

**LAKE OSWEGO
REDEVELOPMENT AGENCY
RELOCATION POLICIES AND
PROCEDURES**

APPLICATION: ORS 35.500 TO 35.530

Adopted by the Lake Oswego Redevelopment Agency
September 26, 2011

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LAKE OSWEGO REDEVELOPMENT AGENCY RELOCATION POLICIES & PROCEDURES

1.0 INTRODUCTION

1.1 **Purpose.** This document constitutes the policies and procedures of the Lake Oswego Redevelopment Agency (“Agency”) with respect to providing relocation assistance and payments to persons required to move as a result of Agency activities.

1.2 **State Statutes.** These policies and procedures are intended to comply with the requirements of Oregon Revised Statutes (ORS) 35.500 to 35.530 governing relocation payments and assistance to persons displaced by public entities.

1.3 **Modifications and Changes.** The Executive Director of the Agency is authorized to make technical changes to these policies and procedures when such changes are necessitated by discrepancies or errors that are procedural in nature. The Executive Director will inform the Agency Board in a timely manner when such changes or modifications have been made. Modifications necessitated by changes to relevant federal or state laws and regulations, policy changes, and other significant or substantial modifications require Agency Board approval.

1.4 **Payment Authorization.** The Executive Director or his/her designee is authorized to approve all claims for payment that are in accordance with these Policies and Procedures.

2.0 APPLICATION

2.1 **Funding Source.** The source of funding or financial assistance for the activity that causes displacement will determine which policies and procedures apply.

2.2 **Non-Federal Funds.** The following apply if there is no federal funding for the project or program:

2.2.1 These Relocation Policies and Procedures apply directly to displacement caused by the acquisition of real property by the Agency or the receipt of a notice to vacate from the Agency.

2.2.2 Permanently displaced residential occupants in projects or programs receiving Agency financial assistance, but not involving real property acquisition by the Agency, will be entitled to relocation payments and assistance as described in these Relocation Policies and Procedures.

2.2.3 Permanently or temporarily displaced businesses or nonprofit organizations in projects or programs receiving Agency financial assistance, but not involving real property acquisition by the Agency or not receiving a notice to vacate from the Agency, will not be entitled to relocation benefits and assistance as described in these Relocation Policies and Procedures.

2.2.4 Temporarily displaced residential occupants in projects or programs receiving Agency financial assistance, but not involving real property acquisition by the Agency, will be entitled to the benefits and payment amounts as specified in the “Landlord/Tenant Anti-Displacement Agreement” included in this document as Appendix A. Appendix A may be modified by the Executive Director provided such modifications apply to all programs and projects receiving financial assistance from the Agency.

2.3 **Federal Funds.** Agency activities (including acquiring property, providing financing, rehabilitating buildings, or providing grants) in projects receiving financial assistance from federal sources will be subject to the relocation requirements of Public Law 91-646 as amended, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Relocation Act or URA). Projects or programs may have additional or other requirements depending on the policies of the funding agency. Projects receiving funding from the Federal Department of Housing and Urban Development (HUD) may be subject to the specific additional requirements of HUD Handbook 1378 or other program regulatory rules. Federal relocation law will control in any project receiving federal financial assistance should there be any conflict with the Agency Relocation Policies and Procedures. Federal relocation and acquisition rules implementing the URA are published by the Federal Highway Administration and are found in the federal register at 49 CFR Part 24.

2.4 **Acquisition by Eminent Domain.** Occupants of property acquired by the Agency through eminent domain (condemnation) will be eligible for relocation assistance as described in these Relocation Policies and Procedures.

2.5 **Alternate Property Transactions (Options).** Agency financed or subsidized activities causing displacement of occupants will be considered an “acquisition” by the Agency for relocation assistance purposes in the following circumstances:

2.5.1 An option to purchase real property assumed by the Agency that results in acquisition by the Agency.

2.5.1.1 However, an option for the purchase of real property negotiated by other parties and presented to the Agency for assumption will not be accepted by the Agency if the option contains conditions for payment of relocation assistance not in substantial conformance with these Relocation Policies and Procedures. In such a circumstance,

the following remedies may be considered by the Agency:

- A. If the relocation assistance offered in the option is less than that provided in these Relocation Policies and Procedures, the Agency may at its discretion agree to provide such additional assistance as a condition of accepting the option.
- B. If the relocation assistance offered is more than that provided in these Relocation Policies and Procedures, the Agency may in its discretion agree to accept the option provided the party offering the option agrees to pay the amount determined to be in excess by these Relocation Policies and Procedures.

2.5.2 An Agency real estate option assumed by others.

- 2.5.2.1 Any person or entity that assumes an option obtained by the Agency for the purchase of real property will also be required to assume the Agency's obligation to provide relocation assistance to displaced occupants as required by these Relocation Policies and Procedures if the subsequent acquisition or redevelopment of the property will receive Agency financial assistance or subsidies.

2.6 **Property Acquisition Policies and Procedures.** Pursuant to ORS 35.510(3), the Agency shall be guided by the land acquisition policies of Sections 301 and 302 of the federal URA. Pursuant to ORS 35.510(4), the Agency shall pay or reimburse property owners for necessary expenses as specified in sections 303 and 304 of the URA.

3.0 DEFINITIONS

3.1 **Displaced Person.** Any person who moves, or is required to move, his or her residence and personal property located on the premises, or his or her business, nonprofit organization or farm operation and personal property located on the premises, as a result of:

3.1.1 Acquisition of real property, in whole or in part, by the Agency; or

3.1.2 Such person's receipt from the Agency of a written order to vacate the property for public use.

3.2 **Business.** Any lawful activity, excepting a farm operation and outdoor advertising signs, conducted primarily:

3.2.1 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

3.2.2 For the sale of services to the public; or

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

3.2.4 Separate legal entities may actually constitute only one business for purposes of relocation payments. In determining the number of businesses, the factors listed in Section 10.3.2 will be evaluated.

3.3 **Farm Operation.** 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.

3.4 **Contribute materially.** The term "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:

- (1) Had average annual gross receipts of at least \$5000; or
- (2) Had average annual net earnings of at least \$1000; or
- (3) Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources.

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

3.5 **Average Annual Net Earnings.** See **Section 11.5.1.**

3.6 **Comparable replacement dwelling.** A dwelling that is:

- (1) Decent, safe and sanitary as described below in **Section 3.7;**
- (2) Functionally equivalent to the displacement dwelling. The term "functionally equivalent" means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. 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.
- (3) Adequate in size to accommodate the occupants;
- (4) In an area not subject to unreasonable adverse environmental conditions;
- (5) 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;
- (6) 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;
 - (7) Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance; and
 - (8) Within the financial means of the displaced person, taking relocation assistance into consideration.

3.7 **Decent, Safe & Sanitary Dwelling.** A dwelling that meets applicable housing and occupancy codes. However, any of the following standards that are not met by an applicable code shall apply unless waived for good cause by the Agency. The dwelling shall:

- (1) Be structurally sound, weathertight, and in good repair.
- (2) Contain a safe electrical wiring system adequate for lighting and other devices.
- (3) 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.
- (4) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. 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.
- (5) 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.
- (6) For a displaced person with a disability, be free of any barriers that would preclude reasonable ingress, egress, or use of the dwelling by the displaced person.

