

PORTLAND DEVELOPMENT COMMISSION
Portland, Oregon

RESOLUTION NO. 6868

AMENDING PDC'S RELOCATION POLICIES AND PROCEDURES

WHEREAS, on October 26, 2005, the Commission adopted Relocation Policies and Procedures by Resolutions 6302 and 6303 to outline obligations regarding relocation assistance benefits for persons and businesses displaced by PDC acquisitions of real property;

WHEREAS, such policies and procedures were expressly adopted in order to align with the requirements of state law;

WHEREAS, state law no longer requires that relocation payments be made to owners selling property voluntarily, without threat of condemnation, and nonresidential tenants whose leases expire according to their contractual terms; and

WHEREAS, the Board desires to revise the Relocation Policies and Procedures to align with state law;

NOW, THEREFORE, BE IT RESOLVED that the Relocation Policies and Procedures be amended to read in full as set forth in Exhibit A; and

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon its adoption.

Adopted by the Portland Development Commission May 11, 2011.


Recording Secretary

Investing in Portland's Future

PDC

PORTLAND DEVELOPMENT COMMISSION

RELOCATION POLICIES AND PROCEDURES

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RELOCATION POLICIES & PROCEDURES

1.0 **INTRODUCTION**

- 1.1 **Purpose.** This document constitutes the policies and procedures of the Portland Development Commission (Commission) with respect to providing relocation assistance to anyone required to move as a result of Commission activities.
- 1.2 **Information.** The Commission will inform persons to be displaced of their entitlement to relocation assistance and payments. Anyone who may have concerns about being displaced by Commission action is encouraged to contact or visit the Commission office. The regular Commission office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. By arrangement, appointments can be made at times other than regular office hours and at the displaced person's home or business. The Commission is anxious to consult with those expected to be displaced.
- 1.3 **State Statutes.** These policies and procedures are intended to comply with the requirements of Oregon State Law ORS 35.500 to 35.530 governing relocation payments and assistance to persons displaced by public entities.
- 1.4 **Modifications and Changes.** The Executive Director of the Commission is authorized to make technical changes to these policies and procedures when such changes are necessitated by discrepancies in the document, corrections to unintended errors, procedural in nature, or to appendices to this document. The Executive Director will inform the Commission Board in a timely manner when such changes or modifications have been made. Changes to federal or state laws and statutes governing relocation assistance and benefits will require Commission Board approval. Other significant or substantial modifications and policy changes will also require Commission Board approval.
- 1.5 **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. The Executive Director shall approve such payments upon receipt of a valid, properly documented relocation claim from the displaced person and upon recommendation for payment by the Commission relocation staff.

2.0 APPLICATION

- 2.1 **Funding Source.** The source of funding or financial assistance for the activity which causes displacement will determine how these policies and procedures apply.
- 2.2 **Non-Federal Funds.** These policies and procedures apply directly to displacement caused by the acquisition of real property by the Commission or the receipt of a notice to vacate from the Commission when funding for the program or project which causes displacement is from non-federal sources. If these conditions are not present, the following policies apply:
- 2.2.1 Permanently displaced residential occupants in projects or programs receiving Commission financial assistance, but not involving real property acquisition by the Commission, will be entitled to relocation payments and assistance as described in these Relocation Policies and Procedures.
- 2.2.2 Permanently or temporarily displaced businesses or nonprofit organizations in projects or programs receiving Commission financial assistance, but not involving real property acquisition by the Commission or not receiving a notice to vacate from the Commission, will not be entitled to relocation benefits and assistance as described in these Relocation Policies and Procedures.
- 2.2.3 Temporarily displaced residential occupants in projects or programs receiving Commission financial assistance, but not involving real property acquisition by the Commission, 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 Commission.
- 2.3 **Federal Funds.** Commission 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 Commission Relocation Policies and Procedures. Federal relocation and acquisition rules implementing the URA are published by the Federal Department of Transportation and may be found in the federal register at 49 CFR Part 24.
- 2.4 **Acquisition by Eminent Domain.** Occupants of property acquired by the Commission through eminent domain (condemnation) will be eligible for relocation assistance as described in these Relocation Policies and Procedures.

