

Reading Municipal Light Department (RMLD) Board of Commissioners

Policy Committee Agenda

Wednesday, September 17, 2014

6:30 p.m.

General Manager's Conference Room

1. Call Meeting to Order
2. RMLD Policy 2, Revision 4 Surplus Material (Attachments)
 - i. Rubin and Rudman Legal Opinion Dated September 3, 2014
 - ii. RMLD Policy 2 Surplus Material, Revision 4 with suggested tracked changes
 - iii. RMLD Policy 2 Surplus Material, Revision 4
3. Discussion
4. Schedule Next Meeting
5. Motion to Adjourn

2. RMLD Policy 2, Revision 4 Surplus Material Attachments

2. RMLD Policy 2, Revision 4 Surplus Material

- i. Rubin and Rudman Legal Opinion
Dated September 3, 2014

By Email

To: Coleen O'Brien, General Manager
Reading Municipal Light Department

From: Christopher Pollart and Karla Doukas

Re: RMLD Policy #2 Follow up

Date: September 3, 2014

INTRODUCTION

Pursuant to your request, we have reviewed comments to the proposed redraft of Reading Municipal Light Department's ("RMLD") Policy #2 – Surplus Material. Based on the comments that we received, it has been suggested that the following substantive changes be made:

- Address the treatment of scrap materials having more than nominal value;
- Lower the threshold for requiring a competitive bid procedure from \$10,000 to \$5,000;
- Reduce the number of categories for purposes of disposal procedures to a maximum of three categories,
- Require Board approval for non-emergency disposals; and
- Require a consensus among certain staff for determining fair market value ("FMV") and sign-off process for disposals. It also has been suggested that the process require the approval of an appropriate department head rather than the General Manager's designee.

We have discussed each of these issues below. We have attached a markup of the latest version of Policy #2 which incorporates suggested edits to the text proposed by Chairman Arena¹

¹ In Article III – Assigning Value - we recommend retaining language allowing RMLD to utilize best available sources if two relevant and comparable sources cannot be obtained because of the property's unique characteristics. In most instances, two sources will be available or the property's value would be estimated based on salvage value, but we suggest including a fallback to facilitate the disposal process.

and others. As some of the proposed changes are strictly policy-related we would like to discuss some of these changes with you further before making further revisions. These areas are identified below.

DISCUSSION

Scrap

We recognize that in some instances, property that typically would be considered to be “scrap” may have a salvage or tangible value. In those instances, we recommend placing the surplus property in the appropriate category based on its value and disposing of the property in accordance with the applicable procedure.² We have revised the proposed policy for clarification. The purpose of having a separate category for scrap with no tangible or resale value is to allow RMLD to utilize appropriate trash disposal, recycling procedures and other non-sales related procedures, as necessary. A scrap bid could be utilized for donation or recycling purposes if it is more cost-effective to do so because of estimated disposal costs, but this option still only would apply if it is estimated that the property has been determined to have no tangible or salvage value based on the property’s condition and/or characteristics.

Thresholds and Disposal Categories

It has been suggested that the competitive bidding threshold be changed to \$5,000 consistent with the Town of Reading’s policies and that the number of disposal categories be reduced to limit the risk of subjectivity. The \$10,000 threshold is based on current Chapter 30B procedures. Chapter 30B requirements only apply to property valued in excess of \$10,000. For property with an estimated net value of less than \$10,000, the property may be disposed of in accordance with written procedures approved by the governmental body. G.L. c. 30B, § 15(f). The creation of multiple categories is intended to limit the amount of subjectivity in the process and to provide written procedures consistent with Chapter 30B. If RMLD wants to impose more stringent requirements than Chapter 30B, RMLD could change the threshold of the “Substantial Value” category to \$5,000 and remove the “Moderate Value” category entirely. If the \$10,000 threshold for a competitive disposal process is retained then RMLD could consider implementing more stringent procedures for higher value items under \$10,000. We would like to discuss this further with you.