3.8 **Family.** A family is defined as two or more individuals who by blood, marriage, adoption or mutual consent live together in a dwelling unit as a single housekeeping unit.

4.0 **Persons Not Eligible for Relocation Assistance Under These Relocation Policies and Procedures.** A residential occupant, business, farm operation or nonprofit organization, or other person or entity, is not a “displaced person,” and does not qualify for relocation benefits, if any of the following conditions exist:

- 4.1 **Eviction.** The person or entity has been evicted for serious or repeated violation of the terms of the occupancy agreement, violation of applicable law or other good cause, and the Agency determines the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance.
- 4.2 **Unlawful Occupant.** The person or entity has no legal right to occupy the property.
- 4.3 **New Tenant.** The person or entity moves into the property after the date of acquisition by the Agency or after the date on which the Agency's possessory interest is established by judicial order or in any other legally binding manner.
- 4.3.1 The Agency shall provide written notice informing such person or entity that the person or entity is not eligible for relocation assistance or payments. A new tenant who, prior to signing a rental agreement or lease and before commencing occupancy, receives written notice of the Agency's acquisition of the property or established possessory interest, and moves onto the property after either of the qualifying dates, will not be eligible for relocation assistance or payments. The notice must state that the tenant may be displaced, may need to move temporarily, or may incur a rent increase (unless rent increases are restricted by a valid lease) based on the Agency's acquisition of the property or as a result of the possessory interest becoming an ownership interest, and that the tenant will not qualify for relocation assistance or payments.
- 4.4 **No Displacement.** The person or entity will not be required to move and no unreasonable change in the character or use will be made to the property or improvements.
- 4.4.1 The Agency must provide notice to the person or entity that the person or entity will not be required to move, and also of the terms and conditions for continued occupancy. The terms and conditions offered shall be reasonable and comparable to terms and conditions in the general market.
- 4.5 **Temporary Move.** A residential occupant or business is not considered to be displaced if required to move temporarily (for not more than one year), provided that:
- 4.5.1 The residential occupant or business shall be reimbursed for reasonable additional out-of-pocket expenses and increased housing or rental costs. The terms of the temporary move must be reasonable, and the Agency must provide the residential occupant or business notice as required in section 3.2.4. For residential

temporary moves, Appendix A, “Residential Anti-Displacement Policy and Agreement” contains additional information and alternative requirements that meet the requirements of this section. If a temporary move extends beyond one year, the Agency must contact the residential occupant and offer the person all permanent relocation assistance and payments. The person may decline such offer of permanent benefits if the person continues to prefer retaining his/her rights as provided by the temporary move conditions.

- 4.6 **Displacement as a Result of Voluntary Sale.** An owner-occupant of real property acquired by the Agency is not eligible for relocation assistance in the cases of a voluntary sale meeting all the following conditions:
- A. In the specific circumstance, the Agency’s public benefit objective does not require the acquisition of the real property at issue, but only acquisition of real property generally; and
 - B. The property to be acquired is not part of any Agency program or project and is not within an urban renewal area; and
 - C. The owner of the real property is informed in writing:
 - 1. That the Agency will not apply the powers of eminent domain and will not otherwise acquire the property if negotiations fail to result in a mutually satisfactory purchase agreement; and
 - 2. Of the value that the Agency designates as the market value of the property.
- 4.6.1 Tenants that occupy and are displaced from property that the Agency purchases from an owner-occupant in a voluntary acquisition are eligible for relocation assistance, except as provided in Section 4.3.
- 4.7 **Alien Not Lawfully in the U.S.** The person is an alien not lawfully present in the United States.
- 4.7.1 The person is not eligible for relocation assistance and payments unless the ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent or child as defined in 49 CFR 24.208.
- 4.8 **Personal Property Only.** The person is not required to move from a dwelling, or move a business or nonprofit organization, but is required to move personal

property only from a site acquired by the Agency.

4.8.1 The person will be entitled to the reasonable actual cost of moving such personal property for a distance not to exceed 50 miles. The costs eligible for compensation will be limited to those described in **Sections 8.2.1 through 8.2.5 and in Section 8.3.**

5.0 FILING A CLAIM FOR A RELOCATION PAYMENT

5.1 **Time Limit for Submission of Claim.** A displaced person shall submit a claim for a relocation payment to the Agency within 12 months after displacement, unless extended in writing by the Agency. Displacement occurs upon vacation by the claimant of the acquired premises. All work, expenses and conditions for a relocation claim must be completed within the twelve month period.

5.2 **Documentation.** Any claim for a relocation payment shall be in writing and supported by such documentation as may reasonably be required by the Agency to support expenses incurred, such as bids, bills, certified prices, appraisals, or other evidence of such expenses.

5.3 **Move Required .** No payments will be made until the displaced person has completely vacated the acquired premises, except as necessary to avoid or reduce a hardship as determined by the Agency. Any advance payment shall be subject to any safeguards determined by the Agency to be necessary to ensure the objective of the payment is accomplished. The premises must be left in broom clean condition, with the exception of equipment required by **Sections 9.4 or 9.5** to be left on the premises, or otherwise acquired by the Agency.

5.4 **Hazardous Substances.** If any substance declared to be hazardous or toxic under any law or regulation of any governmental authority has been stored, deposited, spilled, discharged or otherwise released by the business, owner or resident during the time the business, owner or resident used or occupied the acquired premises, such substances must be abated or removed from the acquired premises at the claimant's expense in accordance with all applicable laws and regulations, and to the satisfaction of the appropriate regulatory agency, before any relocation payment is made.

5.5 **Approval of Claims and Grievances.** Designated Agency staff shall determine the eligibility and amount of all claims. A claimant will be provided with a written explanation of the staff's decision. Any claimant who is dissatisfied with a determination of eligibility for relocation assistance or the amount of relocation payments, may have the decision reviewed in accordance with established Agency relocation grievance procedures. The procedures for filing a relocation grievance are specified in the "Lake Oswego Redevelopment Agency Relocation Claims Processing and Hearing Rules Procedure." A copy shall be available to claimants upon request.

5.6 **Waiver of Benefits.** A displaced person may voluntarily waive relocation benefits by refusing to file a claim for the payment, by signing a waiver declining payment, or by stating in writing that a claim will not be filed. The displaced person must be provided with a written description and explanation of the benefits and payments available for the waiver to be accepted. Agency staff shall not propose or request that a displaced person waive rights or entitlements to relocation assistance and benefits otherwise provided by applicable law.

6.0 RESIDENTIAL RELOCATION ASSISTANCE

(See **APPENDIX B** for a Summary of Residential Relocation Benefits)

6.1 **Eligibility.** Individuals and families who are displaced persons and move from their permanent or customary and usual place of residence shall be eligible for relocation payments and assistance from the Agency. The date of eligibility shall be the earlier of the date of acquisition of the occupied real property by the Agency or the date of a notice from the Agency to vacate the property. Assistance will be provided on a household basis. Individual members of a household moving separately will be entitled to a prorated share of a household's relocation payment.

