

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

DISPOSITION OF PROPERTY POLICY

This Policy is adopted pursuant to the provisions of the
Public Authorities Accountability Act of 2005 and
the Public Authorities Reform Act of 2009

POLICY PURPOSE: It is the policy of the Nassau County Industrial Development Agency (the “Agency”) to conduct its operations in compliance with the highest standards of conduct and ethical behavior and with best practices applicable to industrial development agencies and to operate in an accountable and transparent manner.

SECTION 1. DEFINITIONS

A. “Contracting Officer” shall mean the officer or employee of the Agency who shall be appointed by resolution to be responsible for the disposition of property.

B. “Dispose” or “disposal” shall mean transfer of title or any other beneficial interest in personal or real property in accordance with section 2897 of the Public Authorities Law.

C. “Property” or “property” shall mean (i) personal property in excess of five thousand dollars (\$5,000) in value, and (ii) real property, and any inchoate or other interest in real property, to the extent that such interest may be conveyed to another person for any purpose. Notwithstanding the foregoing, (a) Property shall include only such property in which the Agency shall have a beneficial interest and only to the extent of such beneficial interest, and (b) Property shall not include any property in which the Agency holds an interest solely for the purpose of extending “financial assistance” (as such term is defined in Article 18-A of the General Municipal Law) to the beneficiary of a “Project” (as such term is defined in Article 18-A of the General Municipal Law) and in which the Agency is required to convey or reconvey such Property to such beneficiary under the terms of an agreement between the Agency and such beneficiary.

SECTION 2. DUTIES

A. The Agency shall:

(i) maintain adequate inventory controls and accountability systems for all property owned by the Agency and under its control;

(ii) periodically inventory such property to determine which property shall be disposed of;

(iii) produce a written report of such property in accordance with subsection B hereof; and

(iv) transfer or dispose of such property as promptly and practicably as possible in accordance with Section 3 below.

B. The Agency shall:

(i) publish, not less frequently than annually, a report listing all real property owned in fee by the Agency. Such report shall also include 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 property sold by the Agency during such period; and

(ii) 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, the New York State Legislature (via distribution to the majority leader of the Senate and the speaker of the Assembly), and the New York State Authorities Budget Office.

SECTION 2. TRANSFER OR DISPOSITION OF PROPERTY

A. Supervision and Direction. Except as otherwise provided herein, the duly appointed Contracting Officer shall have supervision and direction over the disposition and sale of property of the Agency. The Agency shall have the right to dispose of its property for any valid corporate purpose.

B. Custody and Control. The custody and control of property, pending its disposition, and the disposal of such property, shall be performed by the Agency or by the Commissioner of General Services when so authorized under this section.

C. Method of Disposition. Unless otherwise permitted by this Statement, the Agency shall dispose of property for not less than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Agency and/or the Contracting Officer deems proper. The Agency may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this section. Provided, however, except in compliance with all applicable law, no disposition of real property, or any interest in real property, 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, and, provided, further, that no disposition of any other property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar property, shall be made without a similar appraisal.

D. Sales by the Commissioner of General Services (the “Commissioner”). When the Agency shall have deemed that transfer of property by the Commissioner will be advantageous to the Agency, the Agency may enter into an agreement with the Commissioner pursuant to which 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 such Commissioner.

E. 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 in accordance herewith shall be conclusive evidence of compliance with the provisions of this Policy and all applicable law 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.

F. Bids for Disposal; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement.

(i) Except as permitted by applicable law, all disposals or contracts for disposal of property made or authorized by the Agency shall be made after publicly advertising for bids, except as provided in subsection (iii) of this Subsection F.

(ii) Whenever public advertising for bids is required under subsection (i) of this Subsection F:

(A) 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 property proposed for disposition;

(B) all bids shall be publicly disclosed at the time and place stated in the advertisement; and

(C) 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 at the Agency's discretion.

(iii) Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to subsections (i) and (ii) of this Subsection F, but subject to obtaining such competition as is feasible under the circumstances, if:

(A) the personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, 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 it were disposed of under subsections (i) and (ii) of this Section F, 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;

(B) the fair market value of the property does not exceed fifteen thousand dollars;

(C) 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;

(D) the disposal will be to the State of New York or any political subdivision or public benefit corporation, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;

(E) under those circumstances permitted by G. below; or

(F) such action is otherwise authorized by law.

