Council Meeting Date: November 20, 2000 **Agenda Item: 6(b)**

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Status Update Report of the Aurora Avenue North Corridor and Interurban Trail Projects
DEPARTMENT:	Public Works
PRESENTED BY:	William L. Conner, Public Works Director wlc

EXECUTIVE / COUNCIL SUMMARY

The purpose of this report is to provide your Council with a status update of the Aurora Avenue North Corridor and the Interurban Trail Projects. We also hope to use this discussion as an opportunity to gain Council consensus regarding criteria to be used for evaluation of the Interurban alignment options and to bring forward other key issues about this project for your review.

A draft of the Right of Way Policy and Procedure Manual, that will serve to guide the process of negotiation, acquisition, and compensation to business and property owners along Aurora Avenue is attached for your review. The manual is comprehensive and covers topics such as owner/tenant benefits and entitlements, acquisition procedures, relocation, condemnation and redevelopment requirements. The manual is being presented for Council discussion and for concurrence on what options should be shared at a public open house on November 30th. At a future Council workshop Staff will return to your Council for further review and discussion of the manual.

The roadway alignment is being refined and has been configured to minimize impacts to properties along the corridor. The segment from North 165th Street to North 185th Street has the narrowest right of way (90 feet) and some of the greatest constraints. This segment is being evaluated integrally with the Interurban Trail due to the close proximity and potential overlap of Trail and Corridor improvements. Four alternatives have been developed and will be presented for Council discussion. An open house is scheduled for November 30th to receive public input on the four alternatives.

A preferred alignment for the Interurban Trail needs to be established to continue with the environmental review process to complete the preliminary design. Three of the Interurban's segments (South, South Central and North) are established with few outstanding issues. The North Central Segment (North 175th Street to North 188th Street) will not be established until the final location and impacts of the Aurora Avenue Corridor Project have been established. The key alignment issues for each section are outlined in this report. Where there are no issues, the trail will be located in the existing Seattle City Light Right of Way.

Interurban Trail

The trail segments are outlined in Attachment B. They include the following:

- South Segment: North 145th Street to North 155th Street
  - Key issue: interim crossing of Aurora Boulevard. Recommendation is using Midvale Avenue and re-entering corridor at North 157th Street Right of Way.

- South Central Segment: North 155th Street to North 175th Street
  - Trail will follow established corridor. No key issues.

- North Central Segment: North 175th Street to North 188th Street
  - Key issue: trail coordination with Aurora Avenue. Four alternatives are under review. A recommendation will be presented to Council at a future date.

- North Segment: North 188th Street to North 205th Street
  - Key issue: connect Echo Lake Park to Ballinger Commons. Recommendation is using North 200th Street.

RECOMMENDATION

No Council action is required at this time. Staff is requesting that your Council review the draft Right of Way Policy and Procedure Manual prior to public review at an upcoming open house. Staff also seeks Council consensus and comments regarding the proposed Interurban Trail alignment for the South and North segments of the trail.

Approved By: City Manager LB City Attorney N/A

BACKGROUND / ANALYSIS

Aurora Avenue North Corridor

The Aurora Corridor project is included in the City's Capital Improvement Program. Phase 3, Part 2 of the project, which includes development of base maps, preliminary engineering and environmental documentation and review, has begun.

Corridor Status and Activities

Roadway Alignment
The Aurora Avenue proposed roadway alignment is to be configured to minimize impacts to properties along the corridor and to minimize right-of-way takes. Subtle curves within design parameters have been employed along the proposed centerline alignment to minimize impacts. The alignment is being developed in three segments. In chronological order:

- North 145th Street to North 165th Street,
- North 185th Street to the north end of the project, and
- North 165th Street to North 185th Street.

For the first segment, (145th Street to 165th Street), the preferred alternative originally identified six (6) buildings in this segment that could require building takes. The alignment for this segment has been reviewed by staff and has been submitted to WSDOT for Channelization Plan Approval. A meeting with WSDOT to discuss the channelization plans was held October 27th.

For the north segment, (North 185th Street to North 205th Street), the preferred alternative originally identified four (4) buildings in this segment that could require building takes. In addition to minimizing building takes, the proposed alignment minimizes right-of-way takes and retaining wall needs. Staff is currently reviewing the alignment for this segment.

The segment from North 175th Street to North 185th Street is being evaluated integrally with the Interurban Trail. A design charette to develop four conceptual designs for the area between North 175th Street and North 185th Street where the proposed Aurora Avenue Corridor and the Interurban Trail improvements converge was held August 22nd. Conceptual layouts, summary matrices, and evaluation criteria were developed during this meeting and then were presented at an Interurban Trail open house on September 26th. Using comments from the open house and the evaluation criteria, an evaluation matrix of the four concepts is being developed. The evaluation matrix will be used as a tool to help identify a preferred alternative for this segment of the project. A follow-up Council presentation, to summarize comments heard at the November 30th open house and to present a recommended alternative for Council consideration will occur at a future Council workshop.

The four conceptual designs (Attachment C) include the following:

- **Option A – Aurora West/Class II bike lanes and sidewalk on Midvale**
  Shift the Aurora alignment to the west and add bike lanes and sidewalk on Midvale
- **Option B – Aurora East/Urban Flavor**
  Shift the Aurora alignment to the east and align the Interurban Trail to match future re-development plans
- **Option C – Aurora East/Promenade and Commons**
  Shift the Aurora alignment to the east and establish the area between Midvale and Aurora as a linear park
- **Option D – Aurora East/Class II bike lanes and sidewalks on Midvale**
  Shift the Aurora alignment to the east and add bike lanes and sidewalks on Midvale

Criteria used by Staff to evaluate the above options follow:

- Trail design classification (character, designation, conflicts)
- Level of construction period impacts
- Business access
- Cost to implement
- Non-motorized travel safety (clarity of function, continuous travel opportunity)
- Promotion of redevelopment opportunities
- Buildings removed/publicly owned
- Buildings removed/privately owned
- Right of way acquisition requirements (publicly owned, privately owned)
- Loss of parking stalls (conforming, non-conforming)
- Motorized traffic operations
- Seattle City Light Operations
- Character/Identity along Aurora /Interurban Trail
- Environmental impacts
  - Cultural/historical
  - Stormwater
- Potential tax revenue of redeveloped area
- Financial impact to City via taxes

We would like Council's comments and concurrence on the criteria as Staff proceeds forward with this project.

Right of Way Policy and Procedure Manual

The Right of Way Policy and Procedure Manual will serve to guide the process of negotiation, acquisition, and compensation to business and property owners along Aurora Avenue. An open house with business and property owners was held on September 14th, to gain input on the manual development, to gather background information on the project and to review the project schedule. Thirty-three citizens attended the meeting of which twelve provided written comments. Public comments both positive and negative revolved around the width of the sidewalk/amenity zone and landscaped safety refuge islands.

The draft manual is complete and is attached for your Council review. At the November 20th Council meeting staff will highlight areas of the manual for your Council consideration. The manual will be available at the November 30th open house for community review and comment. At a future Council workshop, Staff will return to your Council for further review and discussion of the manual.

Environmental Documentation

Draft environmental discipline reports that address surface water, displacement and relocation, social, cultural/historical, air quality, noise and economics issues have been completed and are in the process of internal reviews before being summarized and consolidated into the Draft Environmental Assessment (EA). Once completed the draft EA will be distributed to the City, FHWA, and WSDOT for review and comments. The public review and comment period will take place in 2001.

Streetscape and Urban Design

The streetscape and urban design for Aurora Avenue, which will establish gateway landscaping concepts, sidewalk and special paving concepts, pedestrian and street lighting options and bus shelter designs and incorporation of art into the project is proceeding. Some of the concepts will be presented at the November 30th open house.

Project Communication

Business and Property Owner Workshops

Workshops were held in October and November to gather data from business and property owners about their business access needs, and how their business functions, as well as identify their concerns about potential impacts from the project. To enhance communication with the Korean community, Korean translation services were made available at the meetings.

Meetings for owners located between North 145th Street to North 155th Street and North 155th Street to North 165th Street were held on October 25th and 26th, respectively. Meetings for owners located between North 185th Street to North 195th Street and North 195th Street to North 205th Street were held November 15th and 16th respectively. Meetings for the section between North 165th Street and North 185th Street have not yet been scheduled.

Project Fact Sheets

To address questions and provide information about the project, project fact sheets about the following topics are being developed.

- Summary of Project Benefits
- Pedestrian Access and Safety Improvements
- Traffic Improvements
- Potential Physical and Economic Impacts
- Historical Resources and Evaluation Process
- Interurban Trail Coordination
- Landscaping, Urban Design, and Public Art
- Funding Status and Sources
- Street Trees
- Sidewalk Dimensions (amenity zone features)
- Median Width
- Edmonds / Lynnwood SR 99 Project
- Traffic Safety Improvements (access management)
- Construction Management
- Right-of-Way Acquisition

Interurban Trail

The Interurban Trail Project is also included in the City's Capital Improvement Program. This project provides for the construction of a trail along the old Interurban right of way in the City of Shoreline. Other communities including Seattle, Lynnwood, Edmonds, Everett, Mountlake Terrace and Snohomish County have constructed segments of the trail. Once completed, the trail will extend from Seattle to Everett. Each of the communities will design each of their sections of the trail using common design standards, signing and other features.