6.2 **Relocation Interview.** Agency relocation staff will interview each eligible household to obtain information regarding its relocation needs and to explain these Policies and Procedures.

6.3 **Payment Amount.** Relocation payments and assistance for residential relocation shall be made according to sections 202, 203, 204, 205, and 206 of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as currently amended and as may be amended in the future. Certain relocation payment determinations are based on the displaced person's duration of occupancy of the acquired premises. In such cases, the occupancy period will be calculated based on the date of acquisition by the Agency or the date of the notice to vacate from the Agency, whichever is first.

6.4 **Federal Payment Amount Guidelines.** The Agency will be guided by the regulations published by the Federal Highway Administration at 49 CFR Part 24 implementing sections 202, 203, 204, 205 and 206 of the Uniform Relocation Act in making payments to families and individuals displaced from their permanent residence. If there is any discrepancy between the Agency's Policies and Procedures and the Federal Highway Administration regulations, the Agency's Policies and Procedures shall prevail. A summary of the types of residential relocation benefits is set forth in Appendix B.

6.5 **Notice To Vacate.** The Agency shall provide a written notice to vacate at least 90 days before the date by which the move is required. Residential occupants will not be required to vacate until appropriate residential units are available within their neighborhood or area and within their financial means as defined by the Federal Highway Administration relocation regulations. A residential occupant will not be required to

vacate until the Agency notifies the person of the specific relocation payment amounts and allowances the person may become entitled to receive.

6.6 **Information.** The Agency shall notify each household of the date of eligibility for relocation payments and assistance within a reasonable time after the date such eligibility is determined to have occurred. This notice shall include a clear written description of the types of assistance and payment amounts that the household is entitled to receive. The information may be in the form of a brochure, letter or other written communication.

7.0 BUSINESS RELOCATION PAYMENTS — GENERAL

(See Appendix C for a Summary of Business Relocation Benefits)

7.1 **Eligibility.** The owner of a qualified displaced business that qualifies as a displaced person is eligible for the relocation benefits described in these Policies and Procedures. A determination of the number of businesses to be displaced will be made in accordance with **Section 11.3.2** of these Policies and Procedures.

7.2 **Outdoor Advertising Displays.** Generally, if the site is occupied solely for the purpose of an outdoor advertising display or sign (billboard), the display or sign should be appraised and acquired as part of the real property acquisition. However, the Agency may determine that in some circumstances the display or sign may be eligible for relocation payments as described in these Policies and Procedures. The Executive Director may make such a determination if the circumstances support the payment of relocation costs rather than acquisition of the display.

7.3 **Pre-Move Notification by Business.** The business shall notify the Agency of its intent to move at least 30 days prior to the date that the first item of personal property is moved, but not earlier than 90 days before the move. The Agency may waive this notice requirement for good cause at the Agency's discretion.

7.4 **Notice To Vacate.** The Agency shall provide a written notice to vacate at least 90 days prior to the date by which the move is required. The Agency will also provide the business a copy of these Policies and Procedures explaining the types of relocation payments the business is eligible to receive.

7.5 **Relocation Interview.** Agency relocation staff will interview each eligible business to obtain information regarding its relocation needs and to explain these relocation Policies and Procedures.

7.6 **Actual Move Cost Option.** A business may choose to be compensated for actual and reasonable moving costs of personal property as defined in **Sections 8 and 9**, and to move by one or a combination of the following methods (note: this is a summary only; complete requirements are contained in **Sections 8 and 9**):

7.6.1 **Commercial Move.** Reimbursement for relocation costs will be based on the

lowest of a minimum of two bids or estimates (see **Section 9.6, Requirements for Bids or Estimates**, for additional requirements).

7.6.2 **Self-move.** A self-move payment will be based on one or a combination of the following:

- 7.6.2.1 The lower of a minimum of two bids or estimates prepared by a commercial mover (see **Section 9.6, Requirements for Bids or Estimates**, for additional requirements); or
- 7.6.2.2 Received bills for labor and equipment, but hourly labor rates may not exceed rates paid by commercial movers to employees performing the same activity. Equipment rental fees must be reasonable and not exceed the cost paid by a commercial mover. Wages paid for labor of persons who physically participated in the move must be documented by a payroll record showing the name of the employee, time and date worked, hourly rate paid, and total amount paid.

7.7 **Reestablishment Expenses.** In addition to payment for actual and reasonable costs of moving personal property, a business or nonprofit organization may be eligible for compensation for reestablishment expenses as defined in **Section 10**, not to exceed \$10,000 (see **Section 10, Business Reestablishment Expenses**, for additional requirements).

7.8 **Alternate or Fixed Payment Option.** In place of payment for actual moving expenses and reestablishment expenses, a business may choose a fixed payment not to exceed \$20,000, nor less than \$1,000 (see Section 10, Alternate or Fixed Business Relocation Payment, for additional requirements).

7.9 **Information Business shall Submit to the Agency PRIOR to the Move.** Before moving, the business shall provide the following information in writing to the Agency on forms provided by the Agency

- 7.9.1 **Statement of its Intent to Begin the Move and/or to Dispose of Personal Property**, and the date(s) of the intended move or disposition, including a list of the items to be moved and/or disposed of.
- 7.9.2 **List of the Property Business May Offer for Sale** as a result of the displacement and/or which may be the basis for a claim for direct loss of property pursuant to **Section 9.4**.
- 7.9.3 **If Business Move will be a Self-Move**, in whole or in part, a statement indicating the intent of the business to make a self-move and identification of the specific portions to be performed by employees of the business pursuant to **Section 7.6.2**.
- 7.9.4 **If Business Move will be a Commercial Move**, in whole or in part, that before issuance of invitations of bids, pursuant to **Section 7.6.1**, the business will furnish the Agency with:

7.9.4.1 A statement setting forth in detail the proposed scope of work and a complete inventory of the tangible personal property to be relocated; and

7.9.4.2 The dates on which the move is to begin and to be completed.

7.9.5 **Statement of Intent to Purchase Substitute Items of Personal Property** pursuant to **Section 9.5**, including a list of the items to be substituted.

8.0 BUSINESS MOVING AND RELATED EXPENSES

8.1 **Actual Reasonable Moving Expenses.** A business that elects to receive payment for actual moving and related expenses shall be paid the amount of eligible expenditures incurred, subject to the following:

8.1.1 The Agency will pay only eligible expenditures in amounts determined by it to be actual, reasonable, and necessary and in conformance with these Relocation Policies and Procedures.

8.1.2 No item of personal property included in the real property acquisition by the Agency is eligible for relocation benefits. Every effort must be made to resolve real/personal property issues prior to the move.

8.1.3 No item of personal property moved from real property not acquired by the Agency is eligible for relocation benefits.

