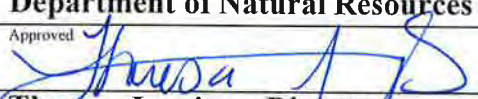


**King County
Department Policies and Procedures**

**General Department
Policies & Procedures**

Title		Document Code No.
King County Wastewater Treatment Division Real Property Acquisition and Relocation Policy, Procedures and Guidelines		RPM 7-1-2 DP
Department/Issuing Agency		Effective Date
Department of Natural Resources and Parks, Wastewater Treatment Division		5-5-09
Approved  Theresa Jennings, Director		

Real Property Acquisition Policy, Procedures and Guidelines are hereby amended to conform to amendments to 49 CFR Part 24 and Chapter 468-100 WAC.

Section 9.0 of the Department of Natural Resources and Parks, Wastewater Treatment Division. Acquisition and Relocation Policies and Procedures was amended April 29, 2004, to conform to amendments to Chapter 8.26.035 (1)(d) RCW and WAC 468-100-306 raising the maximum re-establishment limit to \$50,000.00.

Originally adopted May 1, 2003

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1.0 KING COUNTY WASTEWATER TREATMENT DIVISION REAL PROPERTY ACQUISITION AND RELOCATION POLICY, PROCEDURES, AND GUIDELINES

1.1. EFFECTIVE DATE

Originally adopted May 1, 2003; amended April 29, 2004; and has hereby amended.

1.2. TYPE OF ACTION

Update King County Wastewater Treatment Division Real Property Acquisition and Relocation Policy, Procedures, and Guidelines to comply with State and Federal Law.

2.0 PURPOSE

These Procedures are to be carried out such that King County's program of acquisition of real property for, and relocation of persons displaced by a project or program of the King County Wastewater Treatment Division ("WTD") complies with applicable federal and state law.

3.0 ORGANIZATION AFFECTED

King County Wastewater Treatment Division

4.0 REFERENCES

4.1. CHAPTER 8.26 RCW

4.2. CHAPTER 468-100 WAC

4.3. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED (42 U.S.C. 4601 ET SEQ.)

4.4. 49 CFR PART 24

5.0 DEFINITIONS

The defined terms shall have the meanings established by state law or by federal law if King County WTD determines that federal law shall apply to a particular project or program. State and federal definitions are attached as Appendix A and Appendix B, respectively.

6.0 POLICY AND AUTHORITY

6.1. POLICY

King County WTD must acquire real property for many of its projects and programs. This may result in the dislocation of property owners, businesses, tenants, and individuals who occupy such real property. It is the intent of King County WTD 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 King County WTD projects and programs, to seek cooperative settlements of property acquisitions and relocation claims whenever reasonably possible, and to avoid protracted disputes and litigation where possible. However, all properties acquired by WTD, whether acquired cooperatively or through eminent domain litigation, will be acquired “under threat of condemnation” unless specifically designated otherwise.

6.2. ACCOUNTABILITY AND DELEGATION

The King County Executive is responsible for the policy direction of King County WTD’s Program. In the interest of administrative efficiency, the Executive has delegated certain authority regarding real property and leasehold transactions and improvements to the Department of Natural Resources Director (DNRP Director). The DNRP Director has authorized the WTD Director to adopt such administrative rules, procedures or guidelines as the WTD Director may determine to be necessary to implement these Procedures and to modify these Procedures as may be necessary to comply with changes in applicable law or regulation or Executive-adopted policies. By adopting these Procedures, the County has established the acceptable terms and conditions for the property acquisitions and relocation by King County WTD. King County will determine when real property must be acquired by the use of condemnation.

7.0 GENERAL

7.1. STATE AND FEDERAL LAW CERTIFICATION

King County certifies that it will comply with Chapter 8.26 RCW and Chapter 468-100 WAC, in connection with the acquisition of real property for, and relocation of, persons displaced by the implementation of its projects and programs. For federally-assisted projects and programs, or for those projects or programs that may receive federal assistance in the future, King County WTD shall also comply with USCA Title 42 and 49 CFR Part 24.

7.2. APPLICABILITY

These Procedures apply to real property acquired by King County WTD for the purposes of implementing projects and programs. In addition to fee simple title, these procedures apply to the acquisition of the following property interests:

- (a) Fee simple title subject to a life estate or a life use;
- (b) Leasehold interest when the lease term, including option(s) for extension, is 50 years or more;
- (c) Permanent easement; and
- (d) Other partial interests in which the judgment of King County WTD should be covered.

7.3. EXCEPTIONS

These Procedures do not apply to the following:

- 7.3.1. The property is to be acquired through a voluntary transaction (not under threat of condemnation) when all of the following conditions also exist:
 - (a) No specific site or property needs to be acquired, although King County WTD may limit its search for alternative sites to a general geographic area;
 - (b) The property to be acquired is not part of an intended, planned, or designated project area where all, or substantially all, of the property within the area is eventually to be acquired;
 - (c) King County WTD will not acquire the property in the event negotiations fail to result in an amicable agreement; and
 - (d) The owner is so informed in writing.

If King County elects to purchase more than one site within a geographic area under this exception for certain voluntary transactions, all owners shall be treated similarly. Owners of such properties are not displaced persons. However, tenants of these properties may be displaced persons.

- 7.3.2. The property is to be acquired from a federal, state, or local public agency and King County does not have the authority to acquire the property through condemnation.

7.4. NO DUPLICATION OF PAYMENTS

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.

7.5. MANNER OF NOTICES

Each notice required by these procedures to be provided to a property owner or occupant shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in the WTD files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

7.6. RECORD KEEPING AND CONFIDENTIALITY

King County WTD will maintain records of acquisition and displacement activities in sufficient detail to demonstrate compliance with these procedures and applicable law. These records must be maintained for at least three 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.

7.7. CONTRACTS FOR SERVICES

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

8.0 REAL PROPERTY ACQUISITION

To the greatest extent practicable, King County WTD will make reasonable efforts to acquire real property expeditiously and by negotiation based on appraised fair market value. As soon as feasible, King County will notify owners of King County WTD's interest in acquiring the real property and the basic protections provided to the owner as set forth herein. Real property will be appraised before the initiation of negotiations in accordance with these Procedures. For King County WTD projects and programs subject to federal law and regulations, the owner or his designated representative will be given an opportunity to accompany at least one King County appraiser during his inspection of the property, except in cases where an appraisal is waived as set forth below.

8.1. APPRAISALS

Before initiating negotiations to acquire real property, King County will obtain an independent third-party appraisal of the property, and King County will conduct an appraisal review of the property by a qualified review appraiser.

8.1.1. An appraisal is not required in either of the following circumstances:

- (a) The owner is donating the property, the property owner is advised in writing of his or her right to an appraisal, and the property owner releases King County from its obligation to appraise the property; or
- (b) King County WTD determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at ten thousand dollars (\$10,000) or less, based on a review of available data. When an appraisal is determined to be unnecessary, King County WTD shall prepare a waiver valuation. The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation.

8.1.2. Standards

King County WTD has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

King County WTD will use 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. All appraisals shall meet the Uniform Standards of Professional Appraisal Practice (USPAP) and standards defined in Appendix 4-1 of the Washington State Department of Transportation (WSDOT) Right-of-Way Manual. 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:

- (a) 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.
- (b) 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), including items identified as personal 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.
- (c) All relevant and reliable approaches to 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 value used that are sufficient to support the appraiser's opinion of value.
- (d) 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.
- (e) A statement of the 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.
- (f) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

8.1.3. Real Property vs. Personal Property

The appraisal report must achieve a responsible allocation of what is real property and what is personal property to assure the proper handling of such items by acquisition and/or relocation. An on-site meeting of the appraiser and relocation staff is essential to accomplish this process. The results of this meeting are to be included in the appraisal report and serves as a guide in this area for the acquisition and relocation processes.

8.1.4. Influence of the implementation of the Project on just compensation

To the extent permitted by applicable law, the appraiser in his or her “before” valuation will disregard any decrease or increase in the fair market value of the real property caused by the implementation of the WTD project or program, or by the likelihood that the property would be acquired for the WTD project or program, other than that due to the physical deterioration within the reasonable control of the owner.

8.1.5. 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. At the time of payment, however, the salvage value of the improvement to be removed by the owner will be deducted from the payment for the property.

8.1.6. Qualifications of appraisers and review appraisers

Appraisers will be licensed to perform appraisals in the State of Washington. King County WTD will review the experience, education, training, and other qualifications of appraisers, including review appraisers, and will use only those appraisers who it determines to be qualified as consistent with the scope of work for the assignment.

8.1.7. Conflict of interest

No waiver valuation preparers, appraisers, or review appraisers may have any interest, direct or indirect, in the real property being appraised for King County WTD that would in any way conflict with the preparation or review of the waiver valuation or appraisal. Compensation for making an appraisal will not be based on the amount of the valuation.

King County WTD hereby finds that the requirements of 49 CFR 24.102(n)(2) regarding the separation of supervisory authority between appraisal and acquisition functions would create an undue hardship on King County WTD Regulatory Compliance and Land Acquisition Section and programmatically waives this requirement for the major capital projects program and the asset management program. However, no person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, appraisal review, or waiver valuation. All settlements with property owners not based on appraised value shall be justified by administrative settlement.

No appraiser may act as a negotiator for real property that he or she has appraised except that King County WTD may permit the same person to appraise and negotiate an acquisition if the fair market value is \$10,000 or less.

8.2. APPRAISAL REVIEW

8.2.1. Level of Review

King County WTD will have a qualified reviewing appraiser review the appraisal to ensure it meets applicable appraisal definitions and requirements and will, before acceptance, seek necessary corrections or revisions. The level of review analysis will 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 value. The review appraiser may recommend approval of the appraisal as King County's approved appraisal of value, accept the appraisal as complying with all requirements, or find an appraisal "not acceptable" only after having been unsuccessful in working with the appraiser to obtain an acceptable appraisal.