The majority of the trail will be located within the historic Interurban right-of-way. There are existing transmission lines along the trail owned by Seattle City Light. For planning purposes, the trail has been divided into the following four segments:

- South Segment: North 145th Street to North 155th Street
- South Central Segment: North 155th Street to North 175th Street
- North Central Segment: North 175th Street to North 188th Street
- North Segment: North 188th Street to North 205th Street

Staff developed the following schedule to complete the Interurban Trail Project:

• Review of Background Information	Completed Early August
• Community Involvement	
Open House	June 22nd
Open House	September 26th
Advisory CommitteeMeeting	June 22nd
Advisory Committee Meeting	August 24th
Advisory Committee Meeting	September 28th
Advisory Committee Meeting	November 2nd
• Development of Conceptual Alternatives	Complete Early October

- Selection of Preferred Alternatives — Complete End of November
- Preparation of Preliminary Design Report — Complete February 2001
- City Council Workshop — March 2001
- Environmental Studies and Permitting — Complete April 2001
- City Council Action to award final design Contract — May 2001
- Final Design — Complete South Segment July 2001
- Construction — Begin South Segment Fall 2001

As this project moves forward, there are key decision points under consideration. These points include the following:

- **Interim crossing of Aurora Avenue at North 155th Street**

The pre design study underway is investigating the possibility of a bridge over Aurora Avenue to create a seamless transition in the Interurban Trail. Staff from both the Interurban Trail, the Aurora Project and Seattle City Light are working together on this aspect of the project. The preliminary design report will include a recommendation on how best to proceed with a bridge.

At this time, there is no funding available for a bridge, so an at grade solution is required. Staff is exploring concepts to have the trail users cross Aurora Avenue at North 155th Street, making use of the existing traffic signal. Trail users will then travel over to Midvale Avenue and head north via sidewalks and bike lanes. There is an existing undeveloped right of way at North 157th Street that allows trail users access to the trail at this location. The sidewalks and bike lanes on Midvale Avenue will also provide direct access from the Interurban Trail to the existing sidewalks and bike lanes on North 155th Street.

- **Ballinger Commons connection North 195th Street vs. North 200th Street**

Between Echo Lake and the Ballinger Commons, trail users will travel via sidewalks and bike lanes. At this location, there are two possible routes, North 195th Street or North 200th Street. Based on discussions with the community including the Echo Lake Community Club, it is believed North 200th Street would be the more appropriate route. North 200th Street has existing sidewalk on the entire length and is wide enough to accommodate bike lanes if parking is restricted to one side. This parking restriction will impact residents primarily between Wallingford Avenue North and Aurora Avenue.

Staff recommends and the PARKS Committee agrees that North 200th Street should be the preferred route. The Echo Lake Elementary School Site Committee has reviewed the two options and agreed that North 200th Street should be the preferred route.

- **Over/under, North 155th Street, North 165th Street, North 175th Street , North 185th Street , North 205th Street**

The preliminary design report will take a cursory and feasibility look at either tunnels or bridges at major roadway crossing including North 165th Street, North 175th Street, and

North 185th Street. This look will result in a rough cost estimate and determine at what time in the full phasing and implementation process this crossing will be a priority.

- **Design alternatives between North 175th Street and North 185th Street**

The Aurora Avenue and the Interurban Trail teams are working together to develop evaluation matrices for each of these alternatives. Activities for this analysis were described under the Aurora Avenue North Summary.

RECOMMENDATION

No Council action is required at this time. Staff is requesting that your Council review the draft Right of Way Policy and Procedure Manual prior to public review at an upcoming open house. Staff also seeks Council consensus and comments regarding the proposed Interurban Trail alignment for the South and North segments of the trail.

ATTACHMENTS

Attachment A:	Draft Right of Way Policy and Procedure Manual
Attachment B:	Trail Segments – Figure 1
Attachment C:	Four Conceptual Designs – North 175th Street to North 185th Street

Attachment A

Draft Right of Way Policy and Procedures Manual

DRAFT

Real Property Acquisition and Relocation Policy, Procedures and Guidelines Relevant to the Aurora Corridor Project

CITY OF SHORELINE

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1. SUMMARY

1.1 Purpose

The City of Shoreline intends to construct improvements to Aurora Avenue North within the City of Shoreline. These improvements will include maintaining two general-purpose lanes in both northbound and southbound directions, adding a business-access and transit lane, also in both directions and other intersection improvements. Continuous sidewalks will also be provided for the entire length of the corridor. In order to accomplish these improvements it will be necessary for the City to acquire real property along the corridor. This may result in the dislocation of property owners, businesses, tenants, and individuals located within buildings on such real property. It is the City's intent to treat such property owners and their tenants fairly, to minimize hardships of displacement by equitable treatment of persons and businesses displaced as a direct result of the Project, and to seek cooperative settlements of property acquisitions and relocation claims. These Real Property Acquisition and Relocation Policy, Procedures, and Guidelines (herein referred to as the "Procedures") are written to provide the City the ability to accomplish these goals within the City's limited resources, schedule constraints, grant/loan provisions as well as State and Federal laws.

Regional and local transportation facilities are developed on publicly owned land or right of way (see definitions in Appendix A). As transportation facilities are expanded, additional right of way may be needed to support the expanded facilities. In the case of Aurora Avenue North, the existing right of way in the corridor is at a minimum 90 feet wide and varying to a maximum of 110 feet wide.

When arterials, such as Aurora Avenue North, are expanded, several types of right of way are needed. These types include right of way purchases to fit roadway widening and sidewalks; permanent easements to fit utilities, retaining walls, bus zones, signal equipment, etc..; temporary easements to allow construction of street improvements, regrading and paving of driveways, utilities, installation of landscaping, and restoration of private property. Table 1.1 lists many of the right of way issues to be considered during the roadway development process.

Right of Way Needs	Storm Drainage and Utilities Issues	Access and Circulation	Parking	Landscaping and Irrigation	Grading and Interface	Signage and Lighting
Bus Shelters	Coordination	Driveway consolidation / relocation	Head-in "on-street" parking	Private systems	Driveway	Relocation
Construction easements	Undergrounding of overhead systems	Circulation requirements	Existing parking encroachments	Future developments	Drainage	Development Standards compliance
Signal equipment	Private storm drain systems	Left-in / out restrictions and tradeoffs	Loss of parking spaces	Visual buffer	Retaining walls	Temporary signing during construction
Utility easements	Service connections	Shared access	Parking and circulation reconfiguration	Compatibility with existing	Slopes	
Sidewalks				Fences, railing, and planters		
Road widening						

When and if it is established that right of way and/or easements are needed for the project, a formal right of way acquisition process will be followed. This process is defined by Chapter 8.26 of the Revised Code of Washington (RCW) and the Washington Annotated Code (WAC) 468-100. Application of these procedures to an arterial improvement project is also described in the Washington State Local Agency Guidelines Manual. As pointed out at the beginning of this technical memorandum, planning for right of way acquisition and communications with potentially affected property owners and tenants will occur throughout the planning, preliminary design, and final design phase of project development. The formal right of way acquisition process would begin during the "final design" phase, and this process is illustrated in an attached figure and described in the paragraphs below. During this process, a City representative will meet with affected property owners to discuss right of way and easement needs, along with other issues that may involve the property owner and tenants. Others issues relate to storm drainage and utilities, access, parking, landscaping, grading, signage and lighting. Some of these potential issues are listed on an attached figure.

Once right of way plans are approved for right of way that is needed for the project, the City can begin to acquire the necessary right of way from property owners. The acquisition process includes presentation of an offer to purchase and relocate people or personal property that might be displaced by the project.

The price offered for property being acquired by the City is established by an appraisal. The appraiser's task is to determine "just compensation" for affected properties based on fair market values. When total acquisition is required, the property owner receives the current market value. Compensation for a partial acquisition is the difference between the fair market value of the original property and that of the remainder. Upon completion of the appraisal process a City representative will offer to purchase the property. The representative will answer any questions individuals may have about procedures, rights, and impacts associated with the project. When settlement is reached, the representative will collect the required signatures and complete the necessary paperwork. Only after these details have been completed will payment for the acquisition be processed.

In the event that a structure requires removal, the occupants (tenant or owner) of that structure may be eligible for certain relocation services. Eligibility complies with federal and state regulations (Public Law 91-646, RCW 8.26.010 to 8.26.910). Typically, these benefits may include advisory services, replacement dwelling supplements, and reimbursement for moving expenses incurred as a result of the project.

Since each property, ownership, or occupancy is unique, there may be considerable variation in procedures and time requirements. Including the reviews that are necessary during the process, it will normally take up to 9 months from the appraisal start date to the date when the owner receives payment for the acquisition. Ownerships involving relocation can add an additional 3 months to the acquisition time frame.