8.1.4 The business must permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

8.2 **Eligible Moving and Related Expenses.** A relocation payment for actual, reasonable and necessary expenses incurred when moving personal property, or for other related expenses, may include the cost of:

8.2.1 Transporting personal property from the acquired premises to a replacement site, including moving to and from storage. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that a move of a longer distance is justified and reasonable.

8.2.2 Packing, crating, unpacking, and uncrating the personal property.

8.2.3 Disconnecting, dismantling, removing, reassembling and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property, and connection to utilities available at the replacement site. Also included are modifications necessary to adapt such personal property to the replacement site, including any modifications required by law, code or

ordinance, or to utilities available at the replacement site or modifications necessary to adapt the utilities at the replacement site to the personal property. (See **Section 9.1, Installation of Relocated Machinery, Equipment or Other Personal Property**, for additional requirements)

8.2.4 Storing personal property for a period not to exceed 12 months, when the Agency determines that storage is necessary. (See: **Section 9.2, Storage Costs**, for additional requirements).

8.2.5 Premiums for insurance covering the replacement value of the personal property while in storage or transit.

8.2.6 Any license, permit, fee or certification required of the displaced business at the replacement site to the extent such cost is necessary to reestablish the operation at the new location. The amount may not exceed the amount that the business would be required to pay annually, limited to the amount covering the remaining useful life of the existing license, permit or certification.

8.2.7 Re-lettering signs and vehicles, and replacing stationery and other printed matter on hand at the time of the move that is made obsolete as a result of the move. The actual cost of replacing signs painted on a door, window or walls may also be compensable, but shall not include the cost of acquisition of a site for such signs.

8.2.8 Searching for a replacement location, not to exceed \$2,500. (See **Section 9.3, Searching For A Replacement Location**, for additional requirements)

8.2.9 Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or nonprofit organization. (See **Section 9.4, Direct Loss of Personal Property**, for additional requirements)

8.2.10 Purchase and installation of substitute personal property. (See **Section 9.5, Substitute Equipment**, for additional requirements)

8.2.11 Disconnecting and reinstalling leased equipment, such as telephone, security and fire alarm systems and similar items of personal property.

8.2.12 Impact fees or one-time assessments for anticipated heavy utility usage if determined by the Agency to be actual, reasonable and necessary.

8.2.13 Professional services that the Agency determines to be actual, reasonable and necessary for planning the move and installation of the relocated personal property at the replacement site.

8.2.14 Professional services performed before the purchase or lease of a replacement site to determine its suitability for the displaced business, including but not limited to soil testing, feasibility and marketing studies (excluding any fees or costs

directly related to the purchase or lease of such site). The Agency must find that such professional services are actual, reasonable and necessary. The displaced business must obtain pre-approval from the Agency before incurring such costs, and the Agency at its discretion may establish a reasonable hourly rate for such services.

8.3 **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 Agency, the allowable moving cost payment shall not exceed the lesser of: the amount that would be received if the property were sold at the current site or the replacement cost of a comparable quantity delivered at the new location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, metals, minerals and other similar items.

8.4 **Ineligible Moving Expenses.** A displaced person or business is not entitled to and shall not receive a relocation payment for the following:

8.4.1 Additional operating expenses incurred because of operating in a new location, except as provided by **Section 10.0**.

8.4.2 Moving structures, real property fixtures, or other real property improvements on the premises acquired by Agency, of which the displaced person reserved ownership. In the absence of other documentation, any building, structure, attached trade fixture or other improvement that would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property.

8.4.3 Interest on loans to cover moving expenses.

8.4.4 Loss of goodwill.

8.4.5 Loss of profits.

8.4.6 Loss of trained employees.

8.4.7 Personal injury.

8.4.8 Any fee for preparing a claim for a relocation payment or for representation of the claimant before the Agency.

8.4.9 Construction of a new structure, or the rehabilitation or modification of an existing structure to re-house the relocated machinery, equipment or other personal property except as provided for in **Section 10.0**.

8.4.10 Any addition, improvement, or other physical change in or to the replacement structure or its premises, including changes required by OSHA, or other

federal, state or local law, rule, code, regulation or ordinance, except as provided by Sections 9.1.2 or 10.0.

- 8.4.11 The cost of increasing the load carrying capacity of a floor or structure
- 8.4.12 Downtime.
- 8.4.13 Loss of lease or leasehold interests.
- 8.4.14 Cost of replacing or repairing property lost, stolen, or damaged in the process of moving unless insurance to cover such loss is not available. Failure of the business or nonprofit organization to obtain insurance on a timely basis will not qualify subsequent losses for payment by the Agency.
- 8.4.15 Advertising, except signs moved as personal property, as provided in **Section 8.2** or as provided by **Section 10.0**.
- 8.4.16 Cost for storage of personal property on real property already owned or leased by the business.
- 8.4.17 Cleanup of hazardous wastes, material or substances declared to be hazardous or toxic under any law or regulation of any governmental authority.
- 8.4.18 Expenditures incurred 12 months or more after the date of displacement. Displacement occurs upon complete vacation of the premises acquired.
- 8.4.19 The purchase of capital assets (e.g. office furniture, filing cabinets, machinery or trade fixtures), manufacturing materials, production supplies or product inventory.
- 8.4.20 Interior or exterior refurbishments that are solely for aesthetic purposes except as provided in **Section 10.0**.
- 8.4.21 Any expenditure that duplicates any eligible expenditure or for which the entity receives reimbursement from another source such as insurance.
- 8.4.22 Refundable security and utility deposits.
- 8.4.23 Any other items the Agency determines are not actual, reasonable or necessary.
- 8.4.24 Supplying utility services from the public right-of-way to the utility service entrance on the replacement location, except as provided in **Section 9.0**.
- 8.4.25 Changes or modifications to a utility service entrance and/or main panel or main valve system within the replacement location, except as provided in

Section 9.1.2(C).

8.4.26 Modification to meet code requirements except as provided in **Section 10.0.**

9.0 ADDITIONAL REQUIREMENTS – BUSINESS MOVING AND RELATED EXPENSES

9.1 Installation of Relocated Machinery, Equipment or Other Personal Property

9.1.1 A relocation payment for moving expenses may include necessary and reasonable costs for the installation of relocated machinery, equipment or other personal property at the replacement structure, but not the surrounding premises.

The business and the Agency shall explore together the most feasible method of accomplishing the installation that is the least costly for successfully carrying out the move. The Agency will provide payment only up to the amount of the least costly feasible method, in the Agency’s determination.