(iv) (A) An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:

(1) any personal property which has an estimated fair market value in excess of fifteen thousand dollars;

(2) any real property that has an estimated fair market value in excess of one hundred thousand dollars, except that any real property disposed of by lease or exchange shall only be subject to clauses (3) and (4) of this subparagraph;

(3) any real property disposed of by lease, if the estimated annual rent over the term of the lease is in excess of fifteen thousand dollars; or

(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.

(B) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under all applicable law not less than ninety (90) days in advance of such disposal, and a copy thereof shall be preserved in the files of the Agency making such disposal. Each such statement shall include, but not be limited to, the following information: (1) a description of the parties involved in the transaction, (2) justification for disposing of the property by

negotiation, (3) identification of the property, including its location, (4) the estimated fair market value of the property, (5) the proposed sale price of the property, (6) the size of the property, and (7) the expected date of sale of the property.

G. Disposal of Property for Less Than Fair Market Value.

(i) No asset owned, leased or otherwise in the control of the Agency that is subject to this Policy may be sold, leased or otherwise alienated for less than its fair market value except if:

(A) 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 asset will remain with the government or any other public entity;

(B) the purpose of the transfer is within the purpose, mission or governing statute of the Agency; or

(C) in the event the Agency seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with the Agency's mission, purpose or governing statute, the Agency shall provide prior written notice thereof to the governor of the State of New York, the speaker of the New York State Assembly and the temporary president of the New York State Senate and any such transfer shall be subject to denial by the governor, the Senate or the Assembly in accordance with Section 2897 of the Public Authorities Law within sixty (60) days after such persons receive such notification.

(ii) In the event a below fair market value asset transfer is proposed, the following information shall be provided in advance to the members of the Agency and shall be made available to the public by posting on the Agency's website:

(A) a full description of the asset;

(B) an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the members of the Agency;

(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, and the benefits, if any, to the communities in which the asset is situated as are required by the transfer;

(D) a statement of the value to be received compared to the fair market value;

(E) the names of any private parties participating in the transfer, and, if different than the statement required by subparagraph (D) above, 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 sought was to be used.

(iii) Before approving the disposal of any property for less than fair market value, the members of the Agency shall consider the information described in subparagraph (ii) above 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.

The members, officers and employees of the Agency are hereby notified that failure to comply with the provisions of this Policy in connection with the disposition of Property may result in disciplinary action, including, without limitation, possible termination of employment, dismissal from the board and/or referral for civil or criminal prosecution if warranted.

This Policy subject to modification and amendment at the discretion of the members of the Agency, shall be filed annually with all local and state agencies as required under all applicable law and shall be posted on the Agency's website.

This Policy was re-adopted by the members of the Agency on March 4, 2017.

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

REAL PROPERTY ACQUISITION POLICY

This Policy is adopted pursuant to the provisions of the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009

Policy Purpose: It is the policy of the Nassau County Industrial Development Agency (the “Agency”) to conduct its operations in compliance with the highest standards of conduct and ethical behavior and with best practices applicable to industrial development agencies and to operate in an accountable and transparent manner.

A. Real Property Acquisitions

Interests in real property, including, without limitation, fee or leasehold interests, may be acquired by the Agency for development, resale, operation, leasing, subleasing or other uses designated by the Agency.

Interests in real property shall be acquired by the Agency solely to further one or more of the purposes of the Agency authorized under Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of the State of New York, as amended, and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (collectively, the “Act”) or by other applicable state law, subject to compliance with the Agency’s by-laws and subject to authorization of the acquisition thereof by a resolution duly adopted by the members of the Agency.

The Agency shall conduct such due diligence as it deems appropriate prior to any such acquisition, including, with out limitation, appraisals and the review and investigation of environmental, title, structural and other relevant matters.

B. Exemption for Financial Assistance Transactions

Notwithstanding any provision of this Policy to the contrary, this Policy shall not apply to any acquisition of an interest in real property involving the granting of “financial assistance” (as defined in Section 854(14) of the Act) by the Agency to an applicant for such financial assistance (an “Applicant”). Such property interest is not “property” as defined in Title 5-A of the Public Authorities Law of the State because such property and the interests therein are security for the Applicant’s obligations to the Agency under the agreements between the Agency and the Applicant relating to such financial assistance.

The members, officers and employees of the Agency are hereby notified that failure to comply with the provisions of this Policy in connection with the acquisition of real property may result in

disciplinary action, including, without limitation, possible termination of employment, dismissal from the board and/or referral for civil or criminal prosecution if warranted.

This Policy subject to modification and amendment at the discretion of the members of the Agency, shall be filed annually with all local and state agencies as required under all applicable law and shall be posted on the Agency's website.

This Policy was re-adopted by the members of the Agency on March 4, 2017.