1.2. Summary of Policy and Procedures for the Aurora Corridor

These Procedures are to be carried out such that the City's program of acquisition of real property for, and relocation of persons displaced by the Project, complies with applicable federal and state law.

1.2.1. Document Organization

The document is organized in a manner that first provides a summary level of information and then progresses in a manner that parallels the process through which right of way needs of the project are resolved. Summary information includes a description of the improvements provided by the project, what owners/tenants are and are not entitled to in the right of way process and general process information that may apply to several of the procedures described in this manual. Several appendices

are included as a resource companion to the manual. These include a definition of terms used in the right of way process, the Citizen's Advisory Task Force 32 point recommendation for amendments to the preferred design concept adopted by the City Council, a frequently asked questions list relating to the right of way acquisition process, and a set of three case studies which illustrate some typical subject cases.

1.2.2. Types of Right of Way Acquisition Addressed in This Manual

Small or relatively non-invasive right of way needs may be satisfied by the acquisition of an interest in the real property through an easement or simple right of entry. In these cases, the City does not assume land ownership, rather it acquires a right of use to the property which allows a temporary activity or permanent construction to be performed on the property. These types of acquisition are described in detail in Section 4.

For larger right of way needs, the actual real property may be acquired by the City. In these cases a detailed process of appraisal and negotiation will be followed as is described in Sections 4.1 – 4.4.

If the right of way needs of the project are determined to compromise the viability of the existing use at its current location, the existing use may be relocated. The relocation process follows a detailed and regulated process as is described in Section 5. Cases of relocation require appraisal and negotiation. If an agreement cannot be reached through negotiation in a timely manner, the City may take other courses of action. These include the Possession and Use Agreement as is described in Section 6.1 and ultimately Condemnation if negotiation cannot reach an agreement that is acceptable to all parties. The process for Condemnation is described in Section 6.2.

1.3. Project Description

The Preliminary Preferred Design Alternative was developed based on input from the Citizen's Advisory Task Force, the Interagency Technical Advisory Committee, the general public, and the results of the comparative evaluation of alternatives. The proposed design concept achieves many of the City of Shoreline's goals for the project and achieves a balance between right of way and business impacts, pedestrian and traffic improvements, aesthetics, transit operations, and construction cost. It proposes to provide two general-purpose lanes in both northbound and southbound directions, and a business-access and transit lane, also in both directions. Center, focused left- and u-turn lanes will be provided along with pedestrian crossings with center refuge areas. Additional intersection improvements are also recommended. Continuous sidewalks will also be provided throughout the length of the corridor. The Preliminary Preferred Design Alternative maintains acceptable traffic operations for the future, provides a system to support pedestrian safety and walkability, significantly improves transit operations and improved appearance over existing conditions.

1.4. Applicability

These Procedures apply to real property acquisitions by the City for the purposes of implementing the Project. These Procedures apply to the acquisition of the following property interests:

a. Fee simple title;

b. Agreements to Reconstruct Driveways;

c. Permanent easements;

d. Temporary Construction Easements.

1.4.1. Exceptions.

These Procedures do not apply to the following:

a. The property is to be acquired through a voluntary transaction when the following conditions also exist:

(1) The property to be acquired is not part of the Project area where all, or substantially all, of the property within the area is eventually to be acquired,

(2) The City will not acquire the property in the event negotiations fail to result in an amicable agreement; and the owner is so informed in writing.

(3) The City will inform the owner of what it believes to be the fair market value of the property.

b. The property is to be acquired from a federal, state, or local public agency.

1.5. Accountability, Delegation, and Decision Authority

The City Council will be responsible for the policy direction of the City's Program. By adopting these Policies, Procedures and Guidelines, the City Council is establishing the acceptable terms and conditions for the property acquisitions by the City. The City Council will determine when real property must be acquired by the use of condemnation. However, in the interest of administrative efficiency, the Council hereby acknowledges certain delegations of authority regarding property and leasehold transactions and improvements. The Council hereby further authorizes the City Manager or his designee to adopt such administrative rules, procedures or guidelines as they may determine to be necessary to implement these Procedures.

RIGHT OF WAY PROCESS -DECISION AUTHORITY MATRIX – TABLE 1.5

ACTION	AUTHORITY
Channelization Plan Approval	WSDOT
Right of Way Plan Approval/Relocation Plan	WSDOT
Determination of Property Value	City Appraiser / Review Appraiser
Determination of Offer to Purchase	City Manager or designee
Acceptance of Offer	Property Owner
Begin Condemnation Process	City Council
Accept Owner's Appraisal	City Manager or designee
Resolve Relocation Appeal	Appeals Review Board
Grant Possession and Use	Property Owner
Grant Condemnation	Superior Court
Interim Sidewalk Width Allowance	City Manager or designee

1.6. What Owners/Tenants are Entitled To

Property owners and tenant business owners are entitled by State and Federal Law to certain considerations and privileges though the right of way process. The following subsections provide summary descriptions for owners/tenants on what to expect through acquisition and relocation.

1.6.1. Acquisition

Upon presentation of the appraised value to the property owner, the owner shall have thirty days to consider the offer. After thirty days the owner shall provide the City with one of the following:

- executed paperwork in agreement with the offer originally presented
- counter offer
- the name of the appraiser who will be appraising their property.

The Owner is entitled to contract for an independent evaluation of the City's appraisal/offer.

The Owner is entitled to just compensation for real property acquired as established by an appraisal and review appraisal.

The Owner will receive an offer of just compensation from the City for any uneconomic remnant created as a result of the project.

Except in unusual circumstances, the City will provide at least ninety days written notice of the date by which a business or tenant must vacate an acquired property.

1.6.2. Relocation

Current state and federal caps for reimbursement of "re-establishment" expenses is limited to $10,000.00. See Section 6.3 for details.

In the event of a relocation appeal the Owner/Tenant is entitled to review the City's materials pertinent to the person's appeal except materials classified as confidential by the City.

Except in unusual circumstances, the City will provide at least ninety days written notice of the date by which a business or tenant must relocate it use.

The Owner/Tenant is entitled to what the City determines to be reasonable and necessary moving expenses and costs associated with selection of a replacement location. See Section 6.1 for more detail.

The Owner/Tenant is entitled to receive from the City in writing the requirements for payment of relocation expenses.

1.7. What Owners/Tenants are not Entitled To

Owners/Tenants are not entitled to reimbursement for reestablishment expenditures not considered to be reasonable or necessary.

Owners/Tenants are not entitled to reimbursement for the purchase of capital assets such as office furniture or machinery.

Owners/Tenants are not entitled to reimbursement for interior or exterior refurbishment at the replacement site that are for aesthetic purposes.

Owners/Tenants are not entitled to reimbursement for interest on money borrowed to move or purchase replacement property. See section 6.1.5.

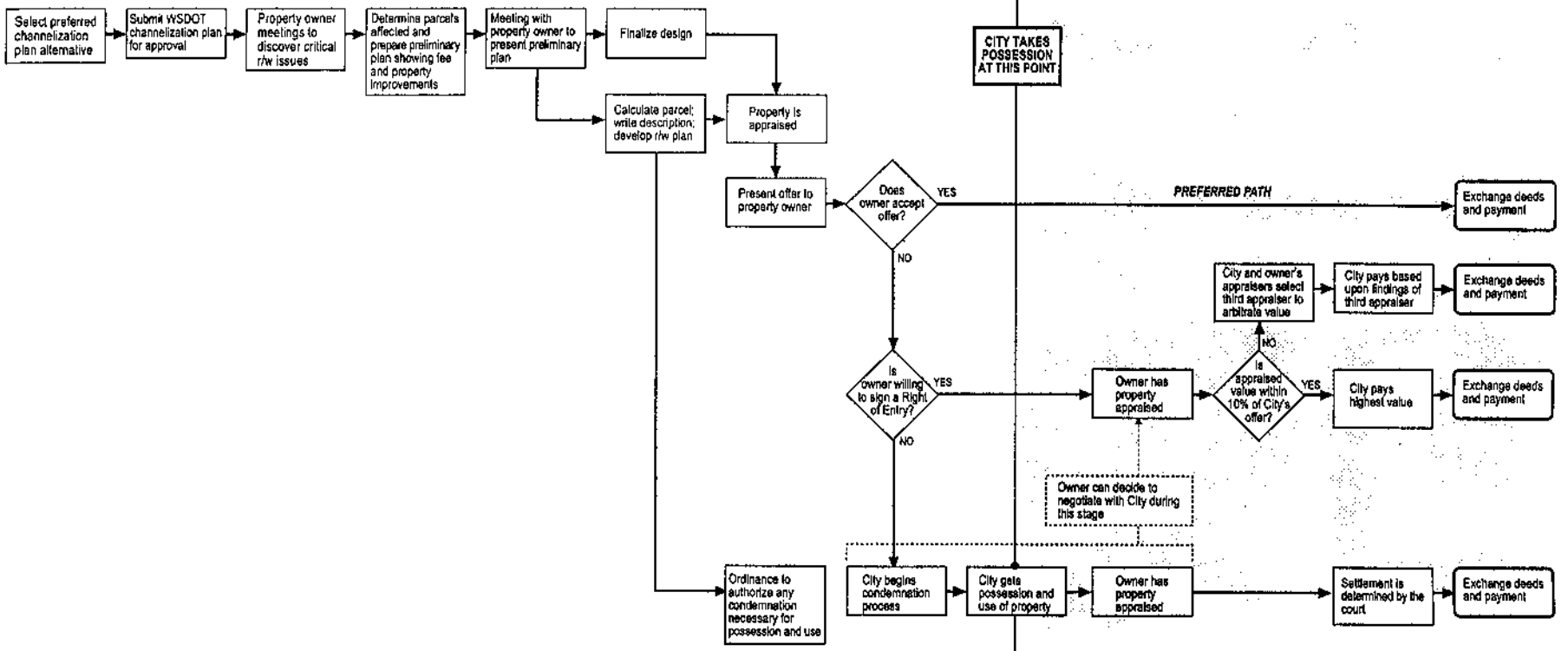
1.8. Potential Extra Benefits for Owners/Tenants Along the Aurora Corridor

