

ADPOTED DISPOSAL OF PROPERTY GUIDELINES
Dutchess County Water and Wastewater Authority

January 22, 2020

The Dutchess County Water and Wastewater Authority (the "Authority"), a New York public benefit corporation, in compliance with Title 5-A of the New York State Public Authorities Law, has established these Guidelines for the Disposal of Property (the "Guidelines"). These Guidelines shall apply to the Disposal of Real Property and certain Personal Property throughout the year following their adoption and until such time as the Authority adopts new or revised Guidelines. The Authority's Board of Directors shall review and approve of these Guidelines, with any necessary modifications and revisions, on a no less than an annual basis.

1. Definitions

As used in these Guidelines, the following definitions shall apply:

"Contracting Officer" shall mean the officer or employee of the Authority whom shall be appointed by resolution of the Authority's Board of Directors to be responsible for the disposition of Property pursuant to these Guidelines.

"Dispose" or "Disposition" shall mean the transfer of title or any other beneficial interest in Personal or Real Property in accordance with applicable sections of the New York State Public Authorities Law.

"Property" means Personal Property in excess of five thousand dollars (\$5,000.00) in value, 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 any interest securing a loan or other financial obligation of another party.

"Personal Property" means any Property that is moveable, not attached to land, and tangible. Any asset other than real estate that is corporeal.

"Real Property" means lands, structures, franchise, rights and interests in land, waters, lands under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

2. Designation of Contracting Officer

The Authority hereby designates its *Staff Treasurer* as the Authority's Contracting Officer, in compliance with the provisions of New York State Public Authorities Law. The Contracting Officer shall hold this position until the members of the Authority's Board of Directors designate a new Contracting Officer or until such time as the members adopt new Disposal of Property Guidelines.

The Contracting Officer shall be responsible for the administration and implementation of these Guidelines. The Contracting Officer shall: (a) cause a copy of the most recently reviewed and approved Guidelines, and the name of the current Contracting Officer, to be filed with the New York State Comptroller on or before March 31st of each year; (b) cause a copy of the most recently reviewed and approved Guidelines to be posted on the Authority's website at the same time said Guidelines have been filed with the New York State Comptroller; and (c) cause a copy of the most recently reviewed and approved Guidelines to be maintained continuously on the Authority's website until such time as the Guidelines for the following year have been posted to the website.

3. Application of Guidelines

The procedures outlined in these Guidelines shall apply to the Authority's Disposal from time to time of all PERSONAL PROPERTY having a fair market value at the time of Disposal of more than five thousand dollars (\$5,000.00) and ALL interests in REAL PROPERTY. As used in these Guidelines, "Property" shall include Personal and Real Property. Personal and Real Property are distinguished from each other as appropriate in some Sections of these Guidelines.

All Property of the Authority to be Disposed of shall require, prior to its respective Disposal, a resolution duly adopted by the Authority's Board of Directors declaring said Property as, "Surplus", and authorizing the Disposal of same.

However, before any Property under these Guidelines shall be declared as "Surplus" and subsequently disposed of, the Contracting Officer shall determine with certainty whether said Property was acquired with a direct appropriation from either the County of Dutchess, or any municipality located therein, and whether the Authority is obligated to repay said appropriation. Pursuant to Section 1125 of Title 6-C of the New York State Public Authorities Law (Authority's enabling legislation), the Dutchess County Legislature may determine if said appropriation is subject to repayment by the Authority to the County of Dutchess or the appropriate municipality, and in such event, may also determine the manner and time or times for such repayment. However, such repayment shall be subject first to the rights of any bondholders that may have an interest in the Property covered by the appropriation.