² It has been suggested that the definition of “scrap” also include property “in poor or hazardous condition” in addition to property with no tangible resale or salvage value. We note that the disposal procedures in Chapter 30B apply to property having a resale or salvage value and the proposed policy is intended to comply with Chapter 30B procedures. Although unlikely, there may be some instances when property in poor condition still could have a resale or salvage value, such as a motor vehicle in need of substantial repairs. In those instances, RMLD may want to dispose of the property in accordance with applicable procedures. If property in poor condition also has no value, RMLD would be permitted to recycle or dispose of the property as trash. We also note that “poor and hazardous condition” of the property also is addressed in Section II of the proposed policy.

Board Approval

We recognize RMLD's desire to implement administrative controls regarding the disposal process, but legally, the RMLD Board lacks authority to approve certain decisions. As the Court of Appeals explained in *Golubek v. Westfield Gas & Elec. Dept.*, 32 Mass.App.Ct. 954, 956 (1992), a policy that requires the approval of the light board for the manager to take a particular action is invalid as it encroaches on the manager's powers under G.L. c. 164, § 56. Thus, under the principles espoused in *Golubek*, the RMLD Board could establish surplus property disposal policies consistent with applicable law. However, the RMLD Board could not legally subject specific disposal decisions to its approval.

Recognizing the need for transparency in the process, we included a reporting requirement in Section IX. The Board could request information from the General Manager either in written form or verbally at a public meeting on pending and completed disposals. This information will become a matter of public record as provided by applicable law to allow for Board, CAB, and public scrutiny of RMLD decisions. If a problem is deemed to exist then appropriate action can be taken.

FMV and Disposal Sign-off Process

Mr. Kelly suggested that RMLD complete an investigation before it disposes of property as scrap or places it out to bid or auction. The policy, as drafted, is intended address Mr. Kelly's concern. The first step in the process is to determine the value of the property. If the property has no tangible resale or salvage value because of its characteristics or condition, the property will be treated as scrap and may be discarded. All other property will be assigned a value – whether FMV or salvage value. Salvage value only will be used if FMV cannot be determined. Under the policy as drafted, RMLD must consider whether to impose a minimum bid reserve price or other terms and conditions of the sale, and RMLD always must reserve the right to reject any and all bids if it is in RMLD's best interest to do so. The FMV or salvage value would be used as a yardstick, particularly with high priced items, in deciding whether to impose a minimum reserve price or to reject bids.

It also has been suggested that RMLD implement a process that requires the sign-off by department heads and the General Manager for determining FMV and to finalize sales for certain categories of items or disposals in excess of a certain amount. We agree that administrative controls and oversight should be implemented. Under the draft policy all steps must be documented and all decisions regarding FMV determination and disposals are subject to the General Manager's review and approval. The policy allows the General Manager to delegate this authority if she determines that another employee is more suited to perform the task. It also permits the General Manager to solicit input from a department head or manager or other employee with expertise in the area. This multi-layered review, documentation, and reporting process is intended to help prevent mistakes. Although the policy does not preclude additional reviews by department managers and others, we added language to Article IX clarifying that the General Manager may require additional reviews and approvals as deemed necessary under the circumstances. Alternatively, the Board may specify the circumstances in which additional reviews will be required, but consistent with G.L. c. 164, § 56, the General Manager should have

ultimate authority to make the decision (or require more information from RMLD staff) in order to move the process along. For this reason, we do not suggest adding language that requires the approval of department heads in addition to the General Manager's approval.

Please call at your convenience to discuss the items identified above further.

2. RMLD Policy 2, Revision 4 Surplus Material
 - ii. RMLD Policy 2, Revision 4 Surplus Material
With Suggested Tracked Changes

**RMLD Policy No. 2
SURPLUS MATERIAL**

Revision No. 4

Commission Vote Date _____

General Manager/Date:

Next Review Date

I. PURPOSE

The purpose of this Policy No. 2 SURPLUS MATERIAL is to provide administrative controls and procedures for use by the RMLD in disposing of surplus property to maximize the value of the disposal of such surplus property to RMLD and its ratepayers. This policy does not apply to the disposal of real estate.

II. DETERMINATION OF SURPLUS PROPERTY

Surplus property is personal property in the custody and control of RMLD which is either:

- (a) In excess of RMLD's needs due to changes in operations or personnel or other changes in circumstances;
- (b) Replaced by new or substitute property;
- (c) Damaged and non-repairable or uneconomic due to costs of repairs;
- (d) In poor or hazardous condition; or
- (e) Obsolete and no longer suits RMLD's needs.