8.2.2. Determination of Value by Review Appraiser

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 by King County WTD that it is not practical to obtain an additional appraisal, the reviewing appraiser may develop appraisal documentation in accordance with Section 8.1.2 to support an approved or recommended fair market value. King County WTD will determine whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report on the property.

8.2.3. Review Appraiser's Certification

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. King County may accept a simple approval endorsement by the review appraiser in the case of a low value property requiring an uncomplicated valuation process.

8.3. MAKING AN OFFER TO ACQUIRE PROPERTY AND NEGOTIATING FOR PURCHASE

8.3.1. Establishing Just Compensation

Before initiating negotiations to acquire property, King County WTD will establish an amount that it believes to be just compensation for the property. The amount will not be less than the fair market value of the property as determined by the King County waiver valuation, appraisal, or review appraisal as applicable. King County will then make a prompt offer to acquire the property for the full amount of just compensation it has established.

8.3.2. Information to owner

At the time negotiations are initiated, King County WTD will provide the owner of the property with a written statement of, and summary of the basis for, the amount King County WTD 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, King County WTD'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 for which the offer of just compensation is made. Where appropriate and known, the statement shall identify any separately-held ownership interest in the property (e.g. a tenant-owned improvement) and indicate that such interest is not covered by the offer.

8.3.3. Basic negotiation procedures

King County WTD 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 8.7. The owner will be given reasonable opportunity to consider the offer and present information 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. King County WTD will consider the owner's information.

8.3.4. 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, King County WTD 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, King County WTD will promptly reestablish just compensation and offer that amount to the owner in writing.

8.4. ACQUISITION OF TENANT-OWNED IMPROVEMENTS

8.4.1. Acquisition of improvements

When acquiring any interest in real property, King County WTD will offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which King County WTD requires to be removed or that it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

8.4.2. 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 section.

8.4.3. 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.

8.4.4. Special conditions

No payment will be made to a tenant-owner to acquire any real property improvement or to 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 improvement or fixture; and

- (b) The tenant-owner, in consideration for the acquisition payment, assigns, transfers, and releases to King County WTD all of the tenant-owner's right, title, and interest in the improvement; and
- (c) The payment does not result in the duplication of any compensation otherwise authorized by law.

8.4.5. 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.

8.5. ACQUISITION OF UNECONOMIC REMNANTS; DONATIONS

8.5.1. Uneconomic Remnant

If the acquisition of only a portion of a parcel of property would leave the owner with an uneconomic remnant, King County WTD will offer to acquire the entire property.

8.5.2. 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 have the property appraised and to receive just compensation for the property. King County WTD will be responsible for assuring that an appraisal of the real property is obtained unless the owner releases King County WTD from such obligation or as provided in Section 8.1.1(a). An appraisal is not required if the agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated at \$10,000 or less, based on a review of available data (WAC 468-100-106) and a waiver valuation is performed.

8.6. INITIATION OF CONDEMNATION PROCEEDINGS

8.6.1. When initiated

King County WTD will not advance the time of condemnation, or defer negotiations or condemnation, or the deposit of the funds with the court, or take any other coercive action to induce an agreement on the price to be paid for the property. However, in order for King County WTD to comply with the schedule for implementation of a project or program, it may become necessary to initiate condemnation as soon as practicable. Negotiations may continue with affected parties after the

initiation of condemnation proceedings at the discretion of King County WTD.

8.6.2. Deposit of purchase price

Consistent with the procedures in Chapter 8.26 RCW, no property owner will be required to surrender possession of real property before the agreed purchase price is paid or deposited with a court having jurisdiction over the condemnation of the property for the benefit of the owner. The amount paid or deposited will not be less than King County WTD's appraisal of the fair market value of such property or the amount of the award of compensation in the condemnation proceeding for the property.

8.7. EXPENSES INCIDENTAL TO TRANSFER OF TITLE

As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, King County WTD will reimburse the owner to the extent King County WTD deems fair and reasonable, for expenses the owner necessarily incurred to transfer right, title, or interest to King County WTD as provided in RCW 8.26.200. Whenever feasible, King County WTD will pay such costs directly so that the owner will not have to pay the costs and then seek reimbursement. These costs may include the following:

- (a) Recording fees, excise taxes, where applicable, evidence of title, boundary surveys, legal descriptions of real property, and similar expenses incidental to conveyance of the real property to King County WTD. However, King County WTD is not required to pay costs incurred solely to perfect the owner's title to the real property;
- (b) Penalty costs and other charges for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering the property;
- (c) The prorated portion of any prepaid real property taxes that are allocable to the period after King County WTD obtains title to the property or the effective date of King County WTD's possession of it, whichever is earlier.

9.0 RELOCATION PLANNING AND ASSISTANCE

9.1. RELOCATION PLANNING

The Project will be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farms, and non-profit

organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate, will precede any King County WTD 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.

9.1.1 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, farms, 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 King County WTD and other cooperating agencies.

King County WTD will offer to provide relocation assistance advisory services to persons, business farm operation, or nonprofit organization displaced as a result of a WTD project or program and may choose to offer such services to any person occupying property immediately adjacent to the property where the displacing activity occurs, if King County WTD determines that the displacing activity is causing substantial economic injury to the adjacent property.

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.

9.2. RELOCATION ADVISORY SERVICES

King County WTD's relocation assistance advisory services will include, but are not limited to, such measures, facilities, or services as may be necessary or appropriate.

9.2.1 Nonresidential

For nonresidential (business, farm, and nonprofit organizations) displacements, determine the relocation needs and preferences of each displaced business. Provide current and continuing information on the availability, purchase prices, and rental costs of comparable and suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

At a minimum, interviews with displaced business owners and operators should be conducted and include the following items:

- (a) The business' replacement site requirements, current lease terms and other contractual obligations, and the financial capacity of the business to accomplish the move.
- (b) Determination of the need for outside specialists in accordance with Section 9.8.2(l) that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.
- (c) For businesses, an identification and resolution of personal/real property issues. Every effort must be made to identify and resolve personal/real property issues prior to, or at the time of, the appraisal of the property.
- (d) An estimate of the time required for the business to vacate the site.
- (e) An estimate of the anticipated difficulty in locating a replacement property.
- (f) An identification of any advance relocation payments required for the move and the agency's legal capacity to provide them.

9.2.2 Residential

For residential displacements, 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. For residential displacements, the following shall apply:

- (a) 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 9.5.
- (b) As soon as feasible, King County WTD 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 Section 11) and the basis for the determination so that the person is aware of the maximum replacement housing payment for which the person may qualify.
- (c) 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).
- (d) 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 King County WTD to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.
- (e) King County WTD shall offer all persons transportation to inspect housing to which they are referred.
- (f) Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement dwelling [see 49 CFR 24.2(a)(6)(ix)], as well as of the long-term nature of such rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.

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

9.2.4 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 and technical help to persons applying for such assistance.

9.2.5 Any person who occupies property acquired by King County WTD, 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 for a program or project, will be eligible for advisory services as determined by King County WTD.

9.3. ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES

9.3.1 Certification

For acquisitions and relocations on projects or programs for which federal law applies, each person seeking relocation payments or relocation advisory assistance must, as a condition of eligibility, certify:

- (a) In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.
- (b) In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the head of the household on behalf of other family members.
- (c) In the case of an unincorporated business, farm, or nonprofit organization, that each owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.
- (d) In the case of an incorporated business, farm, or non-profit organization, that the corporation is authorized to conduct business within the United States.

9.3.2 Content of Certification

The certification provided pursuant to Subsection 9.3.1 must indicate whether such person is either a citizen or national of the United States, or an alien who is lawfully present in the United States.

9.3.3 Computation of eligibility

In computing relocation payments under these procedures, if any member(s) of a household or owner(s) of an unincorporated business, farm, or nonprofit organization is (are) determined to be ineligible

because of a failure to be legally present in the United States, no relocation payments will be made to him or her. Any payment(s) for which such household, unincorporated business, farm, or nonprofit organization would otherwise be eligible will be computed for the household, based on the number of eligible household members and for the unincorporated business, farm, or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

9.3.4 Presumption of validity

King County WTD will consider the certification provided pursuant to Subsection 9.3.1 to be valid unless King County WTD determines in accordance with Subsection 9.3.6 that it is invalid based on a review of an alien's documentation or other information that King County WTD considers reliable and appropriate.

9.3.5 Standard of Review

King County WTD will review the certifications provided pursuant to Subsection 9.3.1 in a nondiscriminatory fashion and will apply the same standard of review to all such certifications it receives, except that such standard may be revised periodically.

9.3.6 Evidence of Invalidity

If, based on a review of an alien's documentation or other credible evidence, King County WTD has reason to believe that a person's certification is invalid (for example, a document reviewed does not on its face reasonably appear to be genuine), and that, as a result, such person may be an alien not lawfully present in the United States, King County WTD will follow the federal procedures before making a final determination.

9.3.7 Exception to ineligibility

No relocation payments or relocation advisory assistance will be provided to a person who has not provided the certification described in this section or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to King County WTD's satisfaction that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States. For purposes of this section, "exceptional and extremely unusual hardship" to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of the relocation payments and advisory assistance to such person will directly result in:

- (a) A significant and demonstrable adverse impact on the health or safety of such spouse, parent or child;
- (b) A significant and demonstrable adverse impact on the continuing existence of the family unit of which such spouse, parent, or child is a member; or
- (c) Any other impact that King County WTD determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

9.3.8 Certification part of Claim

The certification referred to in Subsection 9.3.1 of this section may be included as part of the claim for relocation payments.

9.4. RELOCATION NOTICE AND INFORMATION

9.4.1 General Relocation Information Notice

As soon as feasible, King County WTD will provide a person scheduled to be displaced with a brochure containing a general written description of King County WTD's relocation Program.

