

## **Livingston County Industrial Development Agency Disposition of Property**

### **Purpose:**

This document is designed to ensure that the Agency and its officers and employees dispose of (or transfer) Agency property properly and in accordance with New York State standards and regulations. The purpose of the policy is to define the standards for transferring or disposing of property.

### **Scope:**

This policy applies to the transfer of title or any other beneficial interest in personal property, in excess of \$5,000 in value, or 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 personal property with a value of \$5,000 or less the Agency shall have the final authority for disposition.

### **Guidelines/Policy:**

These guidelines cover the policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposition of property and designate a contracting officer to be responsible for the Agency's compliance with these guidelines.

### **Use:**

The Agency shall use property in accordance with its purposes as set forth under New York General Municipal Law, which shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities and continuing care retirement communities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living.

### **Awarding:**

The Executive Director is responsible for supervision and direction of the sale and other disposition of Agency property. The Agency must maintain custody and control of such property pending its disposition. Additionally, the Agency is required to perform the disposition of the property.

For all disposals or contracts for disposal of property, the Agency shall publicly advertising for bids as follows;

- i. bid advertisement 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;
- ii. all bids shall be publicly disclosed at the time and place stated in the advertisement;
- iii. the award of bids 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; and
- iv. all bids shall include an expiration date.

All property considered for disposition shall be reviewed by the Agency prior to advertising for bids. All written offers on real property under consideration for disposition shall be presented as an item on the agenda of an Agency meeting. A preliminary review of offers to purchase or lease shall include: source of offer, date of offer, expiration date of offer, and intended use of property. The Agency shall give final approval of all contracts.

The Agency shall sell property for not less than fair market value, unless otherwise provided herein. If the property is not subject to fair market pricing due to its unique nature, an appraisal of the value of such property must be made by an independent appraiser and included in the record of the transaction.

In consideration of public interest, the Agency reserves the right to reject any and all offers at its sole discretion, regardless of price and terms.

The Agency will allow the disposition of property by negotiated sale or public auction if:

- i. the property is personal property and a sale by public bidding would adversely affect the market for the property and the estimated fair market value can be obtained by negotiation;
- ii. the property's value does not exceed \$15,000;
- iii. the bid prices after advertising are not reasonable or were not independently arrived at in open competition;
- iv. the property is sold to the State or any political subdivision and the estimated fair market value is obtained by negotiation;

- v. the disposal is for less than fair market value, the terms are obtained by public auction or negotiation, the disposal is intended to further the public health, safety or welfare or an economic development interest of the Agency, the State or a political subdivision and the purpose and terms of the disposal are documented in writing and approved by resolution of the Agency; or
- vi. the action is otherwise permitted by law.

Explanatory statement needs to be prepared and transmitted to Comptroller, Director of the Budget, the Commissioner of General Service and the Legislature at least 90 days in advance of such disposal in instances of disposal by negotiation where:

- i. any personal property has an estimated fair market value in excess of \$15,000;
- ii. any real property has an estimated fair market value in excess of \$100,000, except in instances where real property is disposed of by lease or exchange unless such lease or exchange includes:
  - a. any real property disposed of by lease for a term of five years or less, if the estimated fair annual rent is in excess of \$100,000 for any of such years;
  - b. any real property disposed of by lease for a term of more than five years, if the estimated rent over the term of the lease is in excess of \$100,000; or
  - c. 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.

Such explanatory statement must be preserved by the Agency in its records.

Potential purchases or lessees shall demonstrate financial capacity to meet the terms and conditions of their purchase or lease offer.

Potential purchasers shall demonstrate reasonable likelihood of obtaining necessary city/township approval and/or compliance with city/township zoning ordinances.

#### **Monitoring:**

The Agency shall direct the Executive Director to conduct the periodic review of all Agency property, and to identify obsolete property. The Agency shall authorize the

disposition by sale, donation, trade, or discard of any property no longer required for Agency purposes.

The Agency's Executive Director will keep the records of all inventory and will update records biennially noting disposition when appropriate pursuant to the reporting requirements listed herein.

**Reporting:**

Within ninety (90) days after the end of its current fiscal year, the Agency will file with the County Administrator, the County Treasurer and the Chair of the Board of Supervisors for Livingston County and the Authority Budget Office an annual report. The annual report will contain a report on the Agency's property listing the following:

- i. all real property of the Agency having an estimated fair market value in excess of \$15,000 that the Agency intends to dispose of;
- ii. all such property held by the Agency at the end of the period covered by the report with an estimate of fair market value for all such property; and
- iii. all such property disposed of during such period with the price received by the Agency and the name of the purchaser for all such property.

The Executive Director shall provide to the Agency a copy of the annual report with a record of all property disposed of under these guidelines within thirty (30) days after the end of the Agency's current fiscal year.

**Contracting Officer:**

The Contracting Officer of the Agency shall be the Executive Director, who will be responsible for the Agency's compliance with these guidelines.

These guidelines will be reviewed and approved by the Agency each fiscal year.

Last Revised: June 2, 2006