

**TOWN OF ROTTERDAM INDUSTRIAL DEVELOPMENT AGENCY  
DISPOSITION OF PROPERTY POLICY**

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**I. STATEMENT OF PURPOSE**

The Town of Rotterdam Industrial Development Agency (“Agency”) has adopted this Property Disposition Policy (the “Policy”) in accordance with Title 5-A of the New York State Public Authorities Law (“PAL”). This Policy shall detail the Agency’s instructions regarding the use, awarding, monitoring and reporting of contracts for the Disposal of Property, all of which shall be consistent with and in compliance with the provisions of Chapter 1030 of 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 673 of the 1975 Laws of New York, as amended, constituting Section 899-b of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”), and any other applicable law regarding the Disposal of such Property.

**II. DEFINITIONS**

- a) “Act” shall mean Title 1 of Article 18-A of the New York General Municipal Law and Section 899-b of the General Municipal Law, each as amended from time to time.
- b) “Agency” shall mean the Town of Rotterdam Industrial Development Agency.
- c) “Commissioner of General Services” shall mean the Commissioner of the New York State Office of General Services.
- d) “Contracting Officer” shall mean the officer or employee of the Agency who shall be appointed by Agency resolution to be responsible for the Disposal of Property.
- e) “Dispose”, “Disposal” or “Disposition” shall mean transfer of title or any other beneficial interest in Property in accordance with these Guidelines and Section 2897 of the Public Authorities Law, as amended from time to time.
- f) “FMV” shall mean fair market value.
- g) “PAL” shall mean Title 5-A of the New York Public Authorities Law, as amended from time to time.
- h) “Policy” shall mean this policy, as amended from time to time by Agency resolution.
- i) “Property” shall mean personal property in excess of five thousand dollars (\$5,000) in value, and 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” (as defined in Section 854(4) of the Act) in connection with the provision of “financial assistance” (as defined in Section 854(14) of the Act) to the extent that such project and the interest granted to the Agency secure the project occupant’s obligations to the Agency or any indebtedness obtained by or on behalf of the project occupant.

## **II. DESIGNATION AND DUTIES OF A CONTRACTING OFFICER**

The Contracting Officer shall be appointed by resolution of the members of the Agency.

Except as otherwise provided herein and in the PAL, the Contracting Officer shall have supervision and direction (with member approval) over the Disposal of Property of the Agency and be responsible for compliance by the Agency with, and enforcement of, this Policy. The Agency shall have the right to Dispose of its Property for any valid corporate purpose.

## **III. TRACKING AND INVENTORY**

It shall be the policy of Agency to maintain the following inventory control procedures:

- a) At the institution of this Policy, the Contracting Officer shall be responsible for creating an inventory of all Agency Property, including a description of the Property, location of the Property and estimated fair market value of the Property.
- b) Periodically, but not less than once quarterly, the Contracting Officer shall update the inventory and track the purchase or sale of Property, the name of the seller or purchaser and the price received or paid for each Property and the date of each transaction. In addition, the Contracting Office shall review the inventory and create a list of recommended Property for Disposition to present to the members of the Agency.
- c) All Agency Property shall be transferred or Disposed of as promptly as possible in accordance with this Policy and the Act.

## **IV. CUSTODY AND CONTROL**

The custody and control of Agency Property, 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 PAL and this Policy.

## **V. DISPOSAL PROCEDURES**

- a) Fair Market Value. Any Property may be Disposed of by Agency for FMV may be Disposed of by sale, exchange, or transfer, for cash, credit, or other property, on such terms and conditions as the Contracting Officer and the members of the Agency deem proper.

In accordance with New York State Law, no Disposition of Property for other than fair market value shall be made unless such property is unique in nature, in which

case an appraisal of the value of the Property is made by an independent appraiser and included in the record of the transaction.