9.4.2 Notice of relocation eligibility

Eligibility for relocation assistance will begin on the earlier of the delivery of the initial offer of just compensation or notice of intent to acquire the real property. When this occurs, King County WTD will promptly provide written notice to all occupants to be displaced of their eligibility for applicable relocation assistance. An occupant may subsequently be provided a notice of non-eligibility if King County WTD determines the person will not be displaced. Such notice may be issued only if the person has not moved and King County WTD 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.

9.4.3 Ninety (90) day notice

- (a) General. No lawful occupant will be required to move unless the occupant has received at least ninety (90) days advance written notice of the earliest date by which he or she may be required to move.
- (b) Timing of notice. King County WTD may issue the notice ninety (90) days before it expects the person to be displaced or earlier.

- (c) Content of notice. The ninety (90) 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 (30) days in advance, the specific date by which the occupant must move. If the ninety (90) 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 (90) days after such a dwelling is made available.
- (d) Urgent need. In unusual circumstances, an occupant may be required to vacate the property on less than ninety (90) days advance written notice if King County WTD determines that a ninety (90) 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 King County WTD's determination will be included in the applicable case file.

9.5. AVAILABILITY OF COMPARABLE REPLACEMENT DWELLING BEFORE DISPLACEMENT

9.5.1 Policy

Three or more comparable replacement dwellings will be made available unless such dwellings are not available on the local housing market. 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. When otherwise feasible, in accordance with Section 9.2.2(d) and Section 11.4, 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:

- (a) The person is informed of its location; and
- (b) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property. In order to meet the deadlines of the project, King County WTD may, at the request of the displaced person, provide assistance in these negotiations; and
- (c) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payments to which the person is entitled in sufficient time to complete the purchase or lease of the property.

9.5.2 Circumstances permitting waiver

The Right-of-Way Supervisor or applicable federal funding agency may grant a waiver of the policy in Subsection 9.5.1 in any case where it is demonstrated that a person must move because of:

- (a) A major disaster as defined in Section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or
- (b) A presidentially declared national emergency; or
- (c) 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.

9.5.3 Basic conditions of emergency move

Whenever a person is required to relocate for a temporary period because of an emergency as described in Subsection 9.5.2, King County WTD will:

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

9.6. EVICTON FOR CAUSE

9.6.1 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 is presumed to retain 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 these Procedures unless King County WTD 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.

9.6.2 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 these Procedures.

9.6.3 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 King County WTD had otherwise intended to displace the person.

9.7. PAYMENT FOR MOVING AND RELATED EXPENSES

If King County WTD determines that the implementation of a project or program will result in the displacement of a person who is dwelling on, or conducting business on, the real property to be acquired, King County WTD will reimburse or make a fixed payment in lieu of reimbursement to the displaced person for certain costs and expenses required to move the individual, business, farm operation, or other personal property, in accordance with the following Procedures.

9.7.1 A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under this Section to relocate the mobile home. If the mobile home is not acquired as real estate, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described in Subsection 13.2, the home-owner occupant is not eligible for payment for moving the mobile home but may be eligible for a payment for moving personal property from the mobile home.

9.7.2 Moves from a dwelling or mobile home

A displaced person's actual, reasonable, and necessary moving expenses for moving personal property from a dwelling or mobile home may be determined based on the cost of one, or a combination of, the following methods:

- (a) Commercial move - moves performed by a professional mover.
- (b) Self-move - moves that may be performed by the displaced person in one or a combination of the following methods:
 - (i) Fixed Residential Moving Cost Schedule approved by the Federal Highway Administration and published in the Federal Register on a periodic basis.

- (ii) Actual cost move supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

Eligible expenses for moves from a dwelling include the expenses described in 9.8.2(a) through (g), and include (h) through (j) for mobile homes. Self-moves based on the lower of two bids or estimates are not eligible for reimbursement for residential tenants.

9.7.3 Moves from a business, farm, or nonprofit organization

Personal property as determined by an inventory from a business, farm, or nonprofit organization may be moved by one or a combination of the following methods:

- (a) Commercial move - based on the lower of two bids or estimates prepared by a commercial mover. At the agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.
- (b) Self-move. A self-move payment may be based on one or a combination of the following:
 - (i) The lower of two bids or estimates prepared by a commercial mover or qualified King County staff person. At King County WTD's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.
 - (ii) Actual cost move supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.

9.7.4 Moves of personal property only

Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm, or nonprofit organization include those expenses described in 8.1.1(a) through (g) and (r).

9.7.5 Advertising Signs

The amount of payment for direct loss of an advertising sign, which is personal property, as determined by King County WTD, shall be the lesser of:

- (a) The depreciated reproduction cost of the sign, as determined by King County, less the proceeds from its sale; or
- (b) The estimated cost of moving the sign but with no allowance for storage.

9.8. MOVING EXPENSE PAYMENTS

9.8.1 King County WTD will reimburse any owner-occupant or tenant who qualifies as a “displaced person” and who moves from a dwelling (including a mobile home) or moves from a business, farm, or nonprofit organization is entitled to payment of his or her actual moving and related expenses that King County WTD determines to be reasonable and necessary, including the following:

9.8.2 Eligible expenses. (See Section 9.9 for a list of ineligible expenses)

- (a) Transportation of the displaced person and personal property. Transportation costs for a distance beyond fifty (50) miles are not eligible, unless King County WTD agrees, in its sole discretion, that relocation beyond fifty miles is justified.
- (b) Packing, crating, unpacking, and uncrating of the personal property.
- (c) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other property. For businesses, farms, or nonprofit organizations this includes machinery, equipment, substitute personal property, and connections to utilities available within the building. It also includes modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, 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.
- (d) Storage of the personal property for a period approved by King County WTD, not to exceed twelve months, unless King County WTD determines, in its sole discretion, that a longer period is necessary.

- (e) Insurance for the replacement value of the personal property in connection with the move and necessary storage.
- (f) 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.
- (g) Other moving-related expenses that are not listed as ineligible under Section 9.9, as King County WTD determines to be reasonable and necessary.
- (h) The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hookup" charges.
- (i) The reasonable cost of repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.
- (j) The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or King County determines that payment of the fee is necessary to effect relocation.
- (k) 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.¹
- (l) Professional services necessary for the tasks listed below
 - (i) Planning the move of the personal property
 - (ii) Moving the personal property
 - (iii) Installing the relocated personal property at the replacement location
- (m) Re-lettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

¹ This applies only to actual, reasonable, and necessary costs for licenses, permits, or certifications that are required to operate the particular business being relocated. General occupancy licenses, occupancy permits, building permits, or one-time assessments that any business would have to pay for occupancy of the property are not covered as moving expenses (but may be covered, in whole or in part, under re-establishment expenses).

- (n) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment will consist of the lesser of:
 - (i) The fair market value in place of the item, as is for continued use, 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 King County WTD determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the market value shall be based on the cost of the goods to the business, not the potential selling price.); or
 - (ii) The estimated cost of moving the item as is but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. If the business or farm operation is discontinued, the estimated cost will be based on a moving distance of fifty miles.
- (o) The reasonable cost incurred in attempting to sell an item that is not to be relocated.
- (p) Purchase of substitute personal property. If an item of personal property that is used as part of a business or farm operation 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:
 - (i) 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
 - (ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At King County WTD's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.
- (q) Searching for a replacement location. A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed twenty-five hundred dollars (\$2,500), as King County WTD determines to be reasonable, which are incurred in searching for a replacement location, including:
 - (i) Transportation;
 - (ii) Meals and lodging away from home;

- (iii) Time spent searching, based on reasonable salary or earnings;
 - (iv) 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;
 - (v) Time spent in obtaining permits and attending zoning hearings; and
 - (vi) Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.
- (r) Low value/high bulk. When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the King County WTD, the allowable moving cost payment shall not exceed the lesser of the amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals, and other similar items of personal property as determined by King County WTD.

9.8.1. Related nonresidential eligible expenses

The following expenses, in addition to those provided above, for moving personal property, shall be provided if King County WTD determines that they are actual, reasonable, and necessary:

- (a) Connection to available nearby utilities from the right-of-way to improvements at the replacement site.
- (b) Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced persons business operation including but not limited to, soil testing, feasibility, and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of King County WTD, a reasonable pre-approved hourly rate may be established.
- (c) Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by King County WTD.

9.8.4 Notification and inspection

King County WTD will inform the displaced person, in writing, of the requirements of subparagraphs (a) and (b) 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 9.4:

- (a) The displaced person must provide King County WTD reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved. King County WTD may waive this notice requirement in its discretion.
- (b) The displaced person must permit King County WTD to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

9.8.5 Transfer of ownership

Upon request, and in accordance with applicable law, the claimant shall transfer to King County WTD ownership of any personal property that has not been moved, sold, or traded in.

9.8.6 Self-moves

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

9.9. INELIGIBLE MOVING AND RELATED EXPENSES

9.9.1 King County WTD 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 11.1.6;
- (b) Interest on a loan to cover moving expenses;
- (c) Loss of goodwill;

- (d) Loss of profits;
- (e) Loss of trained employees;
- (f) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in Section 10.1.1(f);
- (g) Personal injury;
- (h) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before King County WTD;
- (i) Expenses for searching for a replacement dwelling;
- (j) Physical changes to the real property at the replacement location of a business or farm operation, except as provided in 9.8.1 (c) and re-establishment, infra;
- (k) Costs for storage of personal property on real property already owned or leased by the displaced person; and
- (l) Refundable security and utility deposits.