- 2.5 **Alternate Property Transactions (Options).** Commission financed or subsidized activities causing displacement of occupants will be considered an “acquisition” by the Commission for relocation assistance purposes as follows:
- 2.5.1 An option to purchase real property assumed by the Commission that results in acquisition by the Commission. However, an option for the purchase of real property, negotiated by other parties, and presented to the Commission for assumption will not be accepted by the Commission if the option contains conditions for payment of relocation assistance not in substantial conformance with these Relocation Policies and Procedures. Conditions for eligibility for relocation assistance, payment procedures, and calculation of the amount of the payment, documentation of actual and reasonable costs incurred, and other similar conditions must be in substantial compliance. The following remedies may be considered by the Commission:
- A. If the relocation assistance offered in the option is less than that provided in these Relocation Policies and Procedures, the Commission 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, the Commission may at 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 A Commission real estate option assumed by others. Any person who assumes an option obtained by the Commission for the purchase of real property will also assume the Commission’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 Commission financial assistance or subsidies.
- 2.6 **Property Acquisition Policies and Procedures.** ORS 35.510(3) requires that the Commission be guided by the land acquisition policies of Sections 301 and 302 of the federal URA. ORS 35.510(4) requires that the Commission pay or reimburse property owners for necessary expenses as specified in sections 303 and 304 of the URA. These Relocation Policies and Procedures do not address the requirements set forth in sections 301 and 302.

3.0 DEFINITIONS AND LIMITATIONS

- 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 Commission; or
 - 3.1.2 Such person's receipt from the Commission of a written order to vacate the property for public use.
- 3.2 **Persons Not Eligible for Relocation Assistance Under These Relocation Policies.** A residential occupant, business, farm operation or nonprofit organization, or other entity is not a "displaced person" and does not qualify for relocation benefits if any of the following factors or conditions exist:
- 3.2.1 **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 Commission determines the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance.
 - 3.2.2 **Unlawful Occupant.** The person or entity has no legal right to occupy the property (e.g. squatter).
 - 3.2.3 **New Tenant.** The person or entity moves into the property after the date of acquisition by the Commission or after the date on which the Commission's possessory interest is established by judicial order or other legally binding manner. The Commission 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 Commission's acquisition of the property or established possessory interest, and moves into 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 Commission'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.

- 3.2.4 **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. The Commission 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.
- 3.2.5 **Temporary Move.** The residential occupant or business is only required to move temporarily (not more than one year), provided that the residential occupant or business is 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 Commission 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 Commission 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; otherwise the person will be offered permanent benefits.
- 3.2.6 **Non-Residential Tenants Moving as a Result of Contractual Lease Termination.** A non-residential tenant who vacates real property as a result of the termination or expiration of a lease in accordance with the lease terms.
- 3.2.7 **Displacement as a Result of Voluntary Acquisition.** The owner occupant of real property acquired by the Commission is not eligible for relocation assistance in cases of a voluntary sale, provided that the Commission shall:
- A. Prior to making an offer for the property, clearly advise the owner that the Commission is unable to, or will not, apply the powers of eminent domain if negotiations are unsuccessful; and
 - B. Inform the owner in writing of the value that the Commission believes to be the market value of the property.
- 3.2.8 **Alien Not Lawfully in the U.S.** The person is an alien not lawfully present in the United States. Such person is not eligible for relocation assistance and payments unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent or child.
- 3.2.9 **Personal Property Only.** The person is not required to move from a dwelling, or move a business or nonprofit organization. However, if a person is required to move only personal property from a site acquired by the Commission, 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 7.2.1 through 7.2.5 and in 7.3.

- 3.3 **Business.** A business is defined as any lawful activity, conducted primarily:
- 3.3.1 For the purchase, sale, lease and/or rental of personal and/or real property and for the manufacture, processing or marketing of products, commodities and/or any other personal property including farming; but not including outdoor advertising displays; or
 - 3.3.2 For the sale of services to the public; or
 - 3.3.3 By a nonprofit organization.
- 3.4 **Number of Businesses.** 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.
- 3.5 **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 Commission 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.
- 3.6 **Commission.** Commission means the Portland Development Commission. The Commission may contract with an agent to carry out the requirements of these Policies & Procedures.

4.0 FILING A CLAIM FOR A RELOCATION PAYMENT

- 4.1 **Time Limit for Submission of Claim.** A displaced person shall submit a claim for a relocation payment to the Commission within 12 months after displacement, unless extended in writing by the Commission. 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.
- 4.2 **Documentation.** Any claim for a relocation payment shall be in writing and supported by such documentation as may reasonably be required by the Commission to support expenses incurred, such as bids, bills, certified prices, appraisals, or other evidence of such expenses.
- 4.3 **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 Commission. An advance payment shall be subject to safeguards to ensure the objective of the payment is accomplished. The premises must be left in broom clean condition, with the exception of equipment required to be left by Sections 8.4 or 8.5, or otherwise acquired by the Commission.
- 4.4 **Hazardous Substances.** If any substances declared to be hazardous or toxic under any law or regulation by any governmental authority were stored, deposited, spilled, discharged or otherwise released by the business or resident during the time the business or resident used or occupied the acquired premises, such substances must be abated or removed from the acquired premises in accordance with government laws and regulations before a relocation payment is made.
- 4.5 **Approval of Claims and Grievances.** Designated Commission 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 as to eligibility for relocation assistance or the amount of relocation payments may have the decision reviewed in accordance with established Commission relocation grievance procedures. The procedures for filing a relocation grievance are specified in the "Portland Development Commission Relocation Hearing Rules of Procedure." A copy is available upon request.
- 4.6 **Deductions.** The Commission may deduct from a relocation payment any amount the displaced person owes the Commission for or as a result of use of the property or for any other amounts owed to the Commission. The Commission shall not withhold any part of a relocation payment to satisfy an obligation to any other creditor of the displaced person, unless the Commission becomes responsible for such obligation.