9.1.2 Eligible Costs. Eligible installation costs may include reasonable amounts incurred for the following:

- A. Connection of relocated machinery equipment or other personal property to available utility services at the replacement site. “Available utility services” are defined as currently existing utilities on or within the structure which are distributed throughout the structure from the utility service entrance and/or main panel or main value system. The cost of connection to available nearby utilities from the right-of-way to improvements at the replacement site is compensable if the Agency determines that the cost is actual, reasonable and necessary. Utility services include electrical, water, gas, compressed air, vacuum, vent, sewer, oil, and similar service lines. Connection to available utility services shall be either: (i) at or on the relocated machinery, equipment, or other personal property, or (ii) at a nearby distribution point within the structure as determined by the Agency.
- B. Costs necessary to place or situate the relocated machinery, equipment or other personal property at the replacement site in order to install the relocated items. Costs are limited to those necessary to allow access to the replacement site, such as removing and replacing doors, panels, and similar items to permit placement of the relocated personal property.
- C. Modification to the existing utility services at the replacement location to accommodate the relocated machinery, equipment or other personal property when the Agency determines that it would be less expensive than modifying the relocated items to the available utility services.

- D. The cost of pits, pads, curbs and foundations for specific items of equipment and machinery if the Agency determines the costs are reasonable and necessary for the reinstallation of the equipment or machinery. No payment will be made if the value of pits, pads, curbs or foundations was clearly included in the just compensation paid for the real property at the current location or the value will be deducted from the cost of installing said items at the replacement site. No payment will be made for increasing the general load carrying capacity of floors at the replacement building or other similar improvements to the replacement structure.

9.2 Storage Costs

9.2.1 General. A relocation payment for moving expenses may include actual reasonable storage costs (dead storage) incurred by a business that either (1) does not immediately reestablish at a new location, or (2) although reestablishing at a new location, cannot complete its move until the total required space becomes available. No payment for storage costs may be made unless the Agency has determined that storage is necessary in connection with the relocation of the business.

9.2.2 Time Limit. Costs in connection with storage (including insurance while in storage) are limited to a period not to exceed 12 months.

9.2.3 Ineligible Costs. A payment for storage may not include costs related to:

- A. Any item(s) stored in or upon property owned or occupied by the claimant.
- B. Any items replacing item(s) removed from storage. Storage costs compensable as a moving expense must be reduced accordingly for any item(s) removed, if permitted in the warehousing contract.
- C. Any item(s) subsequently replaced by substitute equipment under **Section 9.5**.
- D. Any item(s) not owned by the business at the beginning of the move.

9.2.4 Loss of Property Payment. No payment for direct loss of property (see **Section 9.4**) may be made for any item(s) placed in storage, except when the move to storage is made because of an emergency (e.g., fire) and (a) the claimant is not permitted time to determine the items that are to be disposed of, and (b) the Agency determines that the claimant has moved expeditiously to remove from storage those items for which the claimant intends to file a claim for direct loss of property.

9.3 Searching For a Replacement Location

9.3.1 Eligible Costs. Searching expenses may include:

- A. Transportation expenses within a radius of 50 miles from the current location and limited to a mileage rate not to exceed the amount permissible under the Agency's travel policy for staff.
- B. Meals and lodging while away from home in accordance with the Agency's travel policy.
- C. Time spent searching, based on reasonable salary or earnings of the business employee or representative, but not to exceed \$15.00/hour.
- D. Reasonable fees paid to a real estate agent or broker to locate a replacement site or operation. Any fees or commissions related to the purchase or lease of such site are not eligible costs.
- E. Time spent in obtaining permits and attending zoning hearings based on reasonable salary or earnings.
- F. Time spent negotiating the purchase or lease of a replacement site based on reasonable salary or earnings.

9.3.2 Maximum Amount. The maximum total amount of compensation for searching expenses is \$2,500.

9.3.3 Documentation. A list of the dates and addresses viewed as possible relocation sites must accompany a claim. Expenses incurred in searching for a replacement location must be supported by receipts or other documentation as appropriate.

9.4 **Direct Loss of Property**

9.4.1 General. A business may receive a payment for any actual direct loss of tangible personal property, including inventory or goods held for sale, which it chooses not to relocate or as a result of discontinuing operation. The following policies and limitations apply:

- A. The payment may not exceed the estimated reasonable expense of moving the property.
- B. The business must make an effort to achieve a bona fide sale disposing of the property.
- C. The payment may cover only items of tangible personal property. Items for which compensation was made in the real property acquisition, or which were identified as real property in the acquisition, are not eligible.

- D. A payment may not be made for any item for which compensation has otherwise been made, including any item sold or traded in and replaced with a substitute item as provided in **Section 9.5**.
- E. A payment may not be made for actual or estimated storage costs for items for which a property loss is claimed except as provided in **Section 9.2.4**.

9.4.2 Amount of Property Loss Payment. The amount of the payment for actual direct loss of property shall be determined by adding (1) the reasonable costs incurred in efforts to sell the property, and (2) the lesser of:

- A. The item's "fair market value in place", "as is for continued use", (as defined by personal property appraisers) less the proceeds from its sale. The claimant must make a good faith effort to sell the item, unless the Agency determines that such effort is not necessary. (When property loss is claimed for goods held for sale, the market value shall be based on the cost of the items to the business, not the potential selling price); or
- B. 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 is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles. Payment shall not include the cost of any physical changes or conversion.
- C. If a bona fide sale cannot be made, the payment for direct loss of property shall be the lesser of (a) the "fair market value in place", "as is for continued use", or (b) the estimated moving expense.

9.4.3 Bona Fide Sale. A bona fide sale is a sale at the highest price offered, after reasonable efforts have been made over a reasonable period of time to interest prospective buyers, including secondhand dealers, and others who customarily deal in similar property. An auction held after reasonable public notice is a bona fide sale. A private sale to one's relatives or associates is not a bona fide sale. A trade-in may be considered a bona fide sale, but if the item so traded has been compensated through a Substitute Equipment payment as described in **Section 9.5**, no property loss payment shall be made.

9.4.4 Determination of Value.

- A. Procedure. The "fair market value in place", "as is for continued use" at the location from which the business concern is displaced shall be ascertained by an appraisal secured by either the Agency or the claimant with concurrence by the Agency. It shall be made by a qualified appraiser or a valuation consultant in accordance with accepted standards of the appraisal profession.

- B. Exception. If the value of the property to be disposed of is so small that, in the Agency's determination, the expense of an appraisal is not warranted, the value may be ascertained by either of the following methods:
1. Through consultation with an equipment dealer, determine a value which reflects current used market value of the item or its nearest functional equivalent of the same approximate age and condition; or
 2. Compute the fair market value by multiplying the original cost of the item to the claimant (exclusive of installation) by the figure obtained by dividing (a) the period of the remaining useful life of the property at the date of removal by (b) the period of normal useful life of the property on the date of its acquisition by the claimant.

9.4.5 Cost of Appraisal. The cost of an initial appraisal to determine the actual direct loss of property shall be borne by the Agency. The cost of any other appraisal obtained by the claimant shall be borne by the claimant.

9.4.6 Claim for Direct Loss of Property. A claim for a payment of direct loss of property shall be supported by:

A. Written evidence of the loss, which may include appraisals, certified prices, copies of bills of sale, receipts, cancelled checks, copies of advertisements, offers to sell, auction documents, and other appropriate records.

B. A list of the items of machinery, equipment, trade fixtures, inventory, stock in trade, or other tangible personal property excluded from the appraisals of the real property.

