

**The Town of North Hempstead
Solid Waste Management Authority**

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 Town of North Hempstead Solid Waste Management Authority (the “Authority”) will maintain adequate inventory controls and accountability systems for all Property (as such term is defined below) under its control. Furthermore, the Authority 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

Contracting Officer shall mean the Chief Executive Officer of the Authority.

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.

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.

Operative Policy

Inventory Controls and Accountability Systems

The Contracting Officer of the Authority shall be responsible for the Authority’s compliance with this Property Disposition Policy and the supervision and control of all Property Disposed of by the Authority. In addition, the Contracting Officer shall have the responsibility to insure the Authority operates in compliance with Article 9 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 Authority and periodically inventorying such property to determine which, if any, property should be Disposed of by the Authority. 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 Authority 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 Authority 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 Authority. The Authority shall award the contract with reasonable promptness to the most responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the Authority, price and other factors considered; provided, however, that the Authority reserves the right to reject all such bids when it is in the public interest to do so.

The Authority 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:

- (i) 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;
- (ii) the FMV of the Property does not exceed fifteen thousand dollars (\$15,000.00);
- (iii) 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;
- (iv) the Disposal is to the State of New York (the “State”) or any political subdivision of the State, and the estimated FMV of the Property and other satisfactory terms of the Disposal are obtained by negotiation;
- (v) the Disposal is permitted under the ensuing section entitled “Disposal of Property for Less Than Fair-Market Value; or
- (vi) such Disposal or related action is otherwise authorized by law.

The Authority shall file an explanatory statement with the comptroller, the director of the division of budget, the commissioner of general services and the legislature not less than ninety (90) days before the Authority Disposes of 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 of by lease (or exchange), then the Authority 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 (\$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 (\$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.

Disposal of Property for Less Than Fair Market Value

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:

- (i) 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;
- (ii) the purpose of the transfer is within the purpose, mission or governing statute of the Authority; or

In the event the Authority 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 Authority's mission, purpose or governing statutes, the Authority shall provide written notification thereof to the governor, the speaker of the assembly, and the temporary president of the senate, and such proposed transfer shall be subject to denial by the governor, the senate, or the assembly. Denial by the governor shall take the form of a signed certification by the governor. Denial by either house of the legislature shall take the form of a resolution by such house. The governor and each house of the legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the legislature receives notification of a proposed transfer during the months of July through December, the legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the governor, senate, and assembly, the Authority may effectuate such transfer, provided, however, that with respect to a below market transfer by the Authority that is not within the purpose, mission or governing statute of the local authority, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which such the Authority resides, and the transfer is of property obtained by the authority from that political subdivision, then such approval shall be sufficient to permit the transfer.

In the event a below fair market value asset transfer is proposed, the following information must be provided to the Authority's Board ("Board") and the public:

- (i) a full description of the asset;

(ii) an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the Board;

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

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

(v) the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and

(vi) the names of other private parties who have made an offer for such 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 Board shall consider the information described 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.

Reporting Requirements

Annual Report

The Authority shall publish, at least annually, an Annual Report (the “Annual Report”) listing all Property consisting of real property of the Authority. 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 Authority for the Property, in addition to the name of the purchaser for all such Property sold by the Authority during such period covered by the Annual Report.

The Authority shall deliver copies of the Annual Report with the comptroller, the director of the division of budget, the commissioner of general services and the legislature, and to the extent practicable, post such Annual Report on its website.

Property Disposition Policy

The Authority shall review and approve this Property Disposition Policy annually by resolution of the Board. On or before March 31 of each year, the Authority shall file with the State Comptroller a copy of its Property Disposition Policy, including the name of the Contracting Officer appointed by the Authority. Upon such filing with the comptroller, the Authority shall post its Property Disposition Policy on its website.