- 4.7 **Waiver of Benefits.** A displaced person may voluntarily waive payment of his or her relocation benefits by refusing to file a claim for the payment, by signing a waiver declining payment, or by indicating 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 acceptable. However, Commission staff shall not propose or request that a displaced person waive his/her rights or entitlements to relocation assistance and benefits otherwise provided by applicable law.

5.0 RESIDENTIAL RELOCATION ASSISTANCE

(See Appendix B for a Summary of Residential Relocation Benefits)

- 5.1 **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 Commission. The date of eligibility shall be the date of acquisition by the Commission of the occupied real property or the date of a notice to vacate from the Commission. 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.
- 5.2 **Payment Amount.** Relocation payments and assistance for residential relocation shall be made according to sections 202, 203, 204, 205, and 206 of the Uniform Relocation Act. 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 Commission or the date of the notice to vacate from the Commission whichever is first in order to be consistent with the definition of a displaced person under ORS 35.500 and section 3.1 of these Policies and Procedures.
- 5.3 **Federal Payment Amount Guidelines.** The Commission will be guided by the regulations published by the Federal Department of Transportation 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 Commission's Policies and Procedures and the Federal Department of Transportation regulations, the Commission's Policies and Procedures shall prevail. A summary of the types of residential relocation benefits is set forth in Appendix B.
- 5.4 **Notice To Vacate.** The Commission shall provide a written notice to vacate at least 90 days prior to the date by which the move is required. Residential occupants will not be displaced until appropriate residential units are available within their neighborhood or area and within their financial means as defined by the Federal Department of Transportation relocation regulations. A residential occupant will not be required to vacate until the Commission notifies the person of the specific relocation payment amounts and allowances the person may become entitled to receive.

- 5.5 **Information.** The Commission 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 occur. This notice will include a clear written description of the types of assistance and payment amounts which the household is entitled to receive. This information may be in the form of a brochure, letter or other similar written communication.

6.0 BUSINESS RELOCATION PAYMENTS — GENERAL

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

- 6.1 **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 10.3.2 of these Policies and Procedures.
- 6.2 **Pre-Move Notification by Business.** The business shall notify the Commission of its intent to move at least 30 days prior to the date that the first item of personal property is moved. The Commission may waive this notice requirement for good cause at the Commission's discretion.
- 6.3 **Notice To Vacate.** The Commission shall provide a written notice to vacate at least 90 days prior to the date by which the move is required. The Commission will also provide to the business a copy of these Policies and Procedures which explain the types of relocation payments the business is eligible to receive.
- 6.4 **Relocation Interview.** Commission relocation staff will interview each eligible business to obtain information regarding its relocation needs and to explain these relocation policies and procedures.
- 6.5 **Actual Move Cost Option.** A business may choose to be compensated for actual and reasonable moving costs of personal property as defined in Sections 7 and 8, and to move by one or a combination of the following methods (note: this is a summary only; complete requirements are contained in Sections 7 and 8):
- 6.5.1 **Commercial Move.** Reimbursement for relocation costs will be based on the lowest of a minimum of two bids or estimates (see section 8.6, **Requirements for Bids or Estimates**, for additional requirements).
- 6.5.2 **Self-move.** A self-move payment will be based on one or a combination of the following:
- 6.5.2.1 The lower of a minimum of two bids or estimates prepared by a commercial mover (see Section 8.6, **Requirements for Bids or Estimates**, for additional requirements); or
- 6.5.2.2 Receipted bills for labor and equipment, but hourly labor rates may not exceed rates paid by commercial movers to its 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.
- 6.6 **Reestablishment Expenses.** In addition to payment for actual and reasonable moving costs of moving personal property, a business or nonprofit organization may be eligible for compensation for

reestablishment expenses as defined in Section 9, subject to a maximum of \$10,000 (see Section 9, **Business Reestablishment Expenses**, for additional requirements).

- 6.7 **Alternate or Fixed Payment Option.** In place of a payment for actual moving expenses and reestablishment expenses, a business may choose a fixed payment not to exceed \$20,000 (see Section 10, **Alternate or Fixed Business Relocation Payment**, for additional requirements).

