



## 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 City of Newburgh 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

Act means Article 18-A of the General Municipal law of the State.

Board shall mean the board members of the Agency.

Budget Director shall mean the Director of the Division of Budget of the State.

Commissioner shall mean the Commissioner of General Services of the State.

Comptroller shall mean the State Comptroller.

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

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.

Legislature shall mean the State Legislature.

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. Notwithstanding the foregoing, 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 property shall not include property in which the Agency holds legal title solely for the purpose of extending financial assistance to the beneficiary

of a project under the New York State Industrial Development Agency Act (General Municipal §§ 850 et seq.), as amended (the “Act”), and which the Agency is required to convey or re-convey to such beneficiary upon the termination of such project under the terms and conditions of the project agreements between the Agency and the beneficiary.

State shall mean the State of New York.

## **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 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 the 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: 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;

- (i) the FMV of the property does not exceed fifteen thousand dollars (\$15,000.00);
- (ii) 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;
- (iii) the disposal is to the state or any political subdivision of the state, or to a public benefit corporation of the state (including, without limitation, an Industrial Development Agency created pursuant to the Act), and the estimated FMV of the property and other satisfactory terms of the disposal are obtained by negotiation;
- (iv) 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
- (v) such disposal or related action is otherwise authorized by law.

Notwithstanding any provision of this Policy to the contrary, the Agency may transfer title to owned real property to the State or any political subdivision, including the City of Newburgh, in accordance with the provisions of the Public Authorities and the General Municipal Laws of the State under the following circumstances:

- The real property was historically owned by the State or any political subdivision, including the City of Newburgh; and
- Title to the real property was transferred to the Agency as part of a project receiving financial assistance in the form of bond financing under the Act; and
- The financial assistance provided to the project by the Agency (i) has been fully repaid, and/or (ii) the conditions of such project have been fully satisfied, and/or (iii) the project has been abandoned by the company or entity receiving such financial assistance and/or (iv) the termination of any financing structure has resulted in title to the real property reverting to the Agency; and
- The Agency has received a written request from the State or any political subdivision, including the City of Newburgh, to transfer title to the real property upon conclusion of the project for municipal purposes; and
- The transfer of the real property will be “as is” and pursuant to a contract negotiation by the parties which requires that the transferee will own and use the real property for government or public purposes.

The Agency shall file an explanatory statement with the Comptroller, the Budget Director, the Commissioner, 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 dollars (\$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 dollars (\$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 Budget Director, the Commissioner, and the Legislature, and to the extent practicable, post such Annual Report on its website.

This Policy – The Agency shall review and approve this Property Disposition Policy annually by resolution of the Board at its annual meeting. On or before March 31 of each year, the Agency shall file with the Comptroller a copy of its then-current 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.