

**PROPERTY DISPOSITION POLICY OF THE  
AUBURN LOCAL DEVELOPMENT CORPORATION**

*As adopted by the Members of the Auburn Local Development Corporation pursuant to Section 20 of Chapter 766 of the Laws of 2006, amending the Public Authorities Law of the State of New York.*

**I. PRINCIPLES OF GENERAL APPLICATION**

- A. **Applicability of this Policy.** This Policy shall apply to the Disposition of Property<sup>1</sup> to which the Corporation holds title as the true and beneficial owner. This Corporation shall review this Policy annually. The currently applicable version of this Policy shall be submitted to the Office of the State Comptroller and posted on the Corporation's Website no later than March 31st of each calendar year.
- B. **The Contracting Officer.** A Contracting Officer shall be appointed by resolution of the Corporation. The Contracting Officer's term of office shall run for three (3) years, commencing on April 1st of each calendar year. The term of office may be extended for additional periods of one (1) year each at the discretion of the Corporation. No current Corporation Member shall serve as the Contracting Officer.
1. **Duties.** The Contracting Officer shall be responsible for the implementation and administration of the terms of this Policy and shall have the following additional responsibilities:
- a. compile inventories of Properties under the control of the Corporation;
  - b. compile Annual Reports as described in Section II below;
  - c. supervise and oversee the Disposition of Corporation Property;
  - d. work with the City tax assessor or other appraiser to determine the Fair Market Value of Properties;
  - e. maintain the Corporation's Website in accordance with this Policy;
  - f. work with the Members of the Corporation to designate Properties for Disposal; and
  - g. perform all other duties necessary to ensure compliance with, and enforcement of, this Policy and all applicable laws, rules and regulations.

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<sup>1</sup> All capitalized terms used herein and not otherwise defined have the meanings assigned to such terms in the attached Appendix "A".

2. Appointment. The Corporation hereby appoints Andrew R. Fish as the initial Contracting Officer.

C. **The Corporation's Website**. The Corporation's Website shall include the currently adopted version of this Policy, an Inventory of Properties held by the Corporation, advertisements for Properties designated for Disposal, and the Annual Report as further described herein.

## II. INVENTORIES AND ANNUAL REPORTS

A. **Inventory**. The Contracting Officer shall maintain a complete Inventory of all Properties under the Corporation's control. The Inventory shall be prepared quarterly by the Contracting Officer and submitted to the Corporation for its review and consideration. The Inventory shall be posted on the Corporation's Website within ten (10) business days after its completion. The Inventory shall include the following:

1. A description of the Property:
  - a. in the case of Real Property the description shall be the tax map number and the street address of the Property and shall include a copy of the tax map; or
  - b. in the case of Personal Property the description shall be a written description of the Property such that it is reasonably identifiable and should include receipts or other documentation which identifies the Property. The written description shall be accompanied by photographs of the subject Property.
2. The estimated Fair Market Value of the subject Property.
3. A written report to the Corporation regarding the status of the subject Property and the Contracting Officer's recommendations regarding the Disposal of the Property. For Property that has been Disposed of since the previous Inventory period, the current Inventory shall state the price received by the Corporation for the subject Property and the name of the purchaser.

B. **Annual Reports**. The Contracting Officer shall prepare a written Annual Report based upon the quarterly Inventories submitted to the Corporation throughout the previous calendar year. The Contracting Officer shall submit the Annual Report to the Corporation for its review and consideration. The Annual Report shall also be submitted to the Office of the State Comptroller, the Director of the Budget, the Commissioner of General Services, and the Legislature. The Annual Report shall include the following:

1. A list of all Real Property held by the Corporation;
2. A list and full description of all Real and Personal Property Disposed of during the previous year;

3. The price received by the Corporation for the subject Property and the name of the purchaser of such Property; and
4. Independent appraisals of the Property, if applicable.

### **III. DISPOSAL OF AUTHORITY PROPERTY**

A. **Generally.** All Property held by the Corporation must be used and Disposed of in accordance with this Policy. Properties subject to this Policy shall be Disposed by the Corporation as promptly as is reasonably possible under the circumstances.

#### **B. Methods of Disposition.**

1. Bids for Disposal. All Disposals or Contracts for Disposals of Property made or authorized by the Corporation shall be made after publicly advertising for bids, except as set forth in paragraph 2 below. Whenever advertisement for bids is required:
  - a. The advertisement for bids shall disclose the time and place for the Disposal of the Property or Contract for Disposal, shall contain a comprehensive description of the Property or Contract for Disposal and shall be posted for a period of two (2) weeks prior to Disposal:
    - i. in a local newspaper of general circulation;
    - ii. on the Corporation's website; and
    - iii. at the Corporation's offices.
  - b. All bids shall be disclosed at the time and place stated in the advertisement; and
  - c. The award shall be made promptly to the responsible bidder, whose bid conformed to the invitation for bids and is most advantageous to the State, considering price and other factors; provided, however, that all bids may be rejected when the Corporation determines that it is in the public interest to do so.
2. Negotiations for Disposal. Disposals and Contracts for Disposal may be negotiated or made by public auction without regard to the foregoing paragraph 1, but subject to obtaining such competition as is feasible under the circumstances, if:

- a. the Disposal involves Personal Property of such a nature and quantity which, if Disposed of in the foregoing manner, would adversely affect the local market for such Property and the Fair Market Value and other satisfactory terms can be obtained by negotiation;
  - b. the Fair Market Value of the Property does not exceed fifteen thousand dollars (\$15,000);
  - c. bid prices after advertising therefor are not reasonable, either as to all or part of the Property, or have not been independently arrived at in open competition; or
  - d. the Disposal will be to the State or any political subdivision thereof, and the estimated Fair Market Value and other satisfactory terms are achieved through negotiation.
3. Disposal for Less than Fair Market Value. The Disposal may be for less than the estimated Fair Market Value of the Property if:
- a. the terms of such Disposal are obtained by public auction or negotiation;
  - b. the Disposal of the Property is intended to further the public health, safety or welfare or an economic development interest of the State or political subdivision thereof (to include, but not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial source of revenues, or where the Corporation's enabling legislation permits);
  - c. the purpose and terms of such Disposal are documented in writing and approved by the Corporation; or
  - d. such action is otherwise authorized by law.
4. Explanatory Statement. The Contracting Officer shall prepare an Explanatory Statement for each Disposal by negotiation with respect to the following:
- a. any Personal Property which has an estimated Fair Market Value in excess of fifteen thousand dollars (\$15,000.00);
  - b. any Real Property that has an estimated Fair Market Value in excess of one hundred thousand dollars (\$100,000.00), except that Property Disposed of by lease or exchange shall

only be subject to clauses (c) through (e) of this subparagraph;

- c. 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 one hundred thousand dollars (\$100,000.00) for any such years;
- d. any Real Property Disposed of by lease for a term of five years or more, if the total estimated rent over the term of the lease is in excess of one hundred thousand dollars (\$100,000.00); or
- e. any Real Property or Real and related Personal Property (fixtures) Disposed of by exchange, regardless of value, or any Property for which part of the consideration is Real Property.

The Explanatory Statement shall disclose all material aspects of the negotiations, including a description of the subject Property and the parties to the negotiation. The Explanatory Statement must be submitted to the Office of the State Comptroller, the Director of the Budget, the Commissioner of General Services, and the Legislature not less than ninety (90) days in advance of the Disposal. A copy of the Explanatory Statement shall be retained in the Corporation's files.

### **C. Valuation of Property.**

1. In General. Property of the Corporation shall be Disposed of for not less than the Fair Market Value of such Property. Property may be Disposed of by sale, exchange or transfer, for cash, credit or other Property, with or without warranty, and upon such other conditions as the Corporation deems proper. Upon approval of the terms of the Disposition by the Corporation, the duly authorized Member of the Corporation shall execute documents for the transfer of title or other interest in the Property.
2. Unique Property. When the Disposition involves Real Property, an interest in Real Property or any other Property, and the value of such Property cannot be ascertained due to its unique nature, the Contracting Officer shall engage the services of an independent appraiser to value such Property. The Contracting Officer shall include any independent appraisals in the Annual Report, as provided above.

## APPENDIX A: DEFINITIONS

“Annual Report” shall mean the report of Property submitted to the Office of the State Comptroller, the Director of the Budget, the Commissioner of General Services, and the Legislature.

“Corporation” shall mean the Auburn Local Development Corporation.

“City” shall mean the City of Auburn.

“Contracting Officer” shall mean the officer or employee of the Corporation who shall be appointed by resolution of the Corporation to be responsible for the Disposition of Property.

“Dispose”, “Disposal” or “Disposition” shall mean the transfer of title or other beneficial interest in Personal or Real Property in accordance with this Policy.

“Explanatory Statement” shall mean a statement prepared by the Contracting Officer describing the material terms of a Disposal of Property by negotiation.

“Fair Market Value” shall mean the price that a seller is willing to accept and a buyer is willing to pay on the open market and in an arm’s-length transaction. The Contracting Officer may consult with the tax assessor of the City of Auburn and is also authorized to employ an independent appraiser to determine Fair Market Value.

“Inventory” shall mean the survey and categorization of the Real and Personal Property owned by the Corporation as provided in this Policy.

“Member” or “Members” shall mean the Members of the Auburn Local Development Corporation.

“Property” shall mean personal property in excess of five thousand dollars (\$5,000) in value, real property and any inchoate 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.

“State” shall mean the State of New York

“Website” shall mean the Corporation’s website as described in this Policy

Approved and adopted this 17<sup>th</sup> day of June 2015.