7.0 BUSINESS MOVING AND RELATED EXPENSES

- 7.1 **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:
- 7.1.1 The Commission 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.
 - 7.1.2 No item of property included in the real property acquisition by the Commission is eligible for relocation benefits. Every effort must be made to resolve realty/personality issues prior to the move.
 - 7.1.3 No item of personal property moved from real property not acquired by the Commission is eligible for relocation benefits.
 - 7.1.4 The business must permit the Commission to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.
- 7.2 **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:
- 7.2.1 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.
 - 7.2.2 Packing, crating, unpacking, and uncrating the personal property.
 - 7.2.3 Disconnecting, dismantling, removing, reassembling and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property and connection to utilities available with the building. Also included are modifications necessary to adapt such personal property to the replacement site including 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 8.1, **Installation of Relocated Machinery, Equipment or Other Personal Property**, for additional requirements)
 - 7.2.4 Storing personal property for a period not to exceed 12 months, when the Commission determines that storage is necessary. (See Section 8.2, **Storage Costs**, for additional requirements).
 - 7.2.5 Insurance premiums for insurance covering the replacement value of the personal property while in storage or transit.

- 7.2.6 Any license, permit, fee or certification required of the displaced business at the replacement site. 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.
 - 7.2.7 Relettering signs, 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 or window or on walls may also be compensable, but such compensation shall not include the cost of acquisition of a site for such sign.
 - 7.2.8 Searching for a replacement location. The reimbursable amount may not to exceed \$2,500. (See Section 8.3, **Searching For A Replacement Location**, for additional requirements)
 - 7.2.9 Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or nonprofit organization. (See Section 8.4, **Direct Loss of Personal Property**, for additional requirements)
 - 7.2.10 Purchase and installation of substitute personal property. (See Section 8.5, **Substitute Equipment**, for additional requirements)
 - 7.2.11 Disconnecting and reinstalling leased equipment, such as telephone, security and fire alarm systems and similar items of personal property.
 - 7.2.12 Impact fees or one time assessments for anticipated heavy utility usage if determined by the Commission to be actual, reasonable and necessary.
 - 7.2.13 Professional services as the Commission determines to be actual, reasonable and necessary for planning the move and installation of the relocated personal property at the replacement site.
 - 7.2.14 Professional services performed prior to 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 commissions directly related to the purchase or lease of such site). The Commission must find that such professional services are actual, reasonable and necessary. The displaced business must obtain pre-approval from the Commission before incurring such costs, and the Commission at its discretion may establish a reasonable hourly rate for such services.
- 7.3 **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 Commission, the allowable moving cost payment shall not exceed the lesser of: the amount which 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.

- 7.4 **Ineligible Moving Expenses.** A displaced person or business is not entitled to and shall not receive a relocation payment for the following:
- 7.4.1 Additional operating expenses incurred because of operating in a new location, except as provided by Section 9.0.
 - 7.4.2 Moving structures, real property fixtures, or other real property improvements on the premises acquired by Commission or in 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.
 - 7.4.3 Interest on loans to cover moving expenses.
 - 7.4.4 Loss of goodwill.
 - 7.4.5 Loss of profits.
 - 7.4.6 Loss of trained employees.
 - 7.4.7 Personal injury.
 - 7.4.8 Any fee for preparing a claim for a relocation payment or for representation of the claimant before the Commission.
 - 7.4.9 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.
 - 7.4.10 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 8.2 or 9.0.

- 7.4.11 The cost of increasing the load carrying capacity of a floor or structure
- 7.4.12 Downtime.
- 7.4.13 Loss of lease or leasehold interests.
- 7.4.14 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 Commission.
- 7.4.15 Advertising except signs moved as personal property as provided in Section 7.2 or as provided by Section 9.0.
- 7.4.16 Cost for storage of personal property on real property already owned or leased by the business.
- 7.4.17 Cleanup of hazardous wastes, material or substances declared to be hazardous or toxic under any law or regulation by any governmental authority.
- 7.4.18 Expenditures incurred 12 months after the date of displacement. Displacement occurs upon vacation of the premises acquired.
- 7.4.19 The purchase of capital assets (e.g. office furniture, filing cabinets, machinery or trade fixtures), manufacturing materials, production supplies or product inventory.
- 7.4.20 Interior or exterior refurbishments which are solely for aesthetic purposes except as provided in Section 9.
- 7.4.21 Any expenditure which duplicates any eligible expenditure or for which the entity receives reimbursement from another source such as insurance.
- 7.4.22 Refundable security and utility deposits
- 7.4.23 Any other items the Commission determines are not actual, reasonable or necessary.

8.0 *ADDITIONAL REQUIREMENTS – BUSINESS MOVING AND RELATED EXPENSES*

8.1 *Installation of Relocated Machinery, Equipment or Other Personal Property.*

8.1.1 Installation costs in the amount equal to the least costly method of installation are eligible for a relocation payment:

- A. 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.
- B. The business and the Commission shall explore together the most feasible method of accomplishing the installation that is the least costly for successfully carrying out the move. The Commission will provide payment only up to the amount of the least costly method.

