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NIAGARA FRONTIER TRANSPORTATION AUTHORITY
NIAGARA FRONTIER TRANSIT METRO SYSTEM, INC.

GUIDELINES FOR ACQUISITIONS AND DISPOSITIONS OF REAL PROPERTY

These Guidelines set forth the policies and procedures to be followed by the Niagara Frontier Transportation Authority and the Niagara Frontier Transit Metro System, Inc. (collectively referred to as "NFTA") for the acquisition and/or disposition of real property.

Definitions

For the purpose of these Guidelines, an "Acquisition" is a conveyance of real property to the NFTA as title in fee simple, title subject to retention of a life estate or a life use, lease where the lease term including options is fifty years or more or permanent easement.

For the purpose of these Guidelines, a "Disposition" is a conveyance of real property from the NFTA as title in fee simple, title subject to retention of a life estate or a life use, leasehold, or permanent easement, or the transfer of title or any other beneficial interest in real property.

I. PURPOSE

The NFTA's enabling legislation provides that the NFTA may acquire, hold and dispose of real property in the exercise of the NFTA's powers. The purpose for any potential Acquisition or Disposition should be examined in the context of the NFTA's statutory powers to determine whether this standard has been met.

II. COMPLIANCE

Any Acquisition or Disposition must be made in accordance with all applicable laws, including sections 2896 and 2897 of the Public Authorities Law, the NFTA's enabling legislation (*see e.g.* Public Authorities Law §1299-g), rules, regulations, and grant agreements, including associated grant application and management guidelines. All Acquisitions and Dispositions are subject to Board approval; except that the Executive Director has the authority to execute Agreements for easements over and under NFTA real property to provide utility services for the NFTA or tenants of the NFTA.

III. PROCEDURE

The Vice-President, Engineering and Facilities Management, or the appointed representative, is the contracting officer responsible for the NFTA's compliance with and enforcement of these Guidelines. Acquisitions and Dispositions will be managed by the Real Property Department in accordance with the following procedures:

1. Requests for Acquisitions or Dispositions may be generated by Director, Aviation; Director, Public Transit; or Vice-President, Engineering and Facilities Management; depending on where the real property is located, and which business unit is responsible for that area. Requests made by the Director, Aviation must be coordinated with, and generally consistent with, the current Airport Layout Plan and Master Plan. Requests for disposal must be documented in the form "Request for Disposal of Capital and Non-Capital Assets" and the relevant procedures followed as set forth in the Guidelines of Disposal of Capital and Non-Capital Assets.

2. The Real Property Department shall notify the Grants Department of the request. The Grants Department shall ascertain if any funding is available, whether any grant agreements need to be complied with, and/or determine whether the approval of a Grantor must be obtained. The Real Property Department shall provide sufficient information to the Grants Department to satisfy the request of any Grantor.

3. For all sales of real property, the Real Property Department shall provide sixty (60) days' notice to the county, city, town, and village in which the real property is located prior to offering the property for public sale in accordance with section 1299-g(5) of the Public Authorities Law.

4. The Real Property Department shall notify the Greater Buffalo-Niagara Regional Transportation Council ("GBNRTC") of all requests for Dispositions of real property located in former railroad right-of-way corridors that have been identified for potential transportation infrastructure development so that the GBNRTC can seek comments in order to maintain the objectives of the regional planning process.

5. The Real Property Department shall have the quantity of appraisals prepared that the Vice-President, Engineering and Facilities Management, deems sufficient to establish the fair market value of the real property, unless the provisions of the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs (49 CFR 24), or any grant agreement, if applicable, require a specific appraisal process, in which case that process will be followed. Real property may not be sold for less than its fair market value except as specified in paragraph 7 of this section.

6. All Dispositions shall be made by publicly advertising for bids, except as set forth in paragraph 7 of this section. The advertisement for bids shall be made at such time prior to the Disposition or contract for Disposition, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the real property. All bids shall be publicly disclosed at the time and place stated in the advertisement. The award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be the most advantageous to the NFTA, price and other factors considered. The NFTA retains the right to reject all bids when it is in the public interest to do so.

7. Dispositions may be negotiated or made by public auction without public advertising for bids, but subject to obtaining such competition as is feasible under the circumstances, if:

(a) the fair market value of the real property does not exceed $15,000;
(b) bid prices after advertising are not reasonable, either as to all or some part of the real property, or have not been independently arrived at in open competition;
(c) the Disposition will be to New York State or any political subdivision, and the estimated

fair market value of the real property and other satisfactory terms of the Disposition are obtained by negotiation;

(d) the Disposition is for an amount less than the estimated fair market value of the real property, under those circumstances permitted in section 2897 (7) of the Public Authorities Law; or

(e) such action is otherwise authorized by law.

8. An explanatory statement shall be prepared of the circumstances of each Disposition by negotiation of:

(a) real property that has an estimated fair market value in excess of $100,000, except that any real property disposed of by lease or exchange shall only be subject to clauses (b) and (c) of this subparagraph; or

(b) any real property disposed of by lease, if the estimated annual rent over the term of the lease is in excess of $15,000; or

(c) any real property disposed of by exchange, regardless of value.

Each such statement shall be transmitted as required by section 2897 of the Public Authorities Law not less than ninety (90) days in advance of such disposition, and a copy thereof shall be preserved in the files of the NFTA.

9. The Real Property Department shall provide sufficient information to the Health, Safety and Environmental Quality ("HSEQ") Department to enable the HSEQ Department to issue a recommendation as to the level of environmental review necessary for any Acquisition or Disposition. The HSEQ Department shall be responsible for conducting the review and providing the results and recommendation to the Manager, Facilities and Property, and the Manager, Grants, if necessary, to comply with a Grantor's environmental review requirements.

10. The Real Property Department shall obtain Board approval for the Acquisition or Disposition.

11. The Real Property Department shall provide the Legal Department with sufficient information to prepare the documents necessary to effectuate the Acquisition or Disposition.

12. The Real Property Department shall coordinate payment for any Acquisitions with the Grants and Accounting Departments.

13. The Real Property Department shall advise the Property Accountant and Director, Risk Management and Special Projects, of all Acquisitions and Dispositions and coordinate the appropriate accounts for the deposit of any payments with the Grants and Accounting Departments.

14. The Real Property Department shall coordinate any relocation activities required by 49 CFR 24.

IV. GUIDELINES

The Guidelines shall be annually reviewed and approved by the Board. The Manager, Facilities and Property, shall ensure that a copy of the Guidelines as reviewed and approved by the Board, is reported in the Public Authority Reporting Information System and is posted on the NFTA website.

V. INVENTORY AND REPORTING

The Vice-President, Engineering and Facilities Management, is responsible for ensuring that the NFTA maintains adequate inventory controls and accountability systems of all real property under its control. The real property shall be inventoried on an annual basis to determine which real property shall be disposed of. A written report of such real property shall be included with the annual report on real property.

The Director, Engineering and Property, is responsible for preparing an annual report listing all real property of the NFTA, all real property that the NFTA intends to dispose of, and all such property disposed of during such period. The report must also include the price received for all real property that the NFTA disposed of during such period, and the name of the purchaser. The report shall be reported in the Public Authorities Reporting Information System within ninety (90) days after the end of the NFTA's fiscal year.