C. Documentation of fair market value of each item, or each lot or group of similar items, for continued use in place.

9.5 **Substitute Equipment**

9.5.1 General. A displaced business may elect to replace with a substitute item an item of personal property currently utilized in its operation that is not moved, but is promptly replaced with a substitute item. Substitute items must perform a comparable function as the item replaced.

9.5.2 Notification to the Agency. A business that contemplates the use of substitute equipment must notify the Agency at least 30 days before the move or substitution of the item, whichever is earlier.

9.5.3 Allowable Payment. The allowable relocation payment for substitute equipment shall be the lesser of:

- A. The actual cost of the substitute equipment delivered and installed at the replacement site, less any proceeds received from the sale or trade-in of the old equipment (See Subparagraph 9.5.5 below); or
- B. The estimated cost to move and reinstall the old equipment at the new location. Bids or estimates must be obtained to determine the reasonable cost of the move. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate. No amount for storage costs may be included in the bids or estimates.

9.5.4 Ineligible Costs. No payment for direct loss of any item of property may be made when a payment for a substitute item is made. No payment for substitute equipment may be made if the original equipment has been moved to property owned, leased or occupied by the claimant. No payment for substitute equipment may be made for equipment that is not operable or not installed at the displacement site.

9.5.5 Conveyance of Equipment to the Agency. If personal property that the business replaced with substitute equipment is not sold or traded in, it must be conveyed to the Agency.

9.6 Requirements for Bids or Estimates

9.6.1 Bids or Estimates Required. A minimum of two bids or estimates are required, if relocation expenses are estimated to exceed \$1,000, to document the amount of the payment for relocation costs for all actual moving expenses described in **Sections 7, 8 & 9**. If the total cost of a move by a general contractor is estimated at \$50,000 or more, the sealed bid procedure described in **Section 9.6.7** must be followed.

9.6.2 Time Requirements for Submission of Bids/Estimates. Bids or estimates must be submitted to the business with copies to the Agency within a reasonable time before commencement of the move (no less than 10 days).

9.6.3 Low Bid/Estimate Determines Maximum Payment. A relocation payment for moving expenses may not exceed the amount of an acceptable low bid or estimate.

9.6.4 Preparation of Bid or Estimate Specifications by Business.

- A. Scope of Work. The scope of work covered by each bid or estimate must be the same. To achieve this uniformity, all contractors must be provided with the same work specifications on each individual phase of the move.
- B. Specifications. Specifications shall be subdivided to reflect the specific responsibilities of each trade or craft that will perform a separate category of services in the move.

- C. Agency Assistance. The Agency may assist in the preparation of bid or estimate specifications if requested, but selection of movers and other contractors who will be asked to bid or provide estimates shall be the prerogative of the displaced business.

9.6.5 Review of Specifications. The Agency shall review the bid or estimate specifications to determine conformance with these Policies and Procedures and with recognized sound bidding/estimate procedures.

9.6.6 Exceptions to Obtaining Bids/Estimates. Bids or estimates must be obtained from at least two contractors. Where there is no general contractor, bids or estimates must be obtained from at least two contractors for each trade or craft. If it is not possible for the displaced business to obtain two bids or estimates, it must submit written justification of such fact to the Agency. No relocation payment may be made in such cases unless the Agency finds that two bids/estimates were unobtainable. The Agency may obtain bids or estimates if the business fails to do so. If no bids or estimates are obtainable, the Agency shall obtain a technical evaluation of the cost of the move and allow the move to proceed on an actual cost basis supported by adequate documentation. The Agency will consider the nature and complexity of the move when making its decision.

9.6.7 Sealed Bids. If the total cost of the move by a general contractor, or of any separately identified category involved in the relocation, is estimated to cost \$50,000 or more, the sealed bid procedure described in this subparagraph shall be followed:

- A. Submission of bids or estimates. The original and one copy of the completed sealed bid or estimate must be mailed or otherwise presented by the bidder to the business not less than 10 days before commencement of the move. Each bid or estimate must specify the precise scope of work covered by the bid or estimate.
- B. Bid Openings. The business shall open sealed bids or estimates at the established time (which shall not be less than 10 days before the move) and place. An authorized representative of the Agency must be present at the bid opening unless the Agency has requested that the bid opening proceed without the Agency's representation. Those who have submitted sealed bids or estimates may be present. The Agency shall be promptly provided with a copy of each bid submitted.

9.6.8 Contract Award. When the displaced business has determined the lowest bid or estimate and the Agency has concurred, the business will generally award the contract to the low bidder or estimator. However, if the business wishes to award to a bidder other than the low bidder it may do so, but a relocation

payment from the Agency will not exceed the amount of the acceptable low bid/estimate. Contracts for providing relocation services are solely between the displaced business and the contractor. The displaced business will be responsible for paying any difference. Responsibility for payment to contractors rests solely with the displaced business.

9.6.9 Verification of Reasonableness of Bids/Estimates. If it is deemed desirable in order to verify the reasonableness of bids or estimates obtained by the business, the Agency may obtain an independent analysis or estimate of the cost of the move. Such independent analysis may, at the Agency's discretion, establish the maximum eligible relocation payment if the bids/estimates are deemed by the Agency to be unreasonable.

10.0 BUSINESS REESTABLISHMENT EXPENSES

10.1 **General.** In addition to a payment for actual reasonable moving and related expenses, as described in Sections 7.0, 8.0 and 9.0 of these Policies and Procedures, a small business or nonprofit organization may be eligible to receive a payment not to exceed \$10,000 for expenses actually incurred in relocating and reestablishing at a replacement site. A small business is defined as a business having not more than 500 employees working at the site being acquired or displaced. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify for payment of expenses in this section. Separate legal entities shall be eligible for a single reestablishment payment if they constitute only one business (see **Section 10.3.2** for guidance in determining number of businesses).

10.2 **Eligible Expenses.** Reestablishment expenses must be reasonable and necessary as determined by the Agency. These expenses may include, but are not limited to, the following:

10.2.1 Repairs or improvements to the replacement real property as required by Federal, State, or local law, code or ordinance.

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

10.2.3 Construction and installation costs for exterior signage to advertise the business.

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

10.2.5 Advertisement of the replacement location.

10.2.6 Estimated increased costs of operation during the first two years of operation at the replacement site, for such items as:

- A. Lease or rental charges
- B. Personal or real property taxes
- C. Insurance premiums
- D. Utility charges, excluding impact fees

10.2.7 Other items that the Agency, in its sole discretion, considers essential to the reestablishment of the business, provided such items are not listed as ineligible in Sections 8.4 or 10.3.

10.3 **Ineligible Expenses.** The following is a non-exclusive listing of reestablishment expenditures considered not to be reasonable, necessary or otherwise eligible for payment:

10.3.1 Purchase of capital assets, such as office furniture, filing cabinets, machinery, trade fixtures, etc.

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

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

10.3.4 Payment to a part-time business in the home, which does not contribute materially to the household income.

10.4 **Maximum Payment.** The maximum total payment under this Section 10.0 shall not exceed \$10,000.

