

Adopted: April 17, 2009  
Amended: August 20, 2010

## **COUNTY OF ORLEANS INDUSTRIAL DEVELOPMENT AGENCY REAL PROPERTY ACQUISITION POLICY**

The County of Orleans Industrial Development Agency (the "Agency"), a New York public benefit corporation, in compliance with the New York State Public Authorities Law, has established these Guidelines for the Acquisition of Real Property (the "Guidelines").

These Guidelines shall apply to the acquisition of real property throughout the year following their adoption and until such time as the Agency adopts new or revised Guidelines. The Members of the Agency shall review and approve of these Guidelines, with any necessary modifications and revisions, on a no less than annual basis.

### **1. Designation of Contracting Officer**

The Agency hereby designates the Agency's CFO as the Agency'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 Agency designate a new Contracting Officer or until such time as the Members adopt new Real Property Acquisition Guidelines.

The Contracting Officer shall be responsible for the administration and implementation of these Guidelines. The Contracting Officer shall cause these Guidelines to be posted on the Agency's website so that they are available to the general public.

### **2. Application of Guidelines**

The procedures outlined in these Guidelines shall apply to the Agency's acquisition of all interests in real property except for acquisitions of interests in real property involving the provision by the Agency of "financial assistance" as such term is defined in Section 856 (14) of the New York General Municipal Law. As used in these Guidelines, "property" shall include all interests in real property.

The Agency shall acquire real property in a prudent manner. All acquisitions of real property shall be made in accordance with this policy and applicable law and shall be approved by the Agency's Board of Directors.

### **3. Purpose**

The Agency has adopted these Guidelines to comply with the provisions of New York Public Authorities Law and to protect the interests of the Agency in the acquisition of real property by the Agency for its own benefit. The purpose of the acquisition of real

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property by the Agency shall be to further one or more purposes of the Agency, as authorized by the Agency's enabling legislation, by-laws, or a resolution adopted by the Board of Directors or Members of the Agency, or for a purpose otherwise permitted under applicable State law.

#### **4. Fair Market Value**

Prior to acquiring any parcel of real property, except for property being gifted to the Agency, the Contracting Officer shall take reasonable measures to determine the fair market value of the property to be acquired. 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. In the case of real property donated to the Agency, an appraisal or other fair market valuation shall not be required. The Agency shall negotiate the purchase price after determination of the fair market value.

The Agency shall endeavor not to pay more than fair market value for any property being acquired. Where the property is such that it is required for Agency purposes and other property will not suffice, the Agency may under such circumstances pay a reasonable amount in excess of what it has determined to be fair market price in order to purchase the property. In such case the Agency shall document the reasons why it is necessary to acquire such property for a price in excess of what it determined to be fair market price and shall include in its annual report required by Section 2800 (2) of the Public Authorities Law a detailed explanation of the justification for making the purchase for a price in excess of fair market value and a certification by the Agency's CEO and CFO that they have reviewed the terms of the acquisition and determined that it complies with applicable law and this policy.

#### **5. Environmental and Title Review**

Prior to the acquisition of any interest in real property covered by this policy, the Agency shall take necessary steps to determine whether there are any environmental concerns, including, if appropriate, obtaining a Phase I Environmental Report or conducting other environmental due diligence. The Agency shall comply with the New York State Environmental Quality Review Act, to the extent applicable to any property purchase.

The Agency shall have Agency General Counsel review the title documents supplied in connection with the acquisition and shall require fee title insurance unless the Agency Counsel shall determine that title insurance should not be required.

The Agency General Counsel shall handle the purchase on behalf of the Agency and the Agency shall pay such reasonable fees as are required in connection with such purchase.

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**6. Yearly Property Report**

Each year the Contracting Officer shall publish a report listing all real property acquired by the Agency during the previous twelve-month period. The report shall contain a full description of each parcel of real property purchased, the price paid by the Agency, and the name of the individual(s) or entity that sold the property.

The Contracting Officer shall cause the report to be delivered to the Comptroller, the Director of the Budget, the Commissioner of General Services, and the New York State Legislature c/o the Speaker of the House and the Senate Majority Leader.

The Contracting Officer shall cause the report to be published on the Agency's website.