Each RMLD Department shall identify property that it deems to be surplus. The General Manager or his/her designee shall make the determination whether any such property constitutes surplus to RMLD's needs and shall be designated for disposal. Such determination shall be made in writing identifying the reasons for declaring the property surplus.

III. ASSIGNING VALUE

Upon declaring property as surplus, the estimated value of the property shall be determined. RMLD will determine the fair market value ("FMV") of such property based on a minimum of two (2) relevant and comparable industry sources. To the extent two suitable sources are not available due to the unique nature of the item(s), RMLD will utilize the best available sources. For consumer motor vehicles, FMV shall be ~~determined~~estimated based on Kelley Blue Book, Edmunds, NADA Guides or any other nationally recognized service that values vehicles ~~for~~ similar vehicles to those being disposed. For other property, including commercial or service vehicles not listed in Kelley Blue Book, Edmunds, NADA Guides or a similar source, FMV shall be ~~determined~~estimated based on quotes, trade-in offers, available sales data, appraisal or industry sources for similar property or vehicles, as may be adjusted for specific make and model, year, condition, and special equipment and features, and other factors deemed relevant. If FMV cannot reasonably be ~~determined~~estimated for a particular property then RMLD will estimate the value of such property based on its salvage value. Salvage value is the estimated residual value of an asset at the end of its useful life, or the proceeds from the disposal of the asset when it can no longer be used in a productive manner. Net salvage value takes into account the costs of disposal to more accurately reflect the residual value of a depreciable asset.

For property having no tangible resale or salvage value, the property shall be designated

as scrap.

The estimated value of the property, including [the designation as](#) scrap, and the sources consulted shall be documented and kept on file. The final determination of the property's estimated value shall be subject to review and approval by the General Manager or his/her designee.

IV. CATEGORIZATION OF SURPLUS PROPERTY

Once values are determined pursuant to Article III, property shall be categorized as follows:

- (1) Scrap – property having no tangible resale or salvage value;
- (2) Substantial Value – property having a FMV of \$10,000 or greater;
- (3) Moderate Value – property having a FMV in excess of \$500 but less than \$10,000; and
- (4) Nominal Value – property having a FMV of \$500 or less.

[Scrap having a tangible or resale value shall be placed in the appropriate category based on the value of the property.](#) If the surplus property will be sold separately as individual units, the property shall be categorized based on the value of each individual unit. For property to be sold as a set or collection, the property shall be categorized based on the estimated value of the set or collection. Items customarily sold as a set shall not be treated as individual units to evade or bypass applicable disposal procedures. However, RMLD, in its discretion may determine whether to dispose of property on an individual unit basis or as part of a set or collection in order to maximize revenue. In such instances, the reasons shall be documented and kept on file. The final decision whether to utilize a single solicitation or separate solicitations for multiple items shall be subject to the review and approval of the General Manager or his/her designee.

V. ELECTRIC UTILITY-SPECIFIC AND ELECTRIC UTILITY RATED COMMERCIAL VEHICLE PROPERTY

RMLD will identify any property that it considers to be electric utility-specific. Electric utility-specific property is property that typically only an electric utility or a company or person in the electric utility trade is likely to have an interest in acquiring. For electric utility-specific and electric utility rated commercial vehicle property of Substantial Value, RMLD will determine whether an established market exists for purposes of disposal. An "established market" is one in which commodities are regularly sold in wholesale lots and prices are set by open competition as interpreted or as otherwise defined by the Massachusetts Inspector General or agency of the Commonwealth or a court having jurisdiction over the disposal of property by federal, state, and local governmental entities. A list of trade journals and other trade publications, online advertising sources and other industry or market resources for the advertisement and sale of electric utility-specific, including electric utility rated commercial vehicles, regardless of value shall be identified and documented. This list shall be reviewed every six (6) months and updated as necessary.

VI. DISPOSAL PROCEDURES.

- A. [Scrap.](#) Scrap [having no tangible resale or salvage value](#) may be destroyed, recycled, or disposed of via [an approved](#) scrap bid or other method as determined by RMLD in its discretion based on the particular circumstances and costs of disposal. RMLD will endeavor to minimize the cost of disposal of scrap to the extent reasonably possible.

