

RESOLUTION NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION AUTHORIZING AN UPSET BID PROCESS TO DISPOSE
OF THE REAL PROPERTY FORMERLY USED AS THE LOCATION
FOR THE ASHEBORO SENIOR CENTER**

WHEREAS, the City of Asheboro (hereinafter referred to as the “City”) owns certain real property that is located at 133 West Wainman Avenue, is identified by Randolph County Parcel Identification Number 7751717380, and is more specifically described by a North Carolina Non-Warranty Deed recorded in the office of the Randolph County Register of Deeds in Book of Record 2428, Page 1110; and

WHEREAS, the above-described property, which was formerly occupied by the Randolph County Senior Adults Association, Inc. and previously utilized for the Asheboro Senior Center, is no longer needed by the City; consequently, the property described in the immediately preceding paragraph will be hereinafter referred to as the “Surplus Property;” and

WHEREAS, Section 160A-269 of the North Carolina General Statutes permits the City to sell property by upset bid, after the receipt of an offer for the property; and

WHEREAS, the City has received an offer to purchase the Surplus Property, in the amount of seventy-five thousand and no hundredths dollars (\$75,000.00), from Schwarz & Schwarz, LLC, a North Carolina limited liability company; and

WHEREAS, Schwarz & Schwarz, LLC has paid to the City the required five percent (5%) deposit on the limited liability company’s offer;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina as follows:

Section 1. The City Council hereby authorizes the sale of the Surplus Property by means of the negotiated offer, advertisement, and upset bid procedure established in Section 160A-269 of the North Carolina General Statutes.

Section 2. The city clerk shall cause notice of the proposed sale to be published. This notice shall describe the Surplus Property and the amount of the offer, and shall state the terms under which the offer may be upset.

Section 3. Persons wishing to upset the offer that has been received from Schwarz & Schwarz, LLC shall submit a sealed bid with their offer to the office of the city clerk within ten (10) calendar days after the notice of sale is published. At the conclusion of the said 10-day period,

the city clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one (1) bid in the highest amount, the first such bid received by the city clerk will be the new offer.

Section 4. If a qualifying higher bid is received, the city 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 City Council.

Section 5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first one thousand and no hundredths dollars (\$1,000.00) of the existing offer and by not less than five percent (5%) of the remainder of the existing offer.

Section 6. A qualifying higher 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, or certified check. 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.

Section 7. The terms of the final sale as follows:

- (a) The City Council must approve the final high offer before the sale is closed, which the Council will take action on this sale within thirty (30) calendar days after the final upset bid period has passed;
- (b) The City's ownership interest in the Surplus Property will be conveyed by means of a North Carolina Non-Warranty Deed, no other form of deed will be used by the City;
- (c) The closing on this sale must be successfully completed within thirty (30) calendar days of the date upon which the City Council approves the final high offer;
- (d) The closing attorney for this land sale will be an attorney designated in the sole and exclusive discretion of the City;
- (e) The buyer must pay with good funds at the time of closing; and
- (f) If the offeror who submitted the final high offer accepted by the City Council attempts to withdraw the offer or in some other manner fails to strictly comply with the terms of the final sale, then the deposit submitted with the bid shall be forfeited to the City.

Section 8. The City reserves the right to withdraw the Surplus Property from sale at any time before the final high bid is accepted, and the City further reserves the right to reject at any time all bids.

Section 9. If no qualifying upset bid is received within the specified time period after the initial public notice, the offer set forth above is hereby accepted, and the appropriate City officials are authorized to execute the instruments necessary to convey the Surplus Property to Schwarz & Schwarz, LLC.

This Resolution was adopted by the Asheboro City Council in open session during a special meeting of the governing board that was held on the 21st day of May, 2015.

David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

Tamela D. Garner, Deputy City Clerk
City of Asheboro, North Carolina