

Town of Brookhaven Industrial Development Agency

Property Disposition Policy

In keeping with the policy of maintaining the highest standards of conduct and ethics and to operate in the most accountable and open manner, the Town of Brookhaven Industrial Development Agency (the “Agency”) will maintain adequate inventory controls and accountability systems for all Property (as such term is defined below) under its control. Furthermore, the Agency will Dispose (as such term is defined below) of Property in compliance with any applicable Law, Rule or Regulation (as such term is defined below). Failure to follow the provisions of this Property Disposition Policy will result in disciplinary action including possible termination of employment, dismissal from one’s board or agent duties and possible civil or criminal prosecution if warranted.

Definitions

Contracting Officer shall mean the Executive Director/Chief Executive Officer of the Agency.

Dispose, Disposed or Disposal shall mean the transfer of title or any other beneficial interest in personal or real property in accordance with Section 2897 of the New York Public Authorities Law.

Law, Rule or Regulation: Any duly enacted statute, or ordinance or any rule or regulation promulgated pursuant to any federal, state or local statute or ordinance.

Property shall mean (a) personal property in excess of five thousand dollars (\$5,000.00) in value, (b) real property, and (c) 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.

Operative Policy

Inventory Controls and Accountability Systems

The Contracting Officer of the Agency shall be responsible for the Agency’s compliance with this Property Disposition Policy and the supervision and control of all Property Disposed of by the Agency. In addition, the Contracting Officer shall have the responsibility to insure the Agency operates in compliance with Article 9 Title 5-A of the New York Public Authorities Law, including creating and maintaining adequate inventory controls and accountability systems for all Property under the control of the Agency and periodically inventorying such property to determine which, if any, property should be Disposed by the Agency. The Contracting Officer shall recommend to the Board any Property he or she deems suitable for Disposal.

Disposition of Property

Unless otherwise authorized by this Policy, the Agency shall Dispose of Property for not less than fair market value (“FMV”) by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such terms and conditions as the Contracting Officer deems proper. Provided, however, that no disposition of real property, any interest in real property, or any other Property which because of its unique nature is not subject to fair market pricing shall be made unless an appraisal of the value of such Property has been made by an independent appraiser and included in the record of the transaction.

Unless otherwise authorized by this Policy, prior to disposing of Property or entering into a contract for the Disposal of Property, the Agency shall publicly advertise for bids for such Disposal or contract for Disposal. The advertisement for bids shall be made at such a time prior to the Disposal or contract for Disposal, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the Property. Such advertisement shall include the date, time and place the bids will be publicly disclosed by the Agency. The Agency shall award the contract with reasonable promptness to the most responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to New York State (the “State”), price and other factors considered; provided, however, that Agency reserves the right to reject all such bids when it is in the public interest to do so.

The Agency may Dispose of Property or enter into contracts for the disposal of Property via negotiation or public auction without regard to the two (2) paragraphs immediately above, but subject to obtaining such competition as is feasible under the circumstances, if:

- (i) the personal property involved is of a nature and quantity which, if Disposed of under the first two (2) paragraphs of this section, would adversely affect the state or local market for such Property, and the estimated FMV of such Property and other satisfactory terms of the Disposal can be obtained by negotiation;
- (ii) the FMV of the Property does not exceed fifteen thousand dollars (\$15,000.00);
- (iii) 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;
- (iv) the Disposal is to the State or any political subdivision of the State, and the estimated FMV of the Property and other satisfactory terms of the Disposal are obtained by negotiation;
- (v) the Disposal is for an amount less than the estimated FMV of the Property, the terms of such Disposal are obtained by public auction or negotiation, the Disposal of the Property is intended to further the public health, safety

or welfare or an economic development interest of the State or a political subdivision of the State, including but not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, and the purpose and terms of the Disposal are documented in writing and approved by resolution of the Board; or

- (vi) such Disposal or related action is otherwise authorized by law.

The Agency shall file an explanatory statement with the comptroller, the director of the division of budget, the commissioner of general services and the legislature not less than ninety (90) days before the Agency Disposes the Property if the Property is personal property in excess of \$15,000, or real property that has a fair market value in excess of \$100,000. When the Property is Disposed by lease (or exchange), then the Agency shall file an explanatory statement when the Property is real property leased for a term of five (5) years or less with an estimated fair annual rent exceeding one-hundred thousand (\$100,000.00) in any given year, real property leased for a term greater than five (5) years with an estimated fair annual rent exceeding one-hundred thousand (\$100,000.00) for the entire lease term; or 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.

Reporting Requirements

Annual Report

The Agency shall publish, at least annually, an Annual Report (the “Annual Report”) listing all Property consisting of real property of the Agency. In addition, the Annual Report shall include a list and full description of all Property consisting of real and personal property Disposed of during such period covered by the Annual Report. The Annual Report shall include the price received by the Agency for the Property, in addition to the name of the purchaser for all such Property sold by the Agency during such period covered by the Annual Report.

The Agency shall deliver copies of the Annual Report with the comptroller, the director of the division of budget, the commissioner of general services and the legislature, and to the extent practicable, post such Annual Report on its website.

Property Disposition Policy

The Agency shall review and approve this Property Disposition Policy annually by resolution of the Board. On or before March 31 of each year, the Agency shall file with the Comptroller a copy of its Property Disposition Policy, including the name of the Contracting Officer appointed by the Agency. Upon such filing with the comptroller, the Agency shall post its Property Disposition Policy on its website.