

SUFFOLK COUNTY WATER AUTHORITY

POLICIES AND PROCEDURES

SUBJECT: SCWA PROPERTY DISPOSITION POLICY FILE UNDER SECTION NO: 9

EFFECTIVE DATE:

August 1, 2016

POLICY NO: 903

SUPERSEDES: November 28, 2006

APPROVED: July 18, 2016

PURPOSE

SCWA adopts this Disposition Policy to ensure that the disposal of its property is performed in an efficient, fair, and transparent manner. This Disposition Policy is adopted pursuant to Section 2896 of the Public Authorities Law and shall govern the disposition of property as set forth in said Policy.

I. Definitions

For the purposes of the Disposition Policy, unless a different meaning is required by the context:

- A. ■Contracting Officer• shall mean the officer or employee of SCWA who shall be appointed by resolution of the Board of the SCWA to be responsible for the disposition of property. As of November 28, 2006, the Contracting Officer is SCWA's Chief Executive Officer.
- B. ■Dispose• or ■disposal• shall mean transfer of title or any other beneficial interest in personal or real property in accordance with this Policy.
- C. ■Disposition Policy• or ■Policy• shall mean the Disposition Policy adopted by the SCWA pursuant to Section 2896 of the Public Authorities Law.
- D. ■Property• shall mean personal property in excess of five thousand dollars 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 an interest securing a loan or other financial obligation of another party.

II. Review of Disposition Policy

The Disposition Policy shall be annually reviewed and approved by SCWA's Board. On or before the thirty-first day of March in each year, SCWA shall file with the State Comptroller a copy of the Policy most recently reviewed and approved by SCWA, including the name of the contracting officer. At the time of filing the Policy with the State Comptroller, SCWA shall also

post and maintain the Policy on SCWA's website at least until the Policy for the following year is posted on such website.

III. Responsibilities of the Contracting Officer

The Contracting Officer shall have the responsibility of implementing the Policy. The Contracting Officer shall:

- A. Ensure SCWA's compliance with, and enforcement of, this Policy.
- B. Supervise the disposition of SCWA Property.
- C. Maintain adequate inventory controls and accountability systems for all Property under SCWA's control.
- D. Periodically inventory such Property to determine which Property shall be disposed of.
- E. Publish, not less frequently than annually, a report listing all of the real property of the SCWA. Such report shall include a list and full description of real and personal property disposed of during such period. The report shall contain the price received by SCWA and the name of the purchaser for all such property.
- F. Deliver copies of the report to the State Comptroller, the Director of the Budget, the Commissioner of General Services, the Legislature and the New York Authorities Budget Office.

IV. Disposition of SCWA Property

SCWA may dispose of any SCWA Property when it deems such disposal to be in furtherance of SCWA's interests.

- A. Method of disposition. SCWA may dispose of Property for not less than the fair market value of such Property by sale, exchange, or transfer, for cash, credit or other property, with or without warranty, and upon such other terms and conditions as the Contracting Officer deems proper, and the Contracting Officer may execute such documents for the transfer of title or other interest in Property and take such other action as it deems necessary or proper to dispose of such Property under the provisions of this Policy. Provided however, that no disposition of real property or any interest in real property 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 and provided further, that 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.

- B. All disposals or contracts for disposal of SCWA Property made or authorized by the Contracting Officer shall be made after publicly advertising for bids except as provided in paragraph D of this section.
- C. Public bidding requirements:
 - 1. The advertisement for bids 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;
 - 2. All bids shall be publicly disclosed at the time and place stated in the advertisement; and
 - 3. The award 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 SCWA, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.
- D. Disposal of Property by Negotiation
 - 1. Disposals and contracts for disposal of Property may be negotiated or made by public auction without regard to paragraphs B and C of this section but subject to obtaining such competition as feasible under the circumstances, if:
 - a. The personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to increase its value, or if the personal property is to be sold in such quantity that if disposed of under paragraphs B and C of this section, would adversely affect the state or local market for such property, and the estimated fair market value for such property and other satisfactory terms of disposal can be obtained by negotiation;
 - b. The fair market value of the property does not exceed fifteen thousand dollars;
 - c. Bid prices after advertising therefor are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;

- d. The disposal will be to the state or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;
 - e. Under those circumstances permitted by paragraph E of this Section; or
 - f. Such action is otherwise authorized by law.
2. An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:
- a. any personal property which has an estimated fair market value in excess of fifteen thousand dollars;
 - b. any real property that has an estimated fair market value in excess of one hundred thousand dollars, except that any real property disposed of by lease or exchange shall only be subject to clauses (c) and (d) of this subparagraph;
 - c. any real property disposed of by lease, if the estimated annual rent over the term of the lease is in excess of fifteen thousand dollars; or
 - d. 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.
3. Explanatory statements shall be transmitted to the persons entitled to receive copies of the report required under Section III(F) of this Policy not less than ninety days in advance of such disposal, and a copy thereof shall be preserved in SCWA's files.

E. Disposal of Property for Less than Fair Market Value.

1. No asset owned, leased or otherwise in the control of the SCWA may be sold, leased, or otherwise alienated for less than its fair market value except if:
- a. 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;
 - b. the purpose of the transfer is within the purpose, mission or

governing statute of the SCWA; or

- c. if the transferee is other than a governmental entity, and which disposal would not be consistent with the SCWA's mission, purpose or governing statute, SCWA shall prior to transferring the asset:
 - i. provides 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; and
 - ii. defers action for sixty days if the notice pursuant to clause (i) of this subparagraph was provided between January 1 and June 30 of a single calendar year; or
 - iii. defers until March 5 of the following calendar year for the senate or assembly denial if the notice pursuant to clause (i) of this subparagraph was provided between July 1 and December 31 of a single calendar year.
 - iv. the SCWA shall not transfer the asset if the proposed transfer is denied by any entity which receives notice of the proposed transfer as per this subsection.

2. In the event a below fair market value asset transfer is proposed, the following information must be provided to the SCWA Board and the public by posting on the SCWA website:

- a. a full description of the asset;
- b. an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the SCWA Board;
- c. 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;
- d. a statement of the value to be received compared to the fair market value;

- e. the names of any private parties participating in the transfer, and if different than the statement required by subparagraph d of this subsection, a statement of the value to the private party; and
 - f. 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.
3. Before approving the disposal of any Property for less than fair market value, the SCWA Board shall consider the information described in paragraph 2 of this subsection 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.

V. Validity of deed, bill of sale, lease, or other instrument

A deed, bill of sale, lease, or other instrument executed by or on behalf of the SCWA, purporting to transfer title or any other interest in property of the SCWA under this policy shall be conclusive evidence of compliance with the provisions of this Policy insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.