.

### **THE BID WILL BE REJECTED AS NON-QUALIFYING IF IT DOES NOT CONTAIN THESE THREE ITEMS DESCRIBED ABOVE AND LISTED BELOW:**

- Offer Form (see page 5 below)
- Contract of Purchase and Sale
- Bid Deposit

A qualifying upset bid offer will raise the amount of the published offer by not less than ten percent (10%) of the first one thousand dollars (\$1,000.00), which is one hundred dollars (\$100.00), plus five percent (5%) of the remainder. The upset bid deposit must be no less than five percent (5%) of the bid offer.

EXAMPLE: If the published offer for the property is \$80,000.00, anyone desiring to upset that offer would have to offer a MINIMUM of \$84,050.

Published Offer = \$80,000

Minimum Upset Bid Amount = \$84,050

- 10% of \$1,000 = \$100
- 5% of \$79,000 = \$3,950
- \$80,000 + \$100 + \$3,950 = \$84,050

Minimum Upset Bid Deposit = \$4,202.50

- 5% of \$84,050 = \$4,202.50

NOTE: Bidders are advised that building security may require any package to be opened for inspection prior to entering the Charlotte-Mecklenburg Government Center (CMGC). If upset bid offers are delivered in person, it is suggested that the bidder seal the package after entering the building. Bidders shall be responsible for ensuring that offers are sealed prior to submission and that the offer is delivered before the deadline and at the location specified in the advertisement.

All upset bid offers will be date and time stamped upon receipt and will be held until the conclusion of the ten (10) day upset bid period in which they were submitted. At that time, all offers will be unsealed and examined, and the highest qualifying upset bid offer will become the new offer to purchase. Should identical high bid offers be submitted, the bid offer first received is the new offer to purchase. A new Notice of Offer shall be published, advertising the terms and amount of the increased bid, and starting the running of another ten (10) day upset bid period.

This procedure shall be repeated until a ten (10) day period passes during which no further qualifying upset bid offers are received. Charlotte City Council shall consider approval of the sale of the property within sixty (60) days after conclusion of the upset bid procedure.

The City of Charlotte will hold deposits received throughout the upset process for the duration of the ten (10) day upset bid period in which it was submitted. Deposits from unsuccessful bidders will be returned, upon request, at the end of any ten (10) day bid period during which they were submitted, if the bidder does not wish to make any further upset bid offers for that property.

No interest shall be paid on any deposits in the City of Charlotte's possession.

THE SALE OF CITY PROPERTY IS ON AN "AS IS, WHERE IS" BASIS AND WITH ALL FAULTS, INCLUDING ENVIRONMENTAL CONDITIONS, IF ANY.

THE COUNCIL MAY, AT ANY TIME, REJECT ANY OR ALL OFFERS (N.C.G.S. §160A-269)

ALL TRANSFERS WILL BE BY SPECIAL WARRANTY DEED

At, or in preparation for, closing, the City will be responsible for:  
Notifying Buyer of approval by City Council,  
Providing legal description and deed preparation, and  
Providing any other available information.

The Buyer is responsible for:  
Due Diligence,  
Title search (if desired),  
Any and all real property taxes owed for the year of the purchase, if any, and  
Payment of the purchase price to City of Charlotte by certified funds at closing.

See the enclosed:  
Offer Form

For further information, contact:

City of Charlotte  
Engineering & Property Management Department  
Real Estate Division, Asset Management  
600 East Fourth Street, CMGC – 14th Floor  
Charlotte, NC 28202  
(704) 353-0406

## OFFER FORM

Date: \_\_\_\_\_

City of Charlotte  
Engineering & Property Management Department  
Attention: Real Estate Division Manager  
600 East Fourth Street, CMGC – 14th Floor  
Charlotte, NC 28202

Dear Sir:

The undersigned, as Bidder, hereby declares that this Offer is made without connection with any other person, company, or parties making a similar bid or offer and that it is in all respects fair and in good faith, without collusion or fraud. Bidder certifies that he has carefully examined “Purchasing Real Estate Owned by the City of Charlotte Using the Upset Bid Process” and will comply with its provisions in all respects.

Address of Property: \_\_\_\_\_

Tax Parcel ID Number: \_\_\_\_\_

TOTAL BID OFFER AMOUNT: \$ \_\_\_\_\_

DEPOSIT AMOUNT: \$ \_\_\_\_\_

Name of Bidder: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone No.: \_\_\_\_\_

Email: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

ATTACH DEPOSIT HERE