8.1.2 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. The cost of connection to available nearby utilities from the right-of-way to improvements at the replacement site is compensable if the Commission 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 Commission.
- 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. The cost of pits, pads, curbs and foundations for specific items of equipment and machinery if the Commission 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. 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.

8.2 *Storage Costs.*

- 8.2.1 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 Commission has determined that storage is necessary in connection with the relocation.
- 8.2.2 Time Limit. Costs in connection with storage (including insurance while in storage) are limited to a period not to exceed 12 months.
- 8.2.3 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 8.5.
 - D. Any item(s) not owned by the business at the time of the beginning of the move.
- 8.2.4 Loss of Property Payment. No payment for direct loss of property (see Section 8.4) 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 Commission 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.

8.3 **Searching For a Replacement Location.**

8.3.1 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 Commission's travel policy.
- B. Meals and lodging while away from home in accordance with the Commission's travel policy.
- C. Time spent searching, based on reasonable salary or earnings.
- 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.

8.3.2 **Maximum Amount.** The maximum total amount of compensation for searching expenses is limited to \$2,500.

8.3.3 **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.

8.4 **Direct Loss of Property.**

8.4.1 **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 to dispose 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 8.5.
 - 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 8.2.4.
- 8.4.2 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 Commission 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.
 - 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.
- 8.4.3 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 8.5, no property loss payment shall be made.

8.4.4 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 Commission or the claimant with concurrence by the Commission. 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 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:
 - a. The original cost of the item to the claimant (exclusive of installation) by
 - b. 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.

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

8.5 **Substitute Equipment**

8.5.1. 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.

8.5.2 Notification to the Commission. A business that contemplates the use of substitute equipment must notify the Commission at least 30 days in advance of the move or substitution of the item, whichever is earlier.

- 8.5.3 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 8.5.5 below); or
 - B. The estimated cost to move and reinstall the old equipment. Bids or estimates must be obtained to determine the reasonable cost of the move. At the Commission'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.
- 8.5.4 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.
- 8.5.5 Conveyance of Equipment to the Commission. If personal property that the business replaced with substitute equipment is not sold or traded in, it must be conveyed to the Commission.

8.6 Requirements for Bids or Estimates.

- 8.6.1 Bids or Estimates Required. A minimum of two bids or estimates are required to document the amount of the payment for relocation costs for actual moving expenses.
- 8.6.2 Time Requirements for Submission of Bids/Estimates. Bids or estimates must be submitted to the business with copies to the Commission within a reasonable time prior to commencement of the move.
- 8.6.3 Low Bid/Estimate Determines Maximum Payment. A relocation payment for moving expenses may not exceed the amount of an acceptable low bid or estimate.

8.6.4 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 should be subdivided to reflect the specific responsibilities of each trade or craft that will perform a separate category of services in the move.
- C. Commission Assistance. The Commission 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 estimate shall be the prerogative of the displaced business.

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

8.6.6 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 Commission. No relocation payment may be made in such cases unless the Commission finds that two bids/estimates were unobtainable. The Commission may obtain bids or estimates if the business fails to do so. If no bids or estimates are obtainable, the Commission 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 Commission will consider the nature and complexity of the move when making its decision.

8.6.7 Contract Award. When the displaced business has determined which is the lowest bid or estimate and the Commission 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 Commission will not exceed the amount of the acceptable low bid/estimate. Agreements and contracts for providing relocation services are strictly 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.

- 8.6.8 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 Commission shall obtain an independent analysis or estimate of the cost of the move. Such independent analysis may, at the Commission's discretion, establish the maximum eligible relocation payment if the bids/estimates are deemed to be unreasonable.

9.0 BUSINESS REESTABLISHMENT EXPENSES

- 9.1 **General.** In addition to a payment for actual reasonable moving and related expenses, as described in Sections 6.0, 7.0 and 8.0 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 only constitute one business (see Section 10.3.2 for guidance in determining number of businesses).
- 9.2 **Eligible Expenses.** Reestablishment expenses must be reasonable and necessary as determined by the Commission. These expenses may include, but are not limited to, the following:
- 9.2.1 Repairs or improvements to the replacement real property as required by Federal, State, or local law, code or ordinance.
 - 9.2.2 Modifications to the replacement property to accommodate the business operation or to make replacement structures suitable for conducting the business.
 - 9.2.3 Construction and installation costs for exterior signing to advertise the business.
 - 9.2.4 Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
 - 9.2.5 Advertisement of the replacement location.
 - 9.2.6 Estimated increased costs of operation during the first year 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
 - 9.2.7 Other items that the Commission, in its sole discretion, considers essential to the reestablishment of the business, provided such items are not listed as ineligible in Sections 7.4 or 9.3.
- 9.3 **Ineligible Expenses.** The following is a non-exclusive listing of reestablishment expenditures considered not to be reasonable, necessary or otherwise eligible for payment:
- 9.3.1 Purchase of capital assets, such as office furniture, filing cabinets, machinery, trade fixtures, etc.