9.10. FIXED PAYMENT IN LIEU OF REIMBURSEMENT FOR ACTUAL MOVING EXPENSES

9.10.1 Residential moves

Any person displaced from a dwelling or a seasonal residence or a dormitory style room is entitled to receive a fixed moving cost payment as an alternative to a payment for actual moving and related expenses under this subsection. This payment shall be determined according to the Fixed Residential Moving Cost Schedule approved by the Federal Highway Administration and published in the Federal Register on a periodic basis. The payment to a person with minimal personal possessions who is in occupancy of a dormitory style room or a person whose residential move is performed by King County WTD at no cost to the person shall be limited to the amount stated in the most recent edition of the Fixed Residential Moving Cost Schedule URL: <http://www.fhwa.dot.gov/////realestate/fixsch96.htm>.

9.10.2 Business moves

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 in Subsection 9.7 and

Section 10. Except for a payment to a nonprofit organization, the fixed payment shall equal the average annual net earnings of the business, as computed in accordance with Subsection 9.10.6, but not less than one thousand dollars (\$1,000) or more than twenty thousand dollars (\$20,000). The displaced business is eligible for the payment if King County WTD determines that:

- (a) 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
- (b) 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 King County WTD demonstrates that it will not suffer a substantial loss of its existing patronage; and
- (c) The business is not part of a commercial enterprise having more than three other entities that are not being acquired by King County WTD and that are under the same ownership and engaged in the same or similar business activities.
- (d) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others; and
- (e) The business is not operated at the displacement site solely for the purpose of renting the site to others; and
- (f) The business contributed materially to the income of the displaced person during the two taxable years before displacement.

9.10.3 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, King County WTD will consider all pertinent factors including the extent to which:

- (a) The same premises and equipment are shared;
- (b) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;
- (c) The entities are held out to the public, and to those customarily dealing with them, as one business; and

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

9.10.4 Farm operation

A displaced farm operation may choose a fixed payment in lieu of a payment for actual moving and related expenses in an amount equal to its average annual net earnings as computed in accordance with Subsection 9.10.6, but not less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$20,000). In the case of a partial acquisition of land that was a farm operation before the acquisition, the fixed payment will be made only if King County WTD determines that:

- (a) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or
- (b) The partial acquisition caused a substantial change in the nature of the farm operation.

9.10.5 Nonprofit organization

A displaced nonprofit organization may choose a fixed payment of one thousand (\$1,000) to twenty thousand (\$20,000) dollars in lieu of a payment for actual moving and related expense, and actual reasonable reestablishment expenses, if King County WTD 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 King County WTD demonstrates otherwise. Any payment in excess of one thousand dollars (\$1,000) must be supported with financial statements for the two 12-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.

9.10.6 Average annual net earnings of a business or farm operation

The average annual net earnings of a business or farm 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. If the business or farm was not in operation for the full two taxable years before displacement, net earnings shall 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 King County WTD determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person will furnish King County WTD proof of net earnings

through income tax returns, certified financial statements, or other reasonable evidence that King County WTD determines is satisfactory.

10.0 RE-ESTABLISHMENT EXPENSES

King County WTD may reimburse a qualifying displaced business, farm, or nonprofit organization for re-establishment expenses up to a maximum of fifty thousand dollars (\$50,000). Such reimbursement would be for expenses actually incurred in relocating and reestablishing the small business, farm or non-profit organization at a replacement site. This re-establishment reimbursement shall be in addition to any reimbursement for moving and related expenses provided for in Section 9.7 - 9.8 above.

10.1. ELIGIBLE EXPENSES

10.1.1 Reestablishment expenses must be reasonable and necessary, as determined by King County WTD. 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) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
- (e) Advertisement of replacement location
- (f) Estimated increased costs of operation during the first two years at the replacement site for such items as:
 - (i) Lease or rental charges
 - (ii) Personal or real property taxes
 - (iii) Insurance premiums
 - (iv) Utility charges, excluding impact fees
- (g) Other items that King County WTD considers essential to the reestablishment of the business.

10.2. INELIGIBLE REESTABLISHMENT EXPENSES

10.2.1 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.
- (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 as defined in the Appendices A and B.

11.0 PAYMENTS FOR REPLACEMENT HOUSING

11.1. HOMEOWNER-OCCUPANTS FOR AT LEAST 180 DAYS

In addition to payments otherwise authorized by these Procedures, King County WTD 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 (DSS) replacement dwelling within one year after the date when the person receives final payment from King County WTD for the acquired dwelling or the date when King County WTD's obligations under RCW 8.26.075 are met, whichever date is later, unless King County WTD 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.

11.1.1 Entitlement

A displaced person is entitled to the replacement housing payment for a one hundred eighty-(180) day, homeowner-occupant if the person:

- (a) Has actually owned and occupied the displacement dwelling for not less than the one hundred eighty (180) 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 King County WTD 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; or
 - (ii) The date the person moves from the displacement dwelling; or
 - (iii) The date King County WTD's obligations to make available DDS housing is met under Section 9.5

11.1.2 Amount of payment

The replacement housing payment for an eligible one hundred eighty-(180) day homeowner-occupant may not exceed twenty-two thousand, five hundred dollars (\$22,500). 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 Subsection 11.1.3; 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 Costs), as determined in accordance with Subsection 11.1.8; and
- (c) The necessary and reasonable expenses incidental to the purchase of the replacement dwelling (Incidental Purchase Expenses), as determined in accordance with Subsection 11.1.9.

11.1.3 Price Differential

The Price Differential to be paid under Subsection 11.1.2 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:

- (a) The reasonable cost of a comparable replacement dwelling as determined in accordance with Section 9.5; or

- (b) The purchase price of the DSS replacement dwelling actually purchased and occupied by the displaced person.

11.1.4 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.

11.1.5 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.

11.1.6 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:

- (a) The cost of moving and restoring the dwelling to retain the functional utility it had when situated on the displacement site; and
- (b) The cost of making the unit a DSS replacement; and
- (c) The current fair market value for residential use of the replacement site (based on any reasonable evaluation method determined by King County WTD), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and
- (d) The retention/salvage value of the displacement dwelling, as determined from the acquisition of the displacement dwelling.

11.1.7 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:

- (a) The cost necessary to construct a dwelling that is comparable to the displacement dwelling; and
- (b) The current value for residential use of the replacement site (based on any reasonable evaluation method determined by King County WTD), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site.

11.1.8 Increased Mortgage Interest Costs

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 (180) days before the initiation of negotiations. This payment will be contingent upon a mortgage being placed on the replacement dwelling, and is computed based upon the following:

- (a) 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 buy-down determination the payment will be prorated and reduced accordingly.
- (b) In the case of a home equity loan the unpaid balance will be that balance that existed one hundred eighty (180) 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) King County WTD 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.

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.

11.1.9 Incidental Purchase Expenses

The Incidental Purchase Expenses to be paid for a one hundred eighty-(180) day homeowner-occupant or for down payment assistance under Subsection 11.1.2(c) or 11.2.1 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 11.3, 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) Professional home inspection, certification of structural soundness, and termite inspection.
- (f) Credit report.
- (g) Owner's and mortgagee's evidence of title, e.g., title insurance.
- (h) Escrow agent's fee.

- (i) State revenue or documentary stamps, sales or transfer taxes.
- (j) Such other costs that King County WTD determines to be incidental to the purchase.

11.1.10 Rental assistance payment

A one hundred eighty-(180) day homeowner-occupant who is eligible for a replacement housing payment but elects to rent a replacement dwelling is eligible for a rental assistance payment. The amount of the rental assistance payment is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference, if any, is computed in accordance with Section 11.2, except that the limit of \$5,250 does not apply, and disbursed in accordance with Subsection 11.2.4. Under no circumstances would the rental assistance payment exceed the amount that could have been received under Subsection 11.1.2 had the 180-day homeowner elected to purchase and occupy a comparable replacement dwelling.

11.2. TENANTS AND OWNER-OCCUPANTS FOR 90 DAYS

In addition to payments otherwise authorized by these Procedures, King County WTD will make an additional payment to persons displaced from a dwelling who are not eligible to receive a payment under Section 11.1 if the dwelling was actually and lawfully occupied by the displaced person for not less than ninety (90) days immediately before the initiation of negotiations for acquisition of the dwelling. The amount of the payment will be established as provided below, and, in the case of ninety (90) day mobile home occupants, as supplemented by Section 13.

11.2.1 Replacement housing Payment for 90-day occupants

Eligibility - A tenant or owner-occupant displaced from a dwelling is entitled to a Rental Assistance Payment not to exceed five thousand two hundred fifty dollars (\$5,250), as computed in accordance with Subsection 11.2.2, or Down Payment Assistance, as computed in accordance with Subsection 11.2.5, if such displaced person:

- (a) Has actually and lawfully occupied the displacement dwelling for at least ninety (90) days immediately before the initiation of negotiations; and
- (b) Has rented, or purchased, and occupied a DSS replacement dwelling within one year (unless King County WTD 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 he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the required amount is deposited with the court; or
 - (B) The date he or she moves from the displacement dwelling.

11.2.2 Rental Assistance 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) for rental assistance. Such payment shall be forty-two (42) times the amount obtained by subtracting the Base Monthly Rent of the displacement dwelling from the lesser of:

- (a) The monthly rent and average monthly cost of utilities for a comparable replacement dwelling; or
- (b) The monthly rent and estimated average monthly cost of utilities for the DSS replacement dwelling actually occupied by the displaced person.

11.2.3 Base Monthly Rent Defined.

For purposes hereof, Base Monthly Rent for the displacement dwelling is the lesser of:

- (a) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period before displacement, as determined by King County WTD. (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
- (b) Thirty percent (30%) of the person's average gross household income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs \4\.. See <http://www.fhwa.dot.gov/realstate/ua/ualic.htm>. The base monthly rental shall be established solely on the criteria in paragraph (a) of this section for persons with income exceeding the survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are

dependents. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or

- (c) The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

11.2.4 Manner of disbursement

A rental assistance payment may, at King County WTD's discretion, be disbursed in either a lump sum or in installments. However, except as limited by Section 11.3.6, 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.