11.0 ALTERNATE OR FIXED BUSINESS RELOCATION PAYMENT

11.1 **General.** A fixed payment in lieu of a payment for moving and related expenses (Sections 7.0, 8.0 and 9.0), and reestablishment expenses (Section 10.0), may be made to a business or nonprofit organization that elects to receive such a payment. The business must meet the eligibility requirements for a payment for moving and related expenses and the additional requirements set forth in this section.

11.2 **Amount of payment.** A payment in lieu of moving and related expenses, except to a nonprofit organization, shall be equal to the average annual net earnings of the business (see Section 11.5.1), but not less than \$1,000 nor more than \$20,000.

11.3 Eligibility Requirements — Business

11.3.1 A displaced business may be eligible for a payment in lieu of moving and related expenses and reestablishment expenses if the Agency determines that the business meets all of the following tests. Any business that meets these tests is

eligible irrespective of whether it continues or discontinues its operations:

- A. Test 1. The business owns or rents personal property that must be moved in connection with such displacement, and for which an expense would be incurred in such move, and the business vacates or relocates from the displacement site.
- B. Test 2. The business either discontinues operations or relocates, but is likely to incur a substantial loss of its existing patronage. Existing patronage means either clientele or net earnings. Loss of existing patronage is presumed unless the Agency determines that the business will not suffer a substantial loss of its existing patronage.
- C. Test 3. The business is not part of a commercial enterprise, that has more than three other entities under the same ownership, engaged in the same or similar business activity, that are not being acquired.
- D. Test 4. The business contributed materially to the income of the displaced person during the two taxable years before displacement of the business.
- E. Test 5. The business operation at the displacement property (either dwelling or site) is not operated solely for the purpose of renting the property to others.

11.3.2 Determination of Number of Businesses.

- A. Separate legal entities, all of which have been or will be acquired, shall be eligible for a single fixed payment in lieu of moving and related expenses if they actually constitute only one business.
- B. In determining whether two or more separate legal entities constitute a single business, the following factors, among others, shall be taken into consideration:
 - 1. The extent to which the same premises and equipment are shared.
 - 2. The extent to which substantially identical or intimately interrelated business functions are pursued, and business and financial affairs are commingled.
 - 3. The extent to which the entities are held out to the public, and to those customarily dealing with such entities, as one business.
 - 4. The extent to which the same person or closely related persons own, control or manage the affairs of the entities.

11.4 Eligibility Requirements – Nonprofit Organization

11.4.1 A displaced nonprofit organization shall be eligible for a fixed payment of \$1,000 to \$20,000 in lieu of moving and related expenses and reestablishment expenses if the Agency determines that the following test has been met:

11.4.1.1 The nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The "existing patronage" of a nonprofit organization includes the membership, persons, community, and/or clientele serviced or affected by the activities of the nonprofit organization. A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise.

11.4.2 Amount. A payment for any amount in excess of \$1,000 must be supported with financial statements for the two most recent 12 month periods prior to the acquisition of the current location. The amount of the payment shall be the average of two (2) years annual gross revenues less administrative expenses.

- A. Gross Revenues. Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enables the nonprofit organization to operate.
- B. Administrative Expenses. Administrative expenses are costs incurred for administrative support such as rent, utilities, salaries, advertising and other like items as well as fundraising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses. The monetary receipts and expense amounts shall be verified with certified financial statements or financial documents required by public agencies.

11.5 Average Annual Net Earnings

11.5.1 Definition. Average annual net earnings mean one-half of any net earnings of the business, before Federal, State, and local income taxes, during the two taxable years immediately prior the taxable year in which displacement takes place. Average annual net earnings include salaries, wages, or other compensation paid by the business to the owner (see **Section 11.6**), owner's spouse, or dependents.

11.5.2 Base Period. If the Agency determines that the two-year period immediately preceding displacement is not equitable for establishing earnings, an alternate base period determined by the Agency to be most representative may be used.

The following are examples:

- A. **Business Adversely Affected by Project Activities.** If during the two years before displacement the earnings of the business were adversely affected by project activities, an alternate period (e.g. the third and fourth year before displacement) may be used as an alternate base period.
- B. **Business in Operation Less Than Two Years.** If the business was not in operation for the full two years prior to displacement, net earnings should be computed on the basis of the period that the business was in operation in the project area, projected to arrive at an annual figure.
- C. **Ongoing Operation Moved to Project Area.** If a business moved its operations from a site outside the project area to a site within the project area and its earnings within the project area were adversely affected by project activities, a period determined by the Agency as being more representative than the two years prior to displacement may be used to compute the amount of net earnings. An alternate period may be used only if the business activities conducted outside of and within the project area are the same.

11.6 **Ownership.** The term "owner" includes the proprietor in a sole proprietorship, the principal partners in a partnership, and the principal stockholders of a corporation, as determined by the Agency. Generally principal partners and principal stockholders will be defined as anyone who has a 15% or more ownership interest. For the purpose of determining a principal stockholder, stock held by a husband and wife, and their dependent children shall be treated as one unit.

11.7 **Documentation of Claim.** Claims shall be supported by such reasonable evidence of earnings and ownership as may be required by the Agency including copies of Federal and/or State income tax returns filed by the business and/or certified Financial Statements.

APPENDIX A
LAKE OSWEGO REDEVELOPMENT AGENCY
RESIDENTIAL ANTI-DISPLACEMENT POLICY

Non-Federally Funded
Projects

(See Sections **2.2.4** and
4.5.1)

Any person, owner, landlord, nonprofit organization, developer, or business applying for financial assistance to the Lake Oswego Redevelopment Agency (“LORA”) for the rehabilitation of tenant occupied housing shall follow the requirements of this Appendix A if only non-federal funds will be used to finance the project and if tenants will be required to move temporarily to accommodate the rehabilitation. If tenants will be required to move permanently tenants will be provided relocation information, notices, assistance and payments as described in the Lake Oswego Relocation Policies and Procedures. Business tenants are not eligible for relocation benefits in projects receiving non-federal LORA financial assistance only.

- 1.0 Each submitted application for financial assistance contemplating the use of non- federal LORA funds will contain an Anti-displacement Agreement for each occupied residential unit. The agreement must be signed by the tenant, borrower, and the current landlord.
- 2.0 Each application must contain a completed tenant survey in a form acceptable to LORA.
- 3.0 Evidence that properties were vacated in anticipation of receiving financial assistance from LORA shall disqualify the applicant for a loan.
- 4.0 Displacement of a tenant by the landlord or borrower in violation of the agreement:
 - 4.1 The applicant is disqualified for the loan, if such displacement occurs prior to loan approval.
 - 4.2 The borrower shall agree to pay the full amount of relocation benefits that tenant is entitled to receive under the Uniform Relocation Act (“URA”) as determined by LORA, if such displacement occurs after loan approval.
 - 4.3 The cost of such relocation benefits may be added to the loan principal and payable under the same terms and conditions of the loan except for the increase in the amount of loan payments.
- 5.0 If permanent displacement is determined necessary, borrower shall submit a relocation plan and pay for all benefits the displaced tenants are entitled to receive in accordance with the URA as determined by LORA.