- 9.3.2 Purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of the business operation.
 - 9.3.3 Interest on money borrowed to make the move or purchase the replacement property.
 - 9.3.4 Payment to a part-time business in the home, which does not contribute materially to the household income.
- 9.4 **Maximum Payment.** The maximum payment under this Section 9.0 shall not exceed \$10,000.

10.0 ALTERNATE OR FIXED BUSINESS RELOCATION PAYMENT

- 10.1 **General.** A fixed payment in lieu of a payment for moving and related expenses (Sections 6.0, 7.0 and 8.0), and reestablishment expenses (Section 9.0), 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.
- 10.2 **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, but not less than \$1,000 nor more than \$20,000.
- 10.3 **Eligibility Requirements--Business.**
- 10.3.1 A displaced business may be eligible for a payment in lieu of moving and related expenses and reestablishment expenses if the Commission 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 which 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 Commission 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, which has more than three other entities under the same ownership, engaged in the same or similar business activity, which are not being acquired.
 - D. Test 4. The business contributed materially to the income of the displaced person during the two taxable years prior to 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.

10.3.2 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.

10.4 **Eligibility Requirements--Nonprofit Organization.**

10.4.1 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 Commission determines that the following test has been met:

10.4.2 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 Commission demonstrates otherwise.

10.4.3 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 fund raising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses. The monetary

receipts and expense amounts may be verified with certified financial statements or financial documents required by public agencies.

10.5 **Average Annual Net Earnings.**

10.5.1 **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 10.6), owner's spouse, or dependents.

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

The following are examples:

- A. **Business Adversely Affected by Project Activities.** If during the two years prior to displacement the earnings of the business were adversely affected by project activities, an alternate period (e.g. the third and fourth year prior to 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 Commission 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.

10.6 **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 Commission. 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.

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

11.0 RELOCATION HEARING RULES OF PROCEDURE

- 11.1 **Application.** This procedure replaces the previously existing Relocation Hearing Rules of Procedure, and shall be applied prospectively to all pending, and to all future relocation claims.
- 11.2 **Amount of Award.** Determination of the amount of the relocation award shall be made pursuant to the Relocation Policies and Procedures of the Portland Development Commission as they may be amended from time to time, unless a project requiring the relocation of occupants is federally funded and as a condition of such funding, it is required that federal regulations must be applied, in which case, such federal regulations shall apply.
- 11.3 **Procedure for Determination of Amount of Award.** The procedure for the determination of the amount of all relocation awards shall be governed by these Portland Development Commission Relocation Hearing Rules of Procedure, as they may be amended from time to time, unless a project or program requiring the relocation of occupants is federally funded and as a condition of such funding, it is required that federal relocation regulations must be applied, in which case, such federal regulations shall apply.
- 11.4 **Staff Decision.** Designated Portland Development Commission relocation staff shall be responsible for determining eligibility of all claims in the first instance.
- 11.4.1 Claimants shall submit all claims for payment within the time periods required by the applicable relocation policies and procedures.
- 11.4.2 The relocation staff may require such documentation as it determines is necessary to substantiate the claim.
- 11.4.3 If the claim is disapproved for any reason the Commission shall inform the claimant in writing of the reasons for denial of the claim.
- 11.4.4 If the claimant is dissatisfied, the claimant may within 60 days of the initial decision of the relocation staff, provide additional information for staff review. If the claim is still disapproved, the Commission will inform the claimant in writing of the reasons for denial of the claim. Failure to provide additional information shall not preclude further review.

- 11.5 Review by Executive Director.** Any claimant who, after receiving a review and evaluation of a relocation claim by the relocation staff, is dissatisfied with the determination of eligibility for or the amount of the payment may have the claim reviewed and reconsidered by the Executive Director of the Portland Development Commission, or his/her designee, in accordance with the procedures of this section.
- 11.5.1 A claimant shall submit any request for Executive Director review by filing a written request for review with the Commission within sixty (60) days of the date of the decision made pursuant to Section 4.3, or if applicable, Section 4.4.
- 11.5.2 A claimant requesting Executive Director review shall submit all written material in support of claimant's request with the request for review. The Executive Director in his/her absolute discretion may refuse to consider materials not submitted with the request for review.
- 11.5.3 At the same time that a claimant requests Executive Director review, the claimant may request the opportunity to make an informal oral presentation in support of the request. If a request for an opportunity to make an informal oral presentation in support of a request for review is made, the Executive Director shall provide the claimant the opportunity to make the presentation within thirty (30) days of the date of the request or at such later date that is mutually acceptable to both parties. The Executive Director, in his/her absolute discretion, may limit the length of this oral presentation to a maximum of one hour.
- 11.5.4 The Executive Director shall provide a written decision within thirty (30) days of the date of receipt of the request for review, or of the date of the oral presentation, whichever comes later.
- 11.5.5 The decision of the Executive Director shall include a notice to the claimant, which must include:
- 11.5.5.1 A statement of the party's right to a contested case hearing.
- 11.5.5.2 A statement of the authority and jurisdiction under which the hearing is to be held.
- 11.5.5.3 A statement that the claimant may be represented by counsel at the claimant's own expense at the hearing.
- 11.5.5.4 A statement that if the claimant desires a contested case hearing, the Executive Director of the Portland Development Commission must be notified within 90 days from the date of mailing of the notice.
- 11.5.5.5 A statement that if the claimant does not request a contested case hearing within 90 days from the date of mailing of the notice, the decision of the Executive Director shall be final.
- 11.6 Contested Cases.** A contested case exists whenever a claimant requests a review of the decision of the Executive Director.