11.2.5 Down Payment Assistance Payment

An eligible displaced person who purchases a replacement dwelling is entitled to a Down Payment Assistance Payment in the amount the person would receive under Subsection 11.2.2 if the person rented a comparable replacement dwelling. At the discretion of King County WTD, a down payment assistance payment may be increased to any amount not to exceed five thousand, two hundred fifty dollars (\$5,250). However, the payment to a displaced homeowner will not exceed the amount the owner would receive under Section 11.1 if he or she met the one hundred eighty (180) day occupancy requirement. King County WTD's discretion to provide the maximum payment will be exercised in a uniform and consistent manner, so those eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a one hundred eighty (180) day owner-occupant under Section 11.1 is not eligible for this payment. The full amount of the replacement housing payment for down payment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

11.3. ADDITIONAL RULES GOVERNING REPLACEMENT HOUSING PAYMENTS

11.3.1 Determining the cost of comparable replacement dwelling

The upper limit of a replacement housing payment will be based on the cost of a comparable replacement dwelling, determined as follows:

- (a) Three-comparable method. If available, at least three comparable replacement dwellings will be examined and the payment

computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.

- (b) Major exterior attribute. If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute will be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.
- (c) Remainder offer. If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, King County WTD may offer to purchase the entire property. If the owner refuses to sell the remainder to King County WTD, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.
- (d) Location. To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.
- (e) 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 Agency, of any relocations payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if King County WTD determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.
- (f) King County WTD shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. King County WTD shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.
- (g) 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 lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered the acquisition cost when computing the replacement housing payment.

11.3.2 Inspection of replacement dwelling

Before making a replacement housing payment or releasing a payment from escrow, King County WTD or its designated representative will inspect the replacement dwelling and determine whether it is a DSS dwelling.

11.3.3 Purchase of replacement dwelling

A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

- (a) Purchases a dwelling; or
- (b) Purchases and rehabilitates a substandard dwelling; or
- (c) Relocates a dwelling that the person owns or purchases; or
- (d) Constructs a dwelling on a site the person owns or purchases; or
- (e) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or
- (f) Currently owns a previously purchased dwelling and site, valuation of which will be on the basis of current value.

11.3.4 Occupancy requirements for displacement or replacement dwelling

No person will be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in this section for a reason beyond the person's control, including:

- (a) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the applicable federal funding agency; or
- (b) Another reason, such as a delay in the construction of the replacement dwelling, military duty, or hospital stay, as determined by King County WTD.

11.3.5 Conversion of payment

A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under Section 11.2.2, is eligible to receive a payment under Section 11.1 or Section 11.2.5, if the person meets the eligibility criteria for such payments, including purchase and

occupancy within the prescribed one-year period. Any portion of the rental assistance payment that has been disbursed will be deducted from the payment computed under Section 11.1 or Section 11.2.5.

11.3.6 Payment after death

A replacement housing payment is personal to the displaced person and upon the person's death the undisbursed portion of any such payment will not be paid to the heirs or assigns, except that:

- (a) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.
- (b) In any case in which a member of a displaced family dies, any remaining payment shall be disbursed to the remaining family members of the displaced household.
- (c) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person will be disbursed to the estate.

11.4. APPLICABILITY OF LAST RESORT HOUSING

Whenever a twenty-two thousand, five hundred dollar (\$22,500) replacement housing payment under Section 11.1. or a five thousand, two hundred fifty dollar (\$5,250) replacement housing payment under Section 11.2 would be insufficient to ensure that a comparable replacement dwelling is available on a timely basis to a person, King County WTD may provide additional or alternative assistance under the last resort housing provisions in Section 12.

12.0 LAST RESORT HOUSING

12.1. APPLICABILITY

12.1.1 Basic determination to provide last resort housing

A person will not be required to move from the person's dwelling unless King County WTD has made available to the person at least one comparable replacement dwelling. Whenever King County WTD determines that a replacement housing payment under Sections 11.1 through 11.3 would not be sufficient to provide a comparable replacement dwelling on a timely basis to the person, King County WTD may take appropriate cost-effective measures under this section to provide such a dwelling. King County WTD's obligation to ensure that a comparable replacement dwelling is available will be met when

such a dwelling, or assistance necessary to provide such a dwelling, is offered under the provisions of this Section 12.1.1 and 12.1.2.

12.1.2 Basic rights of persons to be displaced.

- (a) The provisions of this section do not deprive any displaced person of any rights the person may have under chapter 8.26 RCW or any implementing regulations. King County WTD will not require any displaced person to accept a dwelling provided by King County WTD under these Procedures (unless King County WTD and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible. A one hundred eighty (180) day homeowner-occupant who is eligible for a payment under Section 11.1 is entitled to a reasonable opportunity to purchase a comparable replacement dwelling.
- (b) The actual amount of assistance will be 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 the person is initially offered a comparable replacement dwelling, whichever is later.
- (c) King County WTD is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than King County WTD would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, King County WTD may provide additional purchase assistance or rental assistance.

12.2. METHODS OF PROVIDING REPLACEMENT HOUSING

King County WTD has broad latitude in implementing its last resort-housing program, but implementation will be on a reasonable cost-effective basis.

12.2.1 The methods of providing last resort housing include, but are not limited to:

- (a) A replacement housing payment in excess of the limits set forth in 11.1 or 11.2. A replacement housing payment under this section may be provided in installments or in a lump sum at King County WTD's discretion.

- (b) Rehabilitation of and/or additions to an existing replacement dwelling.
- (c) The construction of a new replacement dwelling.
- (d) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest free.
- (e) The relocation and, if necessary, rehabilitation of a dwelling.
- (f) The purchase of land and/or a replacement dwelling by King County WTD and subsequent sale or lease to, or exchange with, a displaced person.
- (g) The removal of barriers to persons with disabilities.

12.2.2 Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing housing of last resort allow the consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling, including upgraded, but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with the definition of Comparable Replacement Dwelling (See also 11.3.1 (b)).

12.2.3 King County WTD shall provide assistance under this Section to displaced person who is not eligible to receive a replacement housing payment under Section 11.1 and 11.2 because of failure to meet length-of occupancy requirements when comparable replacement rental housing is not available at rental rates within the displaced person's financial means. Such assistance shall cover a period of forty-two (42) months.

13.0 ADDITIONAL RULES GOVERNING RELOCATION PAYMENT TO MOBILE HOME OCCUPANTS

13.1. APPLICABILITY

13.1.1 General

This Subsection describes the requirements governing the provision of replacement housing payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements. Except as modified herein, such a displaced person is entitled to a moving expense payment in accordance with Section 9 and

a replacement housing payment in accordance with Section 11 to the same extent and subject to the same requirements as persons displaced from conventional dwellings. Moving cost payments to persons occupying mobile homes are covered in Subsection 9.8.

13.1.2 Partial acquisition of a mobile home park

The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If King County WTD determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the owner and any tenant will be considered a displaced person who is entitled to relocation payments and other assistance under this section.

13.2. ELIGIBILITY

An owner-occupant displaced from a mobile home or site is entitled to a replacement housing payment, not to exceed \$22,500 under Section 11.1 if:

- (a) The person occupied the mobile home on the displacement site for at least 180 days immediately before:
 - (i) The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;
 - (ii) The initiation of negotiations to acquire the mobile home site if the mobile home is personal property, but the person owns the mobile home site; or
 - (iii) The date of King County WTD's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home as described in paragraphs 13.2.(c) (i)-(iv) of this section.
- (b) The person meets the other basic eligibility requirements at 11.1, and
- (c) King County acquired the mobile home as real estate, or acquires the mobile home site from the displaced owner or the mobile home is personal property but the owner is displaced from the mobile home because King County WTD determines that the mobile home:
 - (i) Is not, and cannot economically be made decent, safe, and sanitary;
 - (ii) Cannot be relocated without substantial damage or unreasonable cost;
 - (iii) Cannot be relocated because there is no available comparable replacement site; or

- (iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

13.3. REPLACEMENT HOUSING PAYMENT COMPUTATION FOR A 180-DAY OWNER THAT IS DISPLACED FROM A MOBILE HOME

The replacement housing payment for an eligible displaced 180-day owner is computed as described at 11.1.2 incorporating the following, as applicable:

- (a) If King County WTD acquired the mobile home as real estate and/or acquired the owned site, the acquisition cost used to compute the price differential payment is the actual amount paid to the owner as just compensation for the acquisition of the mobile home, and/or site, if owned by the displaced mobile homeowner.
- (b) If King County WTD does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment based on 13.2(a)(iii) of this section, the eligible price differential payment for the purchase of a comparable replacement mobile home, is the lesser of the displaced mobile homeowner's net cost to purchase a replacement mobile home (i.e., purchase price of the replacement mobile home less trade-in or sale proceeds of the displacement mobile home); or, the cost of King County WTD's selected comparable mobile home less King County's estimate of the salvage or trade-in value for the mobile home from which the person is displaced.
- (c) If a comparable replacement mobile home is not available, the price differential payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

13.4. RENTAL ASSISTANCE PAYMENT FOR A 180-DAY OWNER-OCCUPANT THAT IS DISPLACED FROM A LEASED OR RENTED MOBILE HOME SITE

If the displaced mobile home site is leased or rented, a displaced 180-day owner-occupant is entitled to a rental assistance payment computed as described in Sec 11.2.2. This rental assistance payment may be used to lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the mobile home, to the purchase of a replacement mobile home or conventional decent, safe and sanitary dwelling.

13.5. OWNER-OCCUPANT NOT DISPLACED FROM THE MOBILE HOME

If King County WTD determines that a mobile home is personal property and may be relocated to a comparable replacement site, but the owner- occupant elects not to do so, the owner is not entitled to a replacement housing moving payment for the purchase of a replacement mobile home. However, the owner is eligible for moving costs described in Section 9.8 and any replacement housing payment for the purchase or rental of a comparable site as described in this section or Section 13.6, as applicable.

