CHESTER PUBLIC UTILITY DISTRICT

POLICY #3080: DISPOSAL OF SURPLUS PROPERTY POLICY

INTRODUCTION

It would be wasteful for the District to dispose of surplus property if other governmental entities or private parties would benefit from the use of the property. However, California Constitution Article XVI, Section 6 (ATTACHED)provides that the District does not have the "power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever." Nevertheless, Article XVI, Section 6 does not prohibit transfers of public funds or property if the transfer is for a public purpose and that public purpose is within the jurisdiction of the District.

POLICY

The Chester Public Utility District and Fire Department Board of Directors designated the following procedures for disposal of all District surplus *personal* property.

Definition: Personal property is all property which is not real property.

PROCEDURES

When employees are determining whether to dispose of District personal property, with the General Managers approval, the following steps should be taken in turn:

Step #1 Determine Whether The Personal Property Is Surplus

Factors to consider include:

A. expiration of the service life of the asset;

B. wear and tear;

C. deterioration or action of the physical elements;

D. inadequacy; and

E. obsolescence.

Step #2 Determine Whether The Property Is Disposable or Marketable.

If the personal property is Surplus, the next step is to determine whether the property is Disposable or Marketable by first determining whether the property is likely to have a fair market value of less or more than the costs of locating a buyer willing to pay fair market value and then subsequently selling the personal property to that buyer. If the fair market value is less, it is Disposable; if it is more, it is Marketable.

Step #3 Choose The Correct Method To Dispose Of The Property.

Step #3 a Notify the District Board.

Step #3 b If The Property Is Disposable, the property may be disposed of in any of the following manners:

A. Placed in the garbage.

B. Given to District personnel at no charge.

C. Sold to governmental entities for the amount of $1.

D. Sold to the public for the amount of $1.

E. Any other means not violating California Constitution Article XVI, Section 6.

Step #3b. If The Property Is Marketable, the property shall be disposed in whichever of the two following two manners is determined to be most beneficial to the District:

A. Below Market Value Sales To Fire Agencies. Sold for at least $1 to a fire protection agency which may subsequently utilize the Marketable Property when responding to an emergency within the District; or

B. Open Market Sales. Sold on the open market in whichever of the following 3 manners is the most advantageous to the District:

1. Negotiation. Surplus property may be sold outright if the only one known buyer is available or interested in acquiring the property.

2. Traditional Public Bids. A professional auctioneer may be contacted to provide auction services.

a. Notice Inviting Bids. Notice shall be given by publication in the official newspaper of the District by one or more insertions, the first of which shall be published at least ten (10) days before the time for opening of bids. Such notice shall state the time, date and place of opening bids and place of auction and where the bid documents may be obtained.

b. Written Bid Procedure

Sealed bids shall be submitted to the District's Finance Department with deposit by cashier's check or certified check. At the time of opening the bids, the District shall hold a public auction. At the public auction, interested persons present may raise the highest written bid by orally bidding at least 10% higher than the sealed bid. Each succeeding bid shall be in increments equal to the minimum dollar increment required to make the first bid. When the final oral bid has been made and has been determined to be the highest, the bidder must immediately submit his bid in writing which must be accompanied by satisfactory evidence of his ability to deposit 10% in cash, a cashier's check drawn on a state or national bank, a state or federal credit union

or a state or federal savings and loan association domiciled in this state or cash equivalent which has been designated in the notice of sale as acceptable by the District. The bidder shall also immediately sign the indemnification provision required in step number 4 below. In the event of a tie bid, a drawing will be held to decide which bidder will be awarded. A date will be specified for pickup of property. If items are not removed on the specified date, the next highest bidder will be notified of award and given a specified time and date to remove the property from the premises. The Designated Staff may waive irregularities in the procedure or in the bids and may reject or accept any bid made at public auction.

3. Internet Auctions – The Designated Staff may utilize EBay, or another similar means to dispose of Merchantable Property via the internet.

Step #4 Indemnification.

As a condition of transfer of Surplus Property, the involved party shall execute an agreement in a form satisfactory to District Counsel which releases, indemnifies, and agrees to defend the District, its elected officials, officers and agents from any liability or claim of liability resulting from the transfer or use of the involved property.

ADOPTED AND APPROVED: June 16,2020

Ayes: Trotter, Waterman, Voboril and Graffweg

Noes: none

Absent: Raker

Abstain: none

By: /s/ Steve Trotter

Steve Trotter, CPUD Board Chair

Date: June 16,2020