11.6.1 **Notice of Contested Case Hearing.** The Portland Development Commission shall give notice to all parties in a contested case.

11.6.1.1 The notice shall include:

- A. A statement of the time and place of the hearing.
- B. A statement of the authority and jurisdiction under which the hearing is to be held.
- C. A reference to the particular sections of the statutes, rules, policies or procedures involved.
- D. A short and plain statement of the matters asserted or charged.
- E. A statement that the party may be represented by counsel at the party's expense at the hearing.

11.6.1.2 The Portland Development Commission shall give notice of a hearing no later than 30 days after receipt of a request for a hearing and shall set the hearing no earlier than 30 days after the service of notice.

11.6.1.3 The notice shall be served personally or by registered or certified mail.

11.6.1.4 Service of all papers or notices by mail shall be completed upon mailing. All papers or notices shall be served upon all adverse parties.

11.6.2 **Failure to Appear.** When a claimant that has requested and been given an opportunity for a hearing, fails to appear at the specified time and place, the Portland Development Commission shall enter an order which supports the Portland Development Commission action. The order supporting the Portland Development Commission action shall set forth the material on which the action is based or the material shall be attached to and made a part of the order.

- 11.6.3 **Subpoenas and Depositions.** The Portland Development Commission shall issue subpoenas in hearings on contested cases on a showing of need, general relevancy and within reasonable scope of the proceedings. An interested party may petition the Portland Development Commission for an order that the testimony of a material witness be taken by deposition. Fees and mileage are to be paid as determined by applicable statutes.
- 11.6.4 **Hearings.** The hearing shall be before a hearing panel (of one or more persons) composed of one or more members of the governing body of the Portland Development Commission or other person(s) designated to be a member of the hearing panel. The hearing shall be conducted by the presiding officer of the hearing panel. The chairman of the Portland Development Commission, at his/her sole discretion, shall designate any person(s) to preside at and hear a contested case hearing who is a member of the Portland Development Commission Board or who is a member of the Oregon State Bar.
- 11.6.4.1 At the discretion of the presiding officer, the hearing shall be conducted in the following manner:
- A. Statement and evidence of the Portland Development Commission in support of its action.
 - B. Statement and evidence of affected person disputing Portland Development Commission action.
 - C. Rebuttal testimony.
- 11.6.4.2 The presiding officer, the affected parties or its attorneys, and the Portland Development Commission or its attorneys shall have the right to question or examine or cross-examine any witnesses.
- 11.6.4.3 The presiding officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious, or immaterial matter.
- 11.6.4.4 Exhibits shall be marked and the markings shall identify the party offering the exhibits. The exhibits shall be preserved by the Portland Development Commission as part of the record of the proceedings.
- 11.6.4.5 The parties shall be given the opportunity to file exceptions and present argument to the officials which render the final order.
- 11.6.4.6 Parties may present proposed findings of fact and conclusions of law to the presiding officer within such period of time as the presiding officer may set.
- 11.6.5 **Evidentiary Rules.** Evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible.
- 11.6.5.1 Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