- B. Right of First Refusal. RMLD will offer surplus property including utility rated commercial vehicles, but with the exception of scrap having no tangible resale or salvage value and electric utility -specific property, to the Towns of Reading, North Reading, Wilmington, and Lynnfield (collectively "Towns") at FMV before offering the property to the general public.

Vehicles. Vehicles will be offered to the Towns at FMV on a rotational basis. The rotational sequence is Reading, North Reading, Wilmington, and Lynnfield. RMLD will notify the Towns in writing. The Towns will have 30 days from the date of RMLD's notice to submit a notice of intent to purchase the property before RMLD offers the property to the general public. Notice of intent to purchase shall be made in writing and signed by an officer with authority to approve the purchase. If more than one town provides RMLD with a notice of intent to purchase the property at the same time, preference will be given based on the rotational sequence. If no town has provided RMLD with a written notice of intent within the 30-day period, RMLD may proceed to offer the property to the general public pursuant to applicable procedures.

Other Property. RMLD will offer other surplus property to the Towns at FMV on a first come, first served basis. RMLD will notify the Towns in writing. The Towns will have 30 days from the date of RMLD's notice to submit a notice of intent to purchase the property before RMLD offers the property to the general public. Notice of intent to purchase shall be made in writing and signed by an officer with authority to approve the purchase. If more than one town provides RMLD with a notice of intent to purchase the property at the same time, preference will be given based on the rotational sequence. If no town has provided RMLD with a written notice of intent within the 30-day period, RMLD may proceed to offer the property to the general public pursuant to applicable procedures.

- C. Substantial Value. Property determined to have Substantial Value only shall be disposed of in compliance with G.L. c. 30B requirements and such supplemental requirements and procedures set forth in this policy and/or as determined by the General Manager in his/her discretion. The General Manager shall have authority to impose additional requirements if he/she determines that it is in the best interests of RMLD to do so.

Where an established market exists for the property, RMLD may dispose of the property through the established market or by trade-in if RMLD determines that it is advantageous to do so. The reasons shall be documented and the decision shall be subject to the approval of the General Manager or his/her designee.

For all other property, a competitive solicitation process shall be used. RMLD shall evaluate whether a written competitive bid process or auction, including an online auction ~~such as Ebay~~ (i.e., EBay or similar web-based listing), presents the most advantageous approach given the property to be sold. The process, including all notices, shall conform to G.L. c. 30B requirements.

RMLD shall consider whether to impose a minimum bid reserve price or other terms and conditions of the sale. At a minimum, RMLD shall reserve the right to reject any and all bids if it is in RMLD's best interest to do so.

In addition to complying with G.L. c. 30B notice requirements, RMLD shall post a notice on its website for 30 days and advertise the solicitation in appropriate print and online sources intended to reach potentially interested buyers. Electric utility rated commercial vehicles and electric utility-specific equipment shall be advertised in at least two sources identified on the list as set forth in Article V.

RMLD shall award the bid to the highest bidder who meets the requirements of the solicitation, unless RMLD determines that it is in its best interest to reject the bids. If RMLD rejects the bids, RMLD may ~~resolicit~~solicit new bids or negotiate the sale at a higher price than the highest bid price as permitted by G.L. c. 30B.

All bidders, including participants in an auction, shall submit a non-collusion certificate as required by G.L. c. 30B.

The sources of advertising, the specific method of disposal, and the award process, shall be documented and subject to the approval of the General Manager or his/her designee.

- D. Moderate Value. Property of Moderate Value shall be sold through the best available means in order to obtain the highest price for RMLD. In determining the specific disposal and advertising methods to be used, the costs of disposal shall be weighed against the expected yield to RMLD. Among other options, as determined by RMLD under the circumstances, disposals may be made through a competitive bid or auction process to the highest bidder as provided in Article VI.C or sold for FMV or "best offer" after advertisement. When offering to sell surplus property to the general public, to the extent practical, RMLD shall advertise the sale in the local newspaper, on its website for 30 days and in appropriate print and online sources intended to reach potentially interested buyers. Commercial and electric utility-specific vehicles and equipment should be advertised in at least two sources identified on the list as set forth in Article V. RMLD also may negotiate the sale of the property or dispose of the property through less formal means after receiving three quotations or as RMLD deems appropriate under the circumstances. If RMLD solicits quotations, RMLD shall not be required to sell the property to the person providing the highest quotation, but the highest quotation shall be used as the benchmark for negotiating and approving the sale.