(Text forthcoming)

1.9. Right of Way Process Flow Chart

The right of way process follows the general process of appraisal, negotiation, and transfer. If the negotiation process does not produce an agreement acceptable to the owner, the City may pursue a condemnation process. The following figure illustrates the typical right of way acquisition process.

Right-of-Way acquisition process



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2. GENERAL PROCESS INFORMATION

2.1. State and Federal Law Certification

The City certifies that it will comply with Chapter 8.26 RCW, Chapter 468-100 WAC, USCA Title 42, and 49 CFR Part 24 in connection with the acquisition of real property for, and relocation of persons displaced by, the improvement of Aurora Avenue . In order to do so, the City is establishing a Real Estate Acquisition and Relocation Program that is comprised of these Procedures and future administrative policies and procedures as may be required.

2.2. Pre-Negotiation Process

Prior to ordering appraisals and presenting offers to owners a "pre-negotiation" meeting will take place between the owner and the design engineers and right of way staff. These meetings will address driveway access issues, parking mitigation and loading area access. These meetings are to take place during the preliminary engineering environmental documentation phase of the project.

2.3. Notices

Notices will be written and will be in plain understandable language. Persons unable to read and understand the notice will be provided with appropriate translation and counseling. Each notice will indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help. Notices will be personally served or sent by registered or certified first-class mail return receipt requested and documented in the City's files.

2.4. Record Keeping

The City will maintain records of acquisition and displacement activities in sufficient detail to demonstrate compliance with these Procedures and law. These records must be maintained for at least 3 years after each owner of a property and each person displaced from a property receives the final payment to which the person is entitled under these Procedures or in accordance with federal funding requirements, whichever is later. Such records will be confidential regarding their use as public information, unless applicable law provides otherwise.

2.5. Contracts for Services

In order to prevent unnecessary expenses and delays, and to promote uniform and effective administration of the Program, the City may enter into contracts with any individual, firm, association, local public agency or state agency for services in connection with these Procedures or may carry out its functions under these Procedures through any state agency or local public agency having an established organization for conducting relocation assistance programs.

2.6. Characterization of Payments

No payment received by a displaced person or business under these Procedures may be considered as income for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law for the purposes of any income tax or any tax imposed under Title 82 RCW and the payment will not be deducted from any amount to which any recipient would otherwise be entitled under Title 74 RCW. No payment received by a displaced person under these Procedures will be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986, or for the purpose of determining the eligibility or

the extent of eligibility of any person for assistance under the Social Security Act or any other federal law except for any federal law providing low-income housing assistance.

The City, in order to assist tenants and business owners who are relocated as part of the project, will process voucher requests as quickly as possible. The City understands the need for tenants and owners to be reimbursed for expenses incurred in relocating and will do its best to provide payment of such monies in an expeditious manner.

No person will receive any payment under these Procedures if that person receives a payment under federal, state, or local law that is determined to have the same purpose and effect as such payment under these Procedures.

2.6.1. Restrictions and reimbursement rules relevant to funding source

Funding authorities have set requirements and restrictions for reimbursements that must be observed prior to reimbursement for project expenditures and approval for construction

2.6.1.1 Transportation Improvement Board (TIB)

Prior to construction phase approval, TIB requires certification that all required right of way is available. Right of way acquisition must be in accordance with Chapter 468-100 WAC. If right of way remains to be acquired the agency must have a possession and use agreement on those parcels and provide the appraised value. The TIB will participate only to the appraised value level.

Eligible Right of Way Acquisition Costs

- Purchase of land and easements acquired for and devoted to the project.
- Purchase of improvements.
- Adjustments or re-establishment of improvements.
- Removal or demolition of improvements.
- Other direct costs in connection with the acquisition of right of way

Amounts received from the sale of excess real property or improvements and from any rentals are a reduction of the direct cost. If excess real property or improvements are sold for more than the purchase price, the maximum TIB refund is limited to the TIB share expended for acquisition.

Record Keeping Requirements

All appraisal reports, record of negotiations with owners including a negotiator's diary indicating dates of contacts, offers made and final acceptance by grantor, title insurance documents, such as warranty deeds, quit claim deeds, easements, contract and sale documents, shall be maintained.

An agency is required to refund all TIB funds used to purchase right of way for a cancelled project.

2.6.1.2. Transportation Efficiency Act for the Twenty-first Century (TEA-21)

[To be completed following discussion with WSDOT Local Programs]

2.6.1.3. Washington State Department of Transportation (WSDOT)

[To be completed following discussion with WSDOT Local Programs]

3. REAL PROPERTY INTERESTS

3.1. Construction Easements

The City will acquire a temporary construction easement when it needs the temporary right to enter property for the purpose of constructing the project. The easement will set forth the City's rights to use of the property under specified conditions or for a specified period of time.

3.2. Rights of Entry

On occasion it will be necessary to enter onto private property to do work in association with the project such as survey work, perform test drilling bores, environmental work or to reconstruct existing driveways. At such time permission will be granted by the property owner to the agency by means of a "right of entry". After such work is completed, the surface of the property shall be restored to as nearly as possible to the condition immediately prior to the City's entry thereon excepting the modifications or improvements made as part of the construction project.

3.3. Environmental Concerns

Prior to acquisition of easements or right of way, the City will assess whether any environmental contaminated conditions exist on property required for the project. If contaminated conditions are found, the City will negotiate with the owner for any necessary clean-up prior to the City acquiring ownership.

3.4. Permanent Easements

The City may acquire a permanent easement when it needs a continuing, nonexclusive right to enter upon a property. The easement will define the City's right to use the property under specific circumstances or conditions for either a limited or unlimited time period. An easement can be either created by gift or purchase. Easements are transferable and can be extinguished by sale, abandonment, or relinquishment.

3.4.1. Slope Easements

An easement for cut or fill slopes will be sought provided that the slope can be put to use without detriment to the adjoining land use or the City's project. A slope easement may be eliminated in the future if the abutting lands are brought to the same grade as the project.

3.4.2. Utility Easements

Utility easements for the construction and continued access to utility facilities or project features (such as drainage facilities) will be obtained by the City in order to operate and maintain the project and public and private utility facilities located along the project.

3.4.3. Access Easements

On occasion it will be necessary to combine driveway accesses between two businesses for ingress and egress purposes. An Access Easement Agreement will be prepared for both adjoining property owners' to review and approve. This will enable the City to combine driveways along the corridor for safety purposes.

3.4.4 Landscaping Easements

On occasion it will be necessary to obtain Landscaping Easements from property owners. The City will in lieu of payment landscape certain areas of the corridor to provide aesthetic points of interest. An easement will enable the owner to retain their lot coverage but will grant the City permission to landscape and maintain certain areas along the Aurora Corridor for beautification purposes.

4. REAL PROPERTY ACQUISITION PROCEDURES

To the greatest extent practicable, the City will make reasonable efforts to acquire real property expeditiously and by negotiation based on appraised fair market value. As soon as feasible, the City will notify owners of the City's interest in acquiring the real property and the basic protections, including the City's obligation to secure an appraisal, provided to the owner as set forth herein. Real property will be appraised before the initiation of negotiations. The owner and his designated representative will be given an opportunity to accompany at least one City appraiser during his inspection of the property, except in cases where an appraisal is waived as set forth below.

4.1. Appraisals.

Before initiating negotiations to acquire real property, the City will obtain an independent third party appraisal of the property.

a. An appraisal is not required in the following circumstances:

(1) The owner is donating the property and releases the City from its obligation to appraise the property; or

(2) The City determines that an appraisal is unnecessary, because the valuation problem is uncomplicated and the fair market value is estimated at ten thousand ($10,000) or less, based on a review of available data.

b. Standards. The format and level of documentation for an appraisal will depend on the complexity of the appraisal problem. The City will develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those acquisitions which, by virtue of their low fair market value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal will be prepared for all other acquisitions. A detailed appraisal will reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support the appraiser's opinion of fair market value. At a minimum, the appraisal will contain the following items:

(1) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.