- 11.6.5.2 All offered evidence, not objected to, will be received by the presiding officer subject to his/her power to exclude irrelevant, immaterial, or unduly repetitious matter.
- 11.6.5.3 Evidence objected to may be received by the presiding officer with rulings on its admissibility or exclusion to be made at the time a final order is issued.
- 11.6.6 **Final Orders on Contested Cases and Notification.** Final orders on contested cases shall be in writing and include the following
 - A. Rulings on admissibility of offered evidence.
 - B. Findings of fact – those matters which are either agreed as fact or which, when disputed, are determined by the fact finder, on substantial evidence, to be a fact over contentions to the contrary.
 - C. Conclusion(s) of law – applications of the controlling law to the facts found.
 - D. Order – the action taken by the Portland Development Commission as a result of the findings of fact and conclusions of law.
- 11.6.7 **Copy of Order.** Parties to contested cases and their attorneys of record shall be served a copy of the final order. Parties shall be notified of their right to judicial review of the order.
- 11.6.8 **Reconsideration and Rehearing.** A party may file a petition for reconsideration or rehearing of a final order within 60 days after the order is served, by serving a request for reconsideration or rehearing with the presiding officer.
 - 11.6.8.1 The petition shall set forth the specific ground or grounds for requesting the reconsideration or rehearing. The petition may be supported by a written argument.
 - 11.6.8.2 The presiding officer may grant a reconsideration petition if sufficient reason therefore is made to appear. If the petition is granted, an amended order shall be entered.
 - 11.6.8.3 The presiding officer may grant a rehearing petition if sufficient reason therefore is made to appear. The rehearing may be limited by the presiding officer to specific matters. If a rehearing is held, an amended order shall be entered.
 - 11.6.8.4 If the presiding officer does not act on the petition within the 60th day following the date the petition was filed, the petition shall be deemed denied.
- 11.7 **Judicial Review.** After exhaustion of these administrative remedies, any party may seek judicial review as provided by ORS 183.480.
- 11.8 **Right to Counsel.** Any claimant has a right to representation by counsel at claimant's own expense at any and all stages of the relocation claim procedure.

APPENDIX A

(See Sections 2.2.3 and 3.2.5)

PORTLAND DEVELOPMENT COMMISSION RESIDENTIAL ANTI-DISPLACEMENT POLICY Non-Federally Funded Projects

Any person, owner, landlord, nonprofit organization, developer, or business applying for financial assistance to the Commission 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 Commission's Relocation Policies and Procedures. Business tenants are not eligible for relocation benefits in projects receiving non-federal Commission financial assistance only.

- 1.0 Each submitted application for financial assistance contemplating the use of non-federal Commission 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 the Commission.
- 3.0 Evidence that properties were vacated in anticipation of receiving financial assistance from the Commission 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 as determined by the Commission, 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 the Commission.

ANTI-DISPLACEMENT AGREEMENT

THIS AGREEMENT is made and effective on this _____ day of _____, 20____, by and between _____, landlord, _____, borrower, and _____, tenant, residing at _____, Portland, 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 City of Portland Development Commission 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 if 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. Landlord agrees to give a minimum of 30 days notice to vacate unless tenant agrees to a shorter notice.
 - 5.1 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. Landlord agrees to give a minimum of 30 days notice to vacate unless tenant agrees to a shorter notice.
 - 6.1 Short Term Temporary Housing
 - 6.1.1 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.
 - 6.2 Long Term Temporary Housing
 - 6.2.1 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.
 - 6.3 Alternative Temporary Housing Agreements
 - 6.3.1 The tenant and landlord may agree to an alternative temporary move and compensation arrangement in lieu of 6.1 or 6.2 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 staff person at the Portland Development Commission, (503) 823-3200.

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

(See Section 5.0)

SUMMARY OF RESIDENTIAL RELOCATION BENEFITS

(See the Portland Development Commission Relocation Policies and Procedures and the Federal Department of Transportation Relocation Rules and Regulations for a complete explanation of benefits and rules governing payment)

- B. 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.
- C. 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.
- D. 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

(See Sections 6.0, 7.0, 8.0, 9.0, and 10.0)

SUMMARY OF BUSINESS RELOCATION BENEFITS

(This is a summary only; eligibility, requirements for payment, and the amount of payments are governed by the Portland Development Commission Relocation Policies and Procedures Manual)

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.
 - F. Insurance premiums covering loss or damage to personal property during the move.
 - G. Cost of licenses, permits, fees or certifications necessitated by the move.
 - H. Relettering 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. A business may receive this fixed payment or a payment for actual reasonable moving expenses but not both.

PDC

PORTLAND DEVELOPMENT COMMISSION

Resolution Number 6868

Title:

AMENDING PDC'S RELOCATION POLICIES AND PROCEDURES

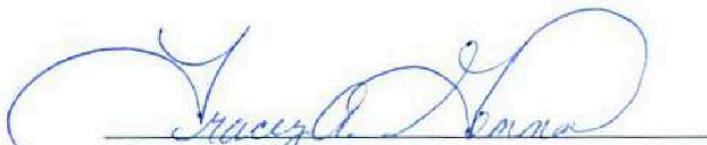
Adopted by the Portland Development Commission on May 11, 2011.

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Scott Andrews	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Aneshka Dickson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner John Mohlis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Steven Straus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Charles Wilhoite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Consent Agenda		<input type="checkbox"/> Regular Agenda		

Certification

The undersigned hereby certifies that:

The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and duly recorded in the official minutes of the meeting.


Recording Secretary

Date: May 11, 2011