ANTI-DISPLACEMENT AGREEMENT

THIS AGREEMENT made and effective on this _ day of _____, 20_, by and between _____ “Landlord,” _____ “Borrower,” and _____ “Tenant” residing at _____, Lake Oswego, Oregon. Tenant occupies a _____ bedroom unit and pays \$ _____ month in rent (current rent).

PURPOSE: To ensure that tenants are not displaced as a direct result of Lake Oswego Redevelopment Agency (“LORA”) assisted housing improvement projects, but if so displaced, are treated fairly, consistently, and equitably so that such tenants will not be impacted disproportionately as a result of projects designed for the development of affordable housing.

RESPONSIBILITY: If a loan is not approved and/or the Borrower is not the owner of the property and does not acquire this property, this agreement shall be null and void. When this property is acquired by Borrower, Borrower assumes all responsibility of the Landlord.

THE LANDLORD AND TENANT AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

1. Landlord agrees not to require tenant to move from the property if the tenant is legally occupying the premises and is not in serious default of the rental terms and conditions of the occupancy agreement.
2. Tenant agrees to continue to abide by the terms of the occupancy agreement at the date of loan application.
3. Landlord may evict tenant, in accordance with rental agreement terms and the *Oregon Residential Landlord and Tenant Act*, for violation of material terms of the occupancy agreement.
4. Landlord agrees to maintain the current monthly rent from the date of this agreement for a minimum of one
 - (1) year after the date of the project completion notice for the rehabilitation.
5. Landlord may require the tenant to move to another suitable unit within the building or project, either temporarily or permanently, in order to accommodate the rehabilitation.
 - 5.1 Landlord agrees to give a minimum of 30 days notice to vacate unless Tenant agrees to a shorter notice.
 - 5.2 Landlord agrees to pay tenant moving costs, utility and communication reconnection costs, and other out-of-pocket expenses incurred as a result of the move.
6. Landlord may require the Tenant to temporarily move to housing outside of the rehabilitation project, if necessary. A temporary move may be as short as one day or as long as 30 days or more.
 - 6.1 Landlord agrees to give a minimum of 30 days notice to vacate unless Tenant agrees to a shorter notice.
 - 6.2 Short Term Temporary Housing. The Landlord agrees to provide and pay for the cost of reasonable housing, such as a hotel room, plus an allowance of \$30 per day for each household member.
 - 6.3 Long Term Temporary Housing. Landlord agrees to provide reasonable housing, such as an apartment unit, and pay any increase in the cost of rent above Tenant’s current rent.

Tenant will continue to pay current rent. Landlord agrees to pay the cost of moving personal property to and from the temporary housing. Landlord agrees to pay Tenant an inconvenience allowance and an out-of-pocket expense allowance of \$200 per month (per household), each month, without proration for a partial month.

- 6.4 Alternative Temporary Housing Agreements. The Tenant and Landlord may agree to an alternative temporary move and compensation arrangement in lieu of 6.2 or 6.3 above if satisfactory to both.
7. If the Tenant is eligible and not in material default of the terms of the rental occupancy agreement, the Landlord will offer to the Tenant a suitable rental unit at not more than the Tenant's current rent for a period of one year, if available, to Tenant within the rehabilitated building or project. Rental increases after one year will be reasonable.
 8. This agreement does not preclude any rights a Tenant may have under any other law including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).
 9. Landlord and Tenant have access to advisory service by contacting a LORA staff person (503) 534-4225.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in the day and year written above and Tenant acknowledges receipt of a copy of this agreement.

Landlord

Tenant

Borrower

APPENDIX B
SUMMARY OF RESIDENTIAL RELOCATION
BENEFITS

(As further described in **Section 6.0**)

For a complete explanation of benefits and rules governing relocation benefits, refer to the Lake Oswego Redevelopment Agency Relocation Policies and Procedures and Federal Department of Transportation Relocation Rules and Regulations.

- A. For all households, the cost of the move including packing by a professional mover or a cash payment based on a fixed residential moving cost schedule.

- B. For residential tenants.
 - 1. A rent differential payment based on the difference between the current rent and the rent for a comparable replacement unit for 42 months. Generally this payment may not exceed \$5,250, but could be more based on individual circumstances such as affordability of the replacement housing for low income tenants.

 - 2. As an alternative to a rent differential payment, a down payment assistance payment to be applied towards the purchase of a replacement dwelling. Generally this payment will not exceed \$5,250 unless justified by individual circumstances.

- C. For residential owner occupants.
 - 1. A purchase price differential of the amount between the acquisition price of the current dwelling and the cost of a comparable replacement dwelling.

 - 2. A mortgage interest differential payment for increased financing or interest costs incurred because of purchasing a replacement dwelling.

 - 3. Payment of incidental closing costs on the purchase of a replacement dwelling.

 - 4. This payment to owner occupants generally will not exceed \$22,500 unless justified by individual circumstances.

APPENDIX C

SUMMARY OF BUSINESS RELOCATION BENEFITS

(As further described in Sections 7.0, 8.0, 9.0, 10.0)

This is a summary only. Eligibility, requirements for payment and payment amounts are governed by the adopted Lake Oswego Redevelopment Agency Relocation Policies and Procedures.

BUSINESS RELOCATION PAYMENTS MAY BE MADE UNDER OPTION 1 OR 2, NOT BOTH:

I. **Option 1** - A payment for actual reasonable moving expenses:

- A. Transportation of personal property to a replacement site.
- B. Packing and unpacking of personal property.
- C. Disconnection, dismantling, reassembling and reinstalling relocated machinery, equipment and other personal property.
- D. Disconnection and reconnection of personal property to available utilities.
- E. Storage of personal property for up to 12 months, if approved by Agency.
- F. Insurance premiums covering loss or damage to personal property during move.
- G. Cost of licenses, permits, fees or certifications necessitated by the move.
- H. Re-lettering signs and printing replacement stationery and other printed matter made obsolete by the move.
- I. Compensation for direct loss of personal property not relocated, but not to exceed its present fair market value or the estimated cost of moving it, whichever is less.
- J. Purchase and installation cost of substitute equipment, not to exceed the cost of the replacement item or the estimated cost of moving it, whichever is less.
- K. Expenses incurred in searching for a replacement location subject to a maximum of \$2,500.
- L. Impact fees or one time assessments for anticipated heavy utility usage.
- M. Professional services necessary for planning the move.
- N. Professional services for feasibility and marketing studies of a replacement site.
- O. Reestablishment expenses subject to a maximum of \$10,000 for certain expenses not covered by the actual moving expense payment above in sections A through N. The reestablishment expense payment may include such costs as increased rent, increased taxes, redecoration costs, advertising, or repairs or improvements to the replacement site.

OR

- II. **Option 2** - A fixed payment as an alternative to the payments as outlined above in section I for moving and reestablishment expenses. This payment will equal the average annual net earnings of the business, but not less than \$1,000 nor more than \$20,000.