(2) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), a statement of the known and observed encumbrances if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a five-year sales history of the property.

(3) All relevant and reliable approaches to fair market value consistent with commonly accepted professional appraisal practices. If more than one approach is utilized, there will be an analysis and reconciliation of approaches

to fair market value that are sufficient to support the appraiser's opinion of fair market value.

(4) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(5) A statement of the fair market value of the real property to be acquired and, for a partial acquisition, a statement of the fair market value of the damages and benefits, if any, to the remaining real property.

(6) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

c. Influence of the Implementation of the Project on Just Compensation. To the extent permitted by applicable law, the appraiser in his "before" valuation will disregard any decrease or increase in the fair market value of the real property caused by the implementation of the Project, or by the likelihood that the property would be acquired for the Project, other than that due to the physical deterioration within the reasonable control of the owner.

d. Owner Retention of Improvements. If the owner of a real property improvement agrees and is permitted to obtain the right to remove it in whole or in part from the project site, the amount to be offered for the interest in the real property to be acquired will be the amount determined to be just compensation for the owner's entire interest in the real property. The City will deduct the salvage value of the improvement to be removed from the payment.

e. Qualifications of Appraisers. Appraisers will be licensed to perform appraisals in the State of Washington and will be members in good standing and, at a minimum, hold a professional designation from one or more of the following nationally recognized appraisal societies:

(1) Appraisal Institute

(2) International Right of Way Association,

(3) National Association of Independent Fee Appraisers

Appraiser qualifications will be consistent with the level of difficulty of the appraisal assignment. If the appraisal assignment requires the preparation of a detailed appraisal pursuant to Section 4.1.(b), and the City uses a contract (fee) appraiser to perform the appraisal, such appraisers must be certified in accordance with TitleXI of the Financial Institutions Reform, Recovery & Enforcement Act of 1989 (FIRREA). The City will review the experience, education, training, and other qualifications of appraisers, including review appraisers, and use only those the City determines to be qualified.

f. Conflict of interest. No appraiser or review appraiser may have any interest, direct or indirect, in the real property being appraised for the City that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal will not be

based on the amount of the valuation. No appraiser may act as a negotiator for real property that that person has appraised.

4.2. Review of appraisals.

Each appraisal is required to be reviewed by a third-party appraisal reviewer in order to ensure just compensation at fair market value.

Appraisals will be reviewed as follows:

a. All reviewing appraisers will be required to meet the minimum qualifications specified in section 4.1.e above.

b. A qualified reviewing appraiser will examine all appraisals, and where appropriate as required by federal funding, agency regulations or grant requirements, assure that they meet applicable appraisal requirements and will, before acceptance, seek necessary corrections or revisions. The qualifications of the appraiser for each case depend on the complexity of the appraisal problem. The review appraiser will determine whether the appraiser's documentation, including valuation data and analyses of that data, demonstrates the soundness of the appraiser's opinion of fair market value.

c. If the reviewing appraiser is unable to approve or recommend approval of an appraisal as an adequate basis for the estimate of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the reviewing appraiser may develop appraisal documentation in accordance with the above section to support an approved or recommended fair market value. The City may determine whether a second review is needed if the first review appraiser establishes a fair market value different from that in the appraisal report(s) on the property.

d. The review appraiser's certification of the recommended or approved fair market value of the property will be set forth in a signed statement that identifies the appraisal reports reviewed and explains the basis for such recommendation or approval. Any damages or benefits to any remaining property will also be identified in the statement. The level of explanation by the review appraiser depends on the complexity of the appraisal problem. The City may accept a simple approval endorsement by the review appraiser in the case of a low value property requiring an uncomplicated valuation process.

e. When the review appraiser provides justification for a modification in fair market value from the appraisal, fair market value will be determined based upon the opinion of the review appraiser. In cases where the recommended increase or decrease in fair market value exceeds ten percent (10%) a second appraisal or review appraisal will be conducted by the City unless mutual agreement on the acquisition price is reached between the seller and the City.

4.3. Independent Evaluations Conducted by Owner

In the event an Owner wishes to obtain his or her own appraisal, the City will reimburse each Owner up to seven hundred fifty dollars ($750.00) for actual and reasonable costs incurred to evaluate the appraisal/offer (i.e. independent appraisal, attorney or financial advisor fees).

4.4. Making an Offer to Acquire Property and Negotiating for Purchase.

Offers to acquire property shall be authorized by the City Manager or his designee. Negotiations shall be handled by the City Project Manager or by the City's contractor for right of way acquisition.

a. Establishing Just Compensation. Before initiating negotiations to acquire property, the City will establish an amount that it believes to be just compensation for the property. The amount will be based on an appraisal and review appraisal, and will not be less than the City's appraisal of the fair market value of the property. In establishing just compensation, the City will disregard any decrease or increase in the fair market value of the property that occurred before the date of valuation (a) as a result of the Project or (b) because of the likelihood that the property would be acquired for the Project. The City will then make a prompt offer to acquire the property for the full amount of just compensation it established.

b. Information to Owner. At the time negotiations are initiated, the City will provide the owner of the property with a written statement of, and summary of the basis for, the amount the City established as just compensation. Where appropriate, the just compensation for the real property, for any damages to remaining real property, and for any benefits to remaining real property will be separately stated. In addition, the City's written statement will include a description and location identification of the real property and the interest in the real property to be acquired, along with an identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) that are considered to be part of the real property (e.g. a tenant-owned improvement) and indicate that such interest is not covered by the offer.

c. Basic Negotiation Procedures. The City will make reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation, and explain these Procedures to the extent applicable, including payment of incidental expenses in accordance with Section 4.10. The owner will be given reasonable opportunity to consider the offer and present material the owner believes is relevant to determine the value of the property and to suggest modification of the proposed terms and conditions of the purchase. The City will consider the owner's presentation.

d. Updating offer of just compensation. If the information presented by the owner or a material change in the character or condition of the property indicates the need for new appraisal information, or if a significant delay has occurred since the time the appraisal(s) of the property, the City will have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the City will promptly re-establish just compensation and offer that amount to the owner in writing.

e. Authorization by City Council. Unless the necessary authority has been otherwise delegated by the Council, all real estate acquisitions and relocations, either through negotiation or condemnation, must be authorized by the City Council.

4.5. Acquisition of tenant-owned improvements.

Offers to acquire property with improvements will be authorized by the City Manager or his designee. Negotiations will be handled by the City Project Manager or by the City's contractor for right of way acquisition.

a. Acquisition of Improvements. When acquiring any interest in real property, the City will offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired or that the City determines will be adversely affected by the use to which such real property will be put. This will include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term, except when tenant-owner is compensated to remove an improvement through relocation reimbursement, as provided in Section 5.

b. Improvements Considered Real Property. Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, will be considered to be real property for purposes of this Article.

c. Appraisal and Establishment of Just Compensation for Tenant-owned Real Property Improvements. Just compensation for a tenant-owned real property improvement is the amount that the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater, less any applicable depreciation.

d. Special Conditions. No payment will be made to a tenant-owner to acquire any real property improvement or relocate any tenant-owned real estate fixture unless:

(a) The owner of the real property on which the improvement is located disclaims all interest in the tenant's realty improvement or fixture; and

(b) The tenant-owner, in consideration for the acquisition payment, assigns, transfers, and releases to the City all of the tenant-owner's right, title, and interest in the realty improvement; and

(c) The payment does not result in the duplication of any compensation otherwise authorized by law.

e. Alternative Compensation: Nothing in these Procedures will be construed to deprive the tenant-owner of any right to reject payment under these Procedures and to obtain payment for such property interests in accordance with other applicable law.

4.6. Acquisition of uneconomic remnants.

If the acquisition of only a portion of a parcel of property would leave the owner with an uneconomic remnant, the City will offer to acquire the remnant. In cases where the City identifies certain opportunity exists to further the City's commitment to transit-oriented development, it may acquire additional property, in whole or in part. In such cases, property owners and tenants will be deemed eligible for just compensation and relocation benefits according to these Procedures.

4.7. Notices to Owners.

Except in unusual circumstances, the City will provide at least ninety days written notice of the date by which a business or a tenant must move its operation or relocate its use. The City will document its determination of unusual circumstances in its record.

4.8. Donations.

A person whose real property is being acquired in accordance with these Procedures may donate the property after being fully informed of the right to receive just compensation for the property, any part thereof, any interest therein, or any compensation paid for it to any agency as the person may determine. The City will be responsible for assuring that an appraisal of the real property is obtained unless the owner releases the City from such obligation or as provided in Section 4.1.a(1).

4.9. Administrative Settlements

In an effort to reduce the significant overall cost associated with right-of-way acquisition, the City may offer administrative settlements. The City Manager or his designee will approve the administrative settlement. The project manager shall consider the following to determine the appropriate amount of administrative settlement.

- Only after every reasonable effort is made to resolve differences with the property owners.
- Evaluation of the property owners' independent appraisal, if available.
- Consultation with the City Attorney regarding cost to exercise right of condemnation, and current court costs.
- Review of construction schedule and possible impacts due to delay of acquiring right-of-way on project.
- Consideration of diary records regarding contact with property owner.

Once the amount has been determined, the following will occur:

- A revised offer shall be prepared indicating the administrative settlement amount and signed off by the project manager.
- Negotiator shall present administrative settlement to property owner and continue negotiations.
- Every reasonable effort shall be made to settle with property owner.
- If property owner remains unwilling to negotiate or accept administrative settlement offer, the file shall be turned over to the City Attorney.
- Using the administrative settlement amount, the Attorney will prepare a best and final offer and transmit to the property owner with a reasonable time limit to respond.
- All reasonable counteroffers by property owner will be considered using the (5) considerations outlined above.
- Administrative settlement amount may be modified at this point, given se5ttlement is eminent and amount is still in the public's best interest.
- If settlement is reached, a new offer letter is prepared and signed by the property owner.
- If settlement cannot be reached, City Attorney will proceed with condemnation.

5. RELOCATION

5.1. Payment for Moving and Related Expenses

If the City determines that the implementation of the Project will result in the displacement of a person who is dwelling on or conducting business on the real property being acquired, the City will reimburse or make a payment in lieu of reimbursement to the displaced person for certain costs and expenses required to move the individual, business or other personal property.

5.1.1. Non-Residential Moves.

The City will reimburse the displaced business for their documented actual moving and related expenses that the City determines to be reasonable and necessary, including those expenses described below.

a. Eligible Expenses. (See Section 5.1.5 for a list of ineligible expenses)

(1) Transportation of personal property. Transportation costs for a distance beyond fifty miles are not eligible, unless the City, at its sole discretion, determines that relocation beyond fifty miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property described in paragraph 12 below. This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. (Expenses for providing utilities from the right of way to the building or improvement are excluded.)

(4) Storage of the personal property for a period not to exceed twelve months, unless the City determines, in its sole discretion, that a longer period is necessary.

(5) Insurance for the replacement value of the personal property in connection with the move and necessary storage.

(6) Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification.

(7) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(8) Professional services necessary for the tasks listed below.

(a) Planning the move of the personal property;

(b) Moving the personal property; and

(c) Installing the relocated personal property at the replacement location.

(9) Re-lettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

(10) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business. The payment will consist of the lesser of:

(a) The value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the City determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the value will be based on the cost of the goods to the business, not the potential selling price.); or

(b) The estimated cost of moving the item, but with no allowance for storage. (If the business is discontinued, the estimated cost will be based on a moving distance of fifty miles.)

(11) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(12) Purchase of substitute personal property. If an item of personal property that is used as part of a business is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(a) The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

(b) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the City's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(13) Searching for a replacement location. A displaced business is entitled to reimbursement for actual expenses, not to exceed one thousand dollars, as the City determines to be reasonable, which are incurred in searching for a replacement location, including:

(a) Transportation;

(b) Meals and lodging away from home;

(c) Time spent searching, based on reasonable salary or earnings;

(d) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.

(14) Other moving-related expenses that are not listed as ineligible under Section 5.1.5, as the City determines to be reasonable and necessary.

b. Notification and Inspection. The following requirements apply to all payments:

(1) The City will inform the displaced person in writing, of the requirements of subparagraphs (2) and (3) below, as soon as possible after the initiation of

negotiations. This information may be included in the relocation information provided to the displaced person as set forth in Section 5.2.3.

(2) The displaced person must provide the City reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. The City may waive this notice in its discretion.

(3) The displaced person must permit the City to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

c. Self-Moves. If the displaced person elects to take full responsibility for the move of the business, the City may make a payment for the person's moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the City or prepared by qualified staff. At the City's discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate.

d. Transfer of ownership. Upon request and in accordance with applicable law, the claimant will transfer to the City ownership of any personal property that has not been moved, sold, or traded in.

e. Advertising signs. The amount of a payment for direct loss of an advertising sign that is personal property will be the lesser of:

(1) The depreciated reproduction cost of the sign, as determined by the City, less the proceeds from its sale; or

(2) The estimated cost of moving the sign, but with no allowance for storage.

5.1.2. Non-Residential Moves: Fixed Payment in Lieu of Reimbursement for Actual Moving Expenses

a. Business: A displaced business may be eligible to choose a fixed payment in lieu of a payment for actual moving and related expenses, and actual reasonable reestablishment expenses provided for in section above. The payment except for payment to a nonprofit organization, will equal the average annual net earnings of the business, as computed in accordance with subsection (e) of this section, but not less than one thousand dollars or more than twenty thousand dollars.[i] The displaced business is eligible for the payment if the City determines that:

(1) The business owns or rents personal property that must be moved in connection with such displacement and for which an expense would be incurred in such move; and, the business vacates or relocates from its displacement site; and

(2) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the City demonstrates that it will not suffer a substantial loss of its existing patronage; and

(3) The business is not part of a commercial enterprise having more than three other entities that are not being acquired by the City, and that are under the same ownership and engaged in the same or similar business activities.

(4) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others; and

(5) The business is not operated at the displacement site solely for the purpose of renting the site to others; and

(6) The business contributed materially to the income of the displaced person during the two taxable years before displacement.

b. Determining the Number of Businesses: In determining whether two or more displaced legal entities constitute a single business that is entitled to only one fixed payment, the City will consider all pertinent factors including the extent to which:

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(4) The same person, or closely related persons own, control, or manage the affairs of the entities.

c. Nonprofit Organization: A displaced nonprofit organization may choose a fixed payment of one thousand to twenty thousand dollars[ii] in lieu of a payment for actual moving and related expenses if the City determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the City demonstrates otherwise. Any payment in excess of one thousand dollars must be supported with financial statements for the two twelve-month periods before the acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses.

d. Average annual net earnings of a business operation: The average annual net earnings of a business operation are one-half of its net earnings before federal, state, and local income taxes during the two taxable years immediately before the taxable year in which it was displaced.[iii] If the business was not in operation for the full two taxable years before displacement, net earnings will be based on the actual period of operation at the displacement site during the two taxable years before displacement projected to an annual rate. Average annual net earnings may be based upon a different period of time when the City determines it to be more equitable. Net earnings include any compensation obtained from the business by its owner, the owner's spouse, and dependents. The displaced person will furnish the City proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence that the City determines is satisfactory.

5.1.3. Residential Moves: Actual Expenses.

The City will reimburse the displaced owner-occupant or tenant of a residential dwelling for their documented actual moving and related expenses that the City determines to be reasonable and necessary including the actual reasonable expenses in moving the person, her family, or other personal property.

a. Disconnect, dismantle, and remove displaced personal property.

b. Pack displaced personal property.

c. Transport displaced person and personal property within fifty miles. The City may authorize transportation costs of a distance beyond fifty miles based on economic feasibility of the available choices of replacement locations, but not on the displacee's subjective preferences.

d. Store personal property for a period not to exceed twelve months, unless the City determines a longer period is necessary.

e. Unpack relocated personal property.

f. Reassemble, reinstall, and reconnect relocated personal property.

g. Insure for the replacement value of personal property in connection with the move; or where insurance covering loss, theft, or damage in the process of moving (not through fault or negligence of the displaced person or the person's agent, or employee) is not reasonably available, pay the replacement value for such loss, theft, or damage.

h. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

i. Reimburse other moving-relating expenses that are not listed as ineligible under Section 5.1.5, as the City determines to be reasonable and necessary.

5.1.4. Residential Moves: Fixed Payment In-Lieu of Reimbursement of Actual Expenses.

A person displaced from a dwelling or a seasonal residence is entitled to receive a fixed payment in lieu of a payment for actual moving and related expenses covered under Section 5.1.3. This allowance will be determined according to the applicable schedule approved by the Federal Highway Administration and WSDOT, except that the expense and dislocation allowance to a person occupying a furnished one-room unit shared by more than one other person involving a minimum of personal property to be moved, will be limited to fifty dollars.

5.1.5. Ineligible Moving and Related Expenses.

The City will not reimburse for certain moving and related expenses (residential and non-residential), including the following:

a. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. However, this section does not preclude the computation under Section 5.4.1.a(3)(d)(iii) or

b. Interest on a loan to cover moving expenses; or

c. Loss of goodwill; or

d. Loss of profits; or

e. Loss of trained employees; or

f. Any additional operating expenses of a business, incurred because of operating in a new location except as provided in Section 5.3.1, paragraph j; or

g. Personal injury; or

h. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the City; or

i. Expenses for searching for a replacement dwelling; or

j. Physical changes to the real property at the replacement location of a business; or

k. Costs for storage of personal property on real property already owned or leased by the displaced person.

5.2. Relocation Assistance

At the request of a displaced person or business, the City will provide relocation assistance advisory services, and may also provide relocation services to any person occupying property immediate adjacent to the property where the displacing activity occurs, if the City determines that the displacing activity is causing substantial economic injury to the adjacent property.

5.2.1. Relocation Advisory services.

The City's relocation assistance advisory services will include, but are not limited to, such measures, facilities, or services as may be necessary or appropriate to:

a. Determine the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This will include a personal interview with each person.

b. Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in Section 5.2.4.

(1) As soon as feasible, the City will inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (see Sections 5.4.3a and 5.4.3.b) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which the person may qualify.

(2) Where feasible, housing will be inspected before being made available to assure that it meets applicable standards. If such an inspection is not made, the person to be displaced will be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary (DSS).

(3) Whenever possible, minority persons will be given reasonable opportunities to relocate to DSS replacement dwellings, not located in an area of minority concentration, that are within their financial means. This does not, however, require the City to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

(4) All displaced persons, especially the elderly and handicapped, will be offered transportation to inspect housing to which they are referred.

c. Provide current and continuing information on the availability, purchase prices, and rental costs of comparable and suitable commercial properties and locations. Assist any person displaced from a business to obtain and become established in a suitable replacement location.

d. Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

e. Supply persons to be displaced with appropriate information concerning federal and state housing programs, disaster loans and other programs administered by the Small Business Administration, and other federal, state, and local programs offering assistance to persons to be displaced.

f. Any person who occupies property acquired by the City, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short-term rental agreement or an agreement subject to termination when the property is needed the Project, will be eligible for advisory services, as determined by the City.

5.2.2. Coordination of relocation activities.

Relocation activities will be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized.

5.2.3. Relocation notice and Information.

Once the City has acquired a property

a. General Relocation Information Notice: As soon as feasible, the City will provide a person scheduled to be displaced with a copy of these Procedures, along with a general written description of the City's relocation Program. The written description will include at least the following:

(1) Informs the person that the person may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(2) Informs the person that the person will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate.

(3) Informs the person that he or she will not be required to move without at least ninety days' advance written notice (see subparagraph (c) of this section), and informs any person to be displaced from a residential dwelling that the person cannot be required to move permanently unless at least one comparable replacement dwelling has been made available.

(4) Describes the person's right to appeal the City's determination as to eligibility for, or the amount of, any relocation payment for which the person may be eligible under these Procedures.

b. Notice of Relocation Eligibility:

(1) Eligibility for relocation assistance will begin on the date of initiation of negotiations for the occupied property. When this occurs, the City will promptly provide written notice to all occupants to be displaced of their eligibility for applicable relocation assistance.

(2) An occupant may subsequently be provided a notice of noneligibility if the City determines the person will not be displaced. Such notice may be issued only if the person has not moved and the City agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility.

c. Ninety-day Notice:

(1) General: No lawful occupant will be required to move unless the occupant has received at least ninety days advance written notice of the earliest date by which he or she may be required to move.

(2) Timing of notice: The City may issue the notice ninety days before it expects the person to be displaced or earlier. When possible the City will attempt to provide maximum notification time but in any event no less than 90 days, except in case of urgent need(s).

(3) Content of notice: The ninety-day notice will either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least thirty days in advance, the specific date by which the occupant must move. If the ninety-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than ninety days after such a dwelling is made available.

(4) Urgent need: In unusual circumstances, an occupant may be required to vacate the property on less than ninety days advance written notice if the City determines that a ninety-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A record of the City's determination will be included in the applicable case file.

5.2.4. Availability of Comparable Replacement Before Displacement.

No person to be displaced will be required to move from the person's dwelling unless at least one comparable replacement has been made available to the person.

a. Policy: Three or more comparable replacement dwellings will be made available unless such dwellings are not available on the local housing market. When otherwise feasible, in accordance with Section 5.2.1.b, paragraph 3 and Section 5.4.3.a, paragraph 4, comparable replacement dwellings to be made available to minority persons may include dwellings not located in an area of minority concentration. A comparable replacement dwelling will be considered to have been made available to a person, if:

(1) The person is informed of its location; and

(2) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and in order to meet the deadlines of the project, the City may, at the request of the displaced person, provide assistance in these negotiations.

(3) Subject to reasonable safeguards, the person is assured of receiving the acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

b. Circumstances permitting waiver: The applicable state, federal, county or other funding agency may grant a waiver of the policy in subparagraph a of this section in any case where it is demonstrated that a person must move because of:

(1) A major disaster as defined in section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

(2) A presidentially declared national emergency; or

(3) Another emergency that requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

c. Basic conditions of emergency move: Whenever a person is required to relocate for a temporary period because of an emergency as described in subparagraph b of this section, for purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily-occupied dwelling. The City will:

(1) Take whatever steps are necessary to assure that the person is temporarily relocated to a sanitary dwelling; and

(2) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in monthly housing costs incurred in connection with the temporary relocation; and

(3) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily occupied dwellings.)

(4) The person is entitled to be heard in the event of a grievance.

5.2.5. Eviction for cause.

Eviction for cause must conform to applicable state and local law. Any person who has lawfully occupied the real property, but who is later evicted for cause on or after the date of the initiation of negotiations, retains the right to the relocation payments and other assistance set forth in these Procedures. Any person who occupies the real property and is not in lawful occupancy on the date of initiation of negotiations is presumed to be entitled to relocation payments and other assistance set forth in Section 5.2 unless the City determines that:

a. The person received an eviction notice before the initiation of negotiations and as a result of that notice is later evicted; or

b. The person is evicted after the initiation of negotiations for serious or repeated violations of material terms of the lease and occupancy agreement; and

c. In either case the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this manual.

For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves or the date a comparable replacement dwelling is made available, whichever is later. This section applies only if the City had intended to displace the person.

5.2.6. Claims for relocation payments.

a. Documentation: Any claim for a relocation payment must be supported by documentation reasonably necessary to support expenses incurred, such as, bills, certified prices, appraisals, or other evidence of such expenses. Payment for a low cost or uncomplicated move may be made without documentation of actual costs when payment is limited to the amount of the lowest acceptable bid or estimate obtained by the City. The City will provide a displaced person with reasonable assistance necessary to complete and file any required claim for payment.

b. Expeditious payments: The City will review claims expeditiously. The City will promptly notify claimants as to any additional documentation that is required to support the claim. Payment for a claim will be made as soon as feasible following receipt of sufficient documentation to support the claim.

c. Advance payments: If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the City may issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

d. Time for filing: All claims for a relocation payment must be filed with the City within eighteen months after:

(1) For tenants, the date of displacement;

(2) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

(3) The City will waive this time period for good cause.

e. Multiple occupants of one displacement dwelling: If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the City, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the City determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

f. Deductions from relocation payments: The City will deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly where such a deduction would not prevent the displaced person from obtaining a comparable replacement dwelling as required by Section 5.4 the City may deduct from relocation payments any rent that the displaced person owes the City. The City will not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

g. Notice of denial of claim: If the City disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it will promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

5.2.7. Relocation Planning.

The Project will be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, and non-profit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate, will precede any City action that will cause displacement, and will be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of Program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study, which may include the following:

a. An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of property to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, and the handicapped, when applicable.

b. An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of housing of last resort actions should be instituted.

c. An estimate of the number, types, and size of the businesses and non-profit organizations to be displaced and the approximate number of employees that may be affected.

d. Consideration of any special relocation advisory services that may be necessary from the City and other cooperating agencies.

5.3. Re-establishment Expenses

The City may reimburse a displaced business or nonprofit organization for re-establishment expenses up to a maximum of ten thousand dollars ($10,000). Such reimbursement would be for expenses actually incurred in relocating and reestablishing the small business or non-profit organization at a replacement site. This reimbursement would be in addition to any reimbursement for moving and related expenses provided for in this manual.

5.3.1. Eligible expenses

Reestablishment expenses must be reasonable and necessary, as determined by the City. They may include, but are not limited to, the following:

a. Repairs or improvements to the replacement real property as required by federal, state, or local law, code, or ordinance.

b. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

c. Construction and installation costs for exterior signing to advertise the business.

d. Provision of utilities from right of way to improvements on the replacement site.

e. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.

f. Licenses, fees, and permits when not paid as part of moving expenses.

g. Feasibility surveys, soil testing and marketing studies.

h. Advertisement of replacement location.

i. Professional services in connection with the purchase or lease of a replacement site.

j. Increased costs of operation during the first two years at the replacement site.

   (1) Lease or rental charges;

   (2) Personal or real property taxes;

   (3) Insurance premiums; and

   (4) Utility charges, excluding impact fees.

k. Impact fees or one-time assessments for anticipated heavy utility usage.

l. Other items that the City considers essential to the reestablishment of the business.

5.3.2. Ineligible expenses

The following is a nonexclusive list of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

a. Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.

b. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

c. Interior or exterior refurbishment at the replacement site that are for aesthetic purposes, except as provided in Section 5.3.1, paragraph e.

d. Interest on money borrowed to make the move or purchase the replacement property.

e. Payment to a part-time business in the home that does not contribute materially to the household income.

5.4. Payments for Replacement Housing

5.4.1. For Certain Homeowners

In addition to payments otherwise authorized by these Procedures, the City will make an additional payment to persons displaced from a dwelling actually owned and occupied by the displaced person for not less than one hundred eighty (180) days immediately before the initiation of negotiations for the acquisition of the property. The additional payment will be made only to persons who purchase and occupy a decent, safe, and sanitary replacement dwelling within one year after the date when the person receives final payment from the City for the acquired dwelling or the date when the City's obligations under RCW 8.26.075 are met, whichever date is later, unless the City extends this period for good cause. If the period is extended, the payments will be based on the costs of relocating the person to comparable replacement dwelling within one year of the extension date. Such payment will not exceed twenty two thousand, five hundred dollars ($22,500), and will be established as set forth in Section 5.4.1.a. below.

a. Replacement housing payment for one hundred eighty-day homeowner-occupants.

(1) Entitlement: A displaced person is entitled to the replacement housing payment for a one hundred eighty-day, homeowner-occupant if the person:

(a) Has actually owned and occupied the displacement dwelling for not less than the one hundred eighty days immediately before the initiation of negotiations; and

(b) Purchases and occupies a DSS replacement dwelling within one year after the later of (except that the City may extend the one-year period for good cause):

i. The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the required amount is deposited in the court;

ii. The date the person moves from the displacement dwelling; or

iii. The date the City's obligations are met.

(2) Amount of Payment: The replacement housing payment for an eligible one hundred eighty-day homeowner-occupant may not exceed twenty-two thousand, five hundred dollars ($22, 500)[iv]. The payment under this section is

limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date such person is initially offered a comparable replacement dwelling, whichever is later. The payment will be the sum of:

(a) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling (price differential), as determined in accordance with subparagraph (3) of this section; and

(b) The increased interest costs and other debt service costs to be incurred in connection with the mortgage(s) on the replacement dwelling (increased mortgage interest cost), as determined in accordance with subparagraph (4) of this section; and

(c) The necessary and reasonable expenses incidental to the purchase of the replacement dwelling (incidental purchase expense), as determined in accordance with subsection (6) of this section.

(3) Price Differential:

(a) Determination of Price Differential: The price differential to be paid under subsection (2)(a) of this section is the amount that must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

i. The reasonable cost of a comparable replacement dwelling as determined in accordance with Section 5.4.1(a)(2); or

ii. The purchase price of the DSS replacement dwelling actually purchased and occupied by the displaced person.

(b) Mixed-use and multifamily properties: If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, and/or is located on a tract larger than a site that is typical for residential purposes, only that portion of the acquisition payment that is actually attributable to the displacement dwelling will be considered its acquisition cost when computing the price differential.

(c) Insurance proceeds: To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.,) will be included in the acquisition cost of the displacement dwelling when computing the price differential.

(d) Owner retention/salvage of displacement dwelling: If the owner retains ownership of, or obtains salvage rights to, the person's dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling will be the sum of:

i. The cost of moving and restoring the dwelling to retain the functional utility it had when situated on the displacement site; and

ii. The cost of making the unit a DSS replacement; and

iii. The current fair market value for residential use of the replacement site (based on any reasonable evaluation method determined by the City), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

iv. The retention/salvage value of the displacement dwelling, as determined from the acquisition of the displacement dwelling.

(e) Owner constructs replacement dwelling: If the owner obtains a DSS replacement dwelling by contracting for or otherwise obtaining new construction, the purchase price of the replacement dwelling will be the sum of:

i. The cost necessary to construct a dwelling that is comparable to the displacement dwelling; and

ii. The current value for residential use of the replacement site (based on any reasonable evaluation method determined by the City), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site.

(4) Price Differential Recalculation

In the event an Owner's appraisal is reviewed and an increase in Fair Market Value (FMV) is determined by the review appraiser, the impact of increasing the FMV will offset the price differential. In the event the number one comparable selected is no longer available on the market as an active listing, then the price differential shall be recalculated. If the number one comparable is still available on the market, then the price differential is offset by the increase in the purchase price.

(5) Increased Mortgage Interest Costs:

(a) The City will determine the factors to be used in computing the amount to be paid to a displaced person under subsection (2)(b) of this section. The payment for increased mortgage interest costs will be the amount that will reduce the mortgage balance on a new mortgage to an amount that could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments will include other debt service costs, if not paid as incidental costs, and will be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least one hundred eighty days before the initiation of negotiations. Subparagraphs (b) through (e) of this subsection will apply to the computation of the increased mortgage interest costs payment, which payment will be contingent upon a mortgage being placed on the replacement dwelling.

(b) The payment will be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination the payment will be prorated and reduced accordingly.

In the case of a home equity loan the unpaid balance will be that balance that existed one hundred eighty days before the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(c) The payment will be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.

(d) The interest rate on the new mortgage used in determining the amount of the payment will not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(e) Purchaser's points and loan origination or assumption fees, but not seller's points, will be paid to the extent:

i. They are not paid as incidental expenses;

ii. They do not exceed rates normal to similar real estate transactions in the area;

iii. The City determines them to be necessary; and

iv. The computation of such points and fees will be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance under this section.

(6) The displaced person will be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known and the payment will be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

(7) Incidental purchase expenses: The incidental purchase expenses to be paid for a one hundred eighty-day homeowner-occupant (under subsection (2)(c) of this section) or for down payment assistance (under Section 5.4.3) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, and are limited by such costs based on the cost of a comparable replacement dwelling pursuant to Section 5.4.3.a, including:

(a) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(b) Lender, FHA, or VA application and appraisal fees.

(c) Loan origination or assumption fees that do not represent prepaid interest.

(d) Certification of structural soundness and termite inspection when required.

(e) Credit report.

(f) Owner's and mortgagee's evidence of title, e.g., title insurance.

(g) Escrow agent's fee.

(h) State revenue or documentary stamps, sales or transfer taxes.

(i) Such other costs that the City determines to be incidental to the purchase.

(8) Rental assistance payment for one hundred eighty-day homeowner: A one hundred eighty-day homeowner-occupant who is eligible for a replacement housing payment under subsection (1) of this section but elects to rent a replacement dwelling, is eligible for a rental assistance payment not to exceed five thousand, two hundred fifty dollars ($5,250)v, computed and disbursed in accordance with 5.4.2.a.

5.4.2. For Tenants and Others

In addition to payments otherwise authorized by these Procedures, the City will make an additional payment to persons displaced from a dwelling who is not eligible to receive a payment under Section 5.4.1 if the dwelling was actually and lawfully occupied by the displaced person for not less than ninety days immediately before (a) the initiation of negotiations for acquisition of the dwelling, or (b) in any case in which displacement is not a direct result of acquisition, such other event as is prescribed by Section 5.4.2.a. The payment will consist of the amount necessary to enable the person to lease or rent for a period not to exceed forty-two months, a comparable replacement dwelling, but not to exceed five thousand, two hundred fifty dollars ($5,250).[vi] The amount of the payment will be established as provided in paragraph 1 below.

a. Replacement Housing Payment for Ninety-day Occupants.

(1) Entitlement: A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed five thousand two hundred fifty dollars[vii] for rental assistance, as computed in accordance with subsection (2) of this section, or down payment assistance, as computed in accordance with subsection (3) of this section, if such displaced person:

(a) Has actually and lawfully occupied the displacement dwelling for at least ninety days immediately before the initiation of negotiations; and

(b) Has rented, or purchased, and occupied a DSS replacement dwelling within one year (unless the City extends this period for good cause) after:

i. For a tenant, the date the tenant moves from the displacement dwelling; or

ii. For an owner-occupant, the later of:

(A) The date the owner-occupant receives final payment for the displacing interest, or in the case of condemnation, the date the required amount is deposited with the court; or

(B) The date the owner-occupant moves from the displacement dwelling.

(2) Rental Assistance Payment:

(a) Amount of payment: An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed five thousand, two hundred fifty dollars ($5,250)viii for rental assistance. Such payment will be forty-two times the amount obtained by subtracting the base monthly rent or the fair market rent (in accordance with (b) of this subsection) of the displacement dwelling for a reasonable period before displacement, as determined by the City, from the lesser of:

i. The monthly rent and average monthly cost of utilities for a comparable replacement dwelling; or

ii. The monthly rent and estimated average monthly utilities for the DSS replacement dwelling actually occupied by the displaced person.

(b) Base monthly rental for displacement dwelling. The base monthly rental for the displacement dwelling is the lesser of:

i. The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period before displacement, as determined by the City. (For an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances); or

ii. Thirty percent of the person's average gross household income. (If the person refuses to provide appropriate evidence of income or is a dependent, the base monthly rental will be established solely on the criteria in (b)(i) of this subsection. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise.)

iii. The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

(c) Manner of Disbursement: A rental assistance payment may, at the City's discretion, be disbursed in either a lump sum or in installments. However, except as limited by Section 5.4.3.g., the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

(3) Down Payment Assistance Payment: