

DISPOSITION OF PROPERTY POLICY

1. Definitions

- 1.1. “Act” shall mean Title 5-A of the New York Public Authorities Law, as amended from time to time.
- 1.2. “Agency” shall mean the City of Syracuse Industrial Development Agency.
- 1.3. “Board” shall mean the Board of Directors of the Agency
- 1.4. “Contracting Officer” shall mean the Executive Director of the Syracuse Industrial Development Agency (the “Agency”) who shall be responsible for the disposition of property.
- 1.5. “Dispose” or “Disposal” shall mean transfer of title or any other beneficial interest in Property in accordance with these Guidelines, as defined below, and Section 2897 of the Public Authorities Law, as amended from time to time.
- 1.6. “Policy” shall mean this Disposition of Property Policy as amended from time to time by resolution of the Agency.
- 1.7. “Property” shall mean personal property in excess of five thousand dollars (\$5,000) in value, any real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party. For purposes of this Policy, Property shall not include the interest granted to the Agency in any project in connection with the provision of any financial assistance, to the extent that such project and interest granted to the Agency secure the project occupant’s obligation to the Agency or any indebtedness obtained by or on behalf of the project occupant.

2. Controlling Legislation

- 2.1. The Public Authorities Accountability Act of 2005 requires the Agency to adopt by resolution comprehensive guidelines which detail the Agency’s operative policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the Disposal of Property and designate a Contracting Officer with responsibility for compliance with and enforcement of this Policy.

- 2.2 This Policy is intended to be consistent with and shall be construed in accordance with the Act. The Agency shall dispose of property in accordance with the Act and this Policy.
- 2.3 The Act requires the Agency to:
- A. maintain adequate inventory controls and accountability systems for all property under its control;
 - B. periodically inventory such property to determine which property shall be Disposed of;
 - C. produce a written report of such property in accordance with section E. below;
 - D. transfer or Dispose of such property as promptly as possible in accordance with Section 2897 of the Public Authorities Law;
 - E. publish, not less frequently than annually, a report listing all real property of the Agency. Such report shall consist of a list and full description of all real and personal property Disposed of during such period. The report shall contain the price received by the Agency and the name of the purchaser for all such property sold by the Agency during such period;
 - F. deliver copies of such report to the Comptroller, the Director of the Budget, the Commissioner of General Services, and the Legislature; and
 - G. review and approve these guidelines annually and file with the Comptroller a copy of the most recently reviewed and approved guidelines by March 31st of each year.

3. Duties of the Contracting Officer

Except as otherwise provided herein, and in the Act, the Contracting Officer shall maintain supervision and direction over the Disposal of Property of the Agency, and shall monitor the Agency's compliance with this Policy.

4. Agency Property

4.1. Custody and Control.

The custody and control of the property of the Agency, pending its Disposal, and the Disposal of such property, shall be performed by the Agency or by the Commissioner of General Services when so authorized under the Act and this Policy.

4.2 Appraisal

Prior to Disposal, an appraisal shall be made by an independent appraiser of the value of any interest in real property, or any other Property which because of its unique nature is not subject to fair market pricing. Said appraisal shall be included in the Agency's record of the transaction for the Property.

4.3. Available Procedures for Disposition of Property.

A. Disposal by the Commissioner of General Services

When it shall be deemed advantageous to the Agency and the State of New York, the Agency may enter into an agreement with the Commissioner of General Services where under such Commissioner may Dispose of property of the Agency under terms and conditions agreed to by the Agency and the Commissioner of General Services. In Disposing of any such property of the Agency, the Commissioner of General Services shall be bound by the terms of this Policy and references to the Contracting Officer shall be deemed to refer to such Commissioner.

B. Disposal by Sealed Bid Process

The Agency may dispose of any Property, to any purchaser at the highest marketable price or rental after receipt of sealed bids pursuant to Public Authorities Law § 2897(6) provided that:

1. the advertisement for bids shall be made at such time prior to the Disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the Agency's Property ; and
2. all bids shall be publicly disclosed at the time and place stated in the advertisement; and
3. the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Agency, price and other factors considered; provided, that all bids may be rejected by the Agency when it is in the public interest to do so.

C. Disposal by Negotiation or Public Auction

The Agency may dispose of Property by negotiation or public auction pursuant to Public Authorities Law § 2897(6)(c)when:

1. the personal property involved has qualities separate from the utilitarian purpose of such property , such as artistic quality, historical significance, rarity, or other quality of similar effect that would tend to increase its value, or if the personal property is to be sold in such quantity that if Disposed of by sealed bid, would adversely affect the State or local market for such property, and the estimated fair market value of such property and other satisfactory terms of Disposal can be obtained by negotiation;
2. the fair market value of the Property does not exceed fifteen thousand dollars (\$15,000.00);

3. bid prices after advertising therefore are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
4. the Disposal will be to the state or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of Disposal are obtained by negotiation;
5. the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the Property will remain with the government or any other public entity;
6. the purpose of the transfer is within the purpose, mission, or governing statute of the Agency.

5. Disposal of Property for Less than Fair Market Value

5.1 The Agency may dispose of real property for less than fair market value when:

- A. The disposal is to a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity; or when,
- B. the purpose of the disposal is within the purpose, mission, or governing statute of the Agency; or when
- C. the disposal is not to a governmental entity, and the disposal is not consistent with the Agency's mission, purpose or governing statute where the Agency has provided written notification of the disposal to the governor, the speaker of the assembly, and the temporary president of the senate, and the proposed transfer is not denied by the governor, the senate, or the assembly pursuant to Public Authorities Law § 2897(7)(iii).

5.2 **Information to be provided to the Board** : In the event that a below fair market value asset transfer is proposed, the following information must be provided to the Board and the public:

- A. a full description of the asset; and
- B. an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the Board; and
- C. A description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer; and

- D. a statement of the value received compared to the fair market value; and
- E. the names of any private parties participating in the transfer, and if different than the statement under subsection D of this section, a statement of the value to the private party; and,
- F. The names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

5.3 Board approval of disposal of property for less than fair market value: prior to disposing of property for less than market value, the Board shall consider the information described in section 5.2 of these guidelines and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of such transfer.

6. Validity of Deed, Bill of Sale, Lease, or Other Instrument

A deed, bill of sale, lease, or other instrument executed by or on behalf of the Agency, purporting to transfer title or any other interest in property of the Agency under these Guidelines shall be conclusive evidence of compliance with the provisions hereof insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.

7. Reports and Transmittals

7.1 Property Report

The Agency shall publish, not less frequently than once a year, a report listing all Property of the Agency. Such report shall consist of a list and full description of all real and personal Property to be Disposed of during such period. The report shall contain the price received by the Agency, and the name of the purchaser for all Property Disposed of by the Agency during such period. The Agency shall deliver copies of such reports to the Comptroller of the State of New York, the Director of the Budget of the State of New York, the Commissioner of General Services, and Legislature.

7.2 Explanatory Statements for Negotiated Disposals

An explanatory Statement when required under this section shall be transmitted to the comptroller, the director of budget, the commissioner of general services, the legislature, and the authorities budget office at least ninety days prior to the disposal. A copy of the explanatory statement shall also be preserved by the Agency. An explanatory statement shall be prepared when the circumstances of each disposal by negotiation of:

1. any personal property which has an estimated fair market value in excess of \$15,000;

2. any real property (other than by lease) that has an estimated fair market value in excess of \$100,000,;
3. any real property Disposed of by lease if the estimated annual rent over the term of the lease is in excess of \$15,000;
4. any real property or real and related personal property Disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

7.3 Notice of Proposed transfer for less than fair market value to a non-governmental entity where the disposal would not be consistent with the Agency's mission, purpose, or governing statutes:

Whenever the Agency proposes to transfer an asset for less than fair market value to a non-governmental entity where the disposal would not be consistent with the Agency's mission, purpose, or governing statutes, the Agency shall provide written notification thereof to the governor, the speaker of the assembly, and the temporary president of the Senate, and such proposal shall be subject to denial by the governor, the senate, or the assembly.

8. Annual Review and Amendments of this Policy

This Policy is subject to modification and amendment at the discretion of the Agency in accordance with the Act, Title 18-A of the New York State General Municipal Law and Section 926 of the General Municipal Law. On or before March 31st of each year, the Agency shall review and approve this Policy annually, and shall include the name of the Contracting Officer. On or before March 31st of each year, the Policy most recently reviewed by the Agency shall be filed with the Comptroller of the State and posted on the Agency's Website.

9/17/13 (Revised)
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