The purchaser of property having Moderate Value shall be required to sign and submit a non-collusion certificate.

The reasons and sources for the method of disposal and the award process shall be documented and subject to the approval of the General Manager or his/her designee.

- E. Nominal Value. Property of Nominal Value may be disposed of using sound business practices. The process and sale shall be documented and kept on file.

VII. ADDITIONAL TERMS AND REQUIREMENTS.

- A. All property shall be sold or disposed of "as is" without any warranties of any kind.
- B. The purchaser shall release RMLD, in writing, from all liabilities concerning the property. The Purchaser must provide for removal, transportation, storage, etc. at no cost to the RMLD.
- C. The purchaser shall have the responsibility to provide for the removal, storage and transportation of the property at its sole expense. The purchaser shall remove the property at a time and location designated by RMLD.

VIII. PROHIBITION ON SALES TO EMPLOYEES, BOARD OF COMMISSIONER MEMBERS AND BOTH OF THEIR IMMEDIATE FAMILIES.






Consistent with ~~MGL Chapter~~G.L. c. 268A, § 20, RMLD employees and RMLD Board of Commissioner members and both of their immediate families shall not be eligible to purchase or otherwise receive RMLD surplus property regardless of price or method of disposal used. This prohibition also applies to competitive solicitation processes.

IX. ADMINISTRATIVE REVIEW AND REPORTING.

All disposals other than scrap material shall ~~be subject to~~require the administrative review of the General Manager. The General Manager may require any additional reviews and approvals as the General Manager deems necessary, in his or her discretion. The General Manager shall make such reports as required by the RMLD Board of Commissioners.

Document comparison by Workshare Compare on Wednesday, September 03, 2014 10:20:44 AM

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Document 2 ID	interwovenSite://RRDMS1/DMSDB1/1525361/3
Description	#1525361v3<DMSDB1> - RMLD - Markup RMLD Policy No 2 Surplus Material
Rendering set	Standard

Legend:	
Insertion	
Deletion	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	22
Deletions	14
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	36

2. RMLD Policy 2, Revision 4 Surplus Material

iii. RMLD Policy 2, Revision 4 Surplus Material
With Suggested Changes

**RMLD Policy No. 2
SURPLUS MATERIAL**

Revision No. 4

Commission Vote Date _____

General Manager/Date:

Next Review Date

I. PURPOSE

The purpose of this Policy No. 2 SURPLUS MATERIAL is to provide administrative controls and procedures for use by the RMLD in disposing of surplus property to maximize the value of the disposal of such surplus property to RMLD and its ratepayers. This policy does not apply to the disposal of real estate.

II. DETERMINATION OF SURPLUS PROPERTY

Surplus property is personal property in the custody and control of RMLD which is either:

- (a) In excess of RMLD's needs due to changes in operations or personnel or other changes in circumstances;
- (b) Replaced by new or substitute property;
- (c) Damaged and non-repairable or uneconomic due to costs of repairs;
- (d) In poor or hazardous condition; or
- (e) Obsolete and no longer suits RMLD's needs.

Each RMLD Department shall identify property that it deems to be surplus. The General Manager or his/her designee shall make the determination whether any such property constitutes surplus to RMLD's needs and shall be designated for disposal. Such determination shall be made in writing identifying the reasons for declaring the property surplus.