- b) Disposal by Commissioner of General Services. When the Agency shall have deemed that Disposal of any of the Agency's Property by the Commissioner of General Services will be advantageous to the Agency and the State of New York, the Agency may enter into an agreement with the Commissioner of General Services pursuant to which said Commissioner may Dispose of Property of the Agency under terms and conditions agreed to by the Agency and the Commissioner. In Disposing of any such Property, the Commissioner shall be bound by the terms hereof and references to the Contracting Officer shall be deemed to refer to the Commissioner of General Services.
- c) Public Bidding. All Disposals or contracts for Disposal of Property of the Agency shall be made after publicly advertising for bids except as provided herein.

Whenever public advertising for bids is required:

- (1) the advertisement for bids shall be made at such time prior to the Disposal or contract for Disposal through such methods, and on such terms and conditions as the Contracting Officer determines will permit full and free competition consistent with the value and nature of the Agency's Property proposed for Disposal;
  - (2) all bids shall be publicly disclosed at the time and place stated in the advertisement; and
  - (3) the award shall be made by the Contracting Officer on behalf of the Agency with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Agency taking into consideration, price and other factors; provided that all bids may be rejected when the Agency determines it is in the public interest to do so.
- d) Exceptions to Public Bidding. Disposals and contracts for Disposal of Property may be negotiated or made by public auctions without regard to Section V(c) but subject to obtaining such competition as the Contracting Officer determines to be feasible under the circumstances, if:
    - (1) Disposal involves personal property of a nature and quantity which, if publicly bid, would adversely affect state/local market for such property and FMV and other terms can be obtained by negotiation;
    - (2) The FMV of the property does not exceed \$15,000;
    - (3) Bid prices after advertising are not reasonable or have not been independently arrived at in open competition;

- (4) Disposal is to the State or a political subdivision and the FMV and other terms are obtained by negotiation;
- (5) Otherwise as authorized by law.

e.) Exceptions to FMV and Public Bidding

Disposal is for less than FMV, the terms are obtained by public auction or negotiation, Disposal is intended to further public health, safety, welfare, or economic development interest of the state or a political subdivision, and the purpose and terms are documented in writing and approved by resolution of the members of the Agency; or

f.) Disposal by Negotiation. Where the Agency deems a particular transaction to fall within one of the above referenced exceptions to public bidding and Disposes of Property by negotiation, the following procedure must be followed if applicable.

An explanatory statement of the circumstances surrounding the Disposition of Property by negotiation must be prepared if any of the following apply:

- (1) Personal property with estimated FMV of in excess of \$15,000;
- (2) Real property with estimated FMV of in excess of \$100,000 (except if lease/exchange falling within one of the next three categories);
- (3) Lease for term of five years or less with estimated fair annual rent in excess of \$100,000 per year;
- (4) Lease for term of more than five (5) years if total estimated rent over term of lease is in excess of \$100,000; or
- (5) Exchange of property if any part of the consideration consists of real property.

g.) Reporting of Explanatory Statement. If such a statement is required, it must be transmitted to the Comptroller, Director of the Budget, Commissioner of General Services and the Legislature at least ninety (90) days in advance of Disposal of the Property, with a copy of such statement to be retained in Agency's records.

## VI. REPORTS

The Agency shall publish, not less frequently than annually, a report listing all 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 Disposed of by the Agency during such period.

The Agency shall deliver copies of such report to the Comptroller of the State of New York, the Director of the Budget of State of New York, the Commissioner of the New York State Office of General Services, and the New York State Legislature.

## **VI. APPROVAL**

This Policy is subject to modification and amendment at the discretion of the Agency in accordance with the PAL and the Act. On or before March 31 of each year, the Agency shall review and approve the Policy annually including the name of the Contracting Officer. On or before March 31<sup>st</sup> of each year, the Policy most recently reviewed and approved shall be filed with the Comptroller of the State, posted on the Agency's website and maintained on the Agency's website until a policy for the following year or an amended policy is posted.

Revised 8/5/08