13.6. REPLACEMENT HOUSING PAYMENT FOR 90-DAY MOBILE HOME OCCUPANTS

A displaced tenant or owner-occupant of a mobile home and/or site is eligible for a replacement housing payment, not to exceed \$5,250, under Subsection 11.2, if:

- (a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;
- (b) The person meets the other basic eligibility requirements in Subsection 11.2.1, and
- (c) King County WTD acquires the mobile home and/or mobile home site, or the mobile home is not acquired by King County WTD but King County WTD determines that the occupant is displaced from the mobile home because of one of the circumstances described at 13.2(c)(i)-(iv).

14.0 CLAIMS FOR RELOCATION PAYMENTS

14.1. 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 King County WTD. King County WTD will provide a displaced person with reasonable assistance necessary to complete and file any required claim for payment.

14.2. EXPEDITIOUS PAYMENTS

King County WTD will review claims expeditiously. King County WTD 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.

14.3. ADVANCE PAYMENTS

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

14.4. TIME FOR FILING

All claims for a relocation payment must be filed with King County WTD within eighteen (18) months after:

- (a) For tenants, the date of displacement;
- (b) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

King County WTD will waive this time period for good cause.

14.5. 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 King County WTD, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if King County WTD determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

14.6. DEDUCTIONS FROM RELOCATION PAYMENTS

King County WTD 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 9.5, King County WTD may deduct from relocation payments any rent that the displaced person owes King County WTD. King County WTD will not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

14.7. NOTICE OF DENIAL OF CLAIM

If King County WTD 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.

14.8. NO WAIVER OF RELOCATION ASSISTANCE

King County WTD shall not propose or request that a displaced person waive his or her rights or entitlements to relocation assistance and benefits provided by King County Relocation Policy, Procedures, and Guidelines.

15.0 RELOCATION APPEALS PROCESS

King County will promptly review appeals of relocation payments in accordance with the requirements of applicable law and these Procedures.

15.1. APPEALABLE ACTIONS: INITIATING THE APPEAL

Any aggrieved party may file a written appeal with King County in any case in which the appellant believes that King County has failed to properly determine the appellant's eligibility for, or the method of determination of, or the amount of, a relocation payment required under these Procedures.

15.1.1 Form and contents of notice

Appeals must be in writing. It may be in the form of a notice or letter. The appeal notice or letter must clearly state the date, the name and address of the appellant, and the basis or reasons for the appeal. The letter or notice must clearly identify King County's project and the parcel of real property involved and should bear the signature and address of the appellant or the appellant's authorized representative. King County may refuse to schedule any review or hearing on an appeal until these requirements have been complied with, or may issue an order dismissing the appeal upon the appellant's failure to comply within a reasonable time specified to the appellant by King County, which will not be less than fourteen (14) days. The appellant must file an appeal within the time limit for initiating the appeal at the following address:

Director, Solid Waste Division
King County Department of Natural Resources and Parks
201 South Jackson Street, Suite 701
Seattle, WA 98104-3855

With a copy to:

Supervisor, Regulatory Compliance and Land Acquisition Services
King County DNR&P, WTD
201 South Jackson St., KSC-NR-0512
Seattle, WA 98104-3855

15.1.2 Time limit for initiating appeal

King County must receive a written appeal no later than sixty (60) days after the appellant receives written notification of King County's determination on the appellant's claim for relocation payments.

15.1.3 Appellant's review of files

King County will permit the appellant to inspect and copy all materials pertinent to the appeal, except materials that are classified as confidential by King County. King County may, however, impose reasonable conditions on the appellant's right to inspect, consistent with applicable laws.

15.1.4 Scope of appeal

In deciding an appeal, King County will consider all pertinent justification and other material submitted by the appellant, and all other available information that is needed to ensure a fair and full review of the appeal.

15.1.5 Location and scheduling of appeal meetings or hearings

Any hearing described in these procedures shall be held at the offices of King County. At its discretion, King County may identify an alternative location for the participants' mutual convenience. To the extent practicable, hearings shall be held on consecutive days until concluded.

15.1.6 Right to representation

The appellant has a right to be represented by legal counsel or another representative in connection with any phase of his or her appeal under these procedures, but solely at the appellant's expense.

15.1.7 Limitations

A person is entitled to only such benefits as are specifically delineated in these Procedures.

15.2. REVIEW OF APPEAL

15.2.1 Review of Appeal

Within thirty (30) days of receiving an appeal, the Director of the Solid Waste Division of the King County Department of Natural Resources and Parks, or such other King County employee as designated by the King County Executive, who is not, and has not been, directly involved in the action appealed, (Reviewing Officer) will review the appeal and either accept the appeal, in whole or in part, or reject the appeal. The Reviewing Officer will notify the appellant in writing of his or her decision at the address listed in the appeal. If the appeal is rejected, the appellant may present his/her/its appeal in a formal hearing before the Reviewing Officer.

15.2.2 Extension of Review Time

King County may extend the Review time set forth in section 15.2.1 beyond thirty (30) days in the interest of consolidating appeals by agreement of King County and the appealing party.

15.3. FORMAL HEARING

15.3.1 Appellant's request for Formal Hearing

Within fifteen (15) days after receiving written decision, referred to in section 15.2.1, the appellant must notify King County, at the address set forth in section 15.1.1 above, that the appellant requests a Formal Hearing (Request for Formal Hearing). This Request for Formal Hearing shall contain the same information required for the initial notice of appeal as set forth above. If appellant accepts the written decision referred to in section 15.2.1 or fails to file a request for a Formal Hearing within fifteen (15) days after receiving the decision, then the matter shall be deemed closed.

15.3.2 Scheduling of Formal Hearing

Within thirty (30) days of the Request for Formal Hearing the Reviewing Officer shall schedule the Formal Hearing. The Reviewing Officer will provide the appellant, or its representative, if any, at least thirty (30) days notice of the date of the Formal Hearing.

15.3.3 Conduct of Formal Hearing

The Reviewing Officer shall conduct the Formal Hearing as follows:

- (a) Opening statements. Both the appellant and King County may make opening statements.

- (b) Appellant's case. The appellant may offer lay and expert testimony; may cross-examine King County's testimony; and may re-direct appellant's witnesses.
- (c) King County's case. The King County representative may offer lay and expert testimony; may cross-examine the appellant's testimony; and may re-direct King County's witnesses.
- (d) Closing argument. Both the appellant and the King County representative may make closing arguments. The Reviewing Officer conducting the Formal Hearing shall determine whether closing arguments will be delivered orally or in writing. He/she shall have the discretion to allow submission of post-hearing written argument. Any post-hearing written argument allowed will be due five (5) working days after the hearing. The Reviewing Officer conducting the Formal Hearing will provide for rebuttal to any post-hearing argument, as appropriate.
- (e) The Reviewing Officer may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony. Testimony shall be concise and non-repetitious.

15.3.4 Transcript of Formal Hearing

The Reviewing Officer conducting the Formal Hearing shall provide for a transcript to be made of the Formal Hearing. An electronically recorded transcript shall comply with this requirement.

15.3.5 Final Decision

Within fifteen (15) days of conclusion of the Formal Hearing (including any post-hearing argument), the Reviewing Officer shall issue a decision regarding the appeal, setting forth his or her findings and conclusions. This decision shall constitute the final decision and it shall advise the appellant of his or her right to seek judicial review. This appeal process shall establish the record for use in any subsequent judicial appeal proceedings, consistent with applicable law.

APPENDICES: APPLICABLE STATE AND FEDERAL REGULATIONS DEFINITIONS

APPENDIX A

Chapter 468-100 WAC, Subpart A UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION (last updated 10/22/07)

WAC 468-100-002 Definitions

(1) **Agency:** The term agency means the federal agency, state, state agency, or person that acquires real property or displaces a person.

(a) **Acquiring agency.** The term acquiring agency means a state agency, as defined in (d) of this subsection, which has the authority to acquire property by eminent domain under state law, and a state agency or person that does not have such authority.

(b) **Displacing agency.** The term displacing agency means any federal agency carrying out a program or project, and any state, state agency, or person carrying out a program or project with the federal financial assistance that causes a person to be a displaced person.

(c) **Federal agency.** The term federal agency means any department, agency, or instrumentality in the executive branch of the government, any wholly owned government corporation, the architect of the capitol, the federal reserve banks and branches thereof, and any person who has the authority to acquire property by eminent domain under federal law.

(d) **State agency.** The term state agency means any department, agency or instrumentality of a state or of a political subdivision of a state, any department, agency, or instrumentality or two or more states or of two or more political subdivisions of a state or states, and any person who has the authority to acquire property by eminent domain under state law.

(2) **Alien not lawfully present in United States:** Means an alien who is not "lawfully present" in the United States as defined in Public Law 104-193 and includes:

(a) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act and whose stay in the United States has not been authorized by the United States Attorney General; and

(b) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

(3) **Appraisal:** Means a written statement independently and impartially prepared by a

qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(4) **Business:** Means any lawful activity, except a farm operation, that is conducted:

(a) Primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(b) Primarily for the sale of services to the public; or

(c) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

(d) By a nonprofit organization that has established its nonprofit status under applicable federal or state law.

(5) **Citizen:** The term citizen for purposes of this part includes both citizens of the United States and noncitizen nationals.

(6) **Comparable replacement dwelling:** Means a dwelling that meets the additional rules in WAC 468-100-403 and which is:

(a) Decent, safe, and sanitary according to the definition in subsection (8) of this section.

(b) Functionally equivalent to the displacement dwelling. The term functionally equivalent means that it performs the same function, and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, the functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement is functionally equivalent to the displacement dwelling, the agency may consider reasonable tradeoffs for specific features when the replacement unit is equal to or better than the displacement dwelling.

(c) Adequate in size to accommodate the occupants.

(d) Located in an area that is not subject to unreasonable adverse environmental conditions.