All Property of the Authority to be Disposed of shall require that a Bill of Sale, Acknowledgment, and/or comparable instrument specific and deemed appropriate to the transaction by applicable industry regulation, practice or standard, be generated and duly executed between the Authority and the purchaser and/or recipient of said Property. Such document shall include, but not be limited to: (a) the full market value of the Property being sold or transferred on the date that the Property was declared "surplus" by the Authority's Board of Directors; (b) if applicable, the purchase price of the Property being sold; (c) a description of the Property being transferred and/or sold by the Authority that is of sufficient detail so that a reasonable person may be able to readily discern the Property being sold or transferred by the Authority from any other Property that may be of a similar nature, and that the description shall also include any unique identifying numbers that may be assigned or affixed to the Property being sold or transferred by the Authority; (d) any other information, provisions, etc. that may be required by applicable law, regulation or industry practice.

4. Purpose

The Authority has adopted these Guidelines to comply with the provisions of New York State Public Authorities Law and to realize a favorable return on the Disposal of Authority Property.

5. Fair Market Value

Before disposing of Property, the Contracting Officer shall take reasonable measures to determine the fair market value of the Property to be Disposed. Fair market value of Property that is unique in nature and therefore not subject to fair market value pricing shall be determined through an appraisal by a qualified professional. Prior to its Disposal, the fair market value of all REAL PROPERTY shall be established by an appraisal conducted by a qualified professional whom is a duly-licensed Real estate appraiser in New York State and included in the record of the transaction. 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. No asset owned, leased or otherwise in the control of the Authority may be sold, leased or otherwise alienated for less than its fair market value except if the transferee is a public entity and the terms of the transfer require that use and ownership remain with a public entity; or the purpose of the transfer is within the purpose of the Authority. In the event a below fair market value transfer is proposed, the Authority shall submit such proposal to the governor, subject to approval. In addition, the Contracting Officer shall provide to the Authority Board and public a full description of the asset, an appraisal of fair market value, a description of the purpose of the transfer and the benefit to the public under the transfer, a statement of value to be received compared to fair market value, the names of any private parties participating in the transfer and the names of other private parties who have made an offer for the asset, the value offered and the purpose for which the asset was sought to be used. Before approving the disposal of any property for less than fair market value, the Authority Board shall consider the information described above and make written determination there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose.

6. Advertised Bid

All Disposals of Authority Property shall be made after public advertisement for bids for the purchase of Authority Property, excepting any such Disposals otherwise exempted by the provisions set forth in Section 9 of these Guidelines. The Contracting Officer shall order the advertising for bids in such a manner and in such publications or venues (electronic or otherwise) as the Contracting Officer deems reasonably necessary to permit full and fair competition for the Property consistent with the fair market value and nature of the Property. All advertisements for soliciting bids on Authority Property shall state the method, place and deadline for the submission of bids, and request any other information the Contracting Officer deems necessary to evaluate bids being solicited. All advertisements and announcements soliciting bids shall state the place and time at which the content of all bids received for the Property advertised shall be publicly disclosed. The content of all bids received shall be publicly disclosed as announced in the solicitation for bids.

Bidders shall be required to disclose in their respective bids to purchase Property being Disposed of by the Authority if they are, or were ever in the two years precedent to the Disposal of said Property, an Authority employee or staff member; a regular or ex-officio

member of the Authority's Board of Directors; a contractor or paid consultant to the Authority.

Members of the Authority's Board of Directors, the Authority's Executive Director and all other Authority staff and/or employees shall be precluded from bidding on and/or purchasing any Property that the Authority Disposes of that is subject to these Guidelines hereto, during their respective tenure on said Board, or tenure as an Authority staff member or employee, and continue to be so precluded for a period thereafter of one year.

Pursuant to Section 1137 of Title 6-C of the New York State Public Authorities Law (Authority's enabling legislation), it shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the Authority to be in any way or manner interested, directly or indirectly, in the furnishing or work, materials, supplies or labor, or in any contract therefore which the Authority is empowered by its enabling legislation to make.