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Upon declaring property as surplus, the estimated value of the property shall be determined. RMLD will determine the fair market value ("FMV") of such property based on a minimum of two (2) relevant and comparable industry sources. To the extent two suitable sources are not available due to the unique nature of the item(s), RMLD will utilize the best available sources. For consumer motor vehicles, FMV shall be estimated based on Kelley Blue Book, Edmunds, NADA Guides or any other nationally recognized service that values vehicles similar to those being disposed. For other property, including commercial or service vehicles not listed in Kelley Blue Book, Edmunds, NADA Guides or a similar source, FMV shall be estimated based on quotes, trade-in offers, available sales data, appraisal or industry sources for similar property or vehicles, as may be adjusted for specific make and model, year, condition, and special equipment and features, and other factors deemed relevant. If FMV cannot reasonably be estimated for a particular property then RMLD will estimate the value of such property based on its salvage value. Salvage value is the estimated residual value of an asset at the end of its useful life or the proceeds from the disposal of the asset when it can no longer be used in a productive manner. Net salvage value takes into account the costs of disposal to more accurately reflect the residual value of a depreciable asset.

For property having no tangible resale or salvage value, the property shall be

designated as scrap.

The estimated value of the property, including the designation as scrap, and the sources consulted shall be documented and kept on file. The final determination of the property's estimated value shall be subject to review and approval by the General Manager or his/her designee.

IV. CATEGORIZATION OF SURPLUS PROPERTY

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and
- (4) Nominal Value – property having a FMV of \$500 or less.

Scrap having a tangible or resale value shall be placed in the appropriate category based on the value of the property. If the surplus property will be sold separately as individual units, the property shall be categorized based on the value of each individual unit. For property to be sold as a set or collection, the property shall be categorized based on the estimated value of the set or collection. Items customarily sold as a set shall not be treated as individual units to evade or bypass applicable disposal procedures. However, RMLD, in its discretion may determine whether to dispose of property on an individual unit basis or as part of a set or collection in order to maximize revenue. In such instances, the reasons shall be documented and kept on file. The final decision whether to utilize a single solicitation or separate solicitations for multiple items shall be subject to the review and approval of the General Manager or his/her designee.

V. ELECTRIC UTILITY-SPECIFIC AND ELECTRIC UTILITY RATED COMMERCIAL VEHICLE PROPERTY

RMLD will identify any property that it considers to be electric utility-specific. Electric utility-specific property is property that typically only an electric utility or a company or person in the electric utility trade is likely to have an interest in acquiring. For electric utility-specific and electric utility rated commercial vehicle property of Substantial Value, RMLD will determine whether an established market exists for purposes of disposal. An "established market" is one in which commodities are regularly sold in wholesale lots and prices are set by open competition as interpreted or as otherwise defined by the Massachusetts Inspector General or agency of the Commonwealth or a court having jurisdiction over the disposal of property by federal, state, and local governmental entities. A list of trade journals and other trade publications, online advertising sources and other industry or market resources for the advertisement and sale of electric utility-specific, including electric utility rated commercial vehicles, regardless of value shall be identified and documented. This list shall be reviewed every six (6) months and updated as necessary.

VI. DISPOSAL PROCEDURES.

- A. Scrap. Scrap having no tangible resale or salvage value may be destroyed, recycled, or disposed of via an approved scrap bid or other method as determined by RMLD in its discretion based on the particular circumstances and costs of disposal. RMLD will endeavor to minimize the cost of disposal of scrap to the extent

reasonably possible.

- B. Right of First Refusal. RMLD will offer surplus property including utility rated commercial vehicles, but with the exception of scrap having no tangible resale or salvage value and electric utility-specific property, to the Towns of Reading, North Reading, Wilmington, and Lynnfield (collectively "Towns") at FMV before offering the property to the general public.

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Other Property. RMLD will offer other surplus property to the Towns at FMV on a first come, first served basis. RMLD will notify the Towns in writing. The Towns will have 30 days from the date of RMLD's notice to submit a notice of intent to purchase the property before RMLD offers the property to the general public. Notice of intent to purchase shall be made in writing and signed by an officer with authority to approve the purchase. If more than one town provides RMLD with a notice of intent to purchase the property at the same time, preference will be given based on the rotational sequence. If no town has provided RMLD with a written notice of intent within the 30-day period, RMLD may proceed to offer the property to the general public pursuant to applicable procedures.

- C. Substantial Value. Property determined to have Substantial Value only shall be disposed of in compliance with G.L. c. 30B requirements and such supplemental requirements and procedures set forth in this policy and/or as determined by the General Manager in his/her discretion. The General Manager shall have authority to impose additional requirements if he/she determines that it is in the best interests of RMLD to do so.