(e) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and is reasonably accessible to the person's place of employment. Comparables may be used from neighborhoods similar to that of the acquired dwelling.

(f) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The replacement site need not include either a special improvement or a major exterior attribute such as outbuildings, swimming pools, or greenhouses

in accordance with WAC 468-100-403 (1)(b).

(g) Currently available to the displaced person on the private market except as provided in subsection (6)(i) of this section.

(h) Within the financial means of the displaced person.

(i) For a one hundred eighty-day owner-occupant described at WAC 468-100-401, a comparable dwelling is considered to be within the displacee's financial means.

(ii) For a ninety-day tenant-occupant described at WAC 468-100-402, a comparable dwelling is considered to be within the displacee's financial means if after application of the rental assistance payment, described in said section, the displacee's portion of the monthly rent plus utilities would be thirty percent or less of his total monthly income from all sources.

(iii) For a displaced person who is not eligible to receive a replacement housing payment under WAC 468-100-402 due to failure to meet the length of occupancy requirements, comparable housing is considered to be within the displacee's financial means if the acquiring agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling as described in WAC 468-100-402 (2)(b). Such rental assistance must be paid under WAC 468-100-404, replacement housing of last resort.

(i) For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance. In such cases any requirements of the government housing assistance program relating to the size of the replacement dwelling shall apply.

(7) Contribute materially: Means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the agency determines to be more equitable, a business or farm operation:

(a) Had average annual gross receipts of at least five thousand dollars; or

(b) Had average annual net earnings of at least one thousand dollars; or

(c) Contributed at least thirty-three and one-third percent of the owner's or operator's average annual gross income from all sources.

(d) If the application of the above criteria creates an inequity or hardship in any given case, the agency may approve the use of other criteria as determined appropriate.

(8) Decent, safe, and sanitary (DSS) dwelling: Means a dwelling that meets local housing and occupancy codes. However, any of the following standards that are not met by the local code shall apply, unless waived for good cause by the agency funding the project. The dwelling shall:

(a) Be structurally sound, weather-tight, and in good repair.

(b) Contain a safe electrical wiring system adequate for lighting and other electrical devices.

(c) Contain a heating system capable of sustaining a healthful temperature (of approximately seventy degrees Fahrenheit) for a displaced person except in those areas where local climatic conditions do not require such a system.

(d) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by local housing codes or, in the absence of local codes, the policies of the displacing agency. In addition, the displacing agency shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local housing codes, the policies of such agencies.

(e) There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.

(f) Contains unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.

(g) For a displaced person with a disability, be free of any barriers that would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

(9) Displaced person:

(a) **General:** Means any person who moves from the real property or moves his or her personal property from the real property. This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act:

(i) As a direct result of the agency's acquisition of, or the initiation of negotiation for, or the acquisition of, such real property in whole or in part for a project; or

(ii) As a direct result of a written order from the acquiring agency to vacate such real property for a project; or

(iii) As a direct result of the agency's acquisition of, or written order to vacate for a project, other real property on which the person conducts a business or farm operation; or

(iv) As a direct result of a voluntary transaction by the owner pursuant to WAC 468-100-101

(2)(a), thereby displacing a tenant.

(b) **Persons not displaced:** The following is a nonexclusive listing of persons who do not qualify as a displaced person under this chapter.

(i) A person who moves before the initiation of negotiations except one who is required to move for reasons beyond his or her control as explained in WAC 468-100-403(4), unless the agency determines that the person was displaced as a direct result of the program or project; or

(ii) A person who initially enters into occupancy of the property after the date of its acquisition for the project; or

(iii) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act; or

(iv) A person whom the agency determines is not required to relocate permanently as a direct result of a project. Such determination shall be made by the agency in accordance with any guidelines established by the federal agency funding the project; or

(v) An owner-occupant who moves as a result of an acquisition of real property or as a result of the rehabilitation or demolition of the real property. However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a federal or federally assisted project is subject to this part; or

(vi) A person whom the agency determines is not displaced as a direct result of a partial acquisition; or

(vii) A person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the agency 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 as described in WAC 468-100-203 (2)(b); or

(viii) An owner-occupant who voluntarily sells his or her property pursuant to WAC 468-100-101 (2)(a) after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part; or

(ix) A person who retains the right of use and occupancy of the real property for life following its acquisition by the agency; or

(x) A person who retains the right of use and occupancy of the real property for a fixed term after its acquisition for a program or project receiving federal financial assistance from the Department of Interior; or

(xi) An owner who retains the right of use and occupancy of the real property for a fixed term

after its acquisition by the Department of Interior under Public Law 93-477 or Public Law 93-303, except that such owner remains a displaced person for purposes of subpart D of this code; or

(xii) A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable state law, in accordance with WAC 468-100-206. However, advisory assistance may be provided to unlawful occupants at the option of the agency in order to facilitate the project; or

(xiii) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance in accordance with WAC 468-100-208; or

(xiv) Tenants required to move as a result of the sale of their dwelling to a person using downpayment assistance provided under the American Dream Downpayment Initiative (ADDI) authorized by Section 102 of the American Dream Downpayment Act (Pub. L., 108-186; codified at 42 U.S.C. 12821).

(10) **Dwelling:** Means the place of permanent or customary and usual residence of a person, as determined by the agency according to local custom or law, including a single family house; a single family unit in a two-family, multifamily, or multipurpose property; a unit of a condominium or cooperative housing project; a nonhousekeeping unit; a mobile home; or any other residential unit.

(11) **Dwelling site:** The term dwelling site means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area.

(12) **Farm operation:** Means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(13) **Federal financial assistance:** Means any grant, loan, or contribution, except a federal guarantee or insurance.

(14) **Household income:** The term household income means total gross income received for a twelve-month period from all sources (earned and unearned) including, but not limited to, wages, salary, child support, alimony, unemployment benefits, workers compensation, Social Security, or the net income from a business. It does not include income received or earned by dependant children and full-time students less than eighteen years of age.

(15) **Initiation of negotiations:** Means the date of delivery of the initial written offer by the agency to the owner or the owner's representative to purchase real property for a project for the amount determined to be just compensation, unless applicable agency program regulations specify a different action to serve this purpose. However:

(a) If the agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the "initiation of

negotiations" means the date the person moves from the property.

(b) In the case of a permanent relocation to protect the public health and welfare under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96-510, or "Superfund"), the "initiation of negotiations" means the formal announcement of such relocation or the federal or federally-coordinated health advisory where the federal government later decides to conduct a permanent relocation.

(c) In the case of permanent relocation of a tenant as a result of an acquisition of real property described in WAC 468-100-101 (2)(a)(i) through (iii), the initiation of negotiations means the actions described in this section, except that such initiation of negotiations does not become effective, for the purposes of establishing eligibility for relocation assistance for such tenants under this part, until there is a written agreement between the agency and the owner to purchase the real property.

(16) **Lead agency:** Means the department of transportation acting through the Federal Highway Administration.

(17) **Mobile home:** The term mobile home includes manufactured homes and recreational vehicles used as residences.

(18) **Mortgage:** Means any of such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the state in which the real property is located, together with the credit instruments, if any, secured thereby.

(19) **Nonprofit organization:** The term nonprofit organization means an organization that is incorporated under the applicable laws of a state as a nonprofit organization, and exempt from paying federal income taxes under Section 501 of the Internal Revenue Code (26 U.S.C. 501).

(20) **Owner of a dwelling:** A person is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property acquired for a project:

(a) Fee title, a life estate, a land contract, a ninety-nine-year lease, or a lease including any options for extension, with at least fifty years to run from the date of acquisition; or

(b) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(c) A contract to purchase any of the interests or estates described in (a) or (b) of this subsection; or

(d) Any other interests, including a partial interest, which in the judgment of the agency warrants consideration as ownership.

(21) **Person:** Means any individual, family, partnership, corporation, or association.

(22) **Program or project:** The phrase program or project means any activity or series of activities undertaken by a federal agency or with federal financial assistance received or anticipated in any phase of any undertaking in accordance with the federal funding agency guidelines.

(23) **Salvage value:** Means the probable sale price of an item, if offered for sale to knowledgeable buyers with the requirement that it will be removed from the property at the buyer's expense, (i.e., not eligible for relocation assistance). This includes items for reuse as well as items with components that can be reused or recycled when there is no reasonable prospect of sale except on this basis.

(24) **Small business:** Means any business having not more than five hundred employees working at the site being required or permanently displaced by a program or project, which site is the location of economic activity. Sites operated solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of WAC 468-100-306.

(25) **State:** Means any department, commission, agency, or instrumentality of the state of Washington.

(26) **Tenant:** Means a person who has the temporary use and occupancy of real property owned by another.

(27) **Uneconomic remnant:** Means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the acquiring agency has determined has little or no value.

(28) **Uniform Act:** Means the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et seq.; Pub. L. 91-646), and amendments thereto.

(29) **Unlawful occupant:** A person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under state law. An agency, at its discretion, may consider such person to be in lawful occupancy.

(30) **Utility costs:** The term utility costs means expenses for electricity, gas, other heating and cooking fuels, water and sewer.

(31) **Utility facility:** The term utility facility means any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair or any such system. A utility facility may be publicly, privately, or cooperatively owned.

(32) **Utility relocation:** The term utility relocation means the adjustment of a utility facility required by the program or project undertaken by the displacing agency. It includes removing

and reinstalling the facility, including necessary temporary facilities; acquiring necessary right of way on a new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

(33) **Voluntary transaction:** Means a donation, exchange, market sale, or other type of agreement entered into without compulsion on the part of the agency.

(34) **Waiver valuation:** The term waiver valuation means the valuation process used and the product produced when the agency determines that an appraisal is not required, pursuant to WAC 468-100-102 appraisal waiver provisions.