7. Award of Property Subject to Bid

Award of the Property for which bids have been solicited shall be made within a timeframe reasonable for the evaluation of the bids received. The Contracting Officer shall evaluate the bids and advise the Authority's Board of Directors as to what bid is the most advantageous to the Authority based upon: (a) conformance with the invitation for bids; (b) the terms, including but not limited to the price offered; and (c) any other factors that warrant consideration. The Authority's Board of Directors by resolution shall then award the Property to the bidder recommended by the Contracting Officer provided that the requirements of all applicable Sections of these Guidelines have been adhered to. Notwithstanding the foregoing, the Authority's Board of Directors may reject as inadequate all bids received in response to a particular solicitation for bids if they deem that it is in the best interest of the Authority to reject all bids.

8. Notification of Successful Bid

The Authority shall notify the successful bidder in writing of the Authority's acceptance of the bid. This notice shall contain a description of the Property, the amount of the successful bid and any other material terms of the bid. The bidder shall be required to make payment to the Authority in a form and on terms acceptable to the Authority before taking possession of the Property.

The Authority shall gather the following information regarding any successful bidder: name, address, phone number and disclosure of past relationship to the Authority pursuant to Section 6 of these Guidelines. The Authority shall provide to the successful bidder a deed, bill of sale, lease or other proper and acceptable instrument to transfer interest and ownership in the Property to the successful bidder.

9. Disposal of Property by Negotiation

The Authority may Dispose of Property through negotiation or by public auction without regard to the above described advertising and bid procedures if the Contracting Officer determines that any of the following conditions exist:

(a) introduction into the market of the Personal Property to be Disposed of would adversely affect the local market for that kind of Property, and a fair market price and other satisfactory terms for the sale of the Personal Property can be obtained through negotiation;

(b) prices for the Property that were obtained by advertised bid were not reasonable or the bid process did not generate open competition;

(c) Disposal of the Property to the state or any political subdivision thereof at fair market value can be arranged through negotiation;

(d) the Property is being Disposed of for less than fair market value, the terms of the Disposal have been reached through public auction or negotiation, and meet the qualifications as described in Section 5 above, and the Authority's Board of Directors have approved the particular transaction by resolution; or

(e) the fair market value of the Property that is being Disposed of does not exceed fifteen thousand dollars (\$15,000.00).

10. Documentation of Disposal by Negotiation

The Contracting Officer shall cause to be prepared an explanation of the circumstances of the Disposal when Property is Disposed of through the negotiation process described in Section 9, and any of the following are true: (a) Personal Property Disposed of has an estimated fair market value in excess of fifteen thousand dollars (\$15,000.00); (b) Real Property sold has an appraised value in excess of one hundred thousand dollars (\$100,000.00); (c) Real Property leased has been leased for a period of five years or less and the estimated annual fair market rent is in excess of one hundred thousand dollars (\$100,000.00) for any such year; (d) Real Property leased has been leased for a period of more than five years and the total estimated fair market rent over the term of the lease is more than one hundred thousand dollars (\$100,000.00); (e) the Personal or Real Property has been Disposed of by exchange; or (f) any part of the consideration for the Property Disposed of consists of Real Property.

Not less than 90 days in advance of the Disposal, the Contracting Officer shall cause any and all explanatory statements required under this Section to be transmitted to the recipients of the yearly report of Dispositions set forth under Section 11 of these Guidelines.

11. Annual Property Report

Each year the Contracting Officer shall publish a report listing all Property Disposed of by the Authority during the previous calendar year. The report shall contain a full description of each item of Property Disposed of, the price received by the Authority, and the name of the individual(s) or entity that purchased the Property.

The Contracting Officer shall cause a copy of the report to be delivered to the New York State Comptroller, New York State Director of the Budget, New York State Commissioner of General Services, and the New York State Legislature c/o the Speaker of the House and the Senate Majority Leader by the thirty-first of March of the year that immediately follows the period of time covered by the report.

The Contracting Officer shall cause the report to be published on the Authority's website at the same time said report is delivered to the New York State Comptroller and others as set forth in the paragraph above.

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