

APPENDIX 16A(f)-1

REAL PROPERTY ACQUISITION POLICY

SECTION 1. DEFINITIONS.

A. “Acquire” or “acquisition” shall mean acquisition of title or any other beneficial interest in personal or real property in accordance with the applicable provisions of Article 18-A of the New York State General Municipal Law.

B. “Contracting officer” shall mean the officer or employee of the Montgomery County Industrial Development Agency (hereinafter, the “Agency”) who shall be appointed by resolution to be responsible for the acquisition of property.

C. “Property” shall mean personal property in excess of five thousand dollars (\$5,000.00) in value, and 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.

SECTION 2. DUTIES.

A. The Agency shall maintain adequate inventory controls and accountability systems for all property owned by the Agency and under its control.

B. The Agency shall prepare, not less frequently than annually, a report listing all real property owned in fee by the Agency. Such report shall consist of a list and full description of all real and personal property acquired of during such period. The report shall contain the price paid by the Agency and the name of the seller for all such property acquired by the Agency during such period.

SECTION 3. ACQUISITION OF PROPERTY.

A. Supervision and Direction. Except as otherwise provided herein, the duly appointed contracting officer (the “Contracting Officer”) shall have supervision and direction over the acquisition of property of the Agency. The Agency shall have the right to acquire its property for any valid corporate purpose.

B. Appraisal Report. An independent appraiser shall be hired to provide an opinion of fair market value before the Agency shall make an offer with respect to the acquisition of the property. The appraiser should have a professional affiliation with a national appraisal organization and must not have an interest in the property (or be retained as an agent to sell the property). The appraisal report shall be in form and substance satisfactory to the Agency and shall be included in the record of the transaction.

Notwithstanding the foregoing, the preparation of an appraisal report shall not be required where the Agency is acquiring the property pursuant to a donation, or if the valuation of the property is uncomplicated and the fair market value is determined to be less than \$10,000.

C. Method of Acquisition.

(i) **Voluntary Acquisition:** Unless otherwise permitted by applicable law, the Agency shall acquire property for not more than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Agency and/or contracting officer deems proper. The Agency may execute such documents for the acquisition of title or other interest in property and take such other action as it deems necessary or proper to acquire such property under the provisions of this section. Provided, however, the Agency may acquire property for more than its fair market value, as described in an appraisal report reviewed by the Agency, upon a finding by the Agency pursuant to resolution of the Agency that the acquisition of such property at such price is necessary for the Agency to (x) further its corporate purpose, and/or (y) avoid the expense and delay of condemnation.

(ii) **Condemnation:** Unless otherwise prohibited by applicable law, the Agency may acquire property by condemnation. The Agency shall initiate any condemnation proceedings by resolution of the Agency and such resolution shall include findings and determinations made by the Agency in connection with the decision by the Agency to initiate such condemnation proceeding. Such findings and determinations may include the following: that the owner of the property has not responded to a reasonable offer for the acquisition of the property, that the Agency has negotiated for a reasonable amount of time with the owner of the property, and that the property is necessary to further the corporate purposes of the Agency.

D. 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 seller of the property and accepted by the Agency, purporting to transfer title or any other interest in property of the seller to the Agency in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns title or other interest of any bona fide grantor or transferor who has received valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to closing.

E. Insurance. The Agency must ensure that all insurable real and personal property under its control is insured against physical loss or damage.

This Policy is subject to modification and amendment at the discretion of the Agency and shall be filed annually with all local and state agencies as required under all applicable law.

The designated Contracting Officer for the Agency is the Chief Executive Officer.