Where an established market exists for the property, RMLD may dispose of the property through the established market or by trade-in if RMLD determines that it is advantageous to do so. The reasons shall be documented and the decision shall be subject to the approval of the General Manager or his/her designee.

For all other property, a competitive solicitation process shall be used. RMLD shall evaluate whether a written competitive bid process or auction, including an online auction (*i.e.*, EBay or similar web-based listing), presents the most advantageous approach given the property to be sold. The process, including all notices, shall conform to G.L. c. 30B requirements.

RMLD shall consider whether to impose a minimum bid reserve price or other terms and conditions of the sale. At a minimum, RMLD shall reserve the right to reject any and all bids if it is in RMLD's best interest to do so.

In addition to complying with G.L. c. 30B notice requirements, RMLD shall post a notice on its website for 30 days and advertise the solicitation in appropriate print and online sources intended to reach potentially interested buyers. Electric utility

rated commercial vehicles and electric utility-specific equipment shall be advertised in at least two sources identified on the list as set forth in Article V.

RMLD shall award the bid to the highest bidder who meets the requirements of the solicitation, unless RMLD determines that it is in its best interest to reject the bids. If RMLD rejects the bids, RMLD may solicit new bids or negotiate the sale at a higher price than the highest bid price as permitted by G.L. c. 30B.

All bidders, including participants in an auction, shall submit a non-collusion certificate as required by G.L. c. 30B.

The sources of advertising, the specific method of disposal, and the award process, shall be documented and subject to the approval of the General Manager or his/her designee.

- D. Moderate Value. Property of Moderate Value shall be sold through the best available means in order to obtain the highest price for RMLD. In determining the specific disposal and advertising methods to be used, the costs of disposal shall be weighed against the expected yield to RMLD. Among other options, as determined by RMLD under the circumstances, disposals may be made through a competitive bid or auction process to the highest bidder as provided in Article VI.C or sold for FMV or "best offer" after advertisement. When offering to sell surplus property to the general public, to the extent practical, RMLD shall advertise the sale in the local newspaper, on its website for 30 days and in appropriate print and online sources intended to reach potentially interested buyers. Commercial and electric utility-specific vehicles and equipment should be advertised in at least two sources identified on the list as set forth in Article V. RMLD also may negotiate the sale of the property or dispose of the property through less formal means after receiving three quotations or as RMLD deems appropriate under the circumstances. If RMLD solicits quotations, RMLD shall not be required to sell the property to the person providing the highest quotation, but the highest quotation shall be used as the benchmark for negotiating and approving the sale.

The purchaser of property having Moderate Value shall be required to sign and submit a non-collusion certificate.

The reasons and sources for the method of disposal and the award process shall be documented and subject to the approval of the General Manager or his/her designee.

- E. Nominal Value. Property of Nominal Value may be disposed of using sound business practices. The process and sale shall be documented and kept on file.

Vii. ADDITIONAL TERMS AND REQUIREMENTS.

- A. All property shall be sold or disposed of "as is" without any warranties of any kind.
- B. The purchaser shall release RMLD, in writing, from all liabilities concerning the property. The Purchaser must provide for removal, transportation, storage, etc. at no cost to the RMLD.
- C. The purchaser shall have the responsibility to provide for the removal, storage and transportation of the property at its sole expense. The purchaser shall remove the property at a time and location designated by RMLD.

VIII. PROHIBITION ON SALES TO EMPLOYEES, BOARD OF COMISSIONER MEMBERS AND BOTH OF THEIR IMMEDIATE FAMILIES.

Consistent with G.L. c. 268A, § 20, RMLD employees and RMLD Board of Commissioner members and both of their immediate families shall not be eligible to purchase or otherwise receive RMLD surplus property regardless of price or method of disposal used. This prohibition also applies to competitive solicitation processes.

IX. ADMINISTRATIVE REVIEW AND REPORTING.

All disposals other than scrap material shall require the administrative review of the General Manager. The General Manager may require any additional reviews and approvals as the General Manager deems necessary, in his or her discretion. The General Manager shall make such reports as required by the RMLD Board of Commissioners.

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