[Statutory Authority: Chapter 8.26 RCW. 06-02-068 §468-100-002, filed 1/3/06, effective 2/3/06. Statutory Authority: Chapter 8.26 RCW and WSR 89-17-048 (Order 121), 01-02-027, §468-100-002, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 8.26 RCW. 89-17-048 (Order 121), §468-100-002, filed 8/14/89, effective 9/14/89.]

APPENDIX B

49 CFR Part 24, Subpart A UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS (last updated 10/01/07)

§ 24.2 Definitions

(1) *Agency*. The term *Agency* means the Federal Agency, State, State Agency, or person that acquires real property or displaces a person.

(i) *Acquiring Agency*. The term *acquiring Agency* means a State Agency, as defined in paragraph (a)(1)(iv) of this section, which has the authority to acquire property by eminent domain under State law, and a State Agency or person which does not have such authority.

(ii) *Displacing Agency*. The term *displacing Agency* means any Federal Agency carrying out a program or project, and any State, State Agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

(iii) *Federal Agency*. The term *Federal Agency* means any department, Agency, or instrumentality in the executive branch of the government, any wholly owned government corporation, the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(iv) *State Agency*. The term *State Agency* means any department, Agency or instrumentality of a State or of a political subdivision of a State, any department, Agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.

(2) *Alien not lawfully present in the United States*. The phrase “alien not lawfully present in the United States” means an alien who is not “lawfully present” in the United States as defined in 8 CFR 103.12 and includes:

(i) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*) and whose stay in the United States has not been authorized by the United States Attorney General; and,

(ii) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

(3) *Appraisal*. The term *appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(4) *Business.* The term *business* means any lawful activity, except a farm operation, that is conducted:

(i) Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;

(ii) Primarily for the sale of services to the public;

(iii) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

(iv) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(5) *Citizen.* The term *citizen* for purposes of this part includes both citizens of the United States and noncitizen nationals.

(6) *Comparable replacement dwelling.* The term *comparable replacement dwelling* means a dwelling which is:

(i) Decent, safe and sanitary as described in paragraph 24.2(a)(8) of this section;

(ii) Functionally equivalent to the displacement dwelling. The term *functionally equivalent* means that it performs the same function, and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling (*See* appendix A, §24.2(a)(6));

(iii) Adequate in size to accommodate the occupants;

(iv) In an area not subject to unreasonable adverse environmental conditions;

(v) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;

(vi) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See also §24.403(a)(2));

(vii) Currently available to the displaced person on the private market except as provided in paragraph (a)(6)(ix) of this section (See appendix A, §24.2(a)(6)(vii)); and

(viii) Within the financial means of the displaced person:

(A) A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in §24.401(c), all increased mortgage interest costs as described at §24.401(d) and all incidental expenses as described at §24.401(e), plus any additional amount required to be paid under §24.404, Replacement housing of last resort.

(B) A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at §24.402(b)(2).

(C) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if an Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling as described in §24.402(b)(2). Such rental assistance must be paid under §24.404, Replacement housing of last resort.

(ix) For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance. In such cases any requirements of the government housing assistance program relating to the size of the replacement dwelling shall apply. (See appendix A, §24.2(a)(6)(ix).)

(7) *Contribute materially.* The term *contribute materially* means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

(i) Had average annual gross receipts of at least \$5,000; or

(ii) Had average annual net earnings of at least \$1,000; or

(iii) Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources.

(iv) If the application of the above criteria creates an inequity or hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.

(8) *Decent, safe, and sanitary dwelling.* The term *decent, safe, and sanitary dwelling* means a dwelling which meets local housing and occupancy codes. However, any of the following

standards which are not met by the local code shall apply unless waived for good cause by the Federal Agency funding the project. The dwelling shall:

- (i) Be structurally sound, weather tight, and in good repair;
- (ii) Contain a safe electrical wiring system adequate for lighting and other devices;
- (iii) Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system;
- (iv) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by local housing codes or, in the absence of local codes, the policies of the displacing Agency. In addition, the displacing Agency shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local codes, the policies of such Agencies;
- (v) There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator;
- (vi) Contains unobstructed egress to safe, open space at ground level; and
- (vii) For a displaced person with a disability, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. (See appendix A, §24.2(a)(8)(vii).)

(9) Displaced person. (i) *General.* The term *displaced person* means, except as provided in paragraph (a)(9)(ii) of this section, any person who moves from the real property or moves his or her personal property from the real property. (This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act as described at §24.401(a) and §24.402(a)):

(A) As a direct result of a written notice of intent to acquire (see §24.203(d)), the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;

(B) As a direct result of rehabilitation or demolition for a project; or

(C) As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this paragraph applies

only for purposes of obtaining relocation assistance advisory services under §24.205(c), and moving expenses under §24.301, §24.302 or §24.303.

(ii) *Persons not displaced.* The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

(A) A person who moves before the initiation of negotiations (see §24.403(d)), unless the Agency determines that the person was displaced as a direct result of the program or project;

(B) A person who initially enters into occupancy of the property after the date of its acquisition for the project;

(C) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

(D) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Agency in accordance with any guidelines established by the Federal Agency funding the project (See appendix A, §24.2(a)(9)(ii)(D));

(E) An owner-occupant who moves as a result of an acquisition of real property as described in §§24.101(a)(2) or 24.101(b)(1) or (2), or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a Federal or federally-assisted project is subject to this part.);

(F) A person whom the Agency determines is not displaced as a direct result of a partial acquisition;

(G) A person who, after receiving a notice of relocation eligibility (described at §24.203(b)), is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the Agency 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;

(H) An owner-occupant who conveys his or her property, as described in §§24.101(a)(2) or 24.101(b)(1) or (2), after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part;

(I) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency;

(J) An owner who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of the Interior under Pub. L. 93–477, Appropriations for National Park System, or Pub. L. 93–303, Land and Water Conservation Fund, except that such owner remains a displaced person for purposes of subpart D of this part;

(K) A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law, as provided for in §24.206. However, advisory assistance may be provided to unlawful occupants at the option of the Agency in order to facilitate the project;

(L) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance in accordance with §24.208; or

(M) Tenants required to move as a result of the sale of their dwelling to a person using downpayment assistance provided under the American Dream Downpayment Initiative (ADDI) authorized by section 102 of the American Dream Downpayment Act (Pub. L. 108–186; codified at 42 U.S.C. 12821).

(10) *Dwelling*. The term *dwelling* means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

(11) *Dwelling site*. The term *dwelling site* means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area. (See appendix A, §24.2(a)(11).)

(12) *Farm operation*. The term *farm operation* means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(13) *Federal financial assistance*. The term *Federal financial assistance* means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

(14) *Household income*. The term *household income* means total gross income received for a 12 month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a business. It does not include income received or earned by dependent children and full time students under 18 years of age. (See appendix A, §24.2(a)(14) for examples of exclusions to income.)

(15) *Initiation of negotiations*. Unless a different action is specified in applicable Federal program regulations, the term *initiation of negotiations* means the following:

(i) Whenever the displacement results from the acquisition of the real property by a Federal Agency or State Agency, the *initiation of negotiations* means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner's representative to purchase the real property for the project. However, if the Federal Agency or State Agency issues a notice

of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the *initiation of negotiations* means the actual move of the person from the property.

(ii) Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal Agency or a State Agency), the *initiation of negotiations* means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.

(iii) In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96-510, or Superfund) (CERCLA) the *initiation of negotiations* means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.

(iv) In the case of permanent relocation of a tenant as a result of an acquisition of real property described in §24.101(b)(1) through (5), the initiation of negotiations means the actions described in §24.2(a)(15)(i) and (ii), except that such initiation of negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such tenants under this part, until there is a written agreement between the Agency and the owner to purchase the real property. (See appendix A, §24.2(a)(15)(iv)).

(16) *Lead Agency.* The term *Lead Agency* means the Department of Transportation acting through the Federal Highway Administration.

(17) *Mobile home.* The term *mobile home* includes manufactured homes and recreational vehicles used as residences. (See appendix A, §24.2(a)(17)).

(18) *Mortgage.* The term *mortgage* means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(19) *Nonprofit organization.* The term *nonprofit organization* means an organization that is incorporated under the applicable laws of a State as a nonprofit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).

(20) *Owner of a dwelling.* The term *owner of a dwelling* means a person who is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property:

(i) Fee title, a life estate, a land contract, a 99 year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or

(ii) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(iii) A contract to purchase any of the interests or estates described in §24.2(a)(1)(i) or (ii) of this section; or

(iv) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

(21) *Person*. The term *person* means any individual, family, partnership, corporation, or association.

(22) *Program or project*. The phrase *program or project* means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

(23) *Salvage value*. The term *salvage value* means the probable sale price of an item offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense (i.e., not eligible for relocation assistance). This includes items for re-use as well as items with components that can be re-used or recycled when there is no reasonable prospect for sale except on this basis.

(24) *Small business*. A *small business* is a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of §24.304.

(25) *State*. Any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or a political subdivision of any of these jurisdictions.

(26) *Tenant*. The term *tenant* means a person who has the temporary use and occupancy of real property owned by another.

(27) *Uneconomic remnant*. The term *uneconomic remnant* means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the Agency has determined has little or no value or utility to the owner.

(28) *Uniform Act*. The term *Uniform Act* means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894; 42 U.S.C. 4601 *e seq*), and amendments thereto.

(29) *Unlawful occupant*. A person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. An Agency, at its discretion, may consider such person to be in lawful occupancy.

(30) *Utility costs*. The term *utility costs* means expenses for electricity, gas, other heating and cooking fuels, water and sewer.

(31) *Utility facility.* The term *utility facility* means any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned.

(32) *Utility relocation.* The term *utility relocation* means the adjustment of a utility facility required by the program or project undertaken by the displacing Agency. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on a new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

(33) *Waiver valuation.* The term *waiver valuation* means the valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to §24.102(c)(